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JUDICIAL INCONSISTENCY IN GST: HOW DIVERGENT RULINGS ON IDENTICAL STATUTORY ISSUES ARE FRACTURING THE PROMISE OF “ONE NATION, ONE TAX”

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I. ABSTRACT

*The Goods and Services Tax (“GST”) was introduced with the constitutional and economic objective of creating a harmonised indirect-tax regime across India. The expression “One Nation, One Tax” came to symbolise not merely the subsumption of multiple indirect taxes into a common framework, but also the expectation of uniformity, predictability, and consistency in the administration and adjudication of tax laws. This paper examines the implications of divergent judicial approaches to disputes concerning reversal of Input Tax Credit (“ITC”) attributable to exempt supplies under Section 17(2) of the Central Goods and Services Tax Act, 2017 and Rules 42 and 43 of the Central Goods and Services Tax Rules, 2017. It compares, at a high level, the approaches adopted in *Niraj Dilip Shah v. State of Maharashtra* and *Hemraj Rice Mill v. Assistant Commissioner, CGST & CX, Bardhaman Division*. Although the cases differ in their factual and procedural settings, both raise a common question concerning the judicial response where the statutory methodology governing ITC reversal is alleged not to have been followed. The paper situates this comparison within the doctrine of alternate remedy under Article 226 of the Constitution and considers the practical significance of statutory pre-deposit requirements. It argues that judicial consistency in GST does not require identical outcomes in every case; rather, it requires coherent and predictable application of common legal principles to materially comparable circumstances. Divergent thresholds for constitutional intervention may otherwise create territorially differentiated access to judicial review. The paper recommends clearer standards for Article 226 intervention in GST disputes, greater procedural discipline in applying Rules 42 and 43, reasoned adjudication orders, improved administrative standardisation, and authoritative*

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resolution of recurring doctrinal conflicts. These measures can strengthen the uniformity, predictability, and institutional coherence expected from a national GST regime.

II. KEYWORDS

Goods and Service Tax, Article 226, Alternate remedy, Judicial Consistency, One nation, one tax.

III. INTRODUCTION

The introduction of GST on July 1, 2017, represented one of the most consequential reforms in India's indirect-tax history. The constitutional architecture created by the Constitution (One Hundred and First Amendment) Act, 2016, and the subsequent enactment of the Central and State GST legislations sought to replace a fragmented indirect-tax structure with a coordinated framework.⁴

GST was intended to reduce cascading taxation, facilitate input-tax credit, rationalise indirect taxes, and create a common national market.⁵

The expression "One Nation, One Tax," therefore, carries a significance extending beyond the mere existence of corresponding statutes. A genuinely harmonised tax regime requires, among other things:

1. Substantially uniform statutory provisions;
2. Consistent interpretation of those provisions;
3. Coordinated administrative implementation;
4. Predictable appellate remedies; and
5. Meaningful access to judicial review.

The first of these objectives has substantially been achieved through the CGST Act and corresponding State GST enactments. The more difficult questions concern the remaining elements.

⁴ Constitution (One Hundred and First Amendment) Act, 2016; see also India Const. arts. 246A, 269A, 279A.

⁵ See generally Goods and Services Tax Council, The Constitution and the GST Framework.

GST is administered simultaneously through Central and State tax authorities. Judicial review, however, remains territorially structured through the constitutional jurisdiction of individual High Courts. Consequently, interpretation of the same or substantially corresponding statutory provisions may initially emerge differently in different jurisdictions.

Some degree of divergence is an inevitable feature of a federal judicial system. High Courts are constitutionally independent and are not ordinarily bound by decisions of other High Courts. Yet divergence assumes particular importance in a national tax regime when materially comparable taxpayers may face materially different consequences because of the territorial jurisdiction in which the dispute is litigated.

The issue becomes more acute where the divergence concerns not merely the substantive tax liability but the availability and timing of judicial review itself.

This paper examines that problem through the jurisprudence surrounding ITC reversal under Section 17(2) read with Rules 42 and 43, particularly through comparison of *Niraj Dilip Shah* and *Hemraj Rice Mill*.⁶

The objective is not to suggest that the two cases are factually identical. They are not. Nor is the purpose to criticise the judicial discretion exercised by either High Court.

The more fundamental question is whether the jurisprudence requires clearer principles governing when a High Court should intervene under Article 226 where a taxpayer alleges that the statutory machinery for determining tax liability has itself not been followed.

A. Research Problem

The central research problem may be stated as follows:

“Whether divergent judicial approaches to substantially similar statutory disputes under the GST regime, particularly disputes concerning the mandatory methodology

⁶ *Niraj Dilip Shah v. State of Maharashtra*, W.P. No. 6344 of 2025, slip op. at 1–2 (Bom. H.C. Feb. 25, 2026); *Hemraj Rice Mill v. Assistant Comm'r, CGST & CX, Bardhaman Div.*, WPA No. 3159 of 2025, slip op. at 1–3 (Cal. H.C. June 16, 2025).

prescribed by Rules 42 and 43 for ITC reversal, can result in materially unequal access to effective judicial review and thereby weaken the uniformity, predictability, and institutional legitimacy expected from a national GST regime.”

