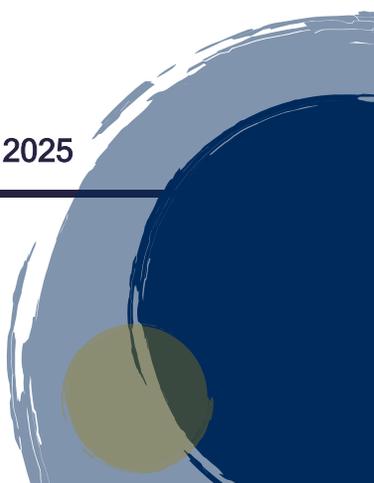




# TAXIENT INSIGHTS

Week 4 - July 2025

July 31, 2025



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## 1. WRIT PETITIONS

### 1.1. No IGST on secondment if employer-employee relationship proven

The Petitioner seconded expatriate employees from overseas group entities. The employees worked in India under the Petitioner's control. They were on the Petitioner's payroll. Salaries were paid directly to employees in India after deducting applicable TDS under the Income Tax laws. Certain home-country social-security benefits were paid by the foreign entity and reimbursed by the Petitioner.

The Department confirmed the tax demand treating the arrangement as an import of 'manpower supply service'. It relied on **Notification No. 10/2017-Integrated Tax (Rate)** dated **June 28, 2017** and Section 5(3) of the IGST Act to levy IGST under reverse charge on the salary paid.

The High Court quashed the demand and noted that during the secondment, the employees were under the Petitioner's exclusive administrative and functional control. They worked within its organization and followed its policies, code of conduct, and disciplinary rules. The Petitioner paid their salaries in India, deducted TDS, and extended statutory benefits under Indian labour laws. These facts establish a genuine employer-employee relationship. Therefore, services by an employee to the employer fall under Schedule III to the CGST Act and are not a taxable supply.

The Court also relied on para 3.7 of CBIC **Circular No. 210/4/2024-GST** dated **June 26, 2024**, ('Circular 210') which the Delhi High Court in **Metal One Corporation India Pvt. Ltd. v. UOI, 2024-VIL-1161-DEL** has also endorsed. It noted that where no invoice is issued and the recipient is eligible for full ITC, the value of the supply is deemed 'Nil' and treated as the open-market value under the second proviso to Rule 28(1) of the CGST Rules. Once the value is 'Nil', no tax can arise. Accordingly, the Court set aside the impugned tax demand.

**[Alstom Transport India Ltd v. Comm. of CT & Ors., 2025-VIL-756-KAR]**

**Taxient Comments:** The ruling is correct, as the Petitioner was able to establish the existence of an employer-employee relationship based on the specific facts and circumstances of the case. Importantly, such decisions prove that the **CCE & Service Tax vs. Northern Operating Systems (P) Ltd., 2022-VIL-31-SC-ST** ('NOS') ruling is not universally applicable. Rather, as highlighted by NOS ruling itself, each arrangement must be assessed based on its unique facts and terms.

In past, tax authorities have tended to treat all secondment arrangements uniformly, launching nationwide efforts to collect GST from taxpayers on this basis. This positive judgment, by recognizing the factual existence of an employer-employee relationship and confirming that such arrangements do not constitute a 'supply of manpower', provides much-needed relief to the industry.

It is also important to note that while Circular 210 prescribes a 'Nil' value for such transactions and can generally be relied upon by taxpayers. However, its benefits do not extend to recipients who are not eligible for full ITC. For these businesses, the Circular 210 does not offer any relief, and IGST could become a cost unless the secondment arrangement is carefully structured and documented to clearly establish an employer-employee relationship based on its specific facts.

## 1.2. Inter-State ITC transfer on amalgamation allowed

The Petitioner sought to transfer unutilized ITC from its amalgamated entity, under Section 18(3) of the CGST Act read with Rule 41 of the CGST Rules. The GSTN portal rejected Form GST ITC-02 citing that both entities must be registered in the same State.

Tax authorities opposed the transfer by invoking the concept of 'distinct persons' under Section 25, arguing that ITC cannot flow across States even upon business reconstitution. The Petitioner voluntarily gave up the SGST component and pursued relief for the CGST and IGST credit balances.

The High Court allowed the inter-State transfer of ITC in case of amalgamation and held that neither Section 18(3) nor Rule 41 imposes any territorial restriction on such transfer. It rejected the argument that Section 25 'distinct person' classification creates an implicit bar. The Court ruled that:

- The legislative intent behind GST is to enable seamless credit flow and eliminate cascading taxes.
- The law must not be defeated by technical limitations of the GSTN portal, which must adapt to the statute and not the other way around.
- The GSTN and GST Council must devise a mechanism to facilitate inter-State ITC transfers in genuine reorganization cases.

The Court noted that there is no revenue loss to Centre and directed manual transfer of CGST and IGST to the Petitioner.

**[Umicore Autocat India Private Limited v. UOI & Ors., 2025-VIL-746-BOM]**

**Taxient Comments:** This is a welcome ruling that reaffirms the importance of the legislative intent behind GST ensuring the seamless flow of ITC over procedural and system-related constraints. By allowing inter-State ITC transfer in cases of amalgamation, the Court has correctly interpreted Section 18(3) to support business continuity during corporate reorganizations.

