LEX TAXIENT
Advisors LLP

TAXIENT INSIGHTS

Week 1 to 3 - September 2025

September 22, 2025

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1. WRIT PETITIONS

1.1. Refund of unutilized Compensation Cess (if export is on payment of IGST)

The Petitioner, a manufacturer of goods such as dyes and chemicals, purchased coal (subject to Compensation Cess) for use in its manufacturing process and exported the finished products on payment of IGST. Notably, the finished goods exported did not attract levy of Compensation Cess. Revenue initially sanctioned refund of unutilized ITC of Compensation Cess on coal but later issued SCNs and denied refunds based on CBIC Circulars which stated that refund of ITC of Compensation Cess was admissible only if exports were made without IGST payment, not with IGST paid exports.

The High Court held that the Revenue reliance on the Circulars was misplaced and contrary to the provisions of Section 54(3) of CGST Act, Section 16 of IGST Act, and Section 11 of Compensation Cess Act. The Court clarified that though the proviso to Section 11(2) of Compensation Cess Act allows utilization of ITC of Compensation Cess for payment of outward Cess only, but it does not bar refund of unutilized ITC where the exported supply is zero-rated and not liable to Compensation Cess. Thus, exporters who pay IGST and export goods that do not attract Compensation Cess are still entitled to refund of unutilized ITC of Compensation Cess paid on inputs like coal. The orders rejecting refunds were quashed, and the Revenue was directed to process and sanction the refund applications.

[Patson Papers Private Limited v. Union of India & Ors., 2025-VIL-403-GUJ]

In another similar case, the Petitioner, a manufacturer of Kraft Paper using coal as a raw material (subject to Compensation Cess), exported its products with payment of IGST. The Revenue denied refund of Compensation Cess ITC on the ground that having claimed refund through the 'IGST paid' route (as per Section 16(3)(b) of IGST Act), the Petitioner must follow the same mode for Compensation Cess, and that refund of unutilized Compensation Cess ITC is only allowed where the export is made without payment of IGST. Revenue also based rejection on lack of bond or LUT and asserted that only a single option for all taxes must be adopted.

The Bombay High Court disagreed with this Revenue logic and held that Compensation Cess ITC and its refund operate under distinct statutory provisions. The right to claim refund of unutilized Compensation Cess ITC for inputs used in zero-rated exports exists regardless of whether IGST refund is claimed and is not restricted by the absence of Compensation Cess on the exported product. The supply mechanism for refund under Section 16(3)(a) and Section 112 of the Compensation Cess Act allows such refund, since the exported product is not liable to Compensation Cess. Thus, the Revenue's insistence on bond/LUT or applying only a single refund route is incorrect. The Writ Petition was allowed, and Revenue was directed to grant refund of Compensation Cess ITC with admissible interest.

[Sukraft Recycling Private Limited v. Union of India & Ors., 2025-VIL-911-BOM]

Taxient Comments: It is clear that the recent Gujarat and Bombay High Court rulings have provided much needed clarity and relief on refund of unutilized Compensation Cess ITC. Exporters utilizing inputs like coal (subject to Compensation Cess) in the manufacture of zero-rated export goods regardless of whether the export is on payment of IGST or under bond / LUT are legally entitled to claim refund of such unutilized ITC.

It is pertinent to note that the Courts have specifically rejected the Revenue's approach of mandating a uniform export route for both GST and Compensation Cess refunds, and have also clarified that the CBIC Circulars **[Circular No. 45/19/2018 dated May 30, 2018 & Circular No. 125/44/2019 dated November 18, 2019]** cannot be read to bar refunds for Compensation Cess ITC accumulated on inputs, even if the export is made with payment of IGST. The only restriction laid out by the proviso to Section 11(2) of the Compensation Cess Act is on the utilization of ITC towards payment of outward Cess, not on the refund of unutilized ITC. This interpretation aligns with GST's principle of zero-rating exports to prevent cascading of taxes.

Given the impending sunset of Compensation Cess for most industries (except tobacco) from September 22, 2025, exporters who have accumulated Compensation Cess ITC on their input supplies should proactively file for refunds.

