



# LEGAL NEWS LETTER

DELHI GST PROFESSIONALS GROUP



FIRST EDITION: JANUARY 2025



# LEGAL NEWS LETTER

## DELHI GST PROFESSIONALS GROUP

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**PRAVEEN KHANDEWAL,  
MP, DELHI**

Sub: Release of first E Legal News Letter of Delhi GST Professionals Group.

Indeed, it is heartening news that this Group is going to take the big initiative and release a monthly E Legal News Letter effective January 2025 to be circulated all across the world. And I thank you for making me Patron in Chief of the Newsletter.

I have been a part of journey of this Group through Shri Sushil Verma, Advocate, Delhi with whom I have my personal association for the last three decades and whatever I could write here about him shall be less than what he deserves. In short, he is a great professional who has served CAIT and its thousands of associations over the three decades and has never charged anything. Rarity, but true.

No doubt such an initiate of this Newsletter shall warm the hearts of all stake holders for the education spread and reach it is going to show. I shall be taking it as my

responsibility that it remains the best and is circulated all across India and abroad. I am more than confident that for the professionals, for the trade and industry and for the Government this Newsletter shall prove thought provoking through the contents it would carry. Will try to contribute a piece every month for this privileged document of our group, surely.

Best of Luck to the entire team of this Group. And on my personal behalf and on behalf of this Family, let me wish all of you a very HAPPY NEW YEAR 2025.

**WHAT A MOMENT TO RELEASE THIS NEWSLETTER, WOW?**

## FROM THE DESK OF EDITOR



**EDITOR@SV**

### “HUMAN POTENTIAL KNOWS NO LIMITS”

How would our life be different if we were all conscious about what we do, what we read and what we understand professionally and personally and above all the people we surround with and what we hear and appreciate – ask yourself these questions. Such questions will surely set you thinking. And surely our mind set may change dramatically!

Barely two and half years ago, we all witnessed the birth of this beautiful world of this Group now named Delhi GST Professionals Group. The sole aim was and shall always remain to harness the knowledge in the field of indirect taxation and its collateral constituents. During such a brief period the group has a serious presence in this field and its members have been asked to re-write GST Law for the consideration of law makers as all the Members know. The effort to disseminate tax knowledge and experience of such a knowledge is continuing and shall continue, I assure you. And at an amazing speed!

It is with profound pleasure that I feel privileged to pen down or write this first editorial message to THE GROUP'S E LEGAL NEWS LETTER – a flagship carrier of message of the Group and I whole heartedly welcome you to this new initiative The team chosen for this task – I must confess has far exceeded the potential we thought it had – a wonderful set of people and great team work for such an onerous task at a short notice. The first volume has been successfully completed

and is placed in your hands for your observations and comments.

The myriads of subjects this News Letter may address shall, in my view, immensely contribute to the ever increasing and required knowledge bank of the Members and others who might get an opportunity to read this. And consequent multiply the intangible benefits for all the Members in their respective areas of practice.

The intention of this News Letter is to create space for generation of new knowledge, debate, collaborations among local and international tax professionals' association. My vision is to promote research on the subject we deal with that will be helpful for knowledge sharing, new ideas, development of critical thinking amongst the established and upcoming professionals, guidance of policy makers and law makers and above all for awareness of law and its latest developments of the stake holders in this field of taxation.

I personally extend a very warm welcome to the readers of this News Letter and I do hope that you will join us as authors, reviewers and editors in future.

In my closing comments for this message, friends, I would like to express my sincere gratitude to the E NEWS LETTER TEAM headed by B B Deewan Secretary and Narender Ahuja and Rahul Kakkar as Convenors. Their contribution is immense. And the Dy Editors Rajmani Jindal and Kumar Jee Bhatt, as well know, are devoted to this group like its soul and their work is cut out from now onwards – they shall be responsible for the success of this initiative, surely, they would succeed. And as always like this Group, this Newsletter too shall ever remain apolitical, independent and no nepotism or favors to anyone will ever be noticed here. This message is loud and clear to this Team.

The other senior members Rajesh Khurana, Rashimi Jain, Atulya Jain and Harshit Bajaj, Renu Sharma and C K Gupta – are very capable people indeed and in times to come

they would take this E NEWSLETTER to greater heights, whosoever may be at the helm of this Group.

Lastly when we start such an initiative it requires us to be warriors– with patience and time. We have taken the courage to start this and God willing we should be setting standards that would be difficult to match.

**AND AN EXCITING YEAR AHEAD  
FOR US FULL OF EXCITEMENT,  
JOY AND COLORS.  
HAPPY NEW YEAR TO YOU ALL.**

**GOD BLESS.**



**@RAKESH GARG**  
**ADVISOR**

The release of the e-newsletter by the Delhi GST Professionals Group (Group) is a significant milestone that deserves heartfelt praise and recognition. The Group, already engaged in the dissemination of knowledge in various fields, particularly GST and Indirect Tax, has organized more than fifty workshops and seminars over the past couple of years. Now, it has moved forward into another area of education to benefit both professionals and taxpayers.

In today’s ever-evolving world, where tax regulations undergo constant changes and involve multiple interpretations, timely communication and the dissemination of knowledge are of paramount importance. By introducing this e-newsletter, the Group has taken a meaningful step toward fostering transparency, education, and engagement within the professional and public communities it serves.

Newsletters play an essential role in connecting organizations with their stakeholders, and the launch of this publication will undoubtedly serve as a cornerstone of communication. It provides tax professionals, policymakers, and taxpayers with a trusted source of information, insights, and updates.

The foresight of Mr. Sushil Verma, Advocate, to create such a resource is highly commendable. In a world where misinformation can spread easily, having a credible voice to rely on is invaluable. This newsletter has the potential not only to educate but also to inspire—empowering readers to make informed decisions in their professional pursuits.

By offering valuable insights and timely updates through its publication, the Group is not only nurturing knowledge but also fostering a sense of unity and purpose. It enables members to stay connected to key developments and trends, while also providing a platform where ideas, innovations, and best practices can be shared. This newsletter will undoubtedly contribute to the professional growth and continued success of its readership.

I wish to extend my heartfelt blessings for the success and longevity of this initiative. May this publication continue to thrive, grow, and positively impact lives. May the Group be blessed with the wisdom, resources, and continued dedication required to keep this initiative flourishing, enriching the community it serves.

In conclusion, heartfelt congratulations are extended to Mr. Sushil Verma, the visionary behind this effort, the entire editorial team, the convenors, the members of the Group, and all those involved in the creation and release of this e-newsletter. It stands as a testament to forward-thinking, professional excellence, and a deep commitment to service. May it achieve great success, fostering knowledge, trust, and progress with every issue published.



**@B.B. DEWAN**  
**SECRETARY**

When I look back, from early 2003 when we started debating VAT under the leadership of SV sir, and the journey so far in 2024, for a long 21 years, my association with him has been very challenging, exciting and fruitful. And when this Group or Family was created our mission was one – Tax Professionals must be respected and honored everywhere they practice for their sincerity, knowledge and professionalism.

And this Group has now travelled more than 1000 days with 58 plus Study Sessions under the leadership of SV Sir and on topics that were so important for all the professionals. Professionals from all over Delhi and NCR come and attend study sessions without any charge.

The encouragement, courage and confidence this family has instilled in Members is a treat to watch. Imaging myself delivering a lecture in GST was indeed a satisfying moment and when I did without any hesitation and people stood up and clapped, I realized how a leader can bring out the best in people. Grateful that I am for being a key part of this Group.

And the only message I offer today is that this Family may grow but grows with

serious professionals – this Family should remain restricted to only studies as it is today. No politics of any kind here at all.

And on this new journey of E NEWS LETTER from this Group, I along with other Team Members extend my heart felt gratitude to the Almighty who has blessed us all and gave us SV Sir to assist us in our professional and personal journey towards excellence.

I assure all the members that this News Letter shall remain a world class document and shall carry topics of immense knowledge and value to all of us.

I also invite all the Members to start writing articles and submit the same to the E NEWS LETTER Committee Members and if selected this will be printed in Newsletter.

Good Luck to you all and a Happy New Year to you and your families.

**GOD BLESS US ALL.**





**@Rajmani Jindal**  
**DEPUTY EDITOR**

## **Whatsapp DGST PROFESSIONALS Group: My Takeaway from 30 Months of Association/Membership**

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I consider myself very fortunate to be part of this precious and prestigious group. With all humility I want to say that I am a privileged member of this group that is coming out with E-NEWSLETTER for the first time in the history of WhatsApp study group.

Over the past 30 months, being a foundation member of the “WhatsApp “DGST Group” has been a remarkable journey of growth, learning, and professional enrichment. As someone deeply engaged in the field of GST, the group has been a cornerstone of my understanding and application of this complex tax law. It has transformed my approach towards GST-related challenges, equipping me with practical knowledge and deep insights which I could not have gained elsewhere.

In this write-up, I want to reflect on my journey with the group, highlighting the immense value it has added to my professional expertise and competency.

### **1. My Intake from the Group: A Treasure Trove of Knowledge**

The “WhatsApp” DGST Group” has been more than just a platform for discussion—it has been a dynamic ecosystem for learning, collaboration, and problem-solving. My biggest takeaways from the group can be summarized as follows:

#### **A. Real-Time Access to Updates and Amendments**

GST, as a law, is constantly evolving with new rules, circulars, notifications, and amendments. Keeping track of these changes individually can be daunting, but the group has made it seamless. Members frequently share updates the moment they are announced, ensuring I stay ahead of the curve.

One acclaimed example was the 2022 Amendments regarding Input Tax Credit restrictions.

#### **B. Practical Problem-Solving and Case Studies**

The group excels in providing practical solutions to real-world GST issues. Members share specific problems they face, ranging from registration delays to disputes over tax rates or Input Tax Credit eligibility. These discussions have offered me unmatched & peculiar perspective and off the shelf solutions for similar challenges in my own work.

### **C. Learning from Diverse Professional Perspectives**

The diversity of the group’s members—ranging from chartered accountants to lawyers to company secretaries—has exposed me to a wide and diverse outlooks. This has enriched my understanding of GST beyond the legal text, offering insights into its financial and operational implications.

### **D. Mastery of Case Laws and Judicial Interpretations**

The group frequently discusses key judgments from Tribunals, High courts, and the Supreme Court. These discussions have deepened my understanding of how GST provisions are interpreted by the judiciary.

For example, a discussion on the landmark Mohit Minerals case concerning GST on ocean freight gave me a comprehensive understanding of the judgment and its far-reaching implications. Such debates have sharpened my ability to analyse judgments critically and apply them in my practice.

### **E. Confidence in Handling Complex GST Queries**

Over time, I have noticed a remarkable improvement in my confidence while dealing with complex GST issues. Whether it’s interpreting ambiguous provisions or addressing client-specific challenges, the knowledge gained from this group has been instrumental.

### **F. Development of Analytical and Research Skills**

The group’s in-depth discussions often push me to research and analyse GST provisions more critically. This habit of delving deeper has significantly enhanced my analytical skills, enabling me to view GST issues from multiple angles.

## **2. How the Group Has Enhanced My Professional Capabilities and personality**

The value of the group extends beyond knowledge sharing—it has tangibly improved my professional capabilities and my uniqueness as a tax professional.

**A. Improved Compliance Management :** Through the group, I have learned best practices for managing GST compliance, from filing returns to reconciling Input Tax Credit. The practical tips and shared experiences of members have helped streamline my approach to compliance, making it more efficient and error-free.

**B. Networking and Collaboration:** The group has connected me with a network of like-minded professionals who share of common passion for GST. This has not only opened doors for collaboration but also provided me with mentors who have been beacon of knowledge and enlightenment

### 3. Memorable Discussions and Takeaways

Certain discussions in the group have left an enduring & indelible effect on me:

**Debate on Classification Issues:** A discussion on the classification of composite and mixed supplies highlighted the importance of understanding the fine print of GST provisions. This helped me resolve a client issue related to a similar classification dilemma.

The Prevention of Money Laundering Act, 2002 (PMLA) group discusses the law from various angles and that has really helped to fathom the concept.

**Analysis of Budget 2023 GST Changes:** The group dissected the implications of changes introduced in the Union Budget 2023. This helped me quickly grasp the amendments and prepare my clients for compliance.

### 4. My Personal Contributions to the Group

Being a recipient of so much knowledge, I have made it a point to contribute actively to the group the way I can. Contributing to the group not only enhances my knowledge but also allows me to give back to the community that has helped me to grow to which I owe.

### 5. Conclusion: A Journey of Enrichment and Growth

Reflecting on my 30-month journey with the “WhatsApp DGST Group,” I can confidently say that it has been one of the most rewarding professional associations I have been part of. The group has not only kept me informed about the ever-evolving world of GST but has also magnified and heightened my skills, boosted my confidence, and connected me with an inspiring community of professionals.

This group is a testament to the power of collective learning and collaboration. As I look forward to continuing this journey, I remain committed to contributing to the group while drawing from its wealth of knowledge.

In essence, this group has not just been a resource but also been a catalyst for my professional growth. I also want to highlight unmatched guidance and tips for lifestyle by our mentor from time to time.

I am fall short of words to express the intensity and magnitude of my gratitude towards the chief/ mentor for giving me this opportunity.

***WISHING THIS FAMILY A VERY HAPPY NEW YEAR 2025. MAY YOU AND YOUR LOVED ONES STAY BLESSED AND LOVED ALWAYS.***



**@Kumar Jee Bhatt**  
**DEPUTY EDITOR**

संगच्छध्वं संवदध्वं सं वो मनांसजिानताम्,  
देवा भागं यथा पूरवे सञ्जानाना उपासते.

हम सब एक साथ चले, हम सब एक साथ बोले  
हमारे मन एक हो, हमारे वचिर समान हों

हम मलिकर रहें, हम सभी ज्ञानी बनें,  
वदिवान बनें

It was a very heartening news for me in the grief struck atmosphere, due to sad demise of my mother that I was being taken as a Dy.-editor of the Newsletter to be published by the group. I am writing to express my heartfelt gratitude for the opportunity to serve as the Sub-Editor of our esteemed newsletter.