The problem has several dimensions:

1. First, Rule 42 does not merely articulate a broad equitable principle. It prescribes a methodology for determining the amount of common input-tax credit attributable to exempt supplies.⁷
2. Secondly, where an adjudicating authority allegedly disregards that methodology and determines a reversal amount on a substantially different basis, the dispute may raise a question beyond ordinary factual computation: whether the statutory authority has exercised its power in accordance with the statutory framework.
3. Thirdly, Article 226 confers wide constitutional jurisdiction upon High Courts. Nevertheless, the existence of an alternative statutory remedy ordinarily persuades courts to decline interference.
4. Fourthly, the Supreme Court has repeatedly characterised the alternate-remedy doctrine as a rule of judicial restraint, policy, convenience, and discretion rather than an absolute extinction of constitutional jurisdiction.⁸
5. Fifthly, the statutory appellate remedy itself requires a pre-deposit. Therefore, relegating a taxpayer to appeal is not always a procedurally neutral decision. For a small taxpayer facing a very large disputed demand, the pre-deposit may constitute a substantial financial barrier to obtaining appellate adjudication.

The resulting question is whether a formally uniform statutory remedy can produce substantively different access to justice where courts adopt materially different approaches to constitutional intervention.

⁷ Central Goods and Services Tax Rules, 2017, r. 42.

⁸ See *Whirlpool Corp. v. Registrar of Trademarks*, (1998) 8 SCC 1, 9; *Radha Krishan Indus. v. State of H.P.*, (2021) 6 SCC 771, 790–91.

B. Research Objectives

The principal objectives of this research are:

1. **To examine the statutory framework governing ITC reversal:** The paper analyses Sections 16 and 17 of the CGST Act and Rules 42 and 43 of the CGST Rules.
2. **To examine judicial treatment of Rule 42/43 disputes:** The research considers judicial responses where tax authorities allegedly determine ITC reversal without following the prescribed statutory methodology.
3. **To examine the doctrine of alternate remedy:** The paper analyses the circumstances in which High Courts may exercise Article 226 jurisdiction despite availability of statutory appeals.
4. **To compare divergent judicial approaches:** The research compares *Niraj Dilip Shah* and *Hemraj Rice Mill*, while expressly acknowledging their factual and procedural differences.
5. **To examine the significance of appellate pre-deposit:** The paper considers whether the financial condition attached to a statutory appeal can become relevant when the taxpayer alleges that the demand itself was generated through an unlawful computational methodology.
6. **To examine the constitutional implications:** The research considers Articles 14 and 226 in the context of consistency, equality, and access to justice.
7. **To propose mechanisms for greater uniformity:** The paper proposes judicial, administrative, and institutional mechanisms for reducing avoidable divergence in GST adjudication.

C. Research Questions

The following questions guide the research:

1. What is the legal nature and purpose of Rules 42 and 43 of the CGST Rules?
2. Is compliance with the statutory methodology under Rule 42 merely procedural, or does it constitute a substantive limitation upon the power of the adjudicating authority?

3. When an adjudicating authority allegedly ignores the statutory formula prescribed under Rule 42, does such conduct justify Article 226 intervention notwithstanding an alternative remedy?
4. How should the doctrine of alternate remedy operate in GST matters involving an allegation that mandatory statutory machinery has not been followed?
5. Do *Niraj Dilip Shah* and *Hemraj Rice Mill* reveal a genuine doctrinal divergence, or can the decisions be reconciled on their factual and procedural circumstances?
6. Does the statutory pre-deposit requirement create a significant practical barrier where the disputed demand is alleged to have been computed contrary to the statutory formula?
7. Can territorial variations in writ jurisdiction create materially different access to judicial review for similarly situated GST taxpayers?
8. What constitutional principles should guide courts in balancing judicial restraint, statutory remedies, and effective access to justice?
9. Is authoritative clarification by the Supreme Court desirable in order to harmonise the jurisprudence?
10. What institutional mechanisms can strengthen uniformity in GST adjudication?

D. Research Hypothesis

1. **The principal hypothesis is:** “Where materially comparable GST disputes are subjected to substantially different judicial approaches concerning the application of mandatory statutory machinery and access to constitutional remedies, such divergence may produce geographically differentiated access to effective judicial review and thereby weaken the uniformity and predictability that the GST framework seeks to achieve.”
2. **A secondary hypothesis is:** “The existence of a statutory appellate remedy should ordinarily command judicial respect; however, where the impugned demand is alleged to have been determined by disregarding mandatory statutory computation machinery, and the appellate remedy

simultaneously imposes a significant financial pre-condition, a calibrated exercise of Article 226 jurisdiction may be appropriate in exceptional cases where ordinary remedies are inadequate to address a fundamental legal defect.”

