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A DECADE INTO THE UNDERSTANDING AND CHANGES TO THE INDIAN GST ACT

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ABSTRACT

This paper examines the Indian Goods and Services Tax regime roughly nine years after its introduction on 1 July 2017, treating the period as functionally a decade for purposes of legal assessment. It traces the constitutional architecture inserted by the 101st Amendment, the statutory framework of the Central, Integrated, and Union Territory GST Acts, and the amendments that have reshaped input tax credit and rate structure since enactment. It then surveys the decade's most consequential judicial interventions - on the bindingness of GST Council recommendations, refund formulae under the inverted duty structure, return rectification, provisional attachment, secondment arrangements, and credit on immovable property - before turning to the long-delayed GST Appellate Tribunal and the September 2025 rate rationalisation exercise. The paper argues that, notwithstanding genuine gains in market integration and the elimination of cascading taxation, the law remains doctrinally unsettled: amended frequently, interpreted inconsistently for much of the decade, and on one notable occasion, legislatively reversed within months of a taxpayer-favourable ruling.

I. INTRODUCTION

Sometime around midnight on 1 July 2017, Parliament's Central Hall hosted a ceremony usually reserved for moments of constitutional significance, to mark the rollout of what was billed as independent India's most far-reaching tax reform.[1] The Goods and Services Tax replaced a tangle of central excise duty, service tax, value added tax, octroi, and a dozen other

[1]The Constitution (One Hundred and First Amendment) Act, 2016, Gazette of India, pt. II, § 1 (Sept. 8, 2016) (India); see also Central Goods and Services Tax Act, No. 12 of 2017, § 1(2), India Code (bringing the Act into force with effect from 1 July 2017).

levies with a single, ostensibly seamless, destination-based consumption tax. The phrase that accompanied it - "One Nation, One Tax" - was as much a political slogan as a legal aspiration, and like most slogans, it has aged unevenly against the reality of the years that followed.

Nine years on, close enough to a decade that GST can no longer credibly be described as a new or transitional law, the Central Goods and Services Tax Act, 2017[2] and its companion legislations have been amended with a frequency that would be unusual for any statute, let alone one that touches almost every commercial transaction in the country. The rate structure has been rebuilt more than once - most recently and most dramatically in September 2025, when the GST Council collapsed four tax slabs into what is now described in policy circles as "GST 2.0."[3] The judiciary, for its part, has spent the better part of the decade filling gaps that the legislature left open, sometimes deliberately and sometimes through oversight: the Supreme Court has ruled on everything from the bindingness of GST Council recommendations to whether a shopping mall can be a "plant" for the purposes of claiming input tax credit. And only in the autumn of 2025 - eight years after the Act came into force - did the GST Appellate Tribunal, the second appellate forum promised since the Act's first day, actually begin hearing appeals.[4]

This paper takes stock of that decade from a legal, rather than a purely fiscal or administrative, perspective. Part II traces the constitutional architecture that made a uniform GST possible - and that, somewhat paradoxically, also built in much of the federal friction that has characterised the law's implementation. Part III sets out the statutory framework as it stands today. Part IV examines the GST Council, the body around which the entire scheme of cooperative federalism is built, through the lens of the Supreme Court's 2022 ruling in Mohit Minerals.[5] Part V tracks the principal legislative amendments of the past decade, with particular attention to input tax credit, the most litigated subject in GST jurisprudence. Part VI surveys the case law more broadly. Part VII deals with the institutional vacuum left by the delayed Tribunal. Part VIII considers the persistent practical difficulties - fraudulent credit claims, compliance costs for small businesses, and an explosion of writ litigation - that no amount of

[2]Central Goods and Services Tax Act, No. 12 of 2017, India Code [hereinafter CGST Act].
[3]56th GST Council Meeting - Outcome at a Glance, Press Info. Bureau, Ministry of Finance, Gov't of India (Sept. 3-4, 2025), https://www.pib.gov.in; Two-Day GST Council Meeting Begins: Rate Cuts to Slab Rationalisation, Deccan Herald (Sept. 3, 2025).
[4]CGST Act, supra note 2, § 109; Press Release, Press Info. Bureau, Union Minister for Finance and Corporate Affairs Smt. Nirmala Sitharaman Launches Goods and Services Tax Appellate Tribunal (GSTAT) in New Delhi (Sept. 24, 2025), https://www.pib.gov.in/PressReleasePage.aspx?PRID=2170932.
[5]Union of India v. Mohit Minerals (P) Ltd., (2022) 10 S.C.C. 700 (India).

legislative redrafting has fully resolved. Part IX examines GST 2.0. Part X offers a more evaluative assessment of whether the original constitutional promise has been kept, and Part XI concludes.

