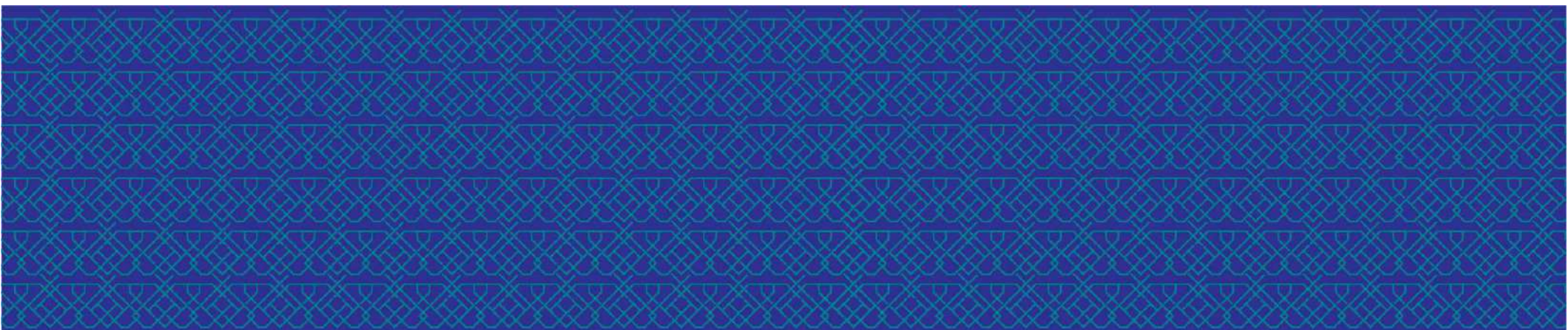


CRITICAL ISSUES & CONTROVERSIES IN INPUT TAX CREDIT (ITC) UNDER GST

SPEAKER: NIVEDITA AGARWAL, DIRECTOR



AGENDA SLIDE

**ITC on TR-6 challan under Customs Act:
Practical Compliance**

01

**ITC on Leasehold land & Construction- What's
really Allowed?**

02

ITC on buyback of shares by companies

03

ITC Eligibility of Tax Paid u/s. 74 of CGST ACT

04



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'Immovable Property': What Bharti Airtel's Case Changes

06

Can ITC be denied if the Supplier doesn't pay tax?

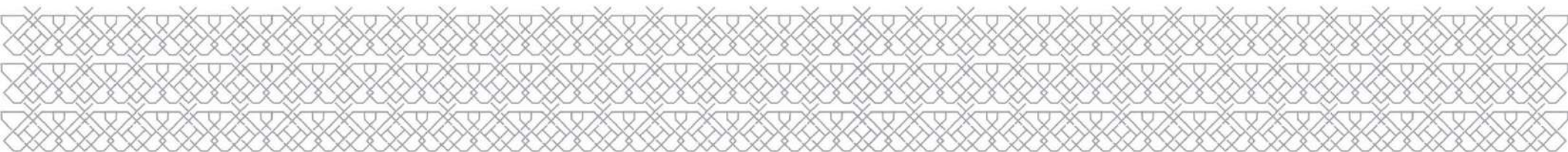
07

ITC on Canteen Services: Eligible or Blocked?

08

Reversal of ITC on account of supplier becoming non-existent later

ITC ON TR-6 CHALLAN UNDER CUSTOMS ACT: PRACTICAL COMPLIANCE





SECTION 16(2)(a) & (aa) OF THE CGST ACT

Eligibility and conditions for taking input tax credit.

“16(2) Notwithstanding anything contained in this section, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless,—

*a) he is in possession of a tax invoice or debit note issued by a supplier registered under this Act, or **such other tax paying documents as may be prescribed**;*

*(aa) the details of the **invoice or debit note** referred to in clause (a) has been **furnished by the supplier** in the **statement of outward supplies** and such details have been communicated to the recipient of such invoice or debit note in the manner specified under section 37”*

RULE 36(1)(d) OF THE CGST ACT

- **Documentary requirements and conditions for claiming input tax credit.**

“(1) The *input tax credit* shall be *availed* ... on the *basis of any of the following documents*, namely,—

(d) *a bill of entry or any similar document prescribed under the Customs Act, 1962 or rules made thereunder for the assessment of integrated tax on imports;*”

- Thus, as per said Rule, ITC of IGST paid on imports can be also be available basis any similar documents:
 - prescribed under the Customs Act/ Rules
 - providing for assessment of IGST on imports.



SECTION 17 OF THE CUSTOMS ACT

Section 17. Assessment of duty. -

(1) *An importer entering any imported goods under section 46, or an exporter entering any export goods under section 50, shall, save as otherwise provided in section 85, self-assess the duty, if any, leviable on such goods.*

SECTION 46 OF THE CUSTOMS ACT

SECTION 46. Entry of goods on importation. -

(1) *The importer of any goods, other than goods intended for transit or transshipment, shall make entry thereof by presenting [electronically] [on the customs automated system] to the proper officer a bill of entry for home consumption or warehousing [in such form and manner as may be prescribed]:*

ARGUMENTS FOR AVAILING CREDIT ON TR-6 CHALLAN

1.

Credit on basis of TR-6 challan allowed in pre-GST regime even when challan was not a specified document.

2.

Others Documents referred u/r. 36(1)(d) have to be tax paying documents which shall include challan.

3.

Requirement of document for availment of credit specified in rules should be read in the context of third-party document.

4.

BoEs shall be r/w challan, since any additional payment made through challan is originally referring to BoEs.

ARGUMENTS FOR AVAILING CREDIT ON TR-6 CHALLAN

1.

Credit on basis of TR-6 challan allowed in pre-GST regime even when challan was not a specified document

- Bombay HC in CCE vs. Essel Propack (2015) held that when receipt of service and payment of tax not disputed, credit cannot be denied even if TR-6 challan not a specified document.
- CESTAT, New Delhi in Dhampur Sugar mills vs. CCE, Meerut held that procedure should not be bottleneck to deny substantial right of appellant. Credit on basis of TR-6 challan allowed.