This hypothesis does not suggest that every erroneous tax order should be challenged directly under Article 226. Such an approach would undermine the statutory appellate structure.

The research instead proceeds on the proposition that the distinction between an ordinary error within jurisdiction and a fundamental failure to exercise statutory power according to mandatory statutory machinery requires clearer judicial articulation.

E. Research Methodology

This research adopts a doctrinal and analytical methodology. It relies principally upon:

1. the Constitution of India;
2. the CGST Act, 2017;
3. the Maharashtra Goods and Services Tax Act, 2017;
4. the CGST Rules, 2017;
5. judgments of the Supreme Court of India;
6. judgments of various High Courts;
7. statutory appellate provisions;
8. GST Council materials; and
9. secondary legal literature.

The principal method is comparative doctrinal analysis. The cases are compared by examining:

1. statutory provision involved;
2. factual matrix;
3. procedural history;
4. nature of the impugned determination;

5. availability of alternative remedy;
6. Article 226 considerations;
7. taxpayer procedural conduct;
8. financial consequences of appellate requirements; and
9. relief ultimately granted.

The study is doctrinal rather than empirical. It does not purport to statistically examine every GST judgment delivered by Indian courts.

IV. THE STATUTORY ARCHITECTURE OF ITC REVERSAL

Input Tax Credit is central to the architecture of GST. Section 16 of the CGST Act establishes the general entitlement to ITC, subject to statutory conditions. Section 17 then places restrictions and apportionment requirements upon credit in specified circumstances.⁹

Section 17(2) addresses situations where goods or services or both are used by a registered person partly for taxable supplies, including zero-rated supplies, and partly for exempt supplies. The credit attributable to exempt supplies is required to be restricted in accordance with the prescribed manner.¹⁰

Rules 42 and 43 provide the corresponding computational machinery. Rule 42 addresses inputs and input services. Rule 43 addresses capital goods.¹¹

The statutory structure is consequently significant. The legislative scheme does not simply authorise the tax officer to determine an amount that appears, in broad terms, attributable to exempt supplies. Instead, the Rules prescribe a computational mechanism involving specified categories of credit and specified formulae. That distinction is central to the present research. Where the prescribed formula is applied incorrectly, the taxpayer may ordinarily challenge the computation through the statutory appellate mechanism. Where, however, the taxpayer alleges that the authority has entirely bypassed the prescribed statutory methodology, a further

⁹ Central Goods and Services Tax Act, 2017, §§ 16–17.

¹⁰ Id. § 17(2).

¹¹ Central Goods and Services Tax Rules, 2017, rr. 42–43.

question arises: whether the defect concerns merely the correctness of the conclusion or the lawful exercise of the statutory power itself.

That distinction becomes particularly important when Article 226 jurisdiction is invoked.

V. THE DOCTRINE OF ALTERNATE REMEDY

The rule that a High Court ordinarily declines to exercise writ jurisdiction when an efficacious statutory remedy exists is firmly established in Indian administrative law. In *Whirlpool Corporation v. Registrar of Trademarks*, the Supreme Court explained that the power under Article 226 is plenary but that High Courts ordinarily impose upon themselves restrictions where an effective and efficacious alternative remedy exists.¹² The Court nevertheless identified recognised exceptions, including enforcement of fundamental rights, violation of natural justice, proceedings wholly without jurisdiction, and challenge to the vires of legislation.¹³

The doctrine was comprehensively revisited in *Radha Krishan Industries v. State of Himachal Pradesh*.¹⁴ The Supreme Court reiterated that:

1. Article 226 jurisdiction is discretionary;
2. an alternative remedy ordinarily militates against writ intervention;
3. the existence of an alternative remedy does not by itself divest the High Court of constitutional jurisdiction;
4. recognised exceptions exist; and
5. exhaustion of statutory remedies is principally a rule of policy, convenience, and discretion.¹⁵

The Court also emphasised that where disputed questions of fact exist, the High Court may decline jurisdiction, although that consideration does not constitute an absolute

¹² *Whirlpool Corp.*, (1998) 8 SCC at 9.

¹³ *Id.*

¹⁴ *Radha Krishan Indus.*, (2021) 6 SCC at 790–91.

¹⁵ *Id.* at 790–92.

bar.¹⁶ The doctrine therefore involves a balance. The statutory appeal is ordinarily the appropriate forum. But the existence of that appeal does not itself answer every question concerning the legality of the exercise of statutory power.