It is truly an honor to be entrusted with this role, as I am already doing the job as Editor of the Delhi Sales Tax Cases and I appreciate the confidence you have shown in my abilities. This role is not only a privilege but also a significant step in my professional journey, and I am truly humbled by the trust that this Group has reposed in my capability and capacity. SV Sir's love and affection towards me since I landed in Delhi in the year 1990, due to our displacement from Kashmir is unforgettable event in my life.

I remember the initial days when you encouraged me for taking life forward in pursuit of my profession. He was always like my elder brother, supporting me, weather in consultation or getting reference books.

I look forward to contributing meaningfully to the newsletter's success by maintaining its quality and ensuring it remains engaging and informative for our readers. I have always admired the exceptional quality and vision behind our newsletter, and I feel honored to now play a part in its ongoing success. It is my sincere intention to uphold and enhance its standards by ensuring that every edition remains informative, engaging, and reflective of our readers' interests.

Being a part of such a dedicated team under your leadership is both inspiring and motivating. I look forward to learning from your invaluable experience, collaborating with fellow team members, and contributing fresh ideas that align with the newsletter's mission and values. Please know that I am open to any guidance, advice, or feedback you may wish to share as I strive to excel in this role. I conclude my message with the following vedic mantra:

ॐ सह नावतु। सह नौ भुनक्तु। सह  
वीर्यं करवावहै। तेजस्वनावधीतमस्तु। मा  
वद्विषोवहै। ॐ शान्तिः शान्तिः शान्तिः।।

अर्थ :

हे परमात्मन् ! आप हम दोनों गुरू और शिष्य की साथ- साथ रक्षा करें , हम दोनों का पालन-पोषण करें, हम दोनों साथ-साथ शक्ति प्राप्त करें, हमारी प्राप्त की हुई वदिया तेजप्रद हो, हम परस्पर द्वेष न करें, परस्पर स्नेह करें।

Once again, thank you for this incredible opportunity. I am eager to serve as a resourceful and committed Sub-Editor. A very happy new year 2025 to all Group members and their loved ones.



**@ Sushil Verma**

**GST LITIGATION –  
WHAT IS COMING FOR PROFESSIONALS?**

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***“Litigation, said Ambrose Bierce, is a machine which you go into as a pig and come out of as a sausage.”***

Imagine how true this is for India’s GST so far, where professionals are smiling and walking through their big bank balances.

Over the past seven years the number of alleged evasion cases filed by just the Directorate General of GST Intelligence has almost touched over 75000 with a billions in tax evasion issues. The DGGI is only one of five authorities that can raise tax demands. Add to that pending appeals and the size of the problem overwhelms.

From PepsiCo to BMW to Uber, Infosys to gaming startups — they are all embroiled in GST litigation that could take years to resolve and add to the cost of doing business in India.

India’s GST authorities have “displayed over-enthusiasm for enforcement of the law,” Coupled with a surge in evasion cases

such as fake input tax credits, the whole system has resulted into overdrive for litigation and High Courts are overwhelmed with writ petitions and mostly they are remanding the matters further creating more problems, chaos and confusion. Safari Retreats’ judgment is just one example?

**JUST SEE THE LATEST ONE ZOMOTO FACING 803 CRORE DEMAND?**

The primary purpose of taxation is to fund public spending by re-allocating funds from taxpayers(citizens/businesses) to government. The general aim of public revenue collection and spending should be to maximise social welfare. Tackling tax evasion and fraud, and removing loopholes and mismatches that facilitate aggressive tax planning are essential ways of securing tax revenues.

Financial impact on tax payers, legal complexities, understanding exemptions and concessions, classification of goods read with HSN codes and the preventive litigation measures are a must for the taxpayers to not only optimise the tax cost but also save productive time by avoiding unwanted litigation with authorities. Besides bearing financial burden for the wrong tax charges in the quest of lowering the selling prices the taxpayers may also face prosecution for wrong rate of tax charges collected and perhaps not paid to the revenue. Maintaining accurate records, seeking expert advice, conducting periodic audits, and staying updated with the provisions of the CGST and IGST Acts are key strategies to avoid disputes and ensure compliance in the ever-evolving GST landscape. Businesses must also foster open lines of communication with the tax authorities and adopt a proactive approach to resolve any disputes that may arise swiftly. By doing so, businesses can not only mitigate the risks associated with GST disputes but also foster a smooth and compliant GST journey.

The implementation of GST in India revolutionized the tax landscape, unifying multiple indirect taxes. Consequently, understanding GST litigation is crucial for navigating complex tax disputes effectively.

GST litigation involves legal disputes arising from the application and interpretation of the GST Act and related rules. These disputes can encompass various scenarios:

**1. Assessment Issues:** Disagreements with tax authorities regarding the valuation of goods or services, the applicable tax rate, or the eligibility for input tax credit (ITC) can lead to litigation.

**2. Classification Issues:** Disputes regarding the classification of goods or services under the Harmonized System of Nomenclature (HSN) can also result in legal challenges.

**3. Denial of Input Tax Credit:** If your claim for ITC is denied by the authorities, you may need to pursue legal action to recover the credit.

**4. Penalty and Interest Disputes:** Challenges against penalties or interest levied by tax authorities for alleged non-compliance with GST provisions can be addressed through litigation.

**5. Refund** related issues

**6. Criminal prosecution issues** – section 132 read with Section 69 of CGST Act.

**7. GST Audit** and Investigation Challenges

**8. Choice of suppliers** – must be above board.

In India, the system of direct taxation as it is known today, has been in force in one form or another even from ancient times. There are references both in Manu Smriti and Arthashastra to a variety of tax measures. Manu, the ancient sage and law-giver stated that the king could levy taxes, according to Sastras.

GST being a tax on “taxable supplies” including goods and services or both, lures grey market operators to save money by manipulating the tax system, tax exemptions, tax notifications and HSN classification and entries. Hence, disputes are and shall remain a part of this tax system.

My take on GST litigation is that in coming years huge litigation shall ensue in following areas and we as professionals need to get ready – and readiness is nothing but appreciating the legal interpretation, trade practices and the latest judge made laws.

1. Classification of goods and services: Interpreting the charging Section 9 read with HSN. Codes and GST Tax Rates, the correct classification shall be crucial and any variation, like it happened in excise

and customs shall become a perennial dispute in GST. We professionals will have to understand HSN Codes; analyse GST notifications, may be refer for leading expert advice, streamline documentation, and conduct forensic audit, internal review and audits to ensure classification we adopt is correct and tax we pay is as per law. In house training sessions for corporates shall be the key to avoid classification disputes and to ensure no litigation, more so when wrong tax charged shall increase the tax liability and the buyers will not pay. That is the paradox.

2. Calculation of output tax and net tax liabilities is another area of huge dispute already and it shall increase as time progresses in GST era. The taxable values definitions, ITC mechanism, Documentation and record keeping ( especially regarding proof of receipt of goods and proof of dispatch of goods to the buyers –Supreme Court ECOM Gill judgment ref.) are some issues that can create big issues of dispute in terms of high stake demands. The way forward is. More informed decision making through regular training and awareness of laws.

There will be disagreements with the revenue about availment of correct exemptions, concessions and tax free supplies. Interpreting such exemptions etc and various notifications are already causing immense stress on corporate and demands worth hundreds of crores are being raised in all sectors of the economy; especially about eligibility criterion and debatable notifications( Dalip Kumar judgment also creates hurdles), documents requirements ( works contract issues for example) or the extent of benefits available ( say definition of pure supply ). Section 11, Section 5 of SGST and IGST Acts respectively give many such exemptions and concessions through many notifications; like health care, education, agricultural activities- and grey market operators may start unjustly enriching themselves at the cost of exchequer and hence problems

shall arise.. Hence, professionals and taxpayers need understand and correct interpret such notifications. Disputes may arise when businesses claim exemptions without meeting the necessary conditions or fail to provide appropriate documentation to support their claims. The more problematic areas of disputes shall be Government contractors, tender business and inclusive tax rates quotes where taxpayers and professionals need to be very careful – more so when the time limitation for completing the section 73 and 74 proceedings is now too much and hence any mistake may result of recurring tax costs that may be difficult for businesses to bear OR huge litigation costs shall ensure for the taxpayers.

### **3. Compliances:**

Just imagine section 16 (3) and (4) compliances, tax rates going up and down, refund compliances, zero rating time lines for services etc – all such issues are litigation prone and it can involve penal interest penalties or even prosecution. Monitoring and staying updated with changes in exemption provisions and related regulations is essential to ensure ongoing compliance. Businesses should regularly review notifications, circulars, and any other communication from the tax authorities to stay informed about any amendments or additions to the exemption provisions. This can be done by regularly visiting the official GST portal, subscribing to newsletters, or seeking updates from reputable sources.

### **4. GST Administration Related Issues:**

Registration (interpreting section 22, 23 and 24 with relevant notifications) is already a big issue; procedural requirements, refund mechanism and communication issues are already causing a lot of disputes- resulting in GST appeals and now appeals before Tribunal and High Courts. Such issues arise purely due to lack of knowledge and untimely compliances.

## **5. The potential for cross-border GST litigation**

When it comes to the cross-border trade in goods and services, the one off tax followed in value added tax regimes principle is vulnerable to being harmed by the multiple impositions of GST in different jurisdictions: while one country might levy GST where the service supplier is resident, another country involved in the same transaction might levy GST where the service is effectively used or enjoyed. In addition, differences in factual assessments might lead to multiple impositions of GST on the same transaction. For instance, while one country might assume the existence of a fixed establishment for GST purposes, another country also involved in the cross-border case might not. The concept of zero rating, principles of export issues, intermediaries, payment issues are already causing multiple tax proceedings in India – it is just the beginning.

Such multiple impositions of VAT harm the international trade in goods and services and ultimately burden businesses because in most cases it will not be possible to on-charge this double burden to the customer. In contrast to direct taxation, there are no cross-border dispute resolution mechanisms available to resolve international tax disputes in the area of VAT.

## **6. Role Of Digital On Line Platforms And Supply Of Goods Or Services –**

The professionals and taxpayers need to carefully understand the digitization of tax payments and collection – it is already causing havoc in GST regime because e commerce operators are struggling to understand the nuances of GST mechanisms in India or abroad. Imagine what is happening in Online Gaming cases, Amazon and Flipkart cases and there are many more in the fray to compete with these companies in terms of litigation.

Continuous technological advancements,

not least the ability to collect and analyse vast amounts of data, have allowed digital platforms to successfully implement innovative business models that have created “new ways of doing things”, based on the sharing of assets (goods and services) rather than on traditional ownership-based concepts. This transformation reflects consumers’ growing preference for more flexible on-demand access to assets and services, particularly among younger people, and the interest of private individuals and businesses in the opportunities this creates to monetize (under)utilized assets and labour. But all these technological advancements have to meet the principles of GST law enriched in our GST Acts and this is where the disputes are happening big now.

## **7. Pronouncement of Rulings:**

Pronouncement of rulings by high courts, apex authorities & advance ruling authorities on the same subject have led to disputes between tax payers and tax authorities. For Instance, different judgments were pronounced by several high courts on the subject matter relating to refunds arising on account of inverted duty structure. However, the same issue was settled by the ruling pronounced by the apex authority in the case of VKC Footsteps.

## **8. Retrospective Amendments in the Act:**

Some of the amendments made in the Act have retrospective effects. However, the taxpayer might not be aware about such tax positions and might have taken different tax positions leading to disputes and disagreements.

## **9. Cross-empowerment of officers**

The GST law has subsumed several erstwhile indirect taxes levied and collected by the central government and state governments into central goods and services tax (CGST) and state goods and services tax (SGST) acts.



Officers appointed by the central and state governments are empowered to conduct pre-assessment and assessment proceedings. Every taxpayer registered under the GST law is administratively assigned to a central or state tax office to ensure a single interface. Section 6 of the Central Goods and Services Tax Act, 2017 (the CGST Act) states that officers appointed under the respective SGST act will be the proper officer under the CGST Act, subject to the conditions the government – on recommendation of the Goods and Services Tax Council, by notification – specifies. A similar provision exists in certain SGST acts. Based on this provision, questions have been raised as to whether the state officers and central officers have concurrent jurisdiction on the taxpayer for assessment.

The Government has to think on policy frame work lest this litigation shall become a very big mess for judiciary and the other stakeholders.

### **10. Definition of Business & Scope of supply**

As per section 2 (17), definition of business includes any activity or transaction undertaken by any Government / local authority in which they are engaged as public authorities. Section 7 of the CGST Act deals with the scope of supply which includes all forms of supply made / agreed to be made for a consideration in the course or furtherance of business activities specified in Schedule I, made / agreed to be made without a consideration; and activities specified in Schedule III be treated neither as a supply of goods nor a supply of services. Whether transactions involving allocation of grants by the Government to the Government Agency be treated as a supply? Whether services provided against fees by Government recruitment agencies is considered as supply?

### **11. Liability for Registration in GST**

As per section 22 of the GST act, supplier is liable to be registered in the State from where he makes a taxable supply of goods / services. Where supplier makes a taxable supply of goods / services relates to place of supply of such goods or services. Supplier may prefer to levy IGST, whereas the State authority would prefer his liability to register in the State and thereby levying CGST and SGST. For example: An architect who belongs to Delhi prepares a plan for a bungalow to be built in Mumbai shall pay IGST on such transaction. As the place of supply of the said transaction is Maharashtra, can the State authority may prefer him to take registration in the state in case his supply crosses the threshold limit?

### **Way forward: Possibilities of reducing litigation, My Take a big NO.**

Despite efforts of the government and commitments in the last seven years, GST law has witnessed many litigations and disputes from its implementation stage to the introduction of e-way bill system. Problems related to transition issues, non-filing of returns, refunds of taxes, export and import duties and complexities, penalties, e-way bill structures, Advance Rulings and related to many more areas are still under litigations and creating a scope for future dispute and litigations.

A few areas where the maximum litigations were filled are transitional input credit of various cheeses imposed prior to the introduction of GST, anti-profitteering, transitional credit, e-way bills etc. And now fake ITC, fake suppliers, bogus billing, untraceable suppliers, wrong documentation to claim it, HSN misclassification issues etc. are leading the litigation race in india. No doubt that the government has put in best efforts to clarify the issues to avoid litigations in the future, but no doubt that clarifications through informal channels like tweets, e-fillers, FAQs, press release etc. are not

legally binding on either side i.e. Neither to tax authorities (government) nor to the tax payers.