ARGUMENTS FOR AVAILING CREDIT ON TR-6 CHALLAN

BoEs shall be r/w challan, since any additional payment made through challan is originally referring to BoEs

The challan, used for making any additional duty or IGST payment, should be construed jointly with the assessed BoE, as the challan directly relates to and supplements the original BoE.

U/r 36 of the CGST Rules, the BoE is a valid document for availing ITC and there is no legal requirement for the IGST amount to be explicitly reflected within the BoE itself.

The law permits IGST to be paid separately after the filing of the BoE through a challan, and such subsequent payment does not affect the eligibility to claim ITC.

4.

CURRENT POSITION UNDER GST

Circular

Circular No. 16/2023- Cus. dt.07.06.2023 issued by CBIC:

Under GST law, ITC on imports can be availed based on the BEs. However, **TR-6 challan is not a prescribed document for credit.**

Note: Circulars are non-binding on courts – SC in Ratan Melting & Wire

AAAR Ruling

ITC cannot be claimed on IGST paid vide TR-6 Challan.

AAAR, Tamil Nadu in case of **M/s. Becton Dickinson India Private Limited** upheld the decision AAR and held that **TR-6 Challan cannot be considered as an eligible document for availing ITC under GST laws.**

Note: Only binding on Applicant

CURRENT POSITION UNDER GST

Madras High Court

**M/s. Data Patterns India Limited v.
Joint Comm. of Central Tax,
Chennai**

Last Order dated **16.05.2025**

Granted stay order on a petition
filed by Data Patters for not
recognition of payment of IGST on
import through TR 6 challan by the
department

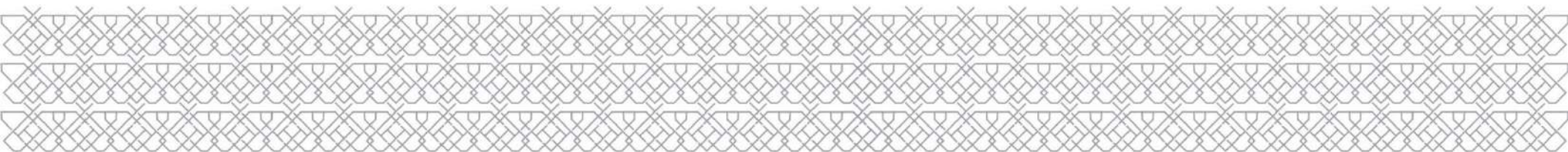


WAY FORWARD

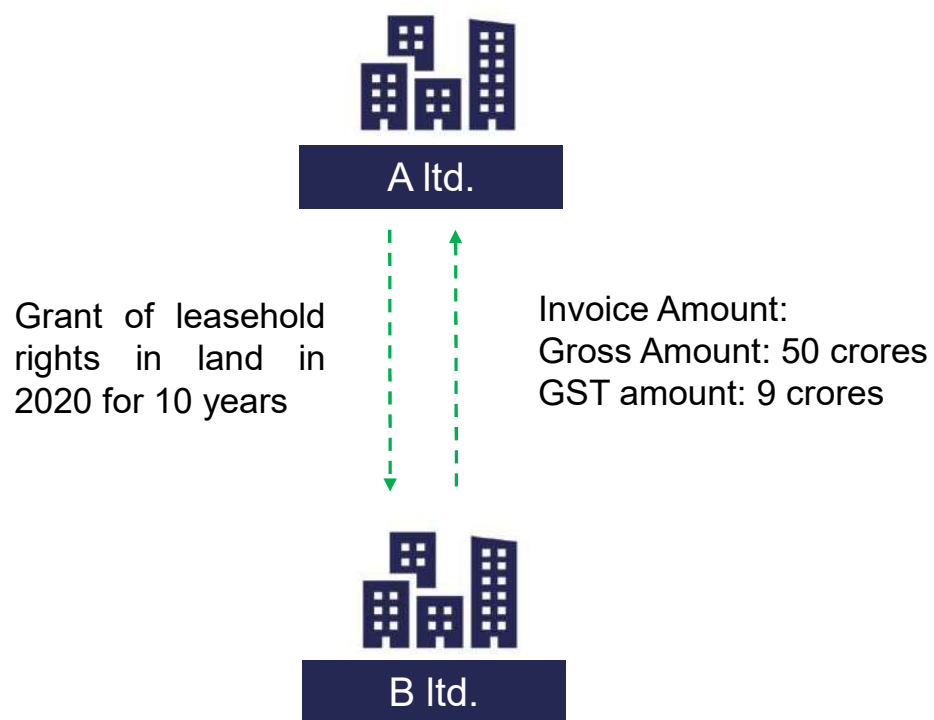


- E-Payment method introduced on ICEGATE to replace manual TR-6 challans w.e.f. 1.1.2025. However, similar issues in availing credit.
- Customs now allowing voluntary revision of bill of entry post clearance of goods w.e.f. 1.11.2025

ITC ON LEASEHOLD LAND & CONSTRUCTION- WHAT'S REALLY ALLOWED?



ITC ON LEASEHOLD RIGHTS IN LAND



Issue:

- Whether B Ltd would be entitled to claim Input Tax Credit of the 9 crores GST paid to A Ltd?
- Decision by AAR Gujarat in **In Re: M/s. Agratas Energy Storage Solution Pvt. Ltd. [2025 (11) TMI 757 - Authority for Advance Ruling, Gujarat]**.

ITC ON LEASEHOLD RIGHTS IN LAND

Section 17 specifies apportionment of credit and blocked credits

- Section 17(5)(d): credit shall not be available on goods and services received by taxable person for construction of an immovable property (other than P&M) on his own account including when such goods and services are used in the course or furtherance of his business.
- Two possible views on this issue:-
 1. Broad Interpretation - restricting ITC on goods or services used both directly and indirectly in construction process.
 2. Narrow Interpretation - restriction u/s 17(5)(d) applies only to goods or services which have a direct nexus with construction.



Disallowance of ITC u/s 17(5)(d) in respect of assignment of leasehold rights which is not directly used in the construction process?