VI. THE GST CONTEXT: GLAXO SMITH KLINE

The Supreme Court's decision in Assistant Commissioner (CT) LTU v. Glaxo Smith Kline Consumer Health Care Ltd. is particularly relevant because it concerned the exercise of Article 226 jurisdiction in the taxation context.¹⁷ The Court emphasised that the statutory mechanism created for determination and challenge of tax liability should ordinarily be respected and that writ jurisdiction should not routinely be invoked to bypass the statutory regime.¹⁸

The decision therefore reinforces judicial restraint in tax matters. At the same time, Glaxo Smith Kline does not eliminate the constitutional jurisdiction of High Courts. Read with Whirlpool and Radha Krishan Industries, the jurisprudence suggests a more nuanced proposition:

"The existence of a statutory GST appeal ordinarily constitutes a powerful reason for judicial restraint, but the question whether the statutory authority has acted within the framework of the law remains capable of constitutional scrutiny in appropriate cases." This distinction is central to the present research.

VII. NIRAJ DILIP SHAH: THE BOMBAY HIGH COURT APPROACH

In *Niraj Dilip Shah v. State of Maharashtra & Ors.*, 2026: BHC-AS:10274-DB, Writ Petition No. 6344 of 2025 (Bom. H.C. Feb. 25, 2026), the petitioner challenged adjudication orders relating to tax periods 2018–19 and 2019–20. The petition specifically alleged that the demands had been confirmed by disregarding the computational machinery prescribed under Rule 42 of the CGST/MGST Rules, 2017.

The petitioner sought certiorari against the impugned adjudication orders and reconsideration of the liability within the parameters of Rule 42. The petition further

¹⁶ Id. at 791–92.

¹⁷ Assistant Comm'r (CT) LTU v. Glaxo Smith Kline Consumer Health Care Ltd., (2020) 19 SCC 681.

¹⁸ Id. at 691–93

sought relief concerning the statutory 10% pre-deposit in the event that the petitioner was directed to pursue the appellate remedy under Section 107 of the CGST/MGST Acts.¹⁹

The Bombay High Court did not adjudicate the correctness of the disputed Rule 42 computation on merits. Instead, having regard to the availability of the statutory appellate remedy, it considered it appropriate that the petitioner pursue an appeal. The Court permitted such appeal to be filed within four weeks without objection as to limitation, recognised the petitioner's entitlement to the benefit of Section 14 of the Limitation Act, 1963, and expressly kept all contentions of the parties open. The decision is therefore significant principally for its treatment of the appropriate remedial forum, rather than as a substantive pronouncement on the correct application of Rule 42.

The petitioner subsequently approached the Supreme Court in *Niraj Dilip Shah v. State of Maharashtra & Anr.*, SLP (C) No. 12029 of 2026. By order dated April 7, 2026, the Supreme Court, after hearing learned counsel and considering the material on record, stated that it found "no good ground to interfere with the impugned order passed by the High Court." The Special Leave Petition was accordingly dismissed.²⁰

The precedential significance of the Supreme Court's order must, however, be carefully confined. The Court did not undertake any substantive examination of the Rule 42 methodology or declare that the computation challenged by the petitioner was legally correct; it merely declined to interfere with the High Court's disposition at the special-leave stage. Accordingly, the dismissal should not be treated as an authoritative determination of the underlying Rule 42 issue. This distinction is consistent with the settled principle that dismissal of a special leave petition without a declaration of law does not, merely by reason of such dismissal, constitute a substantive pronouncement under Article 141 of the Constitution.

¹⁹ Id.

²⁰ Id.

VIII. HEMRAJ RICE MILL: THE CALCUTTA HIGH COURT APPROACH

In *Hemraj Rice Mill v. Assistant Commissioner, CGST & CX, Bardhaman Division*, WPA No. 3159 of 2025, the Calcutta High Court considered a dispute concerning ITC reversal under Section 17(2) read with Rules 42 and 43.²¹ The authorities had concluded that the petitioners had failed to reverse ITC amounting to approximately ₹55,11,115. The High Court recorded that the adjudicating authority had determined the amount without adverting to the formulae for computation of ITC contained in Rules 42 and 43.²²

The appellate authority had itself recognised that the statutory methodology was relevant but nevertheless rejected the appeal because the taxpayer had not furnished the requisite reconciliation statement.²³ The High Court expressly recognised the taxpayer's failure. Nevertheless, the Court held that the appellate authority ought to have called upon the taxpayer to produce the necessary reconciliation statements and arrive at a correct determination having regard to Section 107(12).²⁴

The Court further noted that the determination had been made by ignoring the procedure prescribed under Rules 42 and 43.²⁵ The matter was consequently remanded for fresh determination. The decision therefore presents an important proposition:

"A taxpayer's procedural deficiency does not necessarily validate a tax determination that has itself failed to follow the statutory methodology governing computation of liability."

This proposition is significant because the Court did not treat the taxpayer's failure to furnish reconciliation as automatically curing the defect in the original determination.