In many cases clarifications issued by the government or tax authorities were not in accordance with the legal provisions and contradictory to law. In various cases, Courts have even not accepted the Budget Speech of the Finance Minister as binding, since the same was not introduced or worded in the final Act which was passed by the parliament. Therefore, in the days to come, the scope of legal disputes and litigations are going to increase as the law will be implanted to its full swing, including audit, periodical and annual returns, full-fledged procedural compliances etc.

Professional training is a continuous process and we as professionals subject ourselves to continue learning of new dimensions of law, interpretation tools and above learn to accept we cannot know everything – let us do all what we can but to misguide the client. Never do it.

My take GST shall remain lawyers’ paradise for litigation at all levels and once the GST Tribunals are constituted, litigation will see spike many fold.

Sushil Verma





**@ ANSHU PRIYA**

**MEDIATION AND TAX LITIGATION – AN INDIAN  
PERSPECTIVE IN THE OFFING?”**

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***“COURTS TOO SETTLE THE DISPUTES; WHY NOT  
SETTLE AS FRIENDS THROUGH MEDIATION”***

The traditional adjudicatory and adversary litigation system that plagues our direct tax and indirect tax regimes must now give way out to more simplified and easy to hand Mediation process. The common law theories that India has practiced over the years need a relook as many other primitive laws have been relooked and removed from the statute book.

Compliance and administrative costs of tax litigation The compliance cost for the taxpayer and the administrative cost for tax authorities in pursuing this litigation is calculated in terms of money and the time spent. For taxpayers, this cost includes legal counsel and consulting fees, administrative costs for following up and tracking appeals, and the managerial time spent on dealing with tax authorities and appellate channels in pursuing these appeals. For

tax authorities, there are costs incurred on payments to tax counsels, deployment of senior tax department officers to represent it before the tax tribunals, and payments to senior counsels for taking up cases in high courts or the Supreme Court. These costs also include the cost of time and effort spent on briefing these counsel, and documenting, preserving, and tracking case records over the years of litigation, as well as office space occupied for maintaining relevant records, etc. It also eats away the time that tax authorities can spend on other functions, such as taxpayer service

When we imagine that it may take 15-20 years before a tax case is concluded before the apex court, the Government must pause such litigation as lakhs of crores of revenue may be blocked either side. When we also think on a drop of a hat the

Government agencies file appeals even in smallest and settled matters, such practices must pause now.

The adjudicatory process, generally taken as adversary in nature (it should not be) goes through step by step through appellate hierarchy; besides Constitution gives writ powers to the High Court and to the Supreme Court of India., And the entire process takes its own sweet time; adjournments, non -filing of counter affidavits and rejoinders, non -production of evidence, old records not traceable etc. etc. It simply takes a lot of time and a lot of censuring by Courts to either side before the case becomes ripe for final arguments and decision. And then each decision can be subjected to further appeal or writ jurisdiction. Thus an unending process goes on leading to a very high litigation cost for the taxpayer and for the Government too. Further the money that is needed today for economic developments just goes into the shell for years.

Further, when we analyse the success rates of such an onerous litigation process it is either way less than 50 percent and most time the cases are not settled and are just remanded for re-adjudication – setting the long process to start de novo.

Amnesty Schemes announced from time to time too have not reduced the litigations considerably because such schemes really do not settle the legal issues and offers a very temporary relief to the taxpayers. Delays and pendency of economic cases are high and mounting in the Supreme Court, high courts, economic tribunals, and the tax department, taking a severe toll on the economy in terms of stalled projects, mounting legal costs and contested tax revenues and reduced investment Delays and pendency stem from the increase in the overall workload of the judiciary, in turn due to expanding jurisdictions and the use of injunctions and stays; in the case of tax litigation, this stems from government persisting with litigation despite high rates of failure at every stage of the appellate process.

My take would be that Arbitration or mediation is the right way forward to help both the government and taxpayers escape the vicious cycle of pending disputes. The proposal is before the government, and as soon as budget contours are finalised, a decision will be taken perhaps in the forthcoming Budget. Once instituted, the arbitration mechanism will also help India scale up with its global peers in terms of having global best practices to deal with tax disputes. For example UK adopted this process way back in 2021 and it has been very fruitful for them. Countries like Canada and Australia already have similar mechanisms in place, and the OECD advocates arbitration as a preferred method for resolving tax disputes.

In April 2024, the United States announced the formation of a new Alternative Dispute Resolution Program Management Office to enhance its programs. The initiative aims to offer taxpayers more efficient and accessible options for resolving disputes without resorting to traditional litigation.

In the UK, updates since 2020 have allowed taxpayers to request alternative dispute resolution mechanisms at any stage of a tax dispute. These mechanisms, including mediation, facilitation, and expert opinion, have been expanded to ensure timely and constructive resolutions.

Globally, the use of online and alternative dispute resolution mechanisms has grown substantially, especially in 2024, driven by advancements in technology. AI and block chain technologies are enhancing the transparency and efficiency of these processes, making it easier for parties to engage in mediation or arbitration remotely.

On the international stage, arbitration is a widely encouraged method for resolving tax disputes, as it offers a structured and neutral approach to adjudication. These developments reflect a global shift towards embracing alternatives such as arbitration as pragmatic solutions to manage tax disputes efficiently, ensuring clarity

and fairness in tax administration while fostering international cooperation. Since, India has traditionally relied on a litigation-intensive approach to resolve tax disputes, with a significant backlog of cases pending at various levels of adjudication, from appellate tribunals to the Supreme Court. This situation has often resulted in delays, increased compliance costs for taxpayers, and administrative inefficiencies for the tax authorities. Thus, recognizing the global trend and benefits of alternatives such as arbitration or mediation is what India should explore as measures to streamline tax dispute resolution

### **Mediation As An Alternative**

Through mediation, the parties would be able to reach a mutually amicable settlement, which will benefit both the parties thereby creating a situation which is win-win for both the parties as opposed to the usual adjudicatory method where there is high likelihood that the case would be in favour of either the taxpayer or the revenue department thereby creating a win-lose situation.

Mediation can be introduced in the form of pre-litigation mediation which enables the parties to discuss their differences and attempt to come to a resolution before filing an appeal or a writ in the courts. If the parties feel that the mediation process is ineffective for them, then they are still free to go to end mediation process and go to courts. Tax payers and tax authorities are interested parties to any tax disputes. They are parties who genuinely want to resolve the present dispute at the earliest. Litigation from the point of view of the tax payers are very expensive which involves significant lawyer fees considering that they have to engage lawyers to represent them in courts and the tax payers would have to spend their time because they must appear in court whenever the matter arises. Additionally, the fact that tax payers have a legal suit pending might affect them psychologically as well. All of this would have an adverse impact on their personal as well as professional commitments. On

the other hand, tax authorities have to encash their revenue at the earliest in order to meet their expenses and also the country's budget requirement. From this, it can be understood that early disposal of legal suit has two-way benefit for both the parties the taxpayers can use the time and money which would be spent on litigation for expansion of their business and the revenue department can use the revenue so recovered for countries? Infrastructural improvement which would have a positive impact on the country's GDP. This clearly indicated the two parties are extremely motivated to resolve their issues. Hence, if mediation takes place, there is a high chance that the parties would come to an amicable settlement and it is less likely that delays would happen.

Further, under mediation, the resolution of the dispute is not in the hands of any third party, rather it is in the hands of the parties themselves. Additionally, there would not be any procedural delays as in the case of various measures adopted introduced by the Indian government which were ineffective like the AAR's. Hence, the benefits of mediation when it comes to tax disputes are multifold. It saves people a lot of time, costs, risks, stress, pride and relationship.

I believe such a move could be a game-changer for managing tax litigation. Let us wait for the Budget and know the rules of the game and then we further discuss.

My heartfelt gratitude to this E-NEWS LETTER for Delhi GST Professionals Group and it is indeed in great hands of SV Sir.

Anshu Priya



**@Adv. (CA) Rakesh Garg**

## **Unjust Enrichment and GST Refunds**

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### **A. Introduction**

The discussion of “refund” under the Goods and Services Tax (GST) is incomplete without addressing the “doctrine of unjust enrichment.” This doctrine presumes that a businessman typically shifts the tax burden to the final consumer. It plays a pivotal role in determining eligibility for GST refunds, ensuring equity and fairness within the taxation system. For this reason, every refund claim (with certain exceptions) must pass the test of unjust enrichment.

### **B. Concept of Unjust Enrichment.**

#### **1. Definition of Unjust Enrichment**

“Unjust enrichment” refers to the retention of a benefit by a person that is unjust or inequitable. It occurs when a person retains money or benefits that, in justice, equity, and good conscience, belong to someone else. Thus, it happens when one party unfairly benefits at the expense of another without a valid legal justification

In the context of taxation, unjust

enrichment refers to situations where a taxpayer claims a refund of taxes that have already been recovered from another party, such as customers. The

principle aims to prevent taxpayers from gaining an undue advantage by retaining refunds that rightfully belong to others.

The doctrine of “unjust enrichment” holds that no person should be allowed to enrich themselves inequitably at the expense of another. A right of recovery under this doctrine arises when the retention of a benefit is deemed contrary to justice or equity.

In summary, no person should be allowed to collect taxes or duties from both ends. For example, a supplier who collects GST from a client or customer and remits it to the GST department is not entitled to claim a refund for the GST, as they have not borne the incidence of the tax themselves.

#### **2. Implications of Unjust Enrichment**

“Unjust enrichment” implies that when a

person unreasonably gains an advantage due to chance, mistake, or another's misfortune, and has not paid or worked for it, they are ethically and morally obligated to restore the unjustly retained money or benefits.

A person who has been unfairly enriched at the expense of another must legally return the unjustly retained cash or advantages. Unjust enrichment is an equitable principle applied even in the absence of a formal agreement, ensuring that no individual is unfairly enriched to the detriment of another.

### **3. Judicial Pronouncements: -**

#### **Orient Paper Mills Ltd. vs. State of Orissa : Refun denied as tax burden had been passed to buyers.**

Applying the provision of sec 70 of the Contract Act, 1872 and referring to famous judgments in Fibrosa vs. Fairbairn and Nelson vs. Larholt , the Supreme Court stated, “....It is well established that a person who seeks restitution has a duty to account to the defendant for what he has received in the accounting by the plaintiff is a condition of restitution from the defendant”.

#### **C. Applicability of “Unjust enrichment” in indirect taxation**

1. In the case of Sahkari Khand Udyog vs. CCE , in relation to the Central Excise Act, the Supreme Court observed that the doctrine of ‘unjust enrichment’ is based on equity and has been accepted and applied in several cases. Irrespective of applicability of sec 11B of the Excise Act, the doctrine can be invoked to deny the benefit to which a person is not otherwise entitled. Before claiming a relief of refund, it is necessary for the claimant to show that he has paid the amount for which relief is sought and he has not passed on the burden on consumers and if such relief is not granted, he would suffer loss.

#### **2. In Mafatlal Ind.’s case , the**

#### **Constitutional Bench of the Supreme Court held:-**

(i) If the claimant of refund has passed on the burden of duty to another and has not really suffered any loss or prejudice, there is no question of reimbursing him and he cannot successfully sustain an action for restitution, based on sec 72 of Indian Contract Act. (Para 112)

(ii) The obligation to prove that duty has not been passed on to another person is always there as a precondition to claim of refund. A manufacturer has no vested legal right to refund even when he had passed on the burden of duty to others. No law conferred such a right in him; neither Article 265 nor Section 11B of the Excise Act. In cases, where the burden is not passed on, there is no prejudice; he can always get the refund. (Para 88)

**3.** In the case of U.O.I. vs. Solar Pesticides Pvt. Ltd. the Supreme Court held that the principle of unjust enrichment would be applicable in respect of cases of refund of duty paid on imported raw materials even if captively consumed in the manufacture of a final product. That is, even for captive consumption of goods, if certain duties have been paid, whose refund is claimed, the claimant will have to establish that the incidence of duty has not been passed on, directly or indirectly, to any other person.

**(4)** In CCE vs. Allied Photographics Ltd. , the Supreme Court held that uniformity in price before and after the assessment does not lead to the inevitable conclusion that incidence of duty has not been passed on to the buyer as such uniformity may be due to various factors.

**(5)** U.O.I. vs. A. K. Spintex Ltd. (Service Tax): Once credit note is issued to the customer who has issued corresponding debit note, bill amount minus amount of debit/credit note becomes final price of goods; doctrine of unjust enrichment does not apply and refund is not deniable.

1. (1942) 2 All ER 122
2. (1947) 2 All ER 751
3. 2005 (181) ELT 328 (SC)
4. Mafatlal Industries Ltd. vs. U.O.I. - 1997 (89) ELT 247 (SC)
5. Civil Appeal No. 921 of 1992; order dated 04.02.2000 (SC)
6. 2004 (166) ELT 3 (SC)
7. 2008 (11) TMI 89 (Raj. HC)

## (6) Illustrations:

**Illustration 1 – XYZ Limited** manufactures goods that are subject to GST at the rate of 12%. XYZ Limited charges GST on these products at the rate of 12% and sells them to Mr. A (the customer). At the time of filing its returns, XYZ Limited inadvertently classifies the goods as liable to GST at the rate of 18% and remits the tax calculated at this incorrect rate. In this case, XYZ Limited has paid tax at the rate of 18% instead of the correct rate of 12%. Since the additional tax has not been collected from the customer, XYZ Limited is entitled to claim a refund for the excess tax paid.

**Illustration 2 – XYZ Limited** manufactures goods which are not liable to GST. XYZ Limited however charges GST on these products and sells the same to Mr A (Customer). In this case, since Mr A has borne the burden of tax and not XYZ Limited; hence XYZ is not entitled to claim refund of the GST which was not payable in the first place.