IN RE: M/S. AGRATAS ENERGY STORAGE SOLUTION PVT. LTD. (2025)- AAR GUJARAT

Is ITC available on lease rental of land on which factory is to be constructed?

Held that **ITC on lease rentals is blocked under Section 17(5)(d)** since the lease of industrial land is considered to be “for construction” of an immovable property. The term “for” in Section 17(5)(d) has a broad scope and covers all services intended for construction, whether direct or indirect.

Is ITC on lease rent allowed during factory repairs, maintenance, or renovation?

Held that activities such as **repairs, maintenance or renovation when capitalized**, are considered as ‘construction’ of an immovable property. Thus, when ITC is not allowed on construction and since construction includes repairs, **ITC is blocked on repairs** as well.

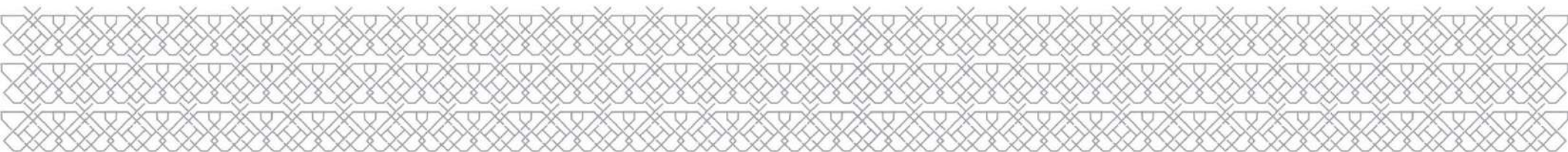
Is ITC on lease rent allowed for the period pre and post the activity of construction?

Held that Land used for industrial construction and any service specific to land is blocked u/s. 17(5)(d), thus, **eligibility of ITC is not contingent upon to post and pre activity of construction**. Thus, ITC is **not allowed** for any such activities of construction irrespective of period of lease rent.

Is ITC on lease rent allowed on vacant portion of land?

Held that vacant portion is **part of the industrial land leased for construction** and is subject to Section 17(5)(d). There is no statutory mechanism allowing proportionate ITC for non-constructed or constructed portions of land. Thus, **ITC is blocked for vacant land** as well.

ITC ON BUYBACK OF SHARES BY COMPANIES



RELEVANT PROVISIONS OF CGST ACT

Section 16(1)

Every registered person is *entitled to claim credit of input tax charged on any supply of goods or services or both* to him which are used or *intended to be used in the course or furtherance of his business.*

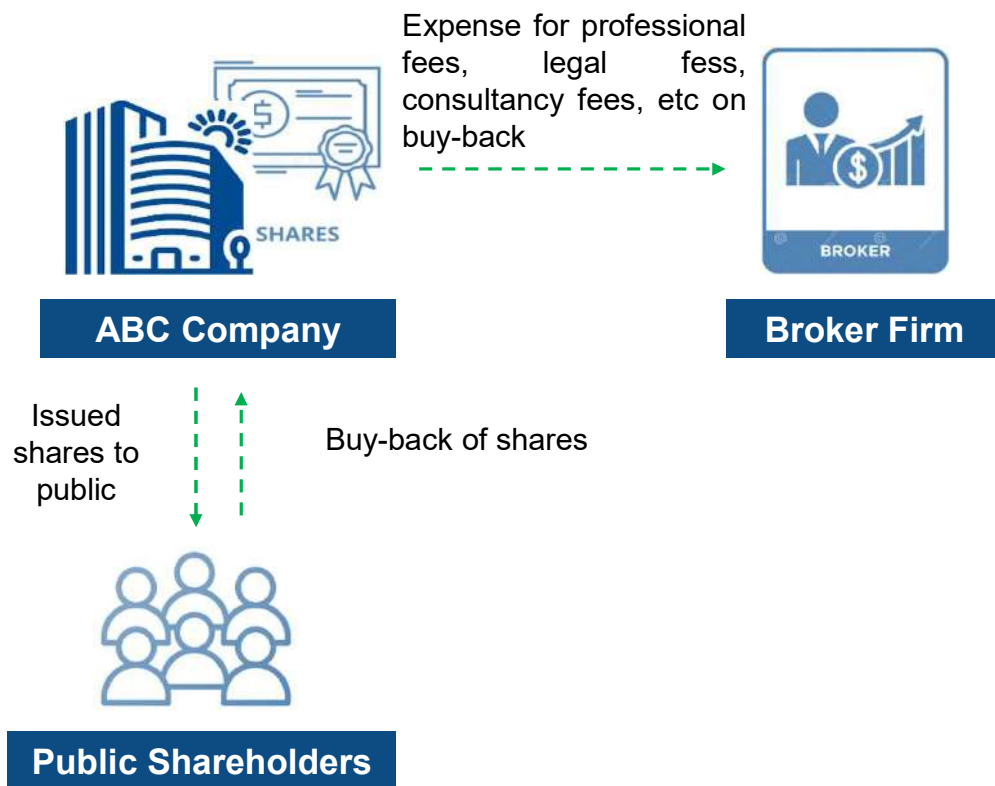
Section 17(2)

Where a registered person uses goods or services or both are used *partly for taxable supplies* including and *partly for exempt supplies*, the amount of input tax credit shall be *restricted to* portion *attributable to the said taxable supplies only.*

Section 17(3)

The *value of exempt* supply under sub-section (2) *shall include* supplies on which the recipient is liable to pay tax on reverse charge basis, *transactions in securities*, sale of land and and shall be determined in accordance with prescribed rule.