²¹ *Hemraj Rice Mill v. Assistant Comm'r, CGST & CX, Bardhaman Div.*, WPA No. 3159 of 2025, slip op. at 1 (Cal. H.C. June 16, 2025).

²² *Id.* at 2.

²³ *Id.*

²⁴ *Id.* at 2–3.

²⁵ *Id.*

IX. COMPARATIVE ANALYSIS

The two decisions may be compared as follows:

Sr. No.	Issue	Niraj Dilip Shah	Hemraj Rice Mill
1	Statutory context	Rule 42 ITC reversal	Rules 42 and 43 ITC reversal
2	Allegation regarding computation	Statutory methodology allegedly ignored	Statutory methodology found not followed
3	Taxpayer compliance	Taxpayer asserted compliance/reversal	Taxpayer had not furnished reconciliation
4	Judicial Approach	Alternative remedy preferred	Judicial Intervention Exercised
5	Result	Relegation to statutory appeal	Orders squashed/set aside and matter remanded
6	Constitutional Jurisdiction	Not exercised	Exercised
7	Procedural Deficiency	Not the principal basis of decision	Expressly recognised against taxpayer
8	Substantive Determination	Left open	Fresh determination directed

The comparison demonstrates why the two decisions should not be described as factually identical. Yet they present a legitimate doctrinal question because both

involve the same statutory machinery and the consequences of an alleged failure to apply that machinery.

The most striking contrast is that in Hemraj Rice Mill, the taxpayer's procedural default was expressly recognised, yet the Court nevertheless intervened because the prescribed methodology had not been followed. In Niraj Dilip Shah, the petitioner specifically challenged the manner in which Rule 42 had allegedly been applied, yet the Bombay High Court considered the statutory appeal to be the appropriate remedy.

The central question is therefore not:

"Which High Court was correct?"

Rather, it is:

"What legal threshold should govern Article 226 intervention where the taxpayer alleges not merely an erroneous computation, but failure to apply the statutory machinery by which the liability itself is required to be computed?"

That is a more precise and sustainable research question.

X. RULE 42: PROCEDURAL REQUIREMENT OR STATUTORY LIMITATION?

The classification of Rule 42 is important. If Rule 42 is treated merely as an administrative calculation aid, failure to follow its methodology may readily be characterised as an error within jurisdiction, appropriately corrected in appeal.

If, however, Rule 42 is understood as the statutory mechanism through which Section 17(2)'s restriction is operationalised, failure to apply it may raise a more fundamental question concerning the exercise of statutory power. The statutory text supports the latter inquiry. Section 17(2) provides the substantive restriction. Rule 42 supplies the prescribed mechanism for determining the amount attributable to exempt supplies.²⁶

The Rule therefore performs more than an arithmetical function. It gives operational content to the statutory restriction. This does not mean that every departure from the

²⁶ Central Goods and Services Tax Act, 2017, § 17(2); Central Goods and Services Tax Rules, 2017, r. 42.

formula automatically constitutes jurisdictional error. A tax officer may, for example, correctly invoke Rule 42 but make an arithmetical mistake. Such a mistake ordinarily belongs within the statutory appellate process.

The more difficult case is one in which the authority does not undertake the Rule 42 computation at all. The distinction may therefore be formulated as follows:

1. **Category A - Error within the statutory methodology:** The officer applies Rule 42 but allegedly makes an incorrect factual or mathematical determination.
Ordinary remedy: statutory appeal.
2. **Category B – Incorrect interpretation of the methodology:** The officer applies Rule 42 but adopts a legally questionable interpretation.
Ordinary remedy: statutory appeal, subject to exceptional constitutional considerations.
3. **Category C – Failure to apply the statutory methodology:** The officer determines liability without undertaking the computation prescribed by Rule 42.
Possible issue: whether the defect is sufficiently fundamental to justify Article 226 intervention.
4. **Category D – Jurisdictional excess:** The officer assumes a power not conferred by the statute.
Article 226 intervention: potentially more compelling under established exceptions to the alternate-remedy rule.

This categorisation could provide greater predictability without converting Article 226 into a routine tax appeal.

XI. ARTICLE 14 AND UNIFORM GST ADMINISTRATION

Article 14 guarantees equality before law and equal protection of laws. Article 14 does not require identical outcomes in every tax dispute. Factual differences, statutory distinctions, and procedural circumstances necessarily affect adjudication. Nevertheless, a national tax regime creates a legitimate institutional expectation of consistency. Where substantially identical statutory provisions are interpreted through materially different standards, taxpayers may experience different legal

consequences depending upon territorial jurisdiction. Such divergence does not automatically establish an Article 14 violation.

The constitutional concern is more subtle. The question is whether a taxpayer's geographical location should materially determine the availability of effective judicial scrutiny of an otherwise comparable exercise of statutory power. The forum may necessarily vary. The legal standard ideally should not. This distinction between territorial forum and substantive legal standard deserves greater attention in GST jurisprudence.