II. THE CONSTITUTIONAL FOUNDATION: DIVIDING A POWER THAT WAS NEVER MEANT TO BE DIVIDED

Before 2016, the Indian Constitution allocated the power to tax goods and services along fairly rigid lines: the Union taxed manufacture and inter-state sale, the States taxed intra-state sale of goods, and the Union separately taxed services under its residuary legislative power.[6] This division made a measure of sense in 1950, when manufacturing and the sale of tangible goods dominated economic activity, but it produced a famously cascading structure by the time the economy had diversified into services, leasing, and composite transactions that did not sit comfortably within either category.

The Constitution (One Hundred and First Amendment) Act, 2016 dismantled this division.[7] It inserted Article 246A, which for the first time gave Parliament and every State legislature concurrent power to make laws with respect to goods and services tax - a genuinely unusual constitutional move, since direct taxes and most indirect taxes in India had until then been allocated exclusively to one level of government or the other.[8] Article 269A dealt with the thorniest practical problem this concurrency created: inter-state supply. It vested the power to levy integrated GST on inter-state trade in the Union, while providing for the proceeds to be apportioned between the Centre and the States in a manner Parliament would prescribe on the GST Council's recommendation.[9] Article 279A, finally, created the GST Council itself - a body chaired by the Union Finance Minister, with the Union Minister of State for Finance and each State's finance minister (or nominee) as members, empowered to make recommendations on virtually every substantive question a GST regime throws up: rates, exemptions, the model law, thresholds, and special provisions for particular States.[10]

[6]India Const. sch. VII, list I, entry 84 (Union Duties of Excise, pre-2016 position); id. list II, entry 54 (Taxes on Sale of Goods, pre-2016 position); id. list I, entry 97 (residuary power, the basis for the pre-GST service tax levy).
[7]The Constitution (One Hundred and First Amendment) Act, 2016, supra note 1.
[8]India Const. art. 246A.
[9]India Const. art. 269A.
[10]India Const. art. 279A.

What the 101st Amendment did not do, and this omission would prove consequential six years later, was specify with any precision what legal force the Council's recommendations carried. Article 279A does not begin with a non-obstante clause, nor does Article 246A say that Parliament's and the States' law-making power is subject to the Council's recommendations.[11] The drafters appear to have assumed that the Council's centrality to the scheme would be self-evident from its composition and function, without needing express constitutional command. That assumption was tested in 2022, in circumstances discussed in Part IV below.

It is worth pausing on the federalism implications of this design, because they recur throughout the decade's litigation. GST replaced a system in which States enjoyed substantial autonomy over sales tax - historically their single largest source of own revenue - with a system in which rates, exemptions, and procedure are set nationally, by a Council in which the Union alone holds an effective veto over any change requiring the prescribed supermajority.[12] The States accepted this trade-off in return for a five-year compensation guarantee, funded by a separate compensation cess, intended to make up any shortfall against a notional annual revenue growth baseline.[13] That guarantee expired in mid-2022, and its expiry - compounded by the pandemic's revenue shock in the interim - generated some of the sharpest Centre-State friction the GST regime has seen, eventually requiring the Centre to borrow on the States' behalf to bridge the compensation gap.

III. MAPPING THE STATUTORY ARCHITECTURE

The "GST Act" that the public refers to is, strictly, four separate Parliamentary statutes plus a corresponding statute in every State and Union Territory legislature. The Central Goods and Services Tax Act, 2017 levies tax on intra-state supply and governs registration, returns, assessment, and the bulk of the procedural law that applies system-wide, including the rules on input tax credit.[14] The Integrated Goods and Services Tax Act, 2017 levies tax on inter-state supply and imports, and contains the place-of-supply rules that determine which State's tax

[11] India Const. arts. 246A, 279A; cf. Union of India v. Mohit Minerals (P) Ltd., supra note 5 (discussing the absence of any non-obstante clause subordinating Parliament's or a State legislature's power under Article 246A to the Council's recommendations).
[12] India Const. art. 279A(9) (requiring decisions of the Council to be taken by a majority of not less than three-fourths of the weighted votes cast, with the Union's vote having one-third weightage and the States' votes collectively having two-thirds weightage).
[13] Goods and Services Tax (Compensation to States) Act, No. 15 of 2017, India Code.
[14] CGST Act, supra note 2, §§ 22-30 (registration), §§ 37-48 (returns), §§ 59-64 (assessment) & §§ 16-21 (input tax credit).

ultimately attaches to a transaction.[15] The Union Territory Goods and Services Tax Act, 2017 mirrors the CGST Act for Union Territories without their own legislature.[16] And the Goods and Services Tax (Compensation to States) Act, 2017 created the cess and compensation mechanism referred to above.[17] Each State has separately enacted its own State Goods and Services Tax Act which, by deliberate legislative design, mirrors the CGST Act almost provision for provision - a structural choice that has made it possible, if occasionally awkward, for courts to apply CGST case law to State GST disputes and vice versa.