ITC ON BUYBACK OF SHARES



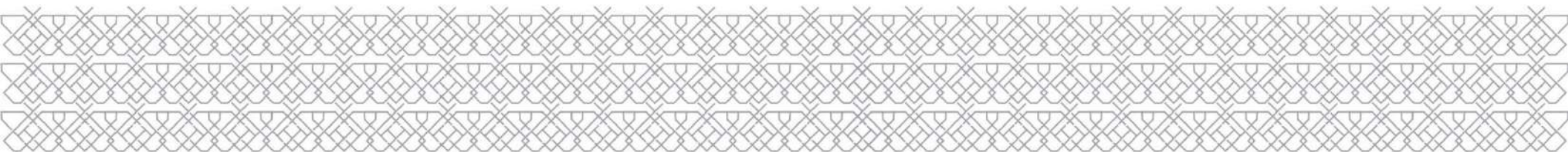
Issue:

- Whether buyback of shares shall be deemed to be a 'transaction in security' under CGST Act? Whether ITC can be availed on expenses incurred in relation of buyback of shares?
 - Decision by AAAR Gujarat in **In Re: M/s. Gujarat Narmada Valley Fertilizers & Chemicals Ltd. [2025 (10) TMI 241 - Appellate Authority for Advance Ruling, Gujarat]**

IN RE: M/S. GUJARAT NARMADA VALLEY FERTILIZERS & CHEMICALS LTD. (2025)- AAAR GUJARAT

- Whether ITC is available for expenditure incurred on buyback of its shares by a listed entity? Also, whether the ITC shall be reversed for common input and input services used for expenses incurred on said buyback?
- AAAR ruled that Section 17(5) of the CGST implicitly provides that ITC is not available for all costs incurred for furtherance of business, as ITC is not a vested right.
- Shares are securities which cannot be either regarded as 'goods' or 'services' under CGST Act. Therefore, **ITC on expenses incurred i.e., goods or services involved for transaction in securities cannot be allowed, since securities are neither goods or services.**
- Owing to Section 17(3) r/w explanation at Ch- V of CGST Act, ITC of tax paid on common inputs & input services shall be reversed owing to value of exempt supply. .

ITC ELIGIBILITY OF TAX PAID u/s. 74 OF CGST ACT



RELEVANT PROVISIONS

Section 17(5)(i)

Notwithstanding anything contained in sub-section (1) of section 16 and sub-section (1) of section 18, input tax credit shall not be available in respect of the following, namely:-

(i) any tax paid in accordance with the provisions of section 74 in respect of any period up to Financial Year 2023-24.

Rule 36(3)

No input tax credit shall be availed by a registered person in respect of any tax that has been paid in pursuance of any order where any demand has been confirmed on account of any fraud, willful misstatement or suppression of facts under section 74.

IGST ON IMPORT OF GOODS



- **Section 3(7) of the Customs Tariff Act:**

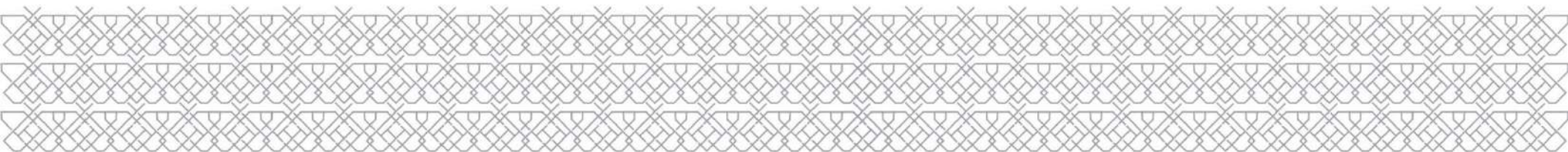
*“Any **article which is imported into India** shall, in addition, be liable to **integrated tax** at such rate, not exceeding forty per cent. as is **leviable under section 5 of the Integrated Goods and Services Tax Act, 2017** on a like article on its supply in India, on the value of the imported article as determined under sub-section (8) ⁸[or sub-section (8A), as the case may be”*



ISSUES

- Whether ITC shall be available on tax paid after initiation of an investigation u/s. 74 of the CGST Act, but before issuance of a SCN?
- Whether ITC shall be available on tax paid after issuance of a show cause notice u/s. 74 of the CGST Act, but before passing of an order?
- Whether ITC shall be blocked on GST paid in terms of any other laws such as Customs Tariff Act, 1975 i.e., in case of imports of goods in India?

‘IMMOVABLE PROPERTY’: WHAT BHARTI AIRTEL’S CASE CHANGES





SECTION 17(5)(c) AND SECTION 17(5)(d) OF THE CGST ACT

Apportionment of credit and blocked credits.

“17(5) Notwithstanding anything contained in sub-section (1) of section 16 and subsection (1) of section 18, input tax credit shall not be available in respect of the following, namely:-

...

(c) works contract services when supplied for construction of an immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service;

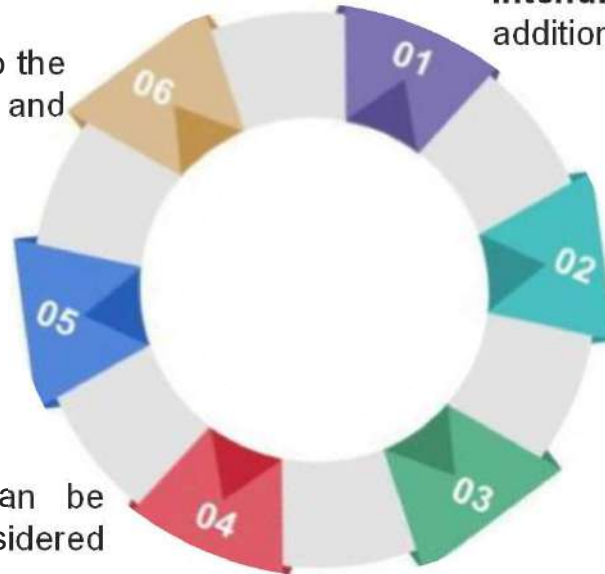
(d) goods or services or both received by a taxable person for construction of an immovable property (other than plant and machinery) on his own account including when such goods or services or both are used in the course or furtherance of business.”

PRINCIPLES APPLIED BY THE SC IN BHARTI AIRTEL (CENTRAL EXCISE)

Functionality Test: If the article is fixed to the ground to enhance its operational efficacy and ensure stability, such property is movable.

Permanency Test: If the property can be dismantled and relocated without damage, the property is considered movable.