The judgment also offers a ray of hope to taxpayers who are unable to claim CGST and IGST credit due to restrictions on the GST portal, particularly where ITC are blocked because of place

of supply issues. A common example is denial of ITC on hotel expenses incurred in another State. It remains to be seen how the GST Council will respond to this decision whether it will facilitate ITC flow in such cases or impose new restrictions.

### 1.3. Clubbed SCNs for multiple financial years held invalid under GST Law

The Petitioner challenged the validity of clubbed SCNs issued under Sections 73 and 74 of the CGST Act, alleging that they spanned more than one financial year, violating the provisions relating to limitation and assessment. The Department defended the practice, relying on the phrase 'any period' in the statute and arguing that no explicit bar exists.

The High Court noted that GST law treats each financial year as a separate and distinct unit for the purpose of assessment and limitation. Referring to Sections 73(10) and 74(10), it noted that the limitation period of three or five years, as applicable, must be calculated independently for each financial year from the due date of the corresponding annual return. The Court also emphasized that the provisions of Sections 73 and 74 require issuance of separate SCNs for each period and that statements under sub-sections (3) and (4) can only supplement earlier notices for other tax periods where the grounds are identical, not consolidate distinct financial years. It also observed that clubbing SCNs undermines procedural fairness and causes prejudice to taxpayers, particularly in relation to their ability to avail compounding (Section 138) or amnesty schemes (Section 128) for selective years.

Accordingly, the Court held that each financial year's liability must be adjudicated independently and that the issuance of a single SCN covering multiple financial years is impermissible under the CGST Act.

**[Smt R Ashaarajaa Partner of M/s JRD Realtorss v. DGGI, 2025-VIL-764-MAD]**

**Taxient Comments:** This ruling decisively affirms that the issuance of clubbed SCNs for multiple financial years lacks statutory support and is procedurally flawed. It is particularly beneficial for taxpayers who were unable to avail amnesty under Section 128 for the notified period (July 1, 2017 to March 31, 2020) because their SCNs also covered periods beyond March 31, 2020.

Although the last date to apply for the amnesty benefit was March 31, 2025, a separate wave of litigation appears imminent, as many taxpayers who missed the benefit owing to the clubbing of SCNs for multiple periods may now approach the Courts seeking bifurcation of adjudication and admission of their amnesty applications even after the prescribed deadline has passed.

## 2. FOREIGN TRADE POLICY

### 2.1. Key highlights of the India-UK trade agreement (2025)

- The deal opens the UK market to **almost all Indian exports** by removing import duties on the majority of products, while India will reduce or eliminate tariffs on most UK goods gradually, making trade easier and more cost-effective.
- Indian sectors such as **textiles, footwear, engineering, gems, and auto components** will gain better access to the UK market. Simultaneously, British exporters, particularly in **beverages, automobiles, medical devices, and food items**, will benefit from significant tariff cuts when exporting to India.
- The agreement facilitates the movement of Indian professionals, especially in **information technology and financial services**, by granting temporary social security exemptions and simplifying work permit processes in the UK.
- Beyond trade, both nations commit to cooperating on **technology innovation, climate change initiatives, and security**, framed under the joint roadmap called **India-UK Vision 2035**.
- Certain sensitive sectors, like **pharmaceuticals and high-tech electronics**, are protected through phased tariff reductions or quota limits to balance trade competitiveness and domestic interests.
- Both countries are engaged in the **legal review and ratification process**, with implementation expected over the upcoming year, ensuring a smooth transition to the new trade framework.
- Overall, the agreement is expected to **boost trade volumes, create jobs, lower consumer costs, and strengthen strategic economic ties** between India and the UK.

### 3. OTHER UPDATES

#### 3.1. Auto-populated values in Table 3.2 of GSTR-3B made non-editable from July 2025

- The Goods and Services Tax Network ('GSTN') has announced that, effective from the July 2025 tax period, the values auto-populated in Table 3.2 of GSTR-3B will be non-editable.
- The Table 3.2 captures inter-State outward supplies made to unregistered persons, composition taxpayers, and UIN holders. These values are already included in Table 3.1 and 3.1.1, Table 3.2 only provides separate bifurcation.
- In case any corrections are required in non-editable table 3.2, taxpayers must make amendments through:
  - Form GSTR-1A of the same month (before filing GSTR-3B of the same month), or
  - GSTR-1/IFF of subsequent tax periods

[GSTN advisory dated July 19, 2025]

**Taxient Comments:** The decision to make Table 3.2 of GSTR-3B non-editable is a significant compliance measure aimed at strengthening the integrity of GST return filing. While the measure promotes data consistency and reduces scope for manipulation at the summary return level, it is likely to pose practical challenges for taxpayers.

Taxpayers are already grappling with multiple layers of reconciliations such as GSTR-1 vs. GSTR-3B, GSTR-2A vs. GSTR-3B, and GSTR-2B vs. GSTR-3B, which require careful alignment of reporting across different returns. In many cases, taxpayers have historically relied on GSTR-3B to rectify minor discrepancies identified post-filing of GSTR-1. The removal of this flexibility now necessitates greater accuracy and discipline in upstream reporting.

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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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