This multi-Act structure is itself a product of the constitutional design discussed above: since GST is, formally, a dual tax - every intra-state supply attracts CGST and the relevant State GST simultaneously, while inter-state supply attracts IGST in lieu of both - the legislative architecture had no real alternative but to fragment in this way. Litigants, and on occasion even High Courts, have lost sight of this fragmentation, producing a recurring, if usually resolved, confusion over which provisions of which Act actually govern a particular dispute.

IV. THE GST COUNCIL AND THE MOHIT MINERALS RECKONING

For most of the GST regime's first five years, the working assumption - shared by the Union government, most States, and most commentators - was that the GST Council's recommendations bound both Parliament and the State legislatures when they came to frame rules and notifications under their respective Acts. This assumption was central to the entire architecture of "cooperative federalism" that the government had used to sell the 101st Amendment to a divided Rajya Sabha and reluctant States.

The assumption did not survive contact with the Supreme Court's judgment in Union of India v. Mohit Minerals (P) Ltd.[18] The case itself concerned a narrow and somewhat technical question: whether an Indian importer, under a cost-insurance-freight contract, could be separately taxed on the ocean freight component paid by the foreign exporter to a foreign shipping line, given that the importer was already paying integrated tax on the entire value of the imported goods. The Gujarat High Court had struck down the relevant notifications as constituting an impermissible double levy on a single composite supply, and a three-judge bench led by Justice D.Y. Chandrachud upheld that view, reasoning that since a composite

[15] Integrated Goods and Services Tax Act, No. 13 of 2017, India Code.
[16] Union Territory Goods and Services Tax Act, No. 14 of 2017, India Code.
[17] Goods and Services Tax (Compensation to States) Act, supra note 13.
[18] Union of India v. Mohit Minerals (P) Ltd., supra note 5.

supply is treated as a supply of its principal component, taxing the freight component separately under reverse charge amounted to taxing the same transaction twice.[19]

It was the Court's reasoning on a question nobody had directly asked it to decide that produced the larger shock. In the course of explaining why a notification implementing a GST Council recommendation could nonetheless be tested against, and ultimately fail, ordinary statutory scrutiny, the Court held that the recommendations of the GST Council are not, as a matter of constitutional structure, binding on Parliament or the State legislatures.[20] The Court reasoned that Article 246A confers a genuinely concurrent, simultaneous power on the Union and the States to legislate on GST; that nothing in the constitutional text subordinates either legislature's power to the Council's recommendations; and that treating the Council as a supra-legislative body issuing binding directions would be in tension with the federal balance Article 246A was designed to preserve - even while the Council's recommendations would continue to carry considerable persuasive weight, precisely because of the consensus-building process through which they are arrived at.[21]

The judgment provoked an unusually sharp reaction from commentators who otherwise rarely agree with each other on tax law. Some welcomed it as restoring genuine federal choice to States that had, until then, treated GST Council recommendations as a fait accompli; others argued, with some force, that a regime built entirely on the premise of a single, harmonised national rate structure cannot function coherently if individual States are free to depart from Council recommendations whenever they choose, and that the judgment, whatever its formal correctness, undermines the practical uniformity that justified amending the Constitution in the first place.[22] In practice, no State has yet attempted a unilateral departure from a Council recommendation on rates or exemptions, and the political cost of doing so - given how visibly the Council operates by consensus rather than formal voting in the overwhelming majority of cases - has so far kept the doctrinal holding in Mohit Minerals more of a constitutional curiosity than an operative reality. Whether it remains so if Centre-State relations sour further is a separate question this paper does not attempt to answer.

[19]Mohit Minerals (P) Ltd. v. Union of India, 2020 SCC OnLine Guj 49 (Gujarat High Court); see CGST Act, supra note 2, § 8 (treating a composite supply as a supply of its principal component).
[20]Union of India v. Mohit Minerals (P) Ltd., supra note 5 (holding that the recommendations of the GST Council are recommendatory in nature and not binding on either Parliament or the State legislatures).
[21]India Const. art. 279A(6) (requiring the Council, in performing its functions, to be guided by the need for a harmonised structure of goods and services tax and a harmonised national market for goods and services).
[22]See, e.g., Tarun Jain, A Fatal Blow to the Goods and Services Tax, 57 Econ. & Pol. Wkly., no. 25 (June 18, 2022).