Marketability Test: If the property, can be removed and sold in the market, it is considered movable.



Intendment of the parties: If intended as a permanent addition to immovable property, it is immovable.

Nature of annexation: If it cannot be removed or relocated without damage, it indicates the property is immovable.

Object of annexation: If the attachment is for the permanent beneficial enjoyment of the land, the property is immovable. But if it only facilitates the use of the item itself, it remains movable even if attached to immovable property.

The tower, once assembled and fixed, can be dismantled without altering its nature, relocated, and re-sold in the same form. Hence, it is not immovable property.



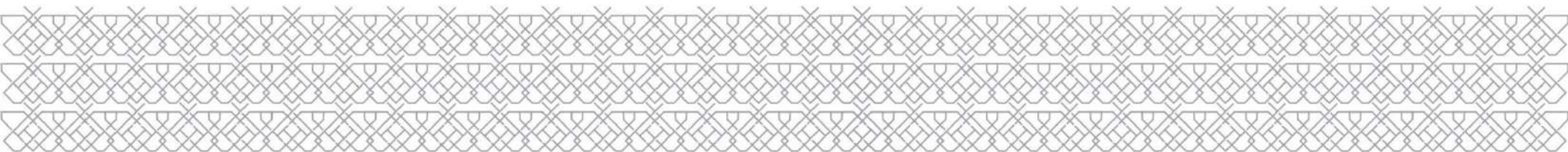
BHARTI AIRTEL LTD. v. COMMISSIONER, CGST APPEALS-1, DELHI (GST)- DELHI HIGH COURT

- Delhi HC relied on the SC's decision of Bharti Airtel Ltd. v. The Commissioner of Central Excise, Pune where it was **conclusively held that telecommunication towers are not immovable properties.**
- Mobile towers can be **dismantled and moved**, and they were never erected with an **intent of conferring permanency**. Their placement on concrete bases was only to enable those towers to overcome vagaries of nature
- Mere specific exclusion of telecommunication towers from scope of phrase 'plant and machinery' would not lead one to conclude that statute contemplates telecommunication towers to be immovable property.

STERLING AND WILSON PRIVATE LIMITED v. THE JOINT COMMISSIONER AND OTHERS (GST)- ANDHRA PRADESH HIGH COURT

- Whether the transactions of the petitioner for setting up Solar Power Plants should be treated as a "Works Contract" or a "Composite Supply" under the GST law?
- The distinction between 'works contract' and a 'composite supply' would be whether the end product handed over to the contractee, is moveable or immoveable property
- The solar modules and the Solar Power Generating System **are not attached to the foundation for the permanent benefit of the land or foundation**. Rather, the foundation is embedded in the earth to **enhance the plant's operational efficiency and stability, not to make the plant a permanent part of the land**.
- The Court held that the system's attachment does not qualify as something "attached to what is so imbedded for the permanent beneficial enjoyment" of the land or foundation. Since **the attachment is not for the land's permanent benefit**, the Solar Power Generating System does not meet the definition of immovable property

**CAN ITC BE DENIED IF THE SUPPLIER DOESN'T
PAY TAX?**





SECTION 16(2)(c) OF THE CGST ACT

Eligibility and conditions for taking input tax credit.

“16(2) Notwithstanding anything contained in this section, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless,—

...

*(c) subject to the provisions of section 41, the tax charged in respect of such supply **has been actually paid to the Government**, either in cash or through utilisation of input tax credit admissible in respect of the said supply; and ”*

NON-DEPOSIT OF GST BY THE SUPPLIER



Whether credit will be denied to a bona fide assessee for non-payment of tax by the supplier u/s. 16(2)(c)?

MAHALAXMI COTTON GINNING PRESSING & OIL INDUSTRIES v. THE STATE OF MAHARASHTRA (2017)

- Pre-condition for availing set-off is that the tax must be "**actually paid**", and it should be interpreted in its **ordinary and natural meaning**.
- Set-off is a legislative concession, **not a vested right**. The benefit is available only upon fulfillment of prescribed conditions.
- The constitutional **validity of the provision was upheld**, as the legislature is **not bound to grant a set-off**.
- **Validity of the provision stands on its own, and is not dependent on the undertaking of the department.**

 **SLP was dismissed by the Supreme Court**

ON QUEST MERCHANDISING INDIA PVT LTD v. GOVERNMENT OF NCT OF DELHI & ORS (2017)

- As per the provisions of DVAT Act, supplier's tax returns are **confidential, making it impossible for the buyer to verify whether the supplier has actually paid the tax.**
- The provision unfairly penalizes genuine buyers, as it treats both innocent purchasers and fraudulent transactions alike, **violating the principle of equality under Article 14 of the Constitution.**
- The present case is factually different from Mahalaxmi Cotton (Bombay HC), where **matching of buyer's and supplier's records was possible.** No such matching is possible under the DVAT Act .