**Illustration 3 – ABC Limited** takes advance of INR 10,000/- plus GST @18% for services to be provided to MNO. Later on, MNO cancels the transaction; ABC forfeits the entire advance including tax. ABC is not eligible for refund since the incidence of tax has been passed on to the customer. Had ABC refunded the amount of GST to MNO, it would be eligible for refund of amount of GST.

### D. GST Refund Mechanism

(1) Under the GST framework in India, the doctrine of unjust enrichment is embedded in Section 54 of the CGST

Act. It mandates that any person claiming a refund of taxes must demonstrate that the tax burden has not been passed on to others. This provision ensures that refunds are granted only to those who have genuinely borne the tax liability.

### (2) GST refunds arise in various scenarios, such as:

- Export of goods or services under a zero-rated supply.
- Accumulation of input tax credit (ITC) due to an inverted duty structure.
- Excess tax paid due to clerical errors or assessment corrections.

(3) To claim a GST refund, taxpayers must submit an application through the GST portal, along with the necessary documentation, such as invoices, shipping bills, and proof of payment. However, the refund process is subjected to rigorous scrutiny to ensure compliance with the doctrine of unjust enrichment.

(4) Section 57 of the Act specifies that tax and other amounts, which would otherwise be refundable except for unjust enrichment, shall be credited to a Consumer Welfare Fund.

### E. Role of Unjust Enrichment in GST Refunds and Exceptions

(1) When a taxpayer applies for a refund, the authorities evaluate whether the claimant has passed on the tax burden to another party. If the taxpayer has recovered the tax amount from customers, granting a refund would lead to unjust enrichment.



(2) The principle of unjust enrichment is applicable in all cases of refund except in the following cases: -

((a) Refund of tax paid on export of goods and/or services (or) on inputs/ input services used in making such export;

(b) Refund of unutilized input tax credit under sec 54(3);

(c) Refund of tax paid on a supply which is not provided, either wholly or partially, and for which invoice conforming to the provisions contained in sec 31 has not been issued, or where a refund voucher has been issued;

(d) Refund of tax in pursuance of sec 77 (i.e. tax wrongly deposited as CGST/ SGST instead of IGST or vice-versa);

(e ( e) Tax or interest borne by such other class of applicants as the Government may, on the recommendations of the Council, by notification, specify.

Where the amount of tax has been collected or recovered from the recipient, it shall be deemed that the incidence of tax has been passed on to the ultimate consumer.

(3) In all other cases, test of unjust enrichment needs to be satisfied for the claim to be paid to the applicant. For crossing the bar of unjust enrichment, if refund claim is less than INR 2 Lakhs, then a self-declaration of the applicant to the effect that the incidence of tax has not been passed to any other person will suffice to process the refund claim. For refund claims exceeding INR 2 Lakhs, a certificate from a Chartered Accountant/Cost Accountant shall be given.

(4) In Ramesh Kumar Agarwal vs. Comm. of CE & CGST , on the cancellation of flat by the buyer, the appellant-builder refunded principal amount; excluding amount of service tax, which has been paid by the appellant to the Department. The appellant gives the acknowledgment

that the said amount shall be returned to the customer, once it is refunded. As the said amount stands already paid to the Department, the Department is liable to refund the same. It is held that the Commissioner (Appeals) has erred while refusing the refund on ground of unjust enrichment.

## **F. Practical Challenges**

The courts have consistently upheld the principle of unjust enrichment in GST and earlier tax regimes. However, practical challenges persist, such as:

(a) Proving the absence of unjust enrichment through documentation.

(b) Delays in processing refunds due to stringent scrutiny.

(c) Disputes over whether the tax burden has been passed on, especially in complex transactions.

G. Government – Whether unjust enrichment applies under the GST

While the principle of unjust enrichment primarily protects consumers from being deprived of their rightful claims, it can also apply to situations where the government benefits unfairly. When a legitimate refund claim is rejected without proper justification, the tax amount effectively remains with the government, resulting in unjust enrichment. This contradicts the foundational principles of fairness and equity in taxation.

However, it is interesting to note that, under GST, circumstances of unjust enrichment do not usually arise on the part of the government. In most cases, refunds are due to accumulated input tax credit (ITC). The Supreme Court, in several cases, has held that a “claim of ITC” and a “claim of refund” are not vested rights but statutory rights. Under GST, even if a refund of ITC is disallowed or rejected, the claimant can still adjust the ITC amount against its output tax liability.

**Broadly, three possible scenarios can arise after filing a refund application:-**

1. Refund is allowed and paid – No question of unjust enrichment arises.
2. The proper officer determines that refund is not payable – The amount is credited to the Consumer Welfare Fund.
3. Refund is rejected – The amount is re-credited to the claimant’s electronic credit ledger (if previously debited, to the extent of the rejection).

**H.Conclusion:**

The doctrine of unjust enrichment safeguards the GST refund process by ensuring that refunds are granted equitably and preventing taxpayers from obtaining undue benefits while the principles promote fairness .It also places significant compliance responsibilities on taxpayers business must maintain robust records and adopt transparent pricing practices to navigate the refund process effectively. The GST framework continues to evolve as a fair and comprehensive taxation system striving to balance equity and efficiency.





**INTERVIEW WITH  
PRAVEEN KHANDEWAL,  
MP, DELHI**

Key Trade International Leader And Secy. General Of Confederation Of all India Traders – An All India Body With Hundreds Of Associations As Members.

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**Interview By The Editor To E News Letter Sushil Verma, Advocate, Delhi**

**SV To PK:** Thank You, Sir For Permitting Us With This Interview For Our Maiden E News Letter For The Group Of Which You Are The Key Mentor And Guide. Grateful For This Kind Gesture And Your Valuable Time

**PK to SV:** It My Pleasure To Be On This All -Important E-Newsletter By The Group Of Which I Am The Key Member Too.

**Q1: SV To PK:** Now That You Are The Only Trade Leader Having International Following In BJP And A Key MP; How Do You Now React To Gst Implimentation? Is Your Stand Even Now The Same That Gst

Implemntation Could Have Been More Ffective And Stake Holders' Friendly?

**PK To SV:** Watching Gst Moving Forward; Collections Are Satisfactory For The Government And The State Governments; But Also, The Litigation, Fake Credits, Fake Documents, Frauds, Grey Market Operators Are On The Increase. That Is Not A Good Sign For Times To Come. We Are In The Process Of Strongly Recommending To The Ministry Of Finance And All Other Members Of The Gst Council With Steps To Reduce Litigation Etc. And To Bring Certainty In The Law Implementation. Well, My

Stand Is Still The Same – We Could Have Achieved Better Results With Gst – More Collection For Development And Less Troubles For Taxpayers But The Fraudulent Taxpayers Are Trying To Stop This Progress And They Will Be Dealt With Heavy Hand.

**Q 2 SV To PK:** Five Authorities Enforcing GST – DGGI, DRI, Central GST, State GST And Customs And With Cross Empowerment? Did You Ever Visualise This All These Authorities May Be Able To Carry Out Independent Operations Against The Tax Payer? I Personally Do Not Know Any Other Vat Or GST System In The World Where Such An Overwhelming Overlapping Exists?

**PK To SV:** India Is Too Big An Economy To Be Compared With European Countries – Where Enforcement Is Comparatively Easy With Technology Advancements; Tremendous Education Spread And Vast Use Of Artificial Intelligence. Yes, There Are Overlapping Jurisdictions And These Cause Problems To Taxpayers – But Only Tax Payers Who Have Seriously Attempted To Defraud Revenue And Make Mullah. Definitely I Am Not Against Such Overlapping As Long As Fraudulent Businessmen Are Brought To Book And Face Tax Enquiries And Honest Tax Payers Generally Are Not Put To Harassment And I Am Sure This Is Not Happening.

**Q3 : SV To PK:** With So Many Taxpayers And Professionals Facing Jail At The Stage Of Just Inquiry Without Any Investigation Or Demands Created Or Even Without Any Due Process Of Law Set Having Been Set In; Would You Favor Such Alleged Harassment For All The Stake Holders In Gst? And Introduction Of PMLA?

**PK To SV:** Who Knows Better Than You The Fraudulent Practices Adopted By All The Stake Holders And The Law Contained In Section 132 And The Powers Of The Revenue Under Section 69. Yes, I Cannot Comment On Such A Procedure That Has Been Endorsed By The Supreme Court And As A Law Maker It Would Be Improper On My Part To Comment. However, I Would

Only Add That The Investigation Should Be Carried Out In A Time Bound Manner, Fairly And Judicially And Matters Decided. Regarding Your Question On PMLA, I Am All For This. Taxpayers Who Launder Country's Money Through Fraudulent Loans From Bank Circular Trading Bogus Billing And Exploit Labor And Other Institutions Must Face Trial Either Through Gst Route Or Otherwise And Wrath Of Law Must Be Inflicted On Them.

**Q4 SV To PK:** When Gst Was Introduced In 2017 The Main USP Was That There Shall Be Seamless Input Tax Credit Made Available To All The Taxpayers? But What We See Is The Reverse And It Is Getting Difficult To Claim ITC On Various Grounds Including An Issue Recked Up By The Revenue That The Suppliers Were Fake? How Can Taxpayers Be Held Responsible For Such An Eventuality? Do You Personally Approve This Revenue Practice?

**PK To SV:** Your Question Is Very Critical And I Shall Be Straight Forward. The Law Talks Of Seamless ITC Credit Which Is Eligible For Eligible Dealers Subject To Conditions To Be Satisfied. You Know And I Know Thousands Of Such Cases Of Fraudulent Suppliers Promoted By The Fraudulent Taxpayers To Claim Input Tax Credit Based On Bogus Billing Fake Billing Or Circular Trading – Do You Think Such People Should Get Input Tax Credit? Show Me A Single Case There Was No Allegation Of Such Fake Issues And Input Tax Credit Was Denied? Yes, I Fully Approve This Evolving Process Of Law; We Must Shun Such Fake Dealers Who Must Face Wrath Of Law – Both Civil And Criminal. At The End Of Day Justice Is To Be Delivered By Courts And No One Stops People Facing Tax Liabilities From Going To Courts And Challenge The Orders Passed. Let Us See What Happens In The Immediate Future But I Can Foresee Courts Will Not Be Inclined To Give Relief On Technical Grounds. Already Supreme Court Has Delivered A Judgment Under Karnataka Vat – Perhaps called E Com Gill Judgment – And Laid Down Some Parameters That In My View Are Equally Applicable To Gst Law And

Its Input Tax Credit Mechanism As Well.

**Q 5 SV To PV.** Is There Any Move On Your Part And On The Part Of CAIT To Form A Committee Of All Partes’ MPs To Guide The Government On Vairous Gst Issues To Make Them More Ffective, More Revenue Generating And Less Harrassment To Tax Payers

**PK To SV:** Yes, Something Is Going On And It Is Premature For Me To Divulge The Details.

**Q6 SV To PK:** Artificial Intelligence. I Know You Are Advocating The Use Of Ai At All Forums Of Business Developments Execution And Enforcement. What About Use Of Ai By Courts, Authorities And How Successful There Shall Be In Indian Context Where Education Is Below Ideal Limits?

**PK To SV:** India Is A Modern Economy And Our Prime Minister Is Technology Savvy As We All Know. Use Of Ai In Gst Implmentation And Enforcemenet Is Already On; Data Protection Act Is In Place And Talks Are On To Bring Ai Tax Modules So That Interface Between The Tax Payers And The Tax Collectors Is Virtually Brought To Zero. Faceless Assessments Appeals

And Audits Are Now In And More Likely To Come. Ai Usage By Courts Shall Be Quite Fruitful In My View. The Beauty Of Ai Shall, In My View, Line When Ai Will Interplay Between Lawyers, Government, Revenue Officers And The Courts. The Fittest Will Survive, That It Is.

**Q7 SV To PK:** Would You Like To Promote Groups Like Ours To Get Involved More In Education Spread Including Technology? Will There Be Any Help From CAIT Or From The Government?

**PK To SV:** What You Group Has Done And I Am An Eye Witness To It Is Something With All The Leading Professionals Should Indulge In. Yes, CAIT Help Is Always Available In Terms Of Infrasturcture Needed And Our Associations Can Get Involved With You Group To Make This A Wider Platform. Regarding Government, Yes, The Matter Can Be Taken Up By Me.

**SV To PK.** Sir It Was Pleasure Interviewing You For The First Time On Structured Questions And Your Answers Were Straight As Usual.

On Behalf Of Delhi Gst Professionals Group, And  
The Team Of E News Letter Thank You Once  
Again For Your Precious Time.

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*Wish this Group a very happy new year 2025.*

**PRAVEEN KHANDEWAL**



**@Sushil Verma**



**Interview of Sushil Verma, Editor of  
E-News Letter at Delhi.  
By: Ashok K Verma and Renu Sharma**



**AKV And RS To SV: Sir, Welcome For This Interview And Thank You Very Much For Your Time.**

**AKV To SV:** We All Have Experienced The Journey Of This Group With You And Other Members – A Very Pleasant, Fruitful And All-Pervasive Journey. Professional Enrichment And Personal Development Are The Key Parameters Of This Group And We All Are Grateful For All The Deliberations So Far.

**SV To AKV** -Yes, The Journey Of This Group Is Subtle, Simple And Electrifying For All Of Us Including Me.

**RS To SV:** The Idea Of E News-Letter Is Wonderful Sv Sir. What Was The Thought Process You Had When You Decided To Go Ahead With Such An Idea?

**SV To RS:** What We Have Been Deliberating Every Month Within The Group And This Is Not My Solo Idea – We Thought The Knowledge Sessions In Particular- Must Also Reach Policy Makers, Other Stake Holders And Fellow Professionals. My View Is That This Would Make The Laws Simpler

Easily Understood And Perhaps Reduce Litigation In The Near Future. And Above All It Gives A Platform For

Professionals In All Fields To Write Creatively, Express Their Thoughts And Hence There Will Always Be Something New To Learn. That Is The Idea

**AKV To SV:** Sv Sir If This Concept Catches On Other Associations Or Groups May Also Initiate Such E News Letters On The Lines This Group Is Doing?