1.2. Refund of unutilized ITC on business closure is not allowed

The High Court in this case dealt with the issue of refund of unutilized ITC following the closure of business. The Respondent – Taxpayer claimed refund of the balance ITC lying in their electronic credit ledger under Section 49(6) of the CGST Act, arguing entitlement after business discontinuance. The Petitioner – Revenue rejected the refund on the grounds that Section 54(3) of the CGST Act restricts refund of unutilized ITC only to zero-rated supplies and inverted duty structure cases, neither of which applies to business closure.

While the Single Judge initially allowed the refund, the Division Bench later reversed this decision. The Court emphasized that Section 49(6) is subject to Section 54, the comprehensive refund provision. Statutory restrictions under Section 54(3) limit refund claims. The Court reiterated that business closure is not enumerated as a ground for refund within Section 54(3), referring to the Supreme Court judgment in VKC Footsteps to uphold this interpretation. Therefore, refund of unutilized ITC on business closure is not permissible under current GST legislation.

[Union of India & Ors. v. Sicpa India Private Limited, 2025-VIL-933-SIK]

Taxient Comments: This ruling firmly establishes that the GST refund regime is strictly governed by statute, with limited exceptions for unutilized ITC refunds. The decision aligns with the principle that tax laws should be interpreted based on the clear text of the statute and reinforces the legal boundaries for refund claims. Businesses must be cautious and strategic in managing their ITC utilization before winding up operations to avoid blocked credits.

While this legal position may feel stringent compared to erstwhile laws that allowed ITC refunds on closure, it reflects the legislative intent to prevent misuse and tax leakage. It clarifies ambiguities around refund on business discontinuance and provides legal certainty to taxpayers and administrators. This judgment is a crucial precedent in GST jurisprudence relating to closure and refund claims, underlining that refund rights are tied to specific statutory categories and does not extend universally upon business shutdown.

2. ADVANCE RULINGS

2.1. ISD mechanism to distribute ITC is mandatory from April 1, 2025 onwards

The Applicant was previously following the cross-charge mechanism where the HO directly issued invoices to other locations for distributing ITC of common input services. From April 1, 2025, the Applicant started issuing invoices first to its ISD registration as per Rule 54(1A) of the CGST Rules, and thereafter the ISD distributed ITC to other locations. In this background, the Applicant sought an advance ruling on the applicability of the amended provisions relating to ISD mechanism [Sections 2(61) and 20 of the CGST Act, 2017], effective from April 1, 2025. The Applicant also sought clarity on whether it could continue to receive input service invoices issued in the name of its HO, then transfer ITC to the ISD registration under Rule 54(1A), and distribute ITC to other locations through the ISD mechanism.

The AAR held that w.e.f. April 1, 2025, amended provisions mandate that any office receiving invoices for common input services must be registered as an ISD and distribute ITC directly through the ISD mechanism. The practice of receiving invoices in the name of HO and then transferring ITC to the ISD registration using Rule 54(1A) is inconsistent with the amended law. Therefore, the Applicant neither follow cross-charge mechanism nor use Rule 54(1A) to transfer ITC from HO to ISD registration for distribution. All ITC on common input services must flow directly through the ISD mechanism as specified under Sections 20 and 2(61) of the CGST Act and related rules.

[MRF Limited, 2025-VIL-145-AAR]

Taxient Comments: The ruling clarifies that from April 1, 2025 onwards, compliance with ISD provisions is mandatory for taxpayers who receive tax invoices for common input services at one location for or on behalf of other locations. The prior practice of cross charging where the HO directly issued invoices to other locations cannot be continued. Furthermore, Rule 54(1A) has been specifically introduced to facilitate the transfer and distribution of ITC on common input services received under RCM. Crucially, Rule 54(1A) cannot be used to transfer ITC of common forward charge services.

The ruling does not address treatment of internally generated services, which are fundamentally different from common input services in nature. Internally generated services are those provided by the HO to itself or to other branch locations as part of its own operations and support functions, such as IT, HR, or administrative services. These services are usually managed through the cross-charge mechanism, where the HO invoices branch locations for the services provided without the involvement of external vendors.

In contrast, common input services are procured from external suppliers and received at one location (often the HO) but benefit multiple branch locations across different states. The ISD mechanism is designed specifically to distribute ITC related to such common external input

services (forward as well as reverse charge services) to the relevant branches in a compliant and proportionate manner.