Decision was upheld by the Supreme Court

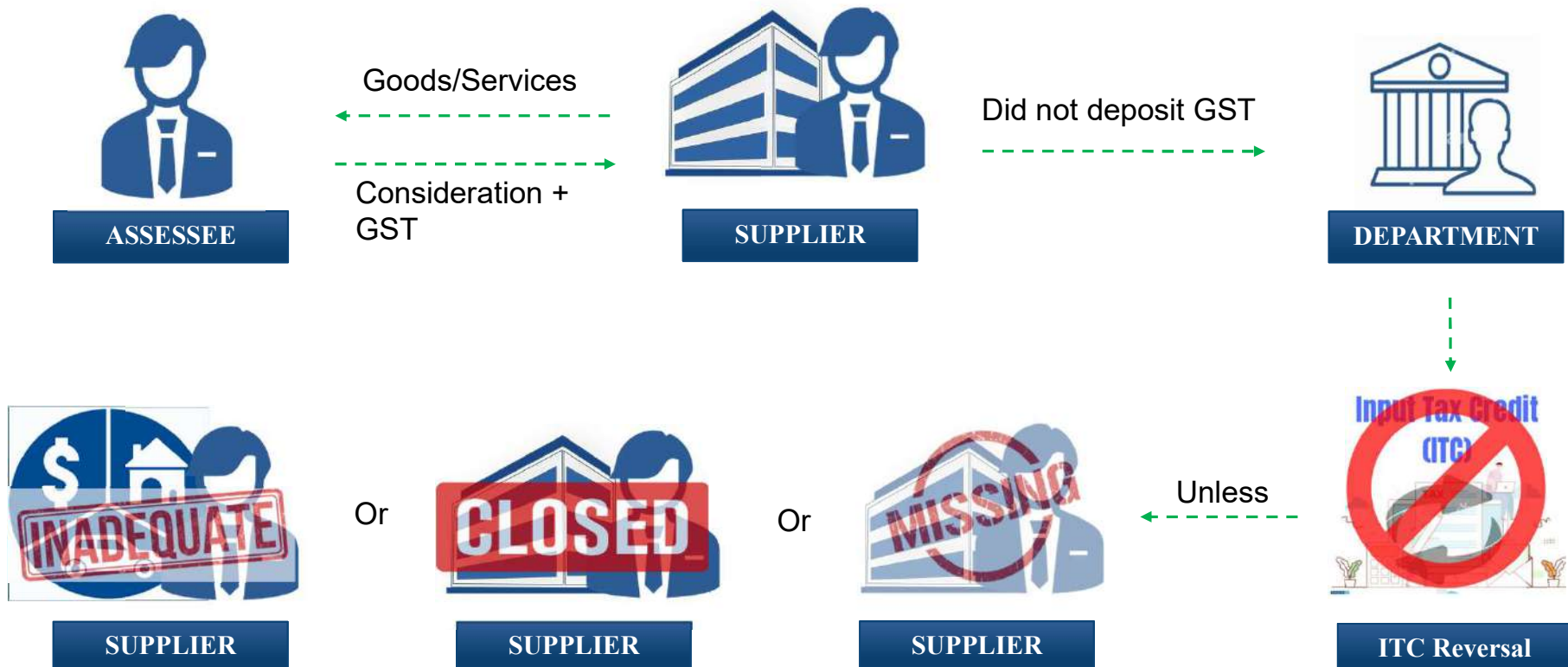
THE COMMISSIONER TRADE & TAX DELHI v. M/s. SHANTI KIRAN INDIA (P.) LIMITED (2017)

- Relied on On Quest Merchandising India Pvt. Ltd. v. Government of NCT of Delhi and Ors.
- The SC upheld its decision in the above case and further stated the following:
 - There is no dispute regarding the supplier being registered on the date of transaction;
 - Neither the transactions nor invoices in questions have been doubted.
 - Therefore, **no good reason to interfere with the HC order directing grant of ITC benefit after due verification.**



Decision was upheld by the Supreme Court

PRESS RELEASE DT. 04.05.2018: CENTRAL BOARD OF GST COUNCIL



REVERSAL OF CREDIT u/s. 16(2)(c) OWING TO NON-PAYMENT OF TAX BY SUPPLIER

S. No.	Case Name & Forum	Facts	Holding
1.	Madras HC- M/s. D. Y. Beathel Enterprises vs. The State Tax Officer, Tirunelveli (2021)	Based on returns filled by the suppliers, petitioner availed ITC. However, petitioner later become aware of non-payment of tax by the supplier to the Government.	<ul style="list-style-type: none">• Quashed for following reasons:<ul style="list-style-type: none">✓ Non examination of supplier during the inquiry alleging non-movement of goods.✓ Non-initiation of recovery action against the supplier in first place.• Remanded back for fresh inquiry and directed parallelly recovery proceeding to be initiated against supplier.

REVERSAL OF CREDIT u/s. 16(2)(c) OWING TO NON-PAYMENT OF TAX BY SUPPLIER

S. No.	Case Name & Forum	Facts	Holding
2.	Madras HC- Pinstar Automotive India Pvt. Ltd. vs. Additional Commissioner, Chennai (2023)	Petitioner received certain supplies from three suppliers who duly uploaded the invoices in GSTR 1B, however, didn't remit the tax due to the Government.	<ul style="list-style-type: none">• S. 16 to be followed strictly to ensure department's interest is not jeopardized.• Unlike the erstwhile regime, GST strengthens revenue protection by mandating tax payment by either the supplier or the recipient.• Substantive liability on supplier and protective liability upon purchaser.

REVERSAL OF CREDIT u/s. 16(2)(c) OWING TO NON-PAYMENT OF TAX BY SUPPLIER

S. No.	Case Name & Forum	Facts	Holding
3.	Patna HC- M/s. Aastha Enterprises vs. State of Bihar & anr. (2023)	As evidenced from the tax invoice, the petitioner duly paid the tax to the supplier. However, the supplier did not remit the tax to the government.	<ul style="list-style-type: none">• ITC is a statutory concession, not an absolute right.• Mere production of tax invoices, proof of payment, and movement of goods is not sufficient, unless the tax is not deposited by the supplier.• Burden of proof lies on the purchasing dealer to ensure compliance.• State not obligated to recover dues from the supplier before denying ITC to the buyer.

ITC DENIED ON ACCOUNT OF MISMATCH: GSTR 2B vs. 3B

S. No.	Case Name & Forum	Facts	Holding
1.	Calcutta HC- Suncraft Energy Pvt. Ltd. vs. State Tax & ors. (2023)	ITC denied to the petitioner due to non-reflecting of certain invoices in GSTR 2A.	<ul style="list-style-type: none">• Denial of ITC without taking prior action against the supplier is arbitrary.• Before reversal of ITC, action to be initiated against the supplier first unless supplier is missing or has closed the business or does not having adequate assets, etc.• Filing in GSTR-1 and its reflection in GSTR-2A is a taxpayer facilitation measure and does not affect ITC entitlement under Section 16.

Considering the facts and circumstances of the case and the relatively small quantum of demand, the court hold no reason to interfere; accordingly, the SLP was dismissed by the Supreme Court.