**SV To AKV:** Brilliant If Others Start Following. The Whole Concept Will And Should Catch On And Then There Will Be A Big Education Spread For All The Stake Holders; Policy Makers And Law Makers Will Know What Is Wrong With Gst System Or What Is Right; Professionals Will Have Better Knowledge And Above All Taxpayers Will Be Enriched With Knowledge. The Sooner Others Do Better It Is For The Country As A Whole Qua The Gst Tax.

**RS To SV:** Just 8-10 Pages' E New Letter – Will These Be Sufficient For The Objective

You Have In Mind?

**SV To RS:** Yes. Such Newsletters Are Not Books Or Essays To Be Written – These Carry The Concise Legal Issues With Reference To Citations And If People Want To Read More, They Can. Articles Will Be Self Explanatory And Other News Items Shall Be As Good As Those Should Be. Yes, I Would Personally Restrict This News Letter To Maximum 8 Pages And Avoid All Show Offs And Make It Fully Professional.

**RS To SV:** You Want To Promote Younger Generation And That Is What I Keep Hearing From You In All The Lectures You Deliver Especially On Litigation Front? What Is Your Key Message In This?

**SV To RS:** See Tax Lawyers Must Keep Their Head Up And Compete With Civil Or Criminal Lawyers Where Fee Structures Are Quite High Compared To Tax Lawyers. Further Younger Generation Is Engaged In Compliance Work Return Filing, Audits, Refund Applications – These Activities Are Just Bread Earners For Them – These Do Not Give Them The Cutting Edge That Litigation Lawyers Have. Yes, My Message Always Has Been That They Should Learn How To Read Law, Acquire Knowledge And Then Aptly Apply To The Clients’ Case.

**AKV To SV:** Would You Be Able To Sustain This Activity For A Long Period Or Should You Make This Commercial Where People Pay And Attend Study Sessions?

**SV To AKV:** Never. Education Should Never Be Sold And Once You Do It You Are A Shopkeeper Or A Trader. Organising In House Seminars Is On A Different Footing. But When You Share Knowledge With Fellow Professionals, I Am Of The View And Shall Always Hold This View That Never Ever Any Money Should Be Charged.

How Long We Can Continue – It Is Not For Me To Decide As What Future Holds Is Not Known Nor I Am Obsessed With This Syndrome. Anyways All Members Spend Money On Lunch Hosting And Other Such Activities. You Should Have No Doubt That

This Group Shall Continue And Do Wonders In Next Two Years – And Till my Last Breath It Shall Be My Endeavour To Continue What I Do Best – Spread Education Whatever Little I Am Gifted By Almighty.

And With This E News Letter The Field Is Now Easy. We Shall Encourage Younger Professionals To Write, Try To Guide Them On Subjects We Want Them To Write. Yes, This News Letter Shall Be A Controlled One Without Any Politics whatsoever.

**RS To SV:** No Doubt This Group And Its Activities Are Unmatchable So Far. But Would You Expand To Other Cities Or Increase Its Membership?

**SV To RS:** There Is A Team Now In Place – Coordinators, Secretary And Other Team Members. It Is For Them To Decide Really. But Personally, I Am Not In Game Of Numbers And Would Have Members Who Are Truly Professionals And Want To Seriously Study Law As Students Of Law.

My Dear Friend Raj *Batra* Who Was Instrumental In The Formation Of This Group Had Similar Idea Whenever We Discussed. Starting With Just 40 Members Now Its 175 Professional Members From All Over The Country And We Are Restraining This Number. But Like I Said It Is For The Coordinators And Secretary To Take A Call.

No, We Shall Not Expand Outside Delhi – Logistically It Is Not Possible And Also So Much Time May Not Be Available.

**RS To SV:** Is it Good To See You Are Promoting Younger Generation At All Platforms Including Lectures By Them To The Group At Delhi?

**SV To RS:** Why Not? Did Not You See They All Are Capable, Including You When You Delivered Your First Lecture! Only The Fire Has To Be Put In Their Belly And Electrifying Results Will Emanate, I Am Sure. Members Of This Group, Advocates Or Cas Will Be Travelling To Other Associations Of Trade Or Professionals To Disseminate Knowledge And This Trend Shall Continue.



**@Sudhir Cheke**



**Interview By The E News Letter Of Delhi Gst Professionals Group Delhi Coordinator Dr Rahul Kakkar Advocate Delhi With Shri Sudhir Cheke, Maha Gst, Sholapur**

Sir, welcome for this interview and we are grateful for your time.

**RK To SC:** You Have Been Heading Investigation And Have Been A Star Performer For Maha Gst? What Do You Advise To Taxpayers When Investigation Team Visits Them?

**SC To RK** -Well Taxpayers Should Know That We Do Not Visit Without Preparing Ourselves With All Facts And Figures. Some Facts Are Not Deniable And Some Facts Are Debatable. Once We Enter The Business Premises And Complete The Process Of Procedures, The Team Exactly Knows What Is To Be Done. I Would Advise The Taxpayers To Admit The Mistakes If Pointed Out And On Issues That Are Debatable (Like Notification Interpretation, Circular Interpretation, Some Judgments Or Legal Advices) The Taxpayer Can Tell The Visiting Team That These Issues Are Debatable And Hence They Would Like To Contest. But At That Time Some Evidence Must Be Shown To Prove The Issues Are Debatable. Blind Statements We Do Not Intend To Accept For The Simple Reason Our Job Is As Tax Collectors With In Our Jurisdiction.

**RK To SC:** Most Of The Times Your People Threaten With Arrests And Criminal Prosecution To Extract Tax From The Tax Payers Even When No Such Grounds Exist? Why Is It Done Sir?

**SC To RK:** Look Investigation Is Not A People Pleasant Exercise And Threats Of Criminal Prosecution, Harassment To The Tax Payer And Their Businesses, Threat To Bank Account Attachment, Seizure, Search Including Search At Residence Are All Means To An End I.e. Tax Payer Must Admit Guilt And Do The Needful Voluntarily Without



Any Coercive Measures. My Experience Is Most Of The Time Such Taxpayers Admit And Without Any Coercion Deposit The Due Taxes. Yes, Some Harassment And Unpleasantness Cannot Be Ruled Out, After All These Are Search Raids And These Are Definitely Not Taxpayer Friendly And Even The Supreme Court Has Said So.

**RK To SC:** I Am Told That Your Search Teams Carry Blank Bank Account Or Stock Attachment Order From Your Bosses And Simply Fill In The Blanks To Threaten The Taxpayers To Pay Taxes? And Your Team Simply Fails To Follow The Rule Of Law Laid Down By The Highest Court In Radha Krishna Industries' Case? Why Is It Done?

**SC To RK:** You Are A Leading Lawyer Yourself. Show Me A Single Case Where Such Conduct Has Been Alleged Before Any Court- Please Do Not Think Our Senior Officers Are Blind To Contempt Proceedings. Absolutely No Such Pattern Is Followed; Yes, Where Such Proceedings Are Need Of The Hour, We Write A Note To Our Officers With All Facts And Figures And If Possible, Take His Approval Before Issuing Attachment Order Subject To Guide Lines Laid Down In Radha Krishna Industries. Of Course, We Are Aware That Such Orders Are Subject To Hc Writ Jurisdiction Also And Hence Law Of The Land Is Followed.

**RK To SC:** You Primarily Threaten People With Investigations Of Their Business Associates, Their Family Businesses And Even Their Family Members? Why So?

**SC To RK:** See Business Is An All -Pervasive Concept. If We Find Any Remote Link With Any External Body Other Than The Business Entity Of The Tax Payer, We Are Authorized By Law To Take Preventive Measures And We Do Take These. Section 70 Is Invoked Against Any Person And So Are Section 73 And Section 74 And So Are Assessment Proceedings And Section 67. If The Law Empowers Us To Take Action, We Shall Take Action To Ensure No Tax Evasion Takes Place. What Is Wrong In This?

**RK To SC:** What Is The Success Rate

Of Such Investigations, Arrests And Prosecutions In Cases You And Your Team Has Handled?

**SC To RK:** If I Correctly Recollect It Is More Than 90 Percent; Bank Attachments Are Set Aside But The Taxpayers Admit To Pay; Arrests Normally Bails Are Not Given And Yes When Section 74 Is Invoked, The Demands Are Created Ruthlessly With Full Facts And Figures And After Making Due Inquiries And Investigations. Quite Possible More Than 10 Officers Handle One Case To Ensure Tax Thives Do Not Get Away.

**RK To SC:** Sir You Have Addressed Us In This Group And All The Members Highly Appreciated Your Address. What Has Been Your Experience With This Group And What We Do?

**SC To RK:** Frankly I Have Never Seen Such A Blend Of Advocates, Cas, Company Secretaries Sitting Together And Learning And Evolving Legal Concepts. That Is An Experience I Never Had. And What To Talk Of

**Your Group** – Such Great Professionals Guiding The Younger Generation For A Bright And Successful Future Based On Integrity And Sincerity. Well -Done

**And I Wish All Of You A Very Happy New Year 2025.**

Sir On Behalf Of E News Letter Teram Of The Group, I

**ONCE AGAIN THANK YOU.  
GRATEFUL SIR.**

## 10 LEADING JUDGMENTS – EDITORS’ TAKE

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### **1. Rhc Global Exports Private Limited & Ors. Vs Union Of India & Ors.(SC)**

Interpretation Of Section 83(2) Of The CGST Act...

Whether The Revenue Could Renew The Bank Attachment After The Initial Period Of One Year Had Elapsed: The Apec Court Ruled Against The Revenue And Held That Once The Attachment Of The Bank Account Expires By Virtue Of The Operation Of Law Under Section 83(2) Of The Act, There Is No Provision Or Jurisdiction Vested With The Department To Renew The Attachment - The Attachment Made By The Respondents On The Third Bank Account Is Without The Authority Of Law And Therefore Directed To Be Lifted. If The Officers Do Not Follow This Judgment On Any Ground It Would Amount To Wilful Disobedience And May Be Contempt Of Orders Of The Supreme Court Which Under Article 141 Of The Constitution Are Binding Upon Them.

### **2. Assistant Commissioner State Tax, Durgapore Range Vs Ashok Kumar Sureka. (SC)**

Once The Government Decides To Not To File Appeal Below The Threshold Limits Set Out In Their Circulars, The Appeal Can Be Held To Be Not Maintainable And Hence Need To Be Dismissed On This Ground. Circular No.207/1/2024-Gst Dated 26.06.2024 Issued By Cbic, Gst Policy Wing,

### **3. Prahitha Constructions Private Limited Vs Union Of India & Ors. (SC)**

Taxability Of Transfer Of Development Rights By Way Of Joint Development Agreement (Jda) – High Court Held That In Terms Of The Jda, There Are Two Sets Of Transactions To Be Met In Its Entirety. One Is Agreement Between The Landowner And

The Petitioner And Another Is The Supply Of Construction Services By The Petitioner To The Landowners And Only Thereafter Sale Of Constructed Area To Third Party Buyers. Both These Transactions Qualify As Supplies Made And Would Attract Gst Subject To Clause (B) Of Paragraph 5 Of Schedule II And Both These Supplies Would Fall Under Section 7 Of The Cgst Act, 2017 – Sc Held - Issue Notice – There Is No Stay On The Operation Of The Impugned Judgment/ Order And, Therefore, Taxes Will Have To Be Paid – Ordered Accordingly.

### **4. Vardan Associates Pvt Ltd Vs Assistant Commissioner Of State Tax, Central Section & Ors.**

E Way Bill Had Expired And The Petitioner Did Not Generate A Fresh E-Way Bill. The Apex Court Passing Structures Against The Petitioner, Gave Him Relief On The Ground That The Petitioner Was Owner Of The Goods And Hence The Penalty Was Reduced From 100 Percent To 50 Percent – The Case Was Of Stock Transfer Inter Unit. The Apex Court Further Held That This Order Is Under Article 142 Of The Constitution Of India And Hence Could Not Cited As A Precedent In Other Cases.

### **5.M/S Vishwanath Traders Vs Union Of India & Ors. (Sc)**

Filing Of Appeal Beyond The Limitation Period Under Section 107(4) –When High Court Dismissed The Appeal And Writ Was Dismissed, SC To Dismiss The Special Leave Petition.

### **6. State Tax Officer (Ib) & Ors. Vs Shabu George & Anr. (Sc) Cash Could Not Be Seized Under Section 67(2)**

High Court Held That In An Investigation Aimed At Detecting Tax Evasion Under The

Gst Act, Cash Cannot Be Seized Especially When It Is The Admitted Case That The Cash Did Not Form Part Of The Stock In Trade Of The Appellant's Business - The Findings Recorded By The Intelligence Officer Could Have Been Justified If Had Been An Officer Attached To The Income Tax Department, In The Context Of The Gst Act, The Findings Are Wholly Irrelevant - The Seizure Of Cash From The Premises Of The Appellants Was Wholly Uncalled For And Unwarranted – Aggrieved By The High Court Order, The State Filed This Petition – Held - Not Inclined To Interfere With The Judgment Impugned In This Petition – High Court Order Is Confirmed And The Special Leave Petition Is Dismissed.

#### **7. A.v. Pharma Vs. State Of U.p. (Allahabad High Court)**

Where Impugned Orders Were Passed For Year 2017-18 Beyond Time Limit Prescribed In Section 73(10), Relying On A Notification Whereby Time Prescribed In Section 73(10) Was Extended But Same Was Effective From 31-3-2023, Since Time Limit To Pass Impugned Order Expired Before 31-3-2023, Impugned Orders Were Time Barred.