V. NINE YEARS OF AMENDMENT: A QUIET REVOLUTION IN THE FINE PRINT

If the constitutional and case law developments discussed above attract the most academic commentary, the day-to-day experience of GST for the ordinary taxpayer has been shaped far more by a continuous stream of amendments to subordinate legislation and, periodically, to the Acts themselves - most of them aimed at closing revenue leakages, simplifying compliance, or, as in the case of Safari Retreats discussed in Part VI, neutralising an unwelcome judicial interpretation.

Input tax credit has been the single most amended, and most litigated, area of the law.[23] Section 16 conditions the availability of credit on, among other things, the supplier having actually paid the tax to the government and having filed the relevant return - conditions that shift compliance risk for a buyer's own tax position onto the conduct of a supplier the buyer typically has no power to control. Section 16(4), as originally enacted, barred a registered person from claiming credit on any invoice after the due date for filing the return for September of the following financial year, or the date of filing the relevant annual return, whichever was earlier; this window was extended to 30 November of the following financial year by the Finance Act, 2022, after years of representations that the original deadline was simply too short for businesses reconciling credit against suppliers who themselves filed late.[24]

Section 17(5) - the so-called "blocked credit" provision - has been an even greater source of friction.[25] It denies input tax credit altogether on a list of specified goods and services, including motor vehicles (subject to exceptions for transport businesses), food and beverages, employee insurance and travel benefits, works contract services for constructing immovable property, and, most controversially, goods and services used to construct immovable property "on his own account" even where that property generates taxable rental income. The denial of credit in the last category struck many real estate, hospitality, and infrastructure businesses as a straightforward case of cascading taxation - the very evil GST was designed to eliminate - since the tax paid on construction inputs could never be set off against the tax charged on rent, even though the rental income was itself fully taxable. This tension produced years of conflicting High Court rulings before the Supreme Court attempted to resolve it in Safari Retreats, discussed below; and when the Supreme Court resolved it in the taxpayer's favour,

[23] CGST Act, supra note 2, § 16.
[24] CGST Act, supra note 2, § 16(4); Finance Act, 2022, No. 6 of 2022, § 100, India Code (extending the outer time limit for claiming input tax credit to 30 November of the following financial year).
[25] CGST Act, supra note 2, § 17(5).

Parliament responded within months by amending the provision retrospectively to restore the position the Revenue had argued for.[26] That sequence - litigation, a taxpayer-favourable Supreme Court ruling, and a retrospective legislative reversal within a single budget cycle - is, on any fair reading, one of the more striking episodes in the decade's legal history, and is examined more closely in Part VI.

Beyond input tax credit, the decade saw the staged introduction of e-way bills for the movement of goods above prescribed value thresholds, mandatory e-invoicing rolled out progressively by turnover slab until it eventually covered the great majority of registered businesses, the Quarterly Return Monthly Payment scheme for smaller taxpayers, and repeated revisions to the composition scheme threshold aimed at easing compliance for micro and small enterprises. The anti-profiteering machinery under Section 171 - created to ensure that rate cuts and additional credit actually translated into lower prices for consumers, rather than being absorbed as extra margin - was itself wound down with a sunset clause effective 1 April 2025, after which no fresh anti-profiteering applications could be filed, with pending matters transferred to the Principal Bench of the newly constituted Tribunal.[27] The cumulative effect of these changes is a statute that, while structurally the same Act passed in 2017, bears only a partial resemblance to it in its operative detail.

VI. THE COURTS STEP IN: A DECADE OF JUDICIAL COURSE-CORRECTION

If there is a single theme that unites the GST case law of the past decade, it is the judiciary repeatedly being asked to do work that more careful drafting, or more deliberate rule-making, might have made unnecessary. Six decisions in particular illustrate the range of that work.

The first, already discussed in Part IV, is Mohit Minerals, which settled the constitutional status of GST Council recommendations and, incidentally, the question of double taxation on composite supplies under cost-insurance-freight import contracts.

The second is Union of India v. VKC Footsteps India (P) Ltd., decided in September 2021, which addressed the refund of unutilised input tax credit accumulated under an "inverted duty structure" - the common situation where a manufacturer's inputs are taxed at a higher rate than

[26]Finance Act, 2025, No. 7 of 2025, § 119, India Code (substituting "plant and machinery" for "plant or machinery" in CGST Act § 17(5)(d), deemed to have effect from 1 July 2017).