XII. ARTICLE 226 AND GST TAX JURISDICTION

The jurisprudence permits a principled distinction between ordinary appellate disputes and fundamental statutory defects.

The following framework may assist:

1. Ordinary errors of fact or law: Where the authority possesses jurisdiction, follows the statutory procedure, and reaches an arguably incorrect conclusion, the statutory appeal should ordinarily be pursued.
2. Failure to apply mandatory statutory machinery: Where the authority allegedly bypasses the statutory mechanism governing the determination itself, the High Court may consider whether the challenge raises a question going beyond an ordinary appellate error.
3. Patent jurisdictional excess: Where the authority acts beyond statutory power, the established exception to the alternate-remedy rule becomes directly relevant.
4. Natural justice: Where the taxpayer has been denied a meaningful opportunity of hearing or access to relied-upon material, constitutional intervention may be appropriate in accordance with established principles.

This framework does not enlarge Article 226 jurisdiction. Rather, it seeks to clarify when the existing constitutional jurisdiction may properly be exercised.

XIII. THE PRE-DEPOSIT DIMENSION

The question of alternate remedy becomes more complex where the statutory appeal requires a financial pre-deposit. Section 107 of the CGST Act establishes the first appellate remedy and prescribes the conditions for its exercise.²⁷ The pre-deposit requirement serves legitimate statutory purposes, including discouraging frivolous appeals and ensuring partial revenue protection. It is not inherently unconstitutional merely because it imposes a financial condition.

The difficulty arises in exceptional cases where the taxpayer asserts that the disputed liability itself has been substantially inflated because the statutory computational mechanism was not followed. The practical issue can be illustrated hypothetically.

Suppose:

1. the taxpayer contends that the correct Rule 42 reversal is ₹10 lakh;
2. the adjudicating authority determines a reversal of ₹3 crore; and
3. the taxpayer must deposit 10% of the disputed tax to pursue the statutory appeal.

The taxpayer would then need to arrange ₹30 lakh merely to secure appellate consideration of a demand alleged to have been determined through a methodology not contemplated by Rule 42. The numerical example does not establish that the pre-deposit requirement is unlawful. It demonstrates, however, why the question of alternative remedy cannot always be examined in complete isolation from the practical accessibility of that remedy.

XIV. SIMLA GOMTI PAN PRODUCTS: EXCEPTIONAL INTERIM PROTECTION

The Supreme Court's order in *M/s Simla Gomti Pan Products Pvt. Ltd. v. Commissioner of State Tax, U.P.* provides a recent illustration of the Court's approach to exceptional circumstances surrounding appellate access.²⁸ The case involved substantial GST demands. The taxpayer's case before the Supreme Court included an

²⁷ Central Goods and Services Tax Act, 2017, § 107(6).

²⁸ *Simla Gomti Pan Prods.*, SLP (C) No. 5266 of 2026, slip op. at 1–5.

allegation that relevant documents had been uploaded on a portal to which the taxpayer did not have access, resulting in assessment orders which the taxpayer characterised as effectively *ex parte*.²⁹

The Allahabad High Court had declined to entertain the writ petition on the ground of alternative remedy, including the statutory pre-deposit requirement.³⁰ The Supreme Court recorded that the principal liability was approximately ₹67 crore and that the statutory 10% pre-deposit would amount to approximately ₹6.70 crore.³¹ The Court directed the petitioner to deposit ₹3.50 crore within two weeks and directed that, upon such deposit, no coercive steps be taken pursuant to the assessment orders pending further proceedings.³² The significance of Simla Gomti Pan Products must, however, be stated carefully. The order does not establish a general judicial power to waive or reduce the statutory GST pre-deposit whenever a taxpayer claims financial difficulty.

Rather, it demonstrates that in an exceptional case involving allegations concerning effective access to adjudicatory material, very substantial demands, an earlier failed appeal for want of pre-deposit, and financial constraints, the Supreme Court may fashion interim protection while preserving the statutory appellate process. The case therefore supports a narrower proposition:

“The existence of a statutory pre-deposit requirement does not necessarily prevent constitutional courts from considering whether, in exceptional circumstances, interim conditions are necessary to preserve meaningful access to the statutory remedy.”

That proposition is materially different from suggesting that pre-deposit is ordinarily dispensable.

XV. JUDICIAL RESTRAINT VERSUS EFFECTIVE REMEDY

Two important principles therefore coexist:

²⁹ Id. at 2–3.

³⁰ Id. at 3.

³¹ Id. at 3–4.

³² Id. at 4–5.