This distinction is crucial for taxpayers to understand because it impacts how ITC should be distributed. While ITC on common input services must be distributed through the mandatory ISD mechanism (effective April 2025), ITC on internally generated services can and should continue to be managed through the cross-charge mechanism. Proper classification and adherence to these rules avoid non-compliance and incorrect ITC distribution, ensuring accurate tax treatment aligned with GST provisions.

2.2. Eligibility of ITC on electrical works for factory expansion

The Applicant entered a contract with the supplier for the supply, installation, testing and commissioning of electrical systems including LT panels, bus ducts, light fixtures and lightning protection works. The total contract covered comprehensive electrical installation across the new facility. The Applicant sought advance ruling on whether ITC would be admissible on such works and further queried on the timeline for availment of ITC on advance invoices raised by the contractor.

The Tamil Nadu Authority for Advance Ruling ('AAR') observed that the contract in question was not confined to the supply of separate electrical equipment. Instead, it covered the entire factory and was in the nature of a composite works contract, involving both supply of goods and their installation and commissioning. According to the AAR, the result of such a contract was a complete electrical system which became a permanent part of the factory building. Once electrical wiring and fixtures are fixed into the walls, ceilings or through civil works, they lose their separate identity and become part of the immovable property of the factory. The AAR further held that the expression 'plant and machinery' under section 17(5) must be interpreted strictly. Only those items of equipment or apparatus which are used directly for producing outward supplies would qualify. General electrical systems across the factory cannot be treated as such machinery. Basis this, ITC was held to be blocked under section 17(5)(c) and (d). Since the main issue of eligibility was decided against the Applicant, the AAR did not examine the second issue relating to the time limit for availing ITC on advance invoices.

[Shibaura Machine India Private Limited, 2025-VIL-143-AAR]

Taxient Comments: This ruling continues the trend of Advance Ruling Authorities in treating capital-intensive infrastructure works as part of immovable property and thereby denying ITC. In doing so, the AAR gave little weight to the functional character of electrical installations or to their capacity for dismantling and relocation. This issue could have been considered in light of the recent decision of the Supreme Court decision in **Bharti Airtel Ltd. vs. Commissioner of Central Excise, Pune, 2024-VIL-49-SC-CE** concerning moveability of telecommunication towers. The Apex Court held that even structures as large and substantial as telecommunication towers are to be regarded as movable property, since they can be dismantled and re-erected

without causing injury to the base structure. By the same reasoning, electrical panels, bus ducts and cabling being modular in design and routinely dismantled for maintenance should equally be treated as movable property. If so, they would not fall within the blocked credit restrictions of section 17(5).

2.3. GST treatment of hotel accommodation with food packages as composite supply

The Applicant operates a hotel property which offers standard tariff plans common in the hospitality sector, namely the European Plan (EP – room only), Continental Plan (CP – room with breakfast) and American Plan (AP – room with three meals). One of the main issues for which the Applicant sought an advance ruling was the classification and applicable rate of tax on the food component in AP and CP packages, where invoices separately reflected charges for accommodation and food.

The AAR observed that under CP and AP plans, accommodation and meals are inseparably bundled, and customers are charged a consolidated tariff. Even if the hotel chooses to show a notional split between room rent and food charges on the invoice, the economic reality is that the package is supplied as a whole. The AAR referred to the statutory definition of 'composite supply', and held that accommodation is the principal supply, and the meals included in CP and AP plans are ancillary. Consequently, the entire bundled value, whether or not segregated in the invoice, is to be treated as a composite supply of hotel accommodation.

The AAR also clarified that if the combined value of accommodation and meals per room per day is up to ₹ 7,500, the supply falls under Entry 7(i) of the Notification No. 11/2017-Central Tax (Rate) dated June 28, 2017 and attracts GST at 12%. Where the combined value exceeds ₹ 7,500 per room per day, the supply is taxable under Entry 7(vi) at 18%. In effect, the food component of CP and AP plans does not attract an independent tax rate, it merges into the tax treatment of accommodation services.

[Orsino Hotels & Resorts LLP, 2025-VIL-144-AAR]

Taxient Comments: This ruling is significant for the hospitality sector. It confirms that meal-inclusive plans such as AP and CP are a composite supply with accommodation as the principal supply, so the entire package follows the accommodation rate. The invoice split between room and food will not change that result.