[27]56th GST Council Meeting, supra note 3 (recommending transfer of pending anti-profiteering proceedings under § 171 of the CGST Act to the Principal Bench of the GST Appellate Tribunal, with a sunset on fresh applications from 1 April 2025).

its outputs, leaving it with credit it can never practically use.[28] Section 54(3) of the CGST Act permits refund of such accumulated credit, but only "in respect of inputs," and the prescribed rule, as amended, calculated the refundable amount using a formula that effectively excluded credit accumulated on input services from the refund altogether.[29] Taxpayers argued that this discriminated, without rational basis, between identically situated registered persons depending on whether their excess credit happened to arise from goods or from services. The Supreme Court, while acknowledging that the formula produced some genuinely anomalous results, upheld its constitutional validity, reasoning that a refund is a statutory creature and that Parliament - having chosen, within Section 54(3) itself, to draw a line between inputs and input services - was entitled to do so as a matter of fiscal policy, however imperfect the resulting formula might be in particular cases.[30] The Court went so far as to urge the GST Council to revisit the formula as a matter of policy, an unusual instance of judicial restraint coupled with an explicit invitation to the executive to do better - an invitation that, it must be said, has only been partially taken up in the years since.

The third decision, Union of India v. Bharti Airtel Ltd., decided a month earlier in October 2021, concerned the more mundane but practically significant question of whether a taxpayer could rectify errors in Form GSTR-3B - the summary return introduced as a stop-gap when the originally envisaged forms proved impossible to operationalise - for the period in which the error actually occurred, rather than the period in which it was discovered.[31] Bharti Airtel had overpaid roughly ₹923 crore in cash during the initial months of GST, because the auto-populated statement of inward supplies had not yet become functional; once that statement came online and the error became apparent, the company sought to rectify its earlier returns and recover the excess cash payment. The Delhi High Court had permitted this, reading down a circular that confined rectification to the period of discovery. The Supreme Court reversed, holding that the statutory scheme does not contemplate retrospective rectification of a previously filed return, and that whatever hardship this caused could not justify rewriting the procedural mechanism Parliament had enacted.[32] The decision has been criticised for

[28]Union of India v. VKC Footsteps India (P) Ltd., AIR 2021 SC 4407 (India).
[29]CGST Act, supra note 2, § 54(3); Central Goods and Services Tax Rules, 2017, r. 89(5), India Code.
[30]VKC Footsteps, supra note 28.
[31]Union of India v. Bharti Airtel Ltd., (2022) 4 S.C.C. 328 (India).
[32]CGST Act, supra note 2, § 39; Central Goods and Services Tax Rules, 2017, r. 61, India Code.

prioritising procedural rigidity over substantive correctness in a situation largely created by the government's own technological shortcomings during GST's rollout.[33]

The fourth decision, Radha Krishan Industries v. State of Himachal Pradesh, decided in April 2021, dealt with the GST authorities' power to provisionally attach a taxable person's property, including bank accounts, pending certain categories of proceedings.[34] The Supreme Court described this power as "draconian" in nature and held that it could only be exercised where the Commissioner had formed an opinion, on the basis of tangible material, that attachment was genuinely necessary to protect government revenue - not as a routine or precautionary measure attached automatically whenever a proceeding was initiated.[35] This judgment has since been cited in dozens of High Court decisions quashing attachment orders passed without recorded reasons, and stands as one of the clearer instances of the judiciary imposing procedural discipline on tax administration through interpretation rather than waiting for Parliament to legislate it.

The fifth decision, Commissioner of Customs, Central Excise and Service Tax v. Northern Operating Systems (P) Ltd., decided on the same day as Mohit Minerals in May 2022, arose under the pre-GST service tax regime but has had a direct bearing on the classification of intra-group employee secondment arrangements under GST ever since.[36] The Court held that where employees of an overseas group company are seconded to an Indian entity, with the Indian entity directing their day-to-day work but the foreign company remaining their formal employer for payroll and statutory-benefit purposes, the arrangement can be re-characterised, applying a "substance over form" test, as the foreign company supplying manpower to the Indian entity - a taxable service - rather than as a straightforward employer-employee relationship excluded from the tax net altogether.[37] The ruling unsettled years of relatively stable tax planning around secondment structures common to multinational groups operating in India, and the Central Board of Indirect Taxes and Customs subsequently issued guidance cautioning that the judgment's application turns heavily on the specific facts of each

[33]Bharti Airtel, supra note 31.
[34]Radha Krishan Indus. v. State of Himachal Pradesh, (2021) 6 S.C.C. 771 (India).
[35]CGST Act, supra note 2, § 83; Radha Krishan Industries, supra note 34 (describing the power of provisional attachment as draconian in nature and requiring a recorded opinion based on tangible material).
[36]C.C., C.E. & S.T. v. Northern Operating Sys. (P) Ltd., 2022 SCC OnLine SC 658 (India).
[37]Northern Operating Systems, supra note 36.

secondment arrangement rather than operating as a blanket rule.[38] Litigation on this question, under both the legacy service tax regime and GST, continues.

