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TAX JURISPRUDENCE

CASE LAW ALERT – JANUARY 2026
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EXECUTIVE SUMMARY OF JUDGEMENTS / ADVANCE RULINGS UNDER INDIRECT TAXES

We are pleased to draw your attention to following important decisions which might be useful for you to take call on tax position.

Case & Citation	Issue Involved	Decision
<u>Payal Plastichem Private Limited vs. State of Gujarat</u> <u>(2026-TIOL-167-HC-AHM-GST)</u>	Whether the Department can reject a GST refund claim via a "Deficiency Memo" on the grounds that there is no specific GST Council Circular or Notification, despite a binding High Court precedent (GCC/ case) declaring the transaction non-taxable?	Hon'ble Gujarat High Court quashed the Deficiency Memo, ruling that a lack of circulars is no excuse to ignore judicial law. The Department was ordered to process and pay the refund within one week .
<u>M/s. SNM Business Private Limited V/s Additional Commissioner of State Tax.</u> <u>(W.P.(C) No.32287 of 2025).</u>	Whether it is mandatory for the Taxpayer to exhaust the appellate remedy before the GST Appellate Tribunal under Section 112 of the CGST Act, 2017 prior to invoking the writ jurisdiction under Article 226 of the Constitution of India?	Hon'ble Orissa High Court held that the Petitioner is required to first avail the statutory appellate remedy provided under Section 112 of the CGST Act, 2017 by filing an appeal before the GST Appellate Tribunal prior to filing writ petition as the GSTAT which is now made functional and period for filing appeal has been extended in a fragmented manner.

The brief analysis of above referred decisions/rulings are given below.

Case 1 – Payal Plastichem Private Limited V/s. State of Gujarat (2026-TIOL-167-HC-AHM-GST)

Facts in brief & Issue Involved

- ◆ The Petitioner acquired leasehold rights for GIDC plot in Dahej via an assignment from a previous lessee.
- ◆ Under the then prevailing view, GST was paid on this transfer of leasehold rights.
- ◆ Following the landmark judgement in *Gujarat Chamber of Commerce v. Union of Indian*, which held such transfers are "sale of land" (Non-Supply under Schedule III) and not taxable, the Petitioner sought a refund under Section 54.
- ◆ The Department issued Deficiency Memos (Form RFD-03), claiming there is no specific GST Council Circular or Notification authorizing refunds for lease transactions.
- ◆ Aggrieved by the said defect memo, the petitioner has preferred a writ before the Hon'ble Gujarat High Court

Contentions of Petitioner

- ◆ The law is settled by the High Court. Administrative "deficiency memos" cannot override judicial interpretations of **Section 7** and **Schedule III**.
- ◆ Denial of a refund based on the "absence of a circular" is a failure to exercise jurisdiction and an attempt to circumvent binding legal precedents.

Contentions of Respondent

- ◆ The refund could not be processed due to procedural gaps and the lack of guidance from the GST Council.

Observations & Decision of the High Court

- ◆ Directed the Petitioner to file a fresh refund application and ordered the Department to pay the refund **within one week** of receipt.
- ◆ Allowed the Petitioner to "revive" this petition by a simple note to the registry if payment is not made within the stipulated week.

- ◆ The Court observed that if the Petitioner is forced to revive the petition due to non-payment, an **exemplary cost of Rs. 25,000/-** will be imposed personally upon the "erring office"

NASA Comments

- ◆ This judgment is a significant win for taxpayers facing "technical" roadblocks in GST refunds.
- ◆ It is clear from this judgment that field officers cannot disregard binding High Court decisions merely because a "GST Council Circular" has not yet been issued. Judicial precedents constitute the law and cannot be overridden by administrative formalities
- ◆ By threatening a ₹25,000 personal penalty on officers, the Court is cracking down on "Deficiency Memo Loops" - the habit of using minor technicalities to delay legally mandated refunds.
- ◆ While the base judgment (*Gujarat Chamber of Commerce v. Union of Indian*) is currently being challenged in the Supreme Court, there is no stay on it. This means the refund must be paid now, though it may be subject to the final outcome of the Apex Court's decision.
- ◆ Taxpayers should also be cautious, since the transfer is now treated as a "sale of land" (Non-Supply), the Department may demand a reversal of Input Tax Credit (ITC) under Section 17(3), arguing the business used common credits for a non-taxable activity.

Case 2 – M/s. SNM Business Private Limited V/s Additional Commissioner of State Tax (W.P.(C) No.32287 of 2025)

Facts in brief & Issue Involved

- ◆ M/s SNM Business Pvt Ltd challenged the order dated 20th February 2025 passed under section 73 of CGST Act, 2017 by the Superintendent, Balasore I Range, Balasore, before the Appellate Authority.
- ◆ The Appellate Authority rejected the Petitioner's appeal on 12th September 2025.
- ◆ Being aggrieved by the order of the Appellate Authority, the petitioner has decided to file the writ petition before the Hon'ble High Court of Orissa.

Contentions of Petitioner

- ◆ The Petitioner respectfully submit that section 112 of CGST Act, 2017 provide the statutory appellate remedy by way of filing an appeal before the GSTAT.
- ◆ However, since the GSTAT was non-functional and had not been constituted at the relevant time, the Petitioner was constrained to invoke the writ jurisdiction of the Hon'ble High Court of Orissa, instead of filing an appeal before the GSTAT as an aggrieved person cannot be rendered remediless.

Contentions of Respondent

- ◆ The Respondent respectfully submits that the previous non-functionality of GSTAT does not exempt the Petitioner from complying with the mandatory pre-deposit requirement under Section 112(8) of the CGST Act, 2017 (i.e., the appellant must pay the requisite pre-deposit amount before filing an appeal under Section 112)
- ◆ Further, the Revenue, vide Notification, has specified 30th June 2026 as the extended date up to which appeals may be filed before the Appellate Tribunal for all cases where the impugned order was communicated before 1st April 2026.
- ◆ Additionally, to facilitate smooth filing of appeals before GSTAT, the authorities have issued a "User Advisory for the GSTAT e-Filing Portal" containing the applicable timelines for filing appeals

Observations & Decision of the High Court

- ◆ The Hon'ble High Court of Orissa has held that "since the forum (i.e., GSTAT) has already been provided in the statute, which is now functional and the period for filing appeals has been extended, it would not be proper for the Writ Court to keep such writ petitions pending for adjudication of the dispute raised by the Petitioner."
- ◆ High Court further held that in the instant writ petition filed by the Petitioner can be adjudicated by the said forum (i.e. GSTAT) and therefore disposed of the writ petition.
- ◆ The Hon'ble High Court further directed the Petitioner to file the appeal as per the timeline specified in the "User Advisor for the GSTAT e-Filing Portal" by paying the requisite pre-deposit amount as per section 112(8) of CGST Act, 2017.

NASA Comments

- ◆ The judgment reinforces that recourse to writ jurisdiction is no longer justified in routine GST disputes now that the GSTAT is functional and timelines have been extended.
- ◆ While the right under Article 226 remains intact, taxpayers are expected to exhaust the statutory appellate remedy before approaching High Courts.
- ◆ The ruling is a step towards streamlining GST litigation and reducing the burden on High Courts, ensuring that substantive disputes are resolved at the Tribunal level.

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