#### **8.J.s.b. Trading Co. Vs. State Of Punjab (Punjab And Haryana High Court)**

A Notice Was Issued To Assessee For Scrutiny Of Returns Under Section 61 Alleging That During Relevant Period, Firm Had Availd ITC From Firms, Whose Registration Had Already Been Cancelled - Assessee Submitted Its Reply To Said Notice And ASMT-12 Was Issued Stating That Reply Was Satisfactory And No Further Action Was Needed - At Same Time, Another Intimation In DRC 01A Was Issued Mentioning That Reply Of Assessee Was Not Satisfactory And Demand Was Raised - Assessee Challenged Same On Ground That Once Proceedings Under Section 61(1) Stood Dropped, Further Proceedings Under Section 74(1) Could Not Have Been Initiated –

Held : Notably, Two Different View Were

Expressed By Same Proper Officer, One Dropping Proceedings Under Section 61(2) And Other Intimating Liability - Once Authority Had Reached Conclusion That No Additional Demand Was Payable, Thus Proceedings Stood Dropped, Entire Proceeding After Passing Of Such Order Were Vitiating In Law And Therefore, Same Were To Be Set Aside [Section 74, Read With Section 61, Of Central Goods And Services Tax Act, 2017/Punjab Goods And Services Tax Act, 2017

#### **9, M/S R. T. Pharma Vs Union Of India & Ors. ( HP)**

Late Fee Relaxation For Late Of Gstr 9/9C Where These Returns Were Filed Before The Notification 07/2023 Dated 31.03.2023, The Court Held That The Petitioner Should Be Entitled To The Benefit Of The Notification As The Purpose Of The Notification Was To Provide Relief To All Taxpayers Who Had Filed Their Gstr-9/9c Returns, Regardless Of The Date Of Filing - The Impugned Order And Show Cause Notice Are Set Aside And The Matter Is Remanded Back To The Respondent With A Direction To Pass A Fresh Order By Extending The Benefit Of Notification No. 07/2023 Dated 31.03.2023 To The Petitioner - The Writ Petition Is Allowed

#### **10. Messrs Aalidhra Texcraft Engineers & Anr. Vs Union Of India & Ors.(Guj)**

Limitation For Claim Refund Under Section 54(1) Is Applicable Only To The Amount Towards Tax Interest And Penalty. Where The Taxpayer Voluntary Deposited The Tax Under A Msitaken Belief That It Had Claimed Excess ITC And Later On Claimed Refund, The Revenue Plea Of Time Barring Nature Of The Refund Was Rejected By The High Court And Held That Its Retention Would Be Unconsitutional As It Was Not Deposited As A Tax, Interest Or Penalty.

## 10 Queries– Editor’s Pick And Suggested Answers

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### Question From Pune CA

Sir, Show Cause Notice Issued By The Proper Officer Is Based On Audit Conducted By The Excise Department. Further The Show Cause Notice Is Issued By The Proper Officer Who In Our View Has No Jurisdiction. My Management Wants To Approach High Court Of Bombay Direct Against The Show Cause Notice? Could You Please Guide ?

**Answer:** The Ground That SCN Issued Based On Excise Audit Is Not Ground To Approach Hc As SCN Is Not An Order But A Preliminary Enquiry. On Jurisdiction Yes Hc Can Be Approached And They Will Have To Give A Finding About This Jurisdictional Fact. Sv

### Question From Mumbai, Advocate

Our Company Gives Lot Of Gifts By Way Of Sales Promotion Being A Pharma Company. Doctors Do Take These. Recently DGGI Issued An SCN Proposing To Deny ITC On These Items, Though We Proved They Are In The Course Or Furtherance Of Business – Being Customary In Nature. Can They Deny?

**Answer:** Please Read Section 17(5)(H) And Based On My Interpretation And There Are Excise Judgments On A Para Materia Provisioin, ITC Cannot Be Claimed.

### Question From Delhi, CA

Order Under Section 73 Was Passed And The Taxpayer Paid The Demand. After This Order The Officer Has Started Audit Under Section 65, Can He Do. Our Opinion Is He Cannot.

**Answer:** Is There Any Bar Under Section 65 Which Is A Self -Contained Code; If All The Conditions Of Section 65, Especially

Sub Section (1) Are Satisfied In My View There Is No Bar At All. Tax Not Paid Can Be Detected Subject To The Limitation That He Still Has To Issue Notice Under Section 73 Or 74 To Recover The Same – This Could Be Subject To Limitations Of Those Sections. Debatable But My View Is This.

### Question From Pune. An Officer.

My Client Has Installed Telecommunication Towers For Which Itc Is Being Denied On The Ground That These Are Immovable Property And Hence Section 17(5)(D) Debars It. We Want To Contest This? What Is Your View?

**Answer:** M/S Bharti Airtel Limited Vs Commissioner, Cgst Appeals-1 Delhi. Read This Judgment And Answer Is There

### Question CFO – Bombay Company

Our Case Has Been Dismissed By The High Court Of Bombay Simply On The Ground Of Observations Made By The Cestat Order. The High Court Did Not Consider The Arguments We Made And Also Gave Written Submission In Writing Running Into 100 Pages. We Are Now Told Hc Order Cannot Be Take To Supreme Court And We Should Pay?

**Answer:** In My View High Court Order Is Not Legal. The Arguments Put Forward By The Appellant Must Be Considered Whether Accepted Or Rejected. You Have A Very Strong Case Before The Supreme Court – But The Supreme Court May Not Really Pass An Order On Merits But Would Surely Remand The Matter To High Court For Fresh Consideration And Then You Stand A Good Chance To Fight.

### QuestionTrader – Khari Baoli

Our Appeal Under Vat Act Could Not Be Filed Nor We Were Made Aware Due To Death Of Both The Lawyers In An Accident. We Had Given Papers To Them And We Have Proof. Now After Almost 6 Years Recovery Proceedings Have Been Initiated. Our Lawyer Says Appeal Is Hopelessly Time Barred. What Do We Do?

**Answer:** I Think You Have A Very Strong Case For Condonation Of Delay, Whatever Period It Could Be. Get Certificates Of Death Of The Counsels, Bring Proof Of Giving Papers To Them And Acknowledgement By Them And File Detailed Affidavit With Application For Condonation Of Delay. I Am Sure Your Delay Will Be Condoned. Advise The Recovery Officer Of This Appeal And Ask Them To Keep Recovery Proceedings In Abeyance.

### Question CFO Chandigarh

We Filed Our Gst Returns Based On A Ruling Of High Court Interpreting A Particular Item And Accordingly We Determined The Value Of Manufactured Produce And Discharged Gst Liability. This Judgment Later On Was Overturned By The Supreme Court After The Filing Of Returns By Us. Now We Face Section 74 Proceedings And Are Being Threatened Of Dire Consequences By The Revenue? Are They Justified Or Can We Approach Against Scn To High Court? Urgent Please.

**Answer:** I Wish I Could Give A Detailed Opinion But Here In This Column A Conclusion Only Can Be Given. When You Filed The Returns Your View Was Eminating From The Judgment Of The High Court, May Be It Was Subjected To Two Plausible Interpretations And One Was Adopted By The High Court. Hence It Is Not Possible For Any Authority To Hold That Your View And The Return Filed Was Malafide And Fraudulent. Section 74 Cannot Be Invoked Under These Circumstances. There Are Sc

Judgments On This Issue. Approach High Court Asap.

### Question Advocate Delhi

A Refund Of 10.94 Lakhs Was Sanctioned Through An Adjudication Order For 17-18. We Applied For The Refund. But Later On This Order Was Subjected To Review By The Commissioner And Refund Was Rejected. Now The Refund Application Has Been Dismissed Without Any Show Cause Notice Under Section 73 And Our Lawyer Says Refund Ought To Have Been Given And Than Recovery Of Erroneous Refund Would Have Been Initiated? Is This View Correct

**Answer:** Refund Is Rightly Rejected. Refund Was As Per Order In Original And Before The Refund Was Given To You The Order Was Reviewed Against You And Hence Order In Original Did Not Survive At All. You Could File Appeal Against This Review Order As This Is An Appealable Order. Our View Is That Refund Was Rightly Not Given.

### Question CA From Sholapur

Q.provisional Assessment Done And Tax Paid. Later On Provisional Assessment By The Dealer Held Not Correct And Additional Tax Levied Which Is Not Challenged. What Is The Interest Liability In This Case – From The Date Of Assessment Of Additional Tax Or From The Date When Provisional Assessment Tax Was Paid?

**Answer:** Interest Would Be Payable From The Due Date Of Payment Of Provisional Assessment Of Tax For Till The Date Of Payment Of The Balance/Differential Tax Upon Final Assessment. Any Revision Of Tax Liability, Which Is Unchallenged, Shall Relate Back To The Original Date Of Paying Tax.



MESSAGE FROM THE CONVENOR

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**“Towards an exciting future....”**

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@NARENDER AHUJA

**MY LOVING FAMILY**

Just over two and half years ` journey of this loved Group and membership from just 40 to 175, - a family of professionals comprising CAs, Advocates, CS and professionals working in law firms and this family is ever growing. SV Sir with the blessings of late Shri R K Batra ji conceptualised this group to primarily train the professionals in the field of indirect taxation. Including me all the Members of this family just love the activities that happen in this group every month in the first week. The way the Members have been trained and taught how to read law, judgments and apply the knowledge they gather here is indeed exemplary. And the feedback from Members is that no amount of money spent on seminars in the initial years of GST Introduction was worth it than what has been happening here in this group.

The shared leadership, the values being imbibed amongst professionals, the seriousness, the fun and the bonded togetherness that exist here is perhaps not to be found even in closely knit families. It has been a journey of fun and knowledge sharing without any one being “one up”.

More than 40 to 50 professionals have been quite regular in attending all the study programs. Topics that mattered the most and topics where there were not study seminars conducted anywhere else. And such study programs designed executed and implemented by this Group, without any fee or charge collected from any member, I feel, has immensely evolved all the Members to be better equipped to handle professional assignments and to be a cut above the rest of the world. Yes, we all feel proud to be a Member of this loving family.

More important than the tax knowledge, the life skills that are being implanted in the hearts of the family member by all the members collectively and this has made this Group a very special part of our

professional and personal life indeed. Without any hesitation we all admit and confess that Sushil Verma Sir through his personal leadership and style has rained in his knowledge on all the Members - without any quid pro quo and unhesitatingly. And Members just love him and his participative leadership style has helped us come out of our cocoons and today we are fearless and legally trained professionals in whatever assignments we undertake. The HESITATAIOIN and HITCH have all been blown away by Sushil Verma Sir.

Today when we look back and realise we have done 57 Study Seminars on a trot, it is indeed unfathomable as to how the Members did not feel tired and fed up listening to tax, tax and tax- but that was never to because the life skills, mental skills, family skills and financial skills and life philosophy too are a part of this Study Seminars. That is what made these 57 Study Seminars very special indeed. And all of us in the family eagerly wait for that half a day Study plus Fun plus Food plus togetherness every month after month. Members from High Court and even from Supreme Court attend study seminars and immensely appreciate what we do.

Senior members like Rajesh Khurana ji, K P Singh Sahib, S P Makkar ji, Neera Gupta ji join on regular basis and guide the entire Group and all the Members immensely love their wisdom and knowledge.

I could not have imagined that Members will spend tens of thousands of rupees every month and fight for their turn – this is indeed the hall mark of this Group. Of course Sushil Verma sir takes care of the rental part of the premises every month and he refuses to take even a single rupee from any Member even though we tried to persuade him many a times.

Let me share the biggest achievement of this group so far. Sushil Verma Sir does not like to be praised by anyone and does not take credit for anything he does; he admires all of us when he sees we all do well. Imagine a new batch of speakers being created: myself, Rajmani Jindal Rashmi Jain, Rahul Kakkar, Virender Yadav, Rajesh Khurana Ji, Renu Sharma, K P Singh, B B Dewan, Chandresh Gupta, Kumar Jee Bhatt and many more in pipe line. The confidence and the training they got here made them stand and delivered great lectures. Unimaginable thus far, but now true! And this journey did not stop here – our Members have now been deputed to train large associations in Delhi and outside Delhi. Rashmi Jain delivered a long presentation at a large Association in Delhi where representatives from all over North were present and Sushil Verma Sir took her there on behalf of this Group. And he took me to Kaithal where I delivered a very important presentation to all the members of Haryana Tax Bar and All India Tax Lawyers. I experienced first -hand how the knowledge is valued and what level of reverence people show for the knowledge and training we got here. I do not know any other professional who would love his colleagues being welcome and honoured in his presence. That is the quality of this Group, friends, I have experienced.

The journey brought many surprises for all of us. Praveen Khandelwal Ji, an international Trade Leader and an MP of the ruling party came amongst us twice and sat through hours and even delivered his lectures. We were all awe-struck with the bonding Sushil Verma Sir shares with him and the respect and honour he has for Sushil Verma Sir. He started loving all of us and he came second time to hear Sushil Verma Sir, when he initiated a discussion on Artificial Intelligence

and the Legal World. He declared that once our members are ready he would use all of them for his Associations all over India – that is the importance of this Group we have created.

The vision and forceable future Sushil Verma Sir creates too is exemplary. He delivered a first ever lecture on AI and Legal World and this was delivered in this group and both the Guests heard the same from Sushil Verma Sir fully spell bound and Praveen Khandelwal even observed and told Sushil Verma Sir that be ready to offer this lecture to MPs also involved in trade. And believe me most of the Members have started using this now fruitfully.

For the first time this group heard the Revenue angle on GST enforcement from Sudhir Check, Additional Commissioner, Investigation Department, Pune, Maharashtra. And he too came twice from Pune spending his money and time and both the above leaders regularly read posts of this Group, comment on our achievements and motivate each and every member of this Group. Indeed gratifying for all of us in this Group. Sh. Sudhir Cheke, our special guest on many occasions, is always ready to inspire the members, especially the young professionals.

As a token of his love and affection, he even distributed office bags to each and every member of DGPG at his cost. Additionally, he even sent gifts to members on their birthdays, which is truly commendable.

Well the journey does not stop here – Sushil Verma Sir for his lovable obsession with this Group and this Family distributed New Year’s Diaries to all the Members with group Logo and name printed on them without any charge.

And now more exciting achievement – for the first time in the recent history a small family like this is on the verge of taking out a Monthly E News Letter, beginning January 2025, that will carry two articles every month, 10 judgments with their head notes and comments, 10 queries of Members and opinions thereon, some celebrity interviews and other crucial news in the field of legal world. Is not this an accomplishment worth feeling for? And the inspiration the esteem of 10 members got and the experience there are going through is not describable in words. Indeed we are all awe-struck with the deliberation between us inter-se and the leadership of SV sir.

Above all, all the Members do not ever discuss politics of any kind not even Bar politics.

Family, a Big Thank you to you all and let us continue this blissful and very pleasant journey for ever – and not only acknowledge the knowledge we get but aptly apply this because it is only then knowledge becomes power.