The sixth and most recent of these decisions, and arguably the one with the widest commercial reach, is Chief Commissioner of Central Goods and Service Tax v. Safari Retreats (P) Ltd., decided in October 2024.[39] Safari Retreats had constructed a shopping mall, paid GST on the steel, cement, and professional services that went into building it, and sought to set that credit off against the GST it charged on rental income from leasing the mall to tenants. The Revenue denied the credit under Section 17(5)(d), which blocks credit on goods and services used to construct immovable property "on his own account," except where the property qualifies as "plant or machinery." The Orissa High Court had earlier sided with the taxpayer, reasoning that denying credit in these circumstances would produce exactly the cascading effect GST was meant to eliminate.[40] The Supreme Court, hearing the Revenue's appeal, took a genuinely middle path: it upheld the constitutional validity of Section 17(5)(c) and (d), rejecting the argument that the provisions were arbitrary or discriminatory, but it also held that the phrase "plant or machinery" in clause (d) - as distinct from the defined term "plant and machinery" used elsewhere in Section 17 - had to be given its ordinary, functional meaning, and that a building could, depending on the facts, qualify as a "plant" if it was constructed to serve a specific functional purpose in the taxpayer's business of supplying taxable services, rather than as a mere shell housing that business.[41] The Court remanded the question of whether Safari Retreats' particular mall satisfied this "functionality test" back to the Orissa High Court, and dismissed the government's subsequent review petition in May 2025, finding no error apparent on the record.[42]

What makes Safari Retreats remarkable, for present purposes, is less the substantive ruling itself than what happened afterwards. Within the same budget cycle, before the Orissa High Court had even reapplied the functionality test on remand, Parliament enacted Section 119 of the Finance Act, 2025, retrospectively substituting the words "plant and machinery" for "plant or machinery" in Section 17(5)(d), with effect from 1 July 2017 - the date GST itself came into

[38]Cf. Central Bd. of Indirect Taxes & Customs, Instruction on Applicability of the Supreme Court's Ruling in Northern Operating Systems to Secondment of Employees Under GST (2023) (India).
[39]Chief Comm'r of Cent. Goods & Serv. Tax v. Safari Retreats (P) Ltd., (2024) 90 G.S.T.L. 3 (S.C.) (India).
[40]Safari Retreats (P) Ltd. v. Chief Comm'r of Cent. Goods & Serv. Tax, 2019 SCC OnLine Ori (Orissa High Court).
[41]Safari Retreats, supra note 39.
[42]Safari Retreats, supra note 39 (review petition dismissed by order dated May 22, 2025, the Court finding "no error apparent on the record").

force.[43] The amendment, in effect, restored the narrower reading the Supreme Court had just rejected, and did so for a period stretching back eight years, raising obvious concerns for taxpayers who had relied on the Supreme Court's interpretation to claim or retain credit in the intervening period. Whatever one's view of the policy merits - and the government's stated rationale was the considerable revenue exposure the ruling created[44] - the episode is a textbook illustration of the limits of judicial interpretation in a regime where the legislature retains, and is evidently willing to use, the power to retrospectively override an unfavourable reading of its own statute. It also illustrates something more troubling for the rule of law generally: a taxpayer who litigates a genuinely ambiguous provision all the way to the Supreme Court, and wins, can still find the victory legislated away before the ink on the judgment has dried - a risk that inevitably affects how willing taxpayers are to invest in pursuing genuinely meritorious claims through the courts.

VII. THE LONG ROAD TO A TRIBUNAL

Section 109 of the CGST Act provided, from the very first day of the Act's operation in 2017, for the constitution of a GST Appellate Tribunal - a Principal Bench in New Delhi and State Benches across the country - as the second appellate forum in the dispute resolution hierarchy, sitting above the departmental first appellate authority and below the High Courts.[45] For most of the decade, this provision existed only on paper. The Tribunal's absence meant that taxpayers aggrieved by a first appellate order had, in practice, only one realistic recourse: a writ petition to the jurisdictional High Court, since no statutory tribunal existed to hear the second appeal the Act otherwise contemplated. This produced a substantial and avoidable burden on High Courts, many of which developed inconsistent approaches to GST questions precisely because the appellate consolidation a specialised tribunal was meant to provide never actually occurred.

The turning point came only in 2024 and 2025. Justice Sanjaya Kumar Mishra, a former Chief Justice of the Jharkhand High Court, was sworn in as the Tribunal's first President in May 2024, formally beginning the process of operationalisation.[46] The GST Appellate Tribunal

[43]Finance Act, 2025, supra note 26.
[44]See GST Council to Undo Safari Retreats SC Verdict?, N.J. Jain & Assocs. (Dec. 2024) (estimating the revenue exposure of the ruling, if applied retrospectively, at upwards of ₹10,000 crore).
[45]CGST Act, supra note 2, §§ 109, 112.
[46]Justice Sanjaya Kumar Mishra Assumes Role as President of GST Appellate Tribunal, Press Info. Bureau (May 6, 2024).