1. **Judicial restraint:** The statutory appellate hierarchy should ordinarily be respected. If every GST dispute were converted into an Article 226 proceeding, High Courts would effectively become first-instance appellate authorities. Such an approach could:
 - Overload constitutional courts;
 - Undermine specialised appellate mechanisms;
 - Encourage premature litigation; and
 - Produce even greater inconsistency.
2. **Effective constitutional remedy:** At the same time, Article 226 cannot become practically unavailable merely because a statutory appeal exists. Where the alleged defect concerns the foundation of the exercise of statutory power, the High Court may have to determine whether the dispute falls within an established exception to the alternate-remedy rule. The appropriate approach is therefore not to choose between judicial restraint and effective remedy. It is to identify a principled threshold for exceptional intervention.

XVI. JUDICIAL CONSISTENCY AND “ONE NATION, ONE TAX”

“One Nation, One Tax” should not be understood literally as requiring a single judicial forum for GST disputes. India's constitutional structure necessarily permits multiple High Courts. The more meaningful proposition is that taxpayers should ordinarily be governed by consistent substantive principles irrespective of territorial jurisdiction. Judicial divergence is not inherently undesirable. Different High Courts may legitimately develop competing interpretations until an authoritative Supreme Court decision settles the question. The difficulty arises where divergence persists on recurring questions affecting everyday tax administration and taxpayer rights.

GST is particularly sensitive because:

1. The legislation is national in scope;
2. Businesses operate across State boundaries;
3. Supply chains cross jurisdictions;
4. Input credits arise through inter-State transactions; and
5. Taxpayers require predictable compliance standards.

A fragmented jurisprudential environment can therefore impose compliance costs beyond the statutory tax burden itself.

XVII. RESEARCH GAP

Existing GST literature extensively discusses:

1. ITC eligibility;
2. Blocked credits;
3. Rule 42 and Rule 43;
4. Tax administration;
5. Alternate remedies;
6. Writ jurisdiction; and
7. GST litigation.

However comparatively less attention has been devoted to the interaction between:

1. Judicial divergence among High Courts;
2. Rule 42/43 computational disputes;
3. Article 226 jurisdiction; and
4. The practical financial consequences of statutory pre-deposit requirements.

The research gap is therefore not simply the absence of commentary on Rule 42. Rather, it lies in examining the institutional consequences of divergent judicial thresholds for intervention in judicial disputes. The paper attempts to fill this gap by treating judicial consistency itself as a component of GST's constitutional and institution design.

XVIII. SUGGESTIONS AND RECOMMENDATIONS

1. **Development of a Structured Article 226 Test:** The Supreme Court may consider articulating structured principles identifying circumstances in which Article 226 jurisdiction may appropriately be exercised notwithstanding an available GST appeal. The framework could distinguish:
 - Ordinary factual disputes;
 - Ordinary errors of law;

- Errors in application of statutory methodology;
- Complete failure to apply mandatory statutory machinery;
- Jurisdictional errors;
- Natural justice violations; and
- Constitutional challenges.

2. Mandatory Demonstration of Rule 42/43 Computation: GST adjudication orders involving ITC reversal should disclose the computational steps adopted under Rules 42 and 43. The order should, where applicable, identify:

- Total ITC;
- Exclusively taxable credit;
- Exclusively exempt credit;
- Common credit;
- Relevant turnover figures;
- Applicable statutory formula;
- Amount attributable to exempt supplies; and
- Final amount reversed.

Such disclosure would make the order objectively auditable and reduced arbitrary demands.

3. Speaking Orders: Where a taxpayer furnishes a Rule 42 computation or reconciliation, the adjudicating authority should specifically address it. A conclusion without engagement with the taxpayer's material may increase the risk of remand and prolong litigation.

4. Administrative Standardisation: CBIC and State GST authorities should consider developing common operating standards for Rule 42 and Rule 43 disputes. Such standardisation would reduce the possibility of fundamentally different computational methodologies being adopted across jurisdictions.

5. National GST Case-Law Repository: A central case-law repository should identify:

- Statutory provision involved;
- Factual matrix;

- Issue;
- Ratio;
- Conflicting decisions;
- Status before the Supreme Court; and
- Subsequent developments.

This would assist taxpayers, tax officers, practitioners, and courts in identifying relevant jurisprudence before taking a legal position.

6. Identification of Conflicting High Court Decisions: Where a High Court encounters a directly conflicting judgment of another High Court concerning the same statutory provision, the conflict should preferably be expressly identified. The Court may then:

- Distinguish the earlier decision;
- Adopt a different reasoning;
- Explain why the earlier reasoning is not applicable; or
- Indicate the need for authoritative resolution.

Such transparency would itself improve doctrinal clarity.

7. Calibrated Treatment of Pre-Deposit in Exceptional Cases: The statutory pre-deposit requirement should ordinarily remain operative. However, where exceptional circumstances involve:

- Serious natural justice concerns;
- Patent jurisdictional issues;
- Complete disregard of mandatory statutory machinery; or
- Circumstances materially impairing access to the statutory remedy,

courts may consider appropriate interim protection in accordance with law. *Simla Gomti Pan Products* illustrates that such protection can be structured without abolishing the statutory appellate framework.³³

³³ Id.