In light of the 56th GST Council's rate-rationalisation proposals (effective only upon notification), hotels should reassess tariff design. As per proposed change, hotel accommodation priced at ₹ 7,500 or below per unit per day attracts 5% without ITC (earlier 12% with ITC), while accommodation above ₹ 7,500 taxed at 12% with ITC. In practice, plan structures and contracts for AP / CP packages should be aligned to reflect this composite-supply treatment and the new applicable rate band.

3. OTHER STATUTORY & REGULATORY UPDATES

3.1. Goods and Services Tax Law

3.1.1. Key GST Rate related changes

- **Notification No. 9/2025 – Central Tax (Rate)** dated **September 17, 2025** has completely revised GST rates for goods in India, consolidating the previous system into seven schedules. From September 22, 2025, onwards most goods now fall into either a 5% (merit / essentials) or 18% (standard) bracket, while luxury and demerit goods are taxed at 40%.

  Taxient Comments: This is the largest rationalization since GST's introduction, making compliance and classification much simpler for businesses. The older notifications are fully withdrawn. All suppliers must update HSN codes, pricing and tax calculations to comply from September 22, 2025.

- **Notification No. 10/2025 – Central Tax (Rate)** dated **September 17, 2025** has been issued to provide list of exempted goods from September 22, 2025 onwards. The list has been expanded to include most unprocessed foods, certain medicines, and key household basics.

  Taxient Comments: Businesses dealing in newly exempted goods must ensure reversal of ITC for those stocks and supplies made exempt from September 22, 2025.

- **Notification No. 13/2025 – Central Tax (Rate)** dated **September 17, 2025** has been issued to provide a reduced rate of 5% for handicraft and artisan products. This covers a wide range of handmade goods fabrics, bags, decorative items, toys, traditional art providing the sector competitive parity with mass manufacturers and protecting artisan livelihoods. Earlier ambiguities over handicraft definitions have also been clarified, easing compliance for micro and small businesses.

  Taxient Comments: This move will boost Indian craft exports, align GST with social policy, and will enhance viability for rural manufacturing. Artisans, exporters and aggregators should revisit product classifications, secure correct documentation, and update ERP / billing codes to leverage the concessional rate without risk of audit disputes.

- **Notification No. 14/2025 – Central Tax (Rate)** dated **September 17, 2025** has been issued to provide a fixed GST rate of 12% on construction bricks, clay blocks, fly ash bricks and similar products.

  Taxient Comments: Earlier, bricks were taxed under multiple categories, causing confusion and litigation. This notification brings clarity and uniformity, benefiting builders, contractors, and suppliers with simplified pricing and reduced compliance and valuation issues.

- **Notification No. 15/2025 – Central Tax (Rate)** dated **September 17, 2025** has been issued to provide changes in GST rate of key services. Read our earlier update 'Key GST Changes Announced at 56th GST Council Meeting' dated September 4, 2025 to check the list of services.

  Taxient Comments: Earlier, bricks were taxed under multiple categories, causing confusion and litigation. This notification brings clarity and uniformity, benefiting builders, contractors, and suppliers with simplified pricing and reduced compliance and valuation issues.

- **Notification No. 17/2025 – Central Tax (Rate)** dated **September 17, 2025** has introduced GST applicability on local delivery services provided through E-commerce platforms. The notification provides that GST on local delivery services will be paid by the E-commerce operator, except in cases where the local delivery supplier is compulsorily required to register under GST.

3.1.2. Other GST related changes

- CBIC has issued **Notifications No. 13/2025 – Central Tax, Notifications No. 14/2025 – Central Tax and Notifications No. 15/2025 – Central Tax** dated **September 17, 2025**, which introduce critical amendments impacting GST compliance, refund processing, appeals, and annual return filing. Key changes are as follows:

  - Effective, October 1, 2025, provisional refund orders must now be passed within 7 days of application acknowledgment, based on system-driven risk analysis. Provisional refunds may be withheld for documented reasons.

  - Introduction of a new Rule 110A allowing transfer of appeals not involving a question of law to single-member benches for expedited disposal.

  - Annual Return (GSTR-9) and Reconciliation Statement (GSTR-9C) incorporates detailed new reporting requirements for ITC, including ITC from preceding years, reversals, and reclaiming of ITC, along with enhanced supply and tax reconciliation, and introduction of sections covering supplies taxing E-commerce operators under Section 9(5). These changes have been notified for FY 2024-25 as of now.