(Procedure) Rules, 2025 were notified in April 2025, finally giving the Tribunal a procedural code to function under, although actual functioning still awaited the appointment of judicial and technical members across the thirty-one State Benches and the readiness of physical infrastructure at locations across the country.[47] Electronic filing of appeals commenced in September 2025, and the Tribunal was formally launched by the Union Finance Minister on 24 September 2025, with the 56th GST Council meeting earlier that month having recommended 30 June 2026 as the outer limit for filing backlog appeals against orders that had, in some instances, been pending for the better part of a decade.[48] The Principal Bench in New Delhi has also been designated to function as the National Appellate Authority for Advance Rulings, intended to resolve the long-standing problem of conflicting advance rulings issued by different State Authorities for Advance Ruling on materially identical questions.[49]

Whether the Tribunal, once fully staffed, will meaningfully reduce the litigation backlog remains to be seen; what can already be said is that an institution Parliament considered essential enough to legislate for in 2017 took until 2025 to begin functioning, and that the intervening eight years of High Court-only second appeals have left a body of case law the Tribunal will now have to engage with, harmonise, or in some cases depart from, almost from a standing start.

VIII. WHERE THE SYSTEM STILL CREAKS: COMPLIANCE, FRAUD, AND THE LITIGATION EXPLOSION

No account of the past decade would be complete, or honest, without acknowledging the areas where GST has fallen short of its own design. Three deserve particular mention from a legal standpoint.

The first is fake invoicing and fraudulent input tax credit claims, which have proved to be one of the most persistent and resource-intensive enforcement challenges the GST administration has faced. Because credit flows through a chain of invoices rather than being assessed transaction by transaction, the system has been repeatedly exploited through circular trading and shell-entity networks that generate invoices for goods or services never actually supplied, allowing the credit chain to be monetised without any corresponding tax ever having

[47] Goods and Services Tax Appellate Tribunal (Procedure) Rules, 2025, India Code (notified Apr. 24, 2025).
[48] Press Release, supra note 4.
[49] 56th GST Council Meeting, supra note 3 (designating the Principal Bench of the GST Appellate Tribunal to also function as the National Appellate Authority for Advance Ruling).

entered the system. The enforcement response - extensive use of provisional attachment, blocking of electronic credit ledgers, and large-scale cancellation of registrations - has generated its own substantial body of litigation, much of it concerned with whether due process was followed before these coercive powers were exercised, as Radha Krishan Industries illustrates.

The second is the compliance burden on micro, small, and medium enterprises, for whom the promise of a simplified, technology-driven tax system has not always matched the reality of monthly or quarterly return filing, e-invoicing thresholds that have steadily expanded to capture smaller turnovers, and reconciliation exercises between a taxpayer's own records and the data automatically drawn from its suppliers' filings. The composition scheme and the Quarterly Return Monthly Payment scheme were both legislative responses to this concern, and both have helped at the margins, but neither has eliminated the underlying structural reality that a tax built around continuous digital reconciliation imposes costs that fall disproportionately on businesses least equipped to absorb them.

The third, and in some ways the most legally consequential, is the sheer volume of writ litigation that the absence of a functioning Tribunal channelled into the High Courts for nearly the entire decade. Questions ranging from the validity of show-cause notices, to the scope of the limitation period for issuing assessment orders, to whether a registration could be cancelled without a proper hearing, were litigated repeatedly across different High Courts, occasionally producing genuinely conflicting answers to the same legal question depending on which High Court's jurisdiction a taxpayer happened to fall within. The eventual operationalisation of the Tribunal, discussed in Part VII, is in significant part a response to exactly this problem, though it arrives only after the inconsistency it was meant to prevent had already accumulated for the better part of a decade.

IX. GST 2.0: REWRITING THE RATE CARD A DECADE LATER

If any single development of the past few years can be said to mark a genuine inflection point in the GST story, it is the rate rationalisation exercise approved by the GST Council at its 56th meeting on 3 and 4 September 2025, and implemented with effect from 22 September 2025.[50] The original GST design, rolled out in 2017, operated across four principal slabs - 5%, 12%, 18%, and 28% - alongside a separate compensation cess on so-called "sin" and luxury

[50] 56th GST Council Meeting, supra note 3.

goods. That four-slab structure had, almost from the outset, been criticised for the classification disputes it inevitably generated: whether a particular item belonged in the 12% or 18% category, for instance, became the subject of genuine litigation, not mere academic debate.