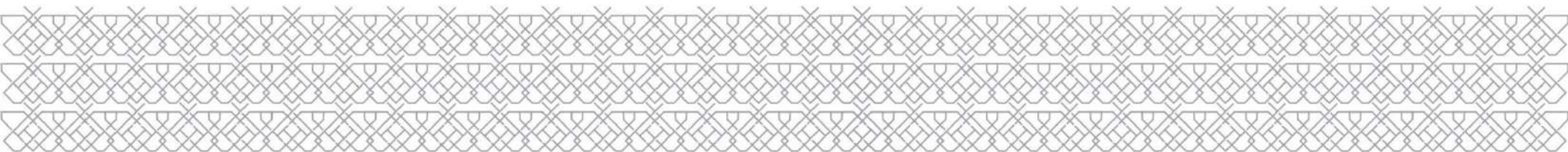
ITC DENIED ON ACCOUNT OF MISMATCH: GSTR 2B vs. 3B

S. No.	Case Name & Forum	Facts	Holding
2.	Allahabad HC- M/s. R. T. Infotech vs Additional Commissioner & ors. (2025)	ITC denied to the petitioner due to difference in ITC claimed and credit appearing in GSTR 2A.	<ul style="list-style-type: none">• No dispute over supply of services.• Non discharge of liability by the supplier, thus proceedings were initiated against. However, buyer cannot compel supplier to file return and deposit the tax.• Department to ensure an action is initiated against the supplier and the benefit arising from such action shall be remitted back to buyer.

CHALLENGING VALIDITY OF SECTION 16(2)(c)

S. No.	Case Name & Forum	Facts	Holding
1.	Kerala HC- M. Trade Links & ors. vs. Union of India & ors. (2024)	Batch of writ petitions challenged the constitutional validity of Section 16(2)(c) of the CGST/ SGST Act.	<ul style="list-style-type: none">• ITC is a conditional entitlement and not an absolute right.• Conditions laid down in Section 16(2)(c) w.r.t. actual payment of tax by supplier cannot be considered as unconstitutional.• Section 16(2)(c) serves fiscal objectives and protect revenue and hence, it was held constitutionally valid.

**ITC ON CANTEEN SERVICES: ELIGIBLE OR
BLOCKED?**



PROVISIONS OF THE CGST ACT

SCHEDULE II

ACTIVITIES OR TRANSACTIONS TO BE TREATED AS SUPPLY OF GOODS OR SUPPLY OF SERVICES

2. Supply of goods or services or both **between related persons** or between distinct persons as specified in section 25, when made in the course or furtherance of business:

 Employers and Employees are considered as related persons as per Explanation to Section 15(5)

SCHEDULE III

ACTIVITIES OR TRANSACTIONS WHICH SHALL BE TREATED NEITHER AS A SUPPLY OF GOODS NOR A SUPPLY OF SERVICES

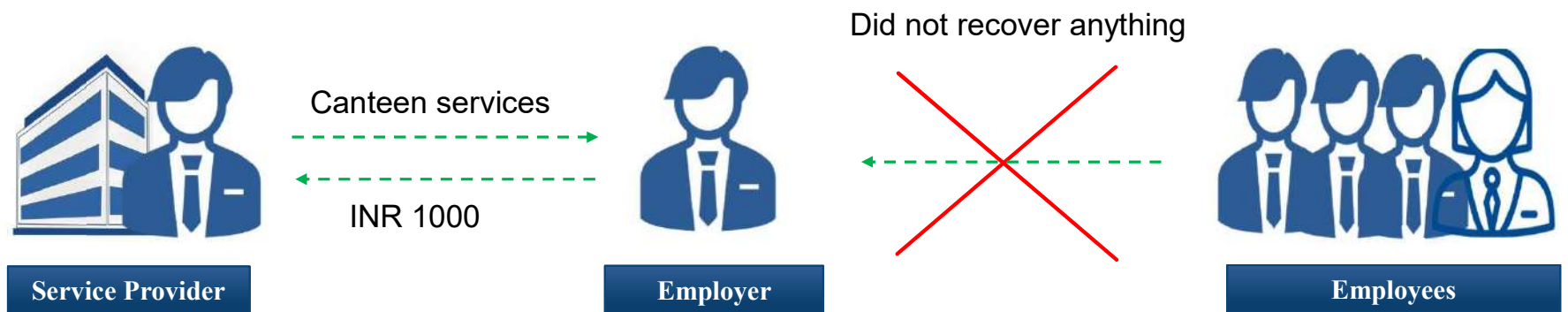
1. Services by an employee to the employer in the course of or in relation to his employment.

CIRCULAR NO. 172/04/2022-GST DATED 6TH JULY 2022

Perquisites provided by employer to the employees as per contractual agreement

Sr. No	Issue	Clarification
5.	Whether various perquisites provided by the employer to its employees in terms of contractual agreement entered into between the employer and the employee are liable for GST?	2. Any perquisites provided by the employer to its employees in terms of contractual agreement entered into between the employer and the employee are in lieu of the services provided by employee to the employer in relation to his employment. It follows therefrom that perquisites provided by the employer to the employee in terms of contractual agreement entered into between the employer and the employee, will not be subjected to GST when the same are provided in terms of the contract between the employer and employee.

SITUATION I



?

Whether Input Tax Credit of the GST paid by the employer to the service provider be available to the employer?

SITUATION II



?

1. Whether GST will be leviable on the amount recovered from the employees?
2. Whether Input Tax Credit of the GST paid by the employer to the service provider be available to the employer?