**AND SUNITA, MY WIFE JOINS ME IN WISHING EACH AND EVERY MEMBER AND HIS FAMILY A VERY HAPPY NEW YEAR 2025**



## “Delhi GST Professionals Group” -The Developmental Route For GST Professionals

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@ DR. Rahul Kakkar

Peer-to-peer learning is an invaluable component of academic success, and one increasingly popular method for fostering this collaborative approach to education is through the formation of study groups. By engaging with their fellow professionals, Members of the Group can clarify complex concepts, develop enhanced problem-solving skills, and tackle challenging litigations in a supportive and inclusive environment. Study groups provide Members with opportunities to exchange ideas, reinforce their understanding of subject matter, and participate in a shared journey towards academic and professional accomplishments.

In today's increasingly digital and interconnected world, forming study groups has never been more accessible, with online platforms allowing professionals from different locations to come together and enhance their learning experiences. These collaborative sessions help Members not only excel academically and professionally but also develop essential life skills, such as teamwork, communication, and critical thinking that propel their personal and professional growth. One such Study Group

that I have experienced is, of which I am the founder Member too, is Delhi GST Professionals Group- a group I am proud of

The key personal benefits that Members expect to receive from such well managed study groups are and I have experienced the same. These are:

- Enhanced Comprehension and Mastery
- Improved Problem-Solving and Critical Thinking Skills
- Encouragement and Accountability
- Social Interaction and Networking
- Gain Well-Rounded Insight
- Gain Team Experience
- Motivate and Inspiring One Another
- You will benefit from many different viewpoints.
- You will fill in each other's gaps.

The Groups like this also teach and focus on development of lawyers' skills; for example in my view as professional lawyers, Delhi GST Professionals Group has emphasised on the following skills of a good lawyer:

1. Analytical and research skills
2. Attention to detail
3. Organizational skills
4. Time management
5. Persuasive communication
6. Written communication skills
7. Interpersonal skills
8. Technical skills
9. Financial skills

The mentoring professionals, if they are true to their role, are able to imbibe such professional skills in the Members that are so helpful. I have gained on these issues big times, no doubt.

Why are study groups better than self-study?- My Take on Delhi GST Professionals Group. An objective analysis.

**1. Why people** are reluctant to form study groups and rather self-study? That is, when you are studying in a group there is a higher chance that most of the things

you are uncertain about will pop out. As annoying/embarrassing as this might be, it goes without saying that it is better to face your weak points. in good time. This way, there will be a much lower probability that a client’s case will catch you off guard. This group has thoroughly involved all Members and the discussions and cross questioning at regular intervals from lawyers, CAs, and Company Secretaries who attend this group help gain tremendous insight into various aspects to a legal proposition. An unmatched gain indeed

**2. Secondly,** it is often quite hard to understand every detail of the lecture when doing self- study. However, some colleagues of yours might have paid more attention to the parts you missed, and so, you can all help to fill in each other’s gaps. And in my experience, the best way to really learn and understand something is through explaining it to others. At lunch or tea intervals a lot of discussions help appreciate a view point better and in an objective manner especially when there are serious professionals discussing a legal issue.

**3. Thirdly,** through their cooperative but also competitive nature, the Group has promoted critical thinking and creativity as new questions and explanations within discussions and debates. Thus, this interactive environment ensures a much deeper learning of the material that would be missed with self- study.

**4. Finally,** my experience is that when you are alone, the temptation to procrastinate is incomparably larger than

when in an interactive environment. While being alone, you can always find ways to rationalize postponing the start of your studying – you make a cup of tea every hour (telling yourself it’s important to stay hydrated), you check Facebook every five minutes (again, telling yourself you want to see if a classmate posted anything about the exam...). But in this Group the sessions are 4 to 5 hours with one break and the atmosphere is quite electrifying and I have not seen people even looking at their phone

calls. That is the magic I experienced in such Groups where learning is the only objective and harnessing and disseminating knowledge only end.

**5. Creating a Launchpad for Beginners.** For individuals stepping into their careers, professional study groups can serve as crucial support systems. Skill enhancement: Beginners can participate in group discussions, workshops, and projects to hone their technical and soft skills. Confidence building: Sharing knowledge and presenting ideas in a safe, encouraging environment boosts confidence.

**6. Networking:** These groups often include diverse members from various industries, fostering connections that could lead to internships, collaborations, or job opportunities.

## **7. Lifelong Learning for Professionals**

Even established Professionals find immense value in being part of study groups. Staying updated: In rapidly evolving industries, study groups help professionals keep pace with new technologies, laws, trends, and help follow the best practices in trade. Problem-solving: Discussing challenges with peers can lead to innovative solutions that may not arise independently. Leadership opportunities: By leading study groups, professionals can refine their leadership, mentorship, and organizational skills. This Group has provided a level playing field to all Members, who lecture in the study group, are taken out to other associations for lectures, who are encouraged to handle stage, assume leadership and even tackle situations like politicians coming etc. Yes, besides professional skills, learning of life skills is also the key here in this group.

Beyond Careers: Personal Growth The benefits of professional study groups extend beyond career advancement. They also shape individual’s lives by: Fostering discipline: Regular participation cultivates time management and commitment. Encouraging empathy and diversity: Interacting with people from different

backgrounds broadens perspectives and enhances emotional intelligence. Building Lifelong Friendships: The camaraderie in these groups often leads to strong personal bonds. Over the last two years I have seen people evolving here and my experience is that the people in this Group are far more pleasant to talk to, far happier than they were two years ago and above all, the greed and unethical means are reducing considerably.

### **8.The Digital Revolution in Study Groups .**

With the rise of Digital Tools, professional study groups are no longer confined to physical spaces. Online forums, virtual meetups, and collaborative platforms like Slack, Microsoft Teams, and WhatsApp enable global participation, breaking geographical barriers. This digital shift has made it easier than ever for individuals to join groups aligned with their interests and goals.

### **Conclusion and way forward:**

Professional study groups are not just spaces for academic or professional improvement, they are transformative ecosystems where individuals grow intellectually, socially, and emotionally.

Our Professional Study Circle “Delhi GST Professionals” is one of the examples of such Enigmatic, Charismatic groups are for Professionals seeking clarity, a beginner looking for guidance, or a professional aiming for excellence, being part of a study group can unlock unparalleled opportunities for success and personal enrichment. This is a Sheer example of our Group mates & Leaders like Sh. Sushil Verma, Advocate & Late Sh. RK Batra Advocate who have perceived & created the foundation of strength & enigma to take this group leap years ahead. When it started 30 months ago, perhaps we thought it would be a ME TOO group, but today it is unfathomable to imagine to live professional life without this Group- so much is happening here, so

much learning, so much love and care and fantastic fellow professionals. It is WOW feeling for all of us in this Group. I have experienced how professional profile and life of Members here has taken a positive turn and how confidence they are when they do their own matters without involving seniors and paying them. Of course pro bono help is available and no senior Member can deny such help to those who seek and no one can charge in this Group. This is a great achievement of the group indeed.

No doubt, at times, it is challenging for the professionals to spend a working day, but the strength of this Group is that Members keep attending month after month and now 57 sessions and the journey is on.... And in fact new with renewed commitment and energy.

E. NEWS LETTER that is coming up in January 2025 of which I am the Convenor will be a life changing experience for the Members. Lot of new ideas and imaginations are manifesting into realism and I see bright and very successful professional career for youngsters and all of us ahead. Imagine MPs of the ruling Government attending the study circle meetings, asking the Members to rewrite the GST provisions where Government has to intervene and above all take the Members of this Group for mentoring their associations. What could be better than this friends?

And above all this Group is totally apolitical, no money is taken from any one, it is all Members who manage the finances of this Group in their personal capacities. It is just fantastic friends.

WISHING YOU AND YOUR LOVED ONES A VERY HAPPY 2025

**GOD BLESS THIS FAMILY**

## MESSAGES FROM MEMBERS

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**@Rashmi Jain**

### **Learning, Leading, and Living Together**

1. If there was ever a fulfilled journey in life so far, let me be candid and confess, this Group has just provided me with such a fulfilling journey – both professionally and personally.
2. For the past 30 months, the Delhi GST Professionals Group has been more than just a gathering of like-minded individuals—it has been a family, a movement, and a shared dream. Imagine a place where learning is joyful, leadership grows naturally, and celebrations are a way of life. With 56 study circles under its belt, the group has proven that education isn't just about books or lectures: it's about experiences, connections, and the joy of learning together.
3. With the powerful slogan “Together we can, together we shall,” this dynamic group has created a space where professionals not only sharpen their skills but also form bonds that should last a lifetime. Its where seasoned experts share their life learnt wisdom, young minds spark innovation, and everyone grows together—not just as professionals, but as individuals striving for excellence. Here, education goes beyond textbooks, knowledge goes beyond the workplace, and happiness knows no bounds- we all are learning a third dimensional approach towards study of law.
4. In a field often dominated by competition and deadlines, the Delhi GST Professionals Group stands as an oasis of collaboration and mutual support. The group mentor, Sushil Verma, plays a vital role in fostering this unique environment. His encouragement to all the members not only enhances the participants' professional skills but also touches their personal lives, creating a ripple effect of positivity that extends to their families and it shows on faces of all the members who attend lectures.
5. The heart of this group lies in its commitment to education—education that goes far beyond the technicalities of GST. Here, members learn life skills, grow through the experiences of seasoned professionals, and gain fresh perspectives from young minds. The blend of seniors' wisdom and youthful innovation ensures that learning is dynamic, ever evolving and holistic.
6. The guidance of Shri Praveen Khandelwal, a political leader, and Sudhir Cheke Sir, a departmental senior revenue expert, provides members with

valuable insights into policy and practice. Whether it's tackling a complex issue or understanding the latest changes in GST regulations, their mentorship equips members to excel in their fields.

7. One of the most remarkable achievements of this group is its success in nurturing leaders and speakers. Members are encouraged to step out of their comfort zones, share their ideas, and take on leadership roles. These opportunities not only boost confidence but also create a ripple effect of inspiration within the group. And Sushil Verma sir personally ensures this with young professionals who in turn excel and win hearts of stake holders where they go and speak.

Young professionals contribute fresh ideas, proving that age is no barrier to wisdom. Meanwhile, seniors generously share their experiences, building a bridge of mutual respect and learning. Together, they are creating a community where every voice matters, and every contribution is valued.

8. Here in this Group we experience that Education can be and must be intertwined with joy, celebration, and a sense of togetherness. Each study circle is not just a session but an event, marked by laughter, shared meals, and even surprise gifts and awards. This unique approach ensures that learning is not a chore but an eagerly awaited experience. Life Skills are discussed more often than not and the Members eagerly look forward to such life skill discussions. This has a profound impact on the character of members and their attitude towards life.

9. Moments of celebration—be it a member's achievement or a festive gathering—are cherished as a testament to the group's unity. The joy of learning is amplified when paired with the happiness of togetherness.

10. The selfless efforts of the members shine through in every initiative. Be it sharing knowledge, organizing events, or simply being there for each other, the group embodies the true spirit of giving. The happiness they spread, both within and outside the group, makes a lasting impact.

11. In just 30 months, the Delhi GST Professionals Group has become a beacon of hope and inspiration. It has shown that when people come together with a shared purpose, they can create something truly extraordinary. Resources no crunch – as members are lined up to spend money for any event. Such is the bond and togetherness!

As the group moves forward, it continues to uphold its mission of spreading education with joy, fostering leadership, and creating a supportive community. The Delhi GST Professionals Group is not just about professionals excelling in their careers; it's about human beings growing in every aspect of their lives.

Long Live this Group and become a catalyst in changing professionals and their professional life.

I WISH ALL THE MEMBERS A VERY HAPPY NEW YEAR

2025. MAY GOD BLESS YOU ALL AND YOU ALL STAYED

LOVED, CARED AND BLESSED.

***Here's to many more months of learning, leading, and living—together.***



**@C.K. Gupta**

We are delighted to announce that our Delhi GST Professionals Group is launching its inaugural E-Newsletter, under the esteemed mentorship of Sh. Sushil Verma sir. This marks a moment of great pride for all of us. I first had the privilege of connecting with SV sir nearly three years ago, when this group was founded. Since then, every member has been driven by a deep thirst for knowledge, continually seeking enlightenment through ongoing education, practical experience, and the invaluable guidance of SV sir. The camaraderie within this group is unparalleled, fostering an environment of mutual respect, affection, and intellectual growth. It has truly become a close-knit family of professionals—an exceptional and inspiring community in every sense. What a wonderful family.

It is with immense pride and gratitude that I extend my heartfelt appreciation to the entire DGP team for your remarkable contributions to the development and success of the Goods and Services Tax (GST) framework. Your unwavering dedication and collaborative efforts have been instrumental in driving impactful results in this transformative journey and I am proud to be part of this journey so long.



**@Harshit Bajaj**

Being a part of this group has been a truly transformative experience. The energy and enthusiasm within the discussions are contagious, making me feel more energetic and motivated every day. The exchange of ideas and in-depth conversations have significantly enhanced my understanding and wisdom, especially in the complex domain of GST. This group stands out as the best platform for GST-related discussions, where professionals come together to share insights, collaborate, and grow collectively. As the leader aptly says, “Knowledge multiplies when shared, and this group is a testament to how collective wisdom can empower individual growth.”



**@K.P. SINGH**

Dear friends and members of their closely guarded family JAI HIND Today on the outset of launch of new venture. I have the privilege to share my experience with the group mentored and envisioned by our visionary crusader. First thing to first, I feel privileged to be associated with this learning platform. I joined first time in the month of March 2024 and continuously attending each meeting except one on 08/11/2024 due to unavoidable situation. The beauty of the group that it is controlled by a team of disciplined admin who stay committed for its true purpose of sharing expert views related to GST.

Our respected S.V sir selflessly spreading his blessings of wisdom amongst a wide spectrum of his loved and silent admirers. This is my first experience for the opening of new era and would like to share my contribution for the cause of this noble profession and the society at large. During this journey of more than 40 years along with my profession, I must have enlightened and transformed the lives of not less than 100 poor to poor personnel to train them and get job in various fields according to their potential.