The 56th Council meeting collapsed this structure into what is now generally described as a two-rate system - a 5% “merit” rate for essential and everyday goods and services, and an 18% “standard” rate for the great majority of remaining items - together with a distinct 40% rate reserved for specified luxury and “demerit” goods such as tobacco products, pan masala, aerated and caffeinated beverages, and certain high-end vehicles.[51] Roughly the entirety of items previously taxed at 12% were moved down to 5%, while the considerable majority of items previously taxed at 28% moved down to 18%, with the compensation cess on most goods folded directly into the new rates rather than continuing as a separate levy - except for select tobacco products, where the cess continues until the loans raised against future cess collections during the pandemic-era compensation shortfall are fully discharged.[52]

From a legal perspective, GST 2.0 is significant not merely as a rate change but as an implicit acknowledgment, nine years in, that the original four-slab architecture had generated more classification litigation than the system could comfortably absorb. Whether a two-rate, or more precisely a two-rate-plus-a-demerit-rate, structure will meaningfully reduce that litigation, or simply relocate the same disputes to the new dividing line between 5% and 18%, is a question the next several years of advance rulings and Tribunal decisions will have to answer. The early indications, candidly, suggest the latter is at least as likely as the former: any binary classification system invites disputes precisely at the boundary, and a two-rate system has, if anything, fewer boundaries but potentially sharper consequences for landing on the wrong side of them.

X. TAKING STOCK: HAS “ONE NATION, ONE TAX” DELIVERED?

It would be too easy, and not entirely fair, to treat the preceding account as a catalogue of failure. GST did eliminate the cascading effect that characterised the pre-2017 regime in most ordinary commercial transactions; it did create, for the first time, a genuinely national market unencumbered by inter-state check-posts and entry taxes that had previously added days and significant cost to interstate movement of goods; and it did bring a substantial share of

[51]Id.
[52]Id.

previously informal economic activity within the tax net through the simple mechanism of making input tax credit conditional on dealing with registered, compliant counterparties.

What the decade also reveals, though, is that the "One Nation, One Tax" framing oversold the degree of genuine uniformity GST was ever likely to deliver, given the federal compromise embedded in its constitutional design. A regime in which the Centre and every State and Union Territory each enact, administer, and litigate their own GST Act, reconciled only through a Council whose recommendations the Supreme Court has now confirmed are not formally binding, was always going to produce some degree of divergence - in administrative practice if not in statutory text - however much the underlying legislative drafting was kept uniform by convention. The frequency of amendment, the volume of conflicting High Court rulings prior to the Tribunal's operationalisation, and the willingness Parliament has shown to legislate around inconvenient Supreme Court interpretations, as in the Safari Retreats sequence, all suggest a law still very much in the process of settling rather than one that has reached doctrinal maturity.

None of this is a criticism unique to GST; most major tax reforms anywhere in the world take considerably longer than a decade to stabilise, and India's GST is, on any fair comparison, a more structurally ambitious undertaking than most. But it is worth saying plainly, for a legal audience in particular, that nine years into the Act's life, the law remains a moving target - one where practitioners must track not only the statute and the rules, but a continuous stream of Council recommendations, departmental circulars, retrospective amendments, and an appellate hierarchy that has only just acquired its intended second tier.

XI. CONCLUSION

Looking back at a decade - or, more precisely, the nine years since 1 July 2017 - the Indian GST regime presents a genuinely mixed legal record. The constitutional architecture has held, in the sense that no court has seriously questioned the basic validity of the 101st Amendment or the dual-tax structure it created; but that architecture has also generated recurring federal tension, most visibly in the Mohit Minerals ruling on the non-binding character of GST Council recommendations. The statute itself has been amended so often, and on points so central to its operation - input tax credit limitation periods, blocked credit categories, the rate structure itself - that describing it as the "2017 Act" understates how substantially its operative content has changed. The judiciary has done much of the work of giving the law coherent shape, sometimes constraining executive overreach, as in Radha Krishan Industries, and sometimes being legislatively overruled within months of a favourable ruling, as in the aftermath of Safari Retreats. And the institutional architecture promised from day one - a functioning, specialised appellate Tribunal - only became a reality in the law's ninth year, after an interval long enough that an entire generation of GST disputes were litigated and decided without it.

Where the law goes from here will depend substantially on whether the Tribunal, now finally operational, can develop a stable and internally consistent body of GST jurisprudence faster than Parliament amends the underlying statute out from under it, and on whether the GST 2.0 rate simplification reduces classification litigation as intended or merely shifts its locus. A decade is, in the life of any major tax statute, still relatively young; what this paper has tried to show is that the maturity GST has achieved over that decade has been earned unevenly - through constitutional litigation in some areas, legislative trial and error in others, and, in at least one significant instance, through the legislature simply declining to accept an answer the judiciary had already given.