XIX. FINDINGS

The research yields the following principal findings:

1. **Finding 1:** Rules 42 and 43 constitute the statutory computational machinery for determining ITC reversal and should not be treated as wholly inconsequential procedural provisions.
2. **Finding 2:** A dispute concerning whether the statutory methodology has been applied is conceptually distinct from an ordinary dispute concerning the factual correctness of a computation.
3. **Finding 3:** The alternate-remedy doctrine remains a central principle of GST litigation.
4. **Finding 4:** The existence of an alternative remedy does not, under settled Supreme Court jurisprudence, completely extinguish Article 226 jurisdiction.³⁴
5. **Finding 5:** Niraj Dilip Shah demonstrates judicial restraint in favour of the statutory appellate remedy.
6. **Finding 6:** Hemraj Rice Mill demonstrates that a High Court may intervene where the statutory methodology for ITC reversal has not been followed, notwithstanding taxpayer procedural deficiencies.
7. **Finding 7:** The two decisions should not be characterised as creating an irreconcilable conflict because their factual and procedural contexts differ.
8. **Finding 8:** Nevertheless, their contrasting approaches expose an important unresolved question concerning the threshold for Article 226 intervention where mandatory GST computational machinery is alleged to have been disregarded.
9. **Finding 9:** The Supreme Court's dismissal of the SLP in Niraj Dilip Shah should not be read as a merit's determination validating the challenged Rule 42 computation.

³⁴ See *Whirlpool Corp.*, (1998) 8 SCC at 9; *Radha Krishan Indus.*, (2021) 6 SCC at 790–92; *Magadh Sugar & Energy Ltd. v. State of Bihar*, (2021) 14 SCC 1.

10. Finding 10: Simla Gomti Pan Products demonstrates that exceptional interim protection concerning appellate access may be fashioned without treating statutory pre-deposit requirements as generally optional.

11. Finding 11: A harmonised GST regime requires not merely harmonised legislation but reasonable consistency in its administrative and judicial application.

XX. CONCLUSION

GST was conceived as a transformative reform intended to replace a fragmented indirect-tax structure with a harmonised national framework. Its success cannot, however, be measured solely by the number of taxes subsumed into the new regime. A genuinely unified tax system must also provide taxpayers with reasonable consistency in:

1. Statutory interpretation;
2. Administrative methodology;
3. Adjudication;
4. Appellate access; and
5. Judicial remedies.

The jurisprudence concerning Rules 42 and 43 illustrates this challenge. Niraj Dilip Shah and Hemraj Rice Mill should not be portrayed as mechanically identical cases. The procedural history, taxpayer conduct, and relief sought were not identical.

Yet both cases raise a common doctrinal question:

“What should be the judicial response where a GST demand is challenged on the ground that the statutory machinery governing computation of ITC reversal has not been properly applied?”

The Bombay approach gives primacy to the statutory appellate mechanism. The Calcutta approach demonstrates that taxpayer default does not necessarily cure an adjudication which has failed to comply with the statutory computation methodology. Neither principle, considered in isolation, is inconsistent with the constitutional framework. The difficulty arises where taxpayers cannot reasonably predict whether

a materially similar challenge will receive constitutional scrutiny or be relegated to a statutory appeal depending substantially upon territorial jurisdiction.

That uncertainty has consequences beyond the individual taxpayer. It affects business planning, compliance costs, litigation strategy, and confidence in the predictability of GST administration. The answer, however, should not be to eliminate judicial discretion or convert Article 226 into a routine GST appellate jurisdiction. The objective should instead be principled consistency. Where an authority has merely made an arguable error within its jurisdiction, the statutory appellate mechanism should ordinarily be respected.

Where, however, the allegation is that the authority has completely bypassed a mandatory statutory mechanism, acted without jurisdiction, or denied natural justice, constitutional courts should apply clearly articulated standards for determining whether exceptional intervention is justified. Similarly, statutory pre-deposit requirements should ordinarily remain operative, while exceptional cases may require calibrated judicial protection where circumstances threaten to make the statutory remedy practically ineffective. Ultimately, “One Nation, One Tax” cannot mean merely one set of statutes.

It must aspire to:

“One national tax law, administered through coherent statutory methodology, interpreted through principled judicial consistency, and supported by an effective remedy for every taxpayer irrespective of territorial jurisdiction.”

Judicial disagreement is an ordinary feature of constitutional democracy. Persistent uncertainty on foundational questions of a national tax regime, however, imposes costs on taxpayers, administrators, and the State alike. The emerging GST jurisprudence therefore presents an opportunity for the Supreme Court, High Courts, tax administration, and legislature to develop a more coherent framework—one that preserves judicial restraint while ensuring that constitutional jurisdiction remains available where ordinary remedies are inadequate to address fundamental defects in the exercise of statutory power.

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