At least more than 30 people have become C.A and are employed in corporates, financial institution and public sectors or pursuing their practice. All these aspirants hailed from very humble back background some of them have gone abroad and the process is still continuing. When I meet some of these brainchild, they express their gratitude” sir this achievement is the result of your blessings selflessly showered upon us.”

Dear friends this gives a proud feeling and reminds me a popular quote “possessing wealth and valuables gives a temporary satisfaction. But enduring and long-lasting satisfaction lies in helping under privileged and needy section of the society” “

“JEENA TO HAI USEEKA, JISNE YEH RAZ JANA  
HAI KAAM AADMI KA, AURO KE KAAM AANA”



**@Renu Sharma**

A special and profound acknowledgment goes to S.V. Sir, whose extraordinary vision and determination have been the foundation of this group’s success. S.V. Sir not only took the initiative to create this professional group but has also been single-handedly nurturing and managing it for over 4.5 years. His relentless commitment, without any external support or contributions, has ensured the group’s continuity and effectiveness as a platform for knowledge-sharing, collaboration, and progress.

Additionally, I would like to extend my gratitude to Praveen Khandelwal and Sudhir Cheke Sir for their exceptional leadership and support.

S.V. Sir, your dedication and tireless efforts to keep this group active and impactful are truly inspiring. You have built a robust and inclusive platform that has empowered professionals to connect, learn, and grow while making significant contributions to GST.

Praveen Khandelwal, your strategic insights and problem-solving approach have added immense value to the team’s endeavours.

Sudhir Cheke Sir, your meticulous approach and steadfast commitment have ensured the highest standards in all initiatives undertaken by the group.

This group stands as a testament to the power of vision, perseverance, and selfless service. It is a beacon of excellence that inspires us all to strive for greater achievements in our respective roles.

Let us continue to build on this strong foundation and aim for even greater heights, united by our shared purpose and commitment to excellence.





**@Rajesh Khurana**

Delhi GST Professional Group (DGPG) is a voluntary association of professionals engaged in practicing tax laws with greater focus on indirect taxation. Under the leadership of Advocate Sushil Verma, the membership comprises a wide array of professionals: Advocates, chartered accountants, cost and management accountants, company secretaries and other tax professionals. The group serves as an important forum for mutual experience sharing and learning from each other through discussions and debates involving intricacies of tax laws, periodical amendments through changes in legislations / rules and developments in law through court judgement.

The forum encourages two-way learning methodology. On the one hand, senior and experienced professionals are invited to deliver lectures for mentoring and capacity building of young and budding professionals. On the other hand, the young professionals are encouraged to prepare and deliver similar lectures on a wide variety of subjects. This has helped in creating a battery of professional speakers, who are capable of training not only the members of the group, but over a period of time, they have gone to other trade associations and forums of tax professionals in other cities and towns.

As a part of New Year (2025) commitment, the DGPG is up for a major leap forward. It has launched a monthly newsletter, which again provides an additional forum for mutual experience sharing, encouraging members to develop writing skills. The members of the group will be encouraged to undertake in-depth research involving interpretation of laws, provide briefs on important judgements of the courts, share changes in tax laws.

As a member of the forum, it is my fervent hope, that the DGPG will go a long way in creating a large group of dedicated and competent professionals who has zeal to serve the tax department, trade and industry.



**@Vikas Mittal**

I am honored to have been part of the Delhi GST Professional Group’s remarkable journey, which began two and a half years ago as the Raj K Batra Study Circle Meetings. This esteemed group comprises distinguished professionals, including Chartered Accountants, Advocates, and Tax Experts, led by the energetic Sh. Sushil Verma Ji.

I joined the group midway through its journey, and it’s been a game-changer for me. The experience has not only broadened my knowledge but also introduced me to exceptional professionals who have become invaluable connections. The group’s recognition has been a significant confidence booster.

The regular seminars on diverse topics, including GST, have been instrumental in shaping me into a better professional. The inspiration and guidance from Sh. Sushil Verma Ji and other senior members have been priceless. I’m also grateful for the encouragement from Sh. Praveen Khandelwal Ji and Sh. Sudhir Ji, who, despite their demanding schedules, have consistently supported us.

I feel privileged to be part of the Delhi GST Professional Group, which has been a shining “diamond in the ring.” This group’s remarkable success is a testament to the dedication and expertise of its members.

The launch of our E-Newsletter marks another significant milestone in our journey. I extend my warmest congratulations and best wishes to all members for the grand success of our E-Newsletter.

May this publication continue to enlighten, educate, and inspire us, fostering growth and collaboration within our community.

Once again, congratulations, and I wish you all continued success!



**@Yugal Goyal**

Being part of the Delhi GST Professional Group has been a transformative experience. The camaraderie and collective wisdom of fellow members have greatly enriched my professional journey. Regular events and discussions keep us abreast of industry trends and best practices, fostering a culture of continuous learning. The support network is invaluable, offering guidance and mentorship opportunities that have propelled my career forward. It's a community where experiences are shared, challenges are tackled collaboratively, and successes are celebrated together. The society not only enhances our professional skills but also nurtures personal growth, making it a cornerstone of my career development



**@Veerender Yadav**

Being a founder member of the Delhi GST Professional Group since June 2022, under the mentorship of Sh. Sushil Verma Ji, Advocate, has been a transformative journey. This platform has enriched my professional expertise in GST and Allied laws through dynamic learning and collaboration while fostering personal growth by inculcating integrity,

# 55th GST Council Meeting Held on 21 December 2024



## KEY HIGHLIGHTS OF RECOMMENDATION @Rakesh Garg, Advisor

### A) Law related Amendments

#### **SAFARI RETREAT JUDGMENT OVERTURNED THROUGH AMENDMENT TO RECTIFY THE TECHNICAL DRAFTING ERROR?**

- 1. To Nullify the effects of recent Supreme Court Judgment in Safari Retreats:** To align the provisions of section 17(5)(d) of CGST Act, with the intent of the said section, section 17(5)(d) will be amended to replace the phrase “plant or machinery” with “plant and machinery”, retrospectively, with effect from 01.07.2017, so that the said phrase may be interpreted as per the Explanation at the end of section 17 of CGST Act.

### **2. No GST on transaction of vouchers ( A GOOD AMENDMENT INDEED )**

- as they are neither supply of goods nor supply of services. The provisions related to vouchers is also being simplified, as under:
- To omit sections 12(4) and 13(4) from CGST Act and rule 32(6) from CGST Rules to resolve ambiguities in the treatment of vouchers;
  - To clarify that transactions in vouchers shall be treated neither as a supply of goods nor as a supply of services;
  - To clarify that distribution of vouchers on principal-to-principal basis shall not be subject to GST. However, where vouchers

are distributed on principal-to-agent basis, the commission/fee or any other amount charged by the agent for such distribution is taxable under GST;

- Additional services, such as advertisement, co-branding, marketing and promotion, customization and technology support, customer support etc. related to vouchers would be leviable to GST on the amount paid for these services;
- Unredeemed vouchers (breakage) would not be considered as supply under GST and no GST is payable on income booked in the accounts in respect of breakage

3. To insert an enabling provision in CGST Act through section 148A so as to empower the Government to enforce the **Track and Trace Mechanism** for specified evasion prone commodities. This amendment aims to bring cigarettes and other tobacco products in its net.

The system shall be based on a Unique Identification Marking which shall be affixed on the said goods or the packages thereof. This will provide a legal framework for developing such a system and will help in implementation of mechanism for tracing specified commodities throughout the supply chain.

4. No proportional **reversal of ITC** under section 17(1) or section 17(2) of CGST Act is required to be made by the Electric Commerce Operator (ECO) in respect of supplies for which they are required to pay tax under section 9(5) of CGST Act.
5. An **Ex-Works supply (and counter sale)**, where goods are delivered by the supplier to the recipient or a transporter at the supplier's place of business, and the property in goods transfers to the recipient at that point, the goods are

considered to be "received" by the recipient u/s **16(2)(b) of CGST Act**, and the recipient may claim ITC on such goods.

6. To **amend section 34(2)** of CGST Act, to specifically provide for requirement of reversal of ITC as is attributable to a **credit note**, by the recipient, to enable the reduction of output tax liability of the supplier.
7. To insert a new **rule 67B** in CGST Rules, to prescribe the manner in which the output tax liability of the supplier shall be adjusted against the **credit note** issued by him.
8. To amend **section 39(1)** of CGST Act, and **rule 61** of CGST Rules, to provide that **Form GSTR-3B** of a tax period shall be allowed to be filed **only after Form GSTR-2B** of the said tax period is made available on the portal.
9. **Pre-deposit for filing an appeal** in respect of an order passed which **involves only penalty amount** - Amendment in section 107 and section 112 of CGST Act: Pre-deposit amount reduced to 10% instead of 25%.
10. To insert clause (aa) in **paragraph 8 of Schedule III** of the CGST Act w.e.f. 01.07.2017, to explicitly provide that supply of goods warehoused in a **Special Economic Zone (SEZ) or Free Trade Warehousing Zone (FTWZ)** to any person before clearance of such goods for exports or to the Domestic Tariff Area, shall be treated neither as supply of goods nor as supply of services. This brings transactions relating to supply of goods warehoused in SEZ/FTWZ at par with the existing provision in GST for transactions in Customs bonded warehouse.
11. To insert **new rule 16A** in CGST Rules, to provide for a separate provision for **generation of temporary identification number** for persons, who are not liable to be registered under

CGST Act but are required to make any payment as per rule 87(4) of CGST Rules.

### **B) Reverse charges (RCM)**

1. To bring supply of **the sponsorship services provided by the body corporates** under Forward Charge Mechanism.
2. **Renting of any immovable property other than residential dwelling** – RCM will not be applicable in the case of supplier, who has opted for composition scheme

### **C) Rates related Amendments**

1. Rates of tax under entry no. 6 of N. No. 11/2017-CTR, relating to accommodation services, presently depends upon **“specified premises”** and **“declared tariff”**. Definition of “declared tariff” will be omitted and definition of “specified premises” will be amended so that it will depend upon the value of supply.
2. Presently, **sale of old and used motor vehicles** are taxable either at 12% or 18%, depending upon the nature of the vehicle. It is recommended to levy tax at a uniform rate of 18%. In such cases, GST is applicable only on the value that represents margin of the Supplier, that is, the difference between the purchase price and selling price (depreciated value if depreciation is claimed) and not on the value of the vehicle.
3. To amend the definition of **‘pre-packaged and labelled’** to cover all commodities that are intended for retail sale and containing not more than 25 kg or 25 litre, which are ‘pre-packed’ as defined under the Legal Metrology Act, or a label affixed thereto is required to bear the declarations under the provisions of the Act and rules.

### **D) Clarifications**

1. To clarify that in respect of supply of **‘Online Services’** such as supply of online money gaming, OIDAR services, etc. to unregistered recipients, the supplier is required to mandatorily record the name of the State of the unregistered recipient on the tax invoice and such name of State of recipient shall be deemed to be the address on record of the recipient for the purpose of section 12(2)(b) of IGST Act, read with proviso to rule 46(f) of CGST Rules.
2. Clarifies that no GST is payable on **‘penal charges’** levied and collected **by banks and NBFCs** from borrowers for non-compliance with loan terms
3. To clarify that **ready to eat popcorn** which is mixed with salt and spices are attracts 5% GST if supplied as other than pre-packaged and labelled; and 12% GST if supplied as pre-packaged and labelled. However, when popcorn is mixed with sugar thereby changing its character to sugar confectionary (e.g. caramel popcorn), it would be attract 18% GST.

# MY TAKE@SV

## Know Your Legal System



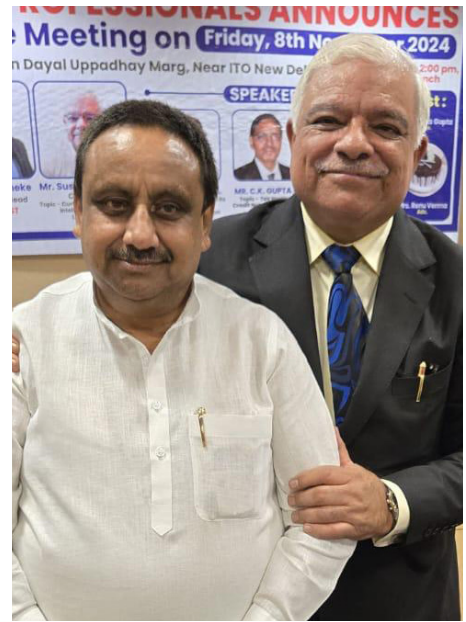
India’s legal system is based on a combination of civil law, common law, religious law, customary law, and corporate law. The legal system is structured around the Constitution of India, which came into effect in 1950. The Constitution establishes three branches of government: the executive, the judiciary, and the legislature.

This discussion of India’s legal system provides an overview of the system and describes the judicial system, criminal and civil procedure, the law of evidence, and criminal law, as well as other categories of law such as administrative law and labour law.

India’s legal system is drawn from three primary sources: the common law, religious law, and civil law. Departures from English law have been made according to what India’s legislators deem the unique conditions of India and considerations of equity. Although India has a Federal Constitution, it does not have a dual court system. While there are State courts, they decide both Federal and State issues. The structure of India’s court system is described, along with the jurisdiction and composition of each type of court, administrative justice, and village lay courts, called nyaya panchayats). Consideration of India’s criminal law covers the mental element in crimes, strict or vicarious liability, group liability, attempts and conspiracy, exceptions to criminal liability, and the classification of offenses and punishment. A chapter on criminal procedure considers processes designed to prevent offenses and those bearing upon investigation, charges, and trials. Specific aspects of the law of evidence are detailed, including the opinion of third parties, admissions of fact, confessions, attestation, proof of contents of documents, and privileged communications. Chapters are devoted to constitutional law and the history of India’s courts and legislatures. The legal profession and legal education are also discussed. In addition to criminal law, sections are devoted to administrative law, labour law, tax law, economic law, commercial law, company law, property law, tort law, and family law.

**“ Let us understand law together”**

# GALLERY









# LEGAL NEWS LETTER

**DELHI GST PROFESSIONALS GROUP**

## GET IN TOUCH

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