RULINGS OF THE AUTHORITY FOR ADVANCE RULING

- **Whether GST is payable on the nominal amount recovered from the employees for catering services?**

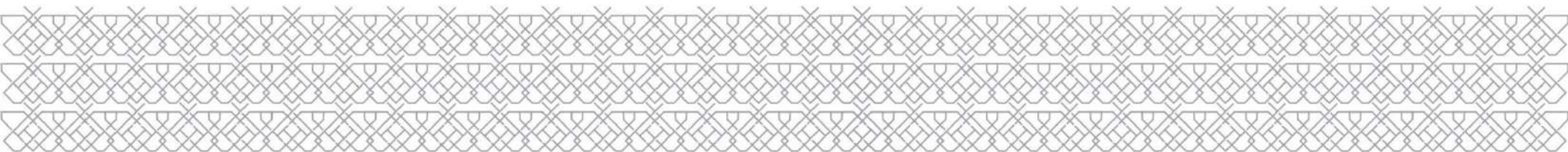
GST is payable	GST is not payable
Federal-mogul Ignition Products India Limited [2025-VIL-13-AAR]	Brandix Apparel India Private Limited [2023-VIL-63-AAR]
Faiveley Transport Rail Technologies India Private Limited [2024-VIL-52-AAR]	Emcure Pharmaceuticals Limited [2022-VIL-04-AAR]
Tube Investment Of India Limited [2024-VIL-09-AAR]	Emcure Pharmaceuticals Limited [2022-VIL-124-AAR]
Federal-mogul Anand Bearings India Limited [2023-VIL-38-AAAR]	
Kion India Pvt Ltd [2025-VIL-58-AAR]	

RULINGS OF VARIOUS AUTHORITY FOR ADVANCE RULING

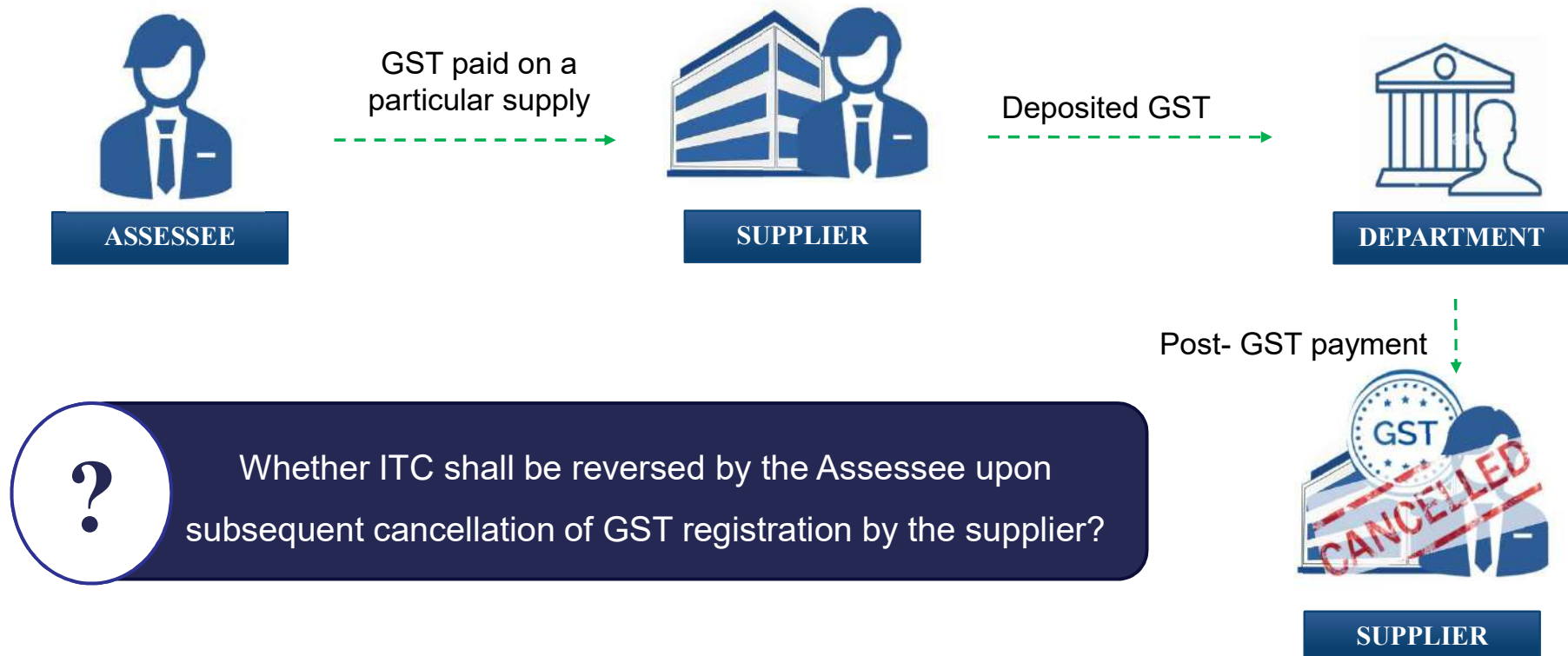
➤ Whether employer is eligible to claim ITC of the GST paid to the catering service provider?

ITC is not available	Proportionate ITC is available
Emcure Pharmaceuticals Limited [2022-VIL-124-AAR]	Tata Motors Limited [2022-VIL-100-AAAR]
Federal- mogul Ignition Products India Limited [2025-VIL-13-AAR]	Shriram Pistons and Rings Limited [2023-VIL-106-AAR]
Kion India Private Limited [2025-VIL-58-AAR]	Amneal Pharmaceuticals Private Limited [2025-VIL-30-AAR]
	Federal- mogul Anand Bearings India Limited [2023-VIL-38-AAAR]
	Faiveley Transport Rail Technologies India Private Limited[2024-VIL-52-AAR]

REVERSAL OF ITC ON ACCOUNT OF SUPPLIER BECOMING NON-EXISTENT LATER



REVERSAL OF ITC: SHALL BE ALLOWED OR NOT



M/s. SINGHAL IRON TRADERS v. ADDITIONAL COMMISSIONER & ANR. (2022)

- Whether ITC claimed on a particular supply shall be reversed on ground that the registration of the supplier was cancelled subsequently?
- The Supplier duly filed returns in forms of GSTR-01 and GSTR-03.
- GSTR-03 cannot be generated without payment of tax.
- The Gujarat HC held that once the tax is paid by an Assessee in forms of GSTR-01 and GSTR-03, **no adverse inference can be made against Assessee on account of subsequent cancellation of GST registration of the Supplier.**
- The court further held that duty is upon the authorities to verify any information prior to initiating the proceedings against any person only on borrowed information.



THANK YOU!

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