  - Registered persons with aggregate turnover in any financial year is up to Rs. 2 crores are exempt from filing annual returns of that financial year.

  - Government has notified categories of registered taxpayers who are excluded from availing provisional GST refunds:

    - Taxpayers not completing Aadhaar authentication as per Rule 10B.

    - Taxpayers engaged in supply of specified goods such as Areca nuts, Pan Masala, tobacco and substitutes, and essential oils.

- CBIC has issued **Circular No. 251/08/2025** dated **September 12, 2025 ('Circular No. 251')**, which clarifies important aspects related to the treatment of secondary or post-sale discounts under GST. The Circular addresses key issues as follows:

  - If suppliers issue financial or commercial credit notes as post-sale discounts, then such discounts do not reduce the original taxable value of the supply or the supplier's tax liability. Hence, recipients of these supplies are not required to reverse ITC relating to such transactions.

  - Post-sale discounts given by manufacturers to dealers as price reductions are not considered additional taxable consideration if there is no agreement directly involving the end customer.

  - When a manufacturer and end customer have an agreement for discounted supply and the dealer is compensated to provide that discount *via* credit note, such discounts count as consideration attracting GST.

  - In cases where dealers undertake specific promotional activities under a formal arrangement with manufacturers such as advertising, exhibitions, or branding consideration paid for such services would be liable to GST. However, routine discounts to push sales which are not linked to such independent services are not taxable.

  Taxient Comments: The recent CBIC Notifications bring important updates to the GST framework impacting refund processes, appellate procedures, and Annual Return filings. Refund processing is set to become much faster and more automated based on risk evaluation, with provisional refunds to be disbursed within seven days in many cases. While this improvement eases cash flow management for compliant taxpayers, withholding provisional refunds in questionable cases will require businesses to maintain robust documentation and compliance standards.

  In terms of dispute resolution, the introduction of a provision allowing appeals that do not involve question of law to be transferred to single-member benches is a welcome step to speed up case disposal and reduce backlog. The enhanced Annual Return and Reconciliation Statement requirements, including detailed reporting of ITC from prior years, tax reversals, and supplies involving E-commerce, will help improve transparency and tax compliance but also increase the reporting burden on taxpayers. It is critical for businesses to start preparing reconciliations and details needed for FY 2024-25 as due date (i.e. December 31, 2025) of filing Annual Return is approaching fast.

  Finally, Circular No. 251 clarifying the treatment of secondary or post-sale discounts eliminates uncertainties and disputes on ITC reversals and taxable consideration in routine post-sale discount scenarios, which will aid businesses with correct tax treatment and improve ease of compliance. However, the distinction between routine discounts and compensation for

promotional activities requires careful contract and transaction review to avoid inadvertent GST liability.

3.2. Legal Metrology Regulations

3.2.1. New relaxations for affixing revised MRP on pre-packaged commodities

- The Ministry of Consumer Affairs, Food and Public Distribution issued **Instruction No. I-10/14/2020-W&M** dated **September 18, 2025**, granting new relaxations relating to GST changes. These instructions override the previous advisory dated September 9, 2025.

- Manufacturers, packers, and importers may voluntarily affix additional revised MRP stickers on unsold pre-packaged commodities (manufactured before September 22, 2025), provided the original price declaration is not covered. Affixing revised MRP sticker is not mandatory.

- The mandatory requirement to issue newspaper advertisements regarding revised MRP has been waived. Entities now only need to send circulars to wholesale dealers, retailers, and legal metrology authorities.

- Packaging material or wrappers with pre-printed MRPs that could not be exhausted before GST revision can continue to be used up to March 31, 2026, or until stocks are exhausted, whichever is earlier.

- If needed, updated MRPs may be shown by stamping, stickering, or online printing anywhere on the package.

- Declaration of revised unit sale price on unsold pre-packaged goods or unused wrappers bearing pre-printed MRP is not mandatory. It may be done voluntarily if desired.

Taxient Comments: The relaxation is timely and pragmatic, considering the challenges companies face in re-labelling vast unsold inventories amidst changing GST rates. By making MRP re-sticker optional while maintaining consumer notification, the Government effectively balances compliance ease with consumer protection. This approach should help businesses avoid unnecessary costs and legal risks while ensuring the benefits of GST rate changes are passed on transparently.

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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