Intermediary Services under GST after the Finance Act, 2026

Export Relief, Reverse Charge Exposure and Practical Issues

ABSTRACT

Few provisions in India's GST statute have caused as much grief, confusion, and commercial damage as Section 13(8)(b) of the Integrated Goods and Services Tax Act, 2017. Over nearly nine years, this single clause denied export benefits to a wide cross-section of Indian service providers, forced them to absorb GST as an unrecoverable cost, triggered constitutional challenges before multiple High Courts, and created a classification battleground that consumed enormous legal and commercial resources. The Finance Act, 2026, through Section 157, has finally removed this provision from the statute book with effect from 30 March 2026. The relief is late in coming, but it is welcome, nonetheless. This article traces the evolution of the controversy from its service tax origins, examines the key litigation before the Gujarat and Bombay High Courts, analyses the practical hardships faced by businesses, and considers the implications of the amendment for outbound intermediary services, inbound reverse charge exposure, pending disputes and future compliance.

1. Introduction

GST was introduced in India on 1 July 2017 with one central architectural promise: a destination-based consumption tax that taxes services at the point of consumption rather than at the point of origin. For the most part, the legislation delivered on this promise. The general rule under Section 13(2) of the IGST Act provides that, where either the supplier or the recipient is located outside India, the place of supply shall be the location of the recipient. This is entirely consistent with the destination-based framework.

However, Section 13(8) carved out specific exceptions to this general rule. The most consequential was Section 13(8)(b), which provided that in the case of intermediary services, the place of supply shall be the location of the supplier. The effect was simple but severe. An Indian company providing intermediary services to a foreign client was treated as making a domestic taxable supply, regardless of where the recipient was located and regardless of whether consideration was received in foreign exchange. Export benefits were denied. Zero-rating was unavailable. GST became a cost.

Industries were disrupted. Legal challenges mounted. Taxpayers spent years in courtrooms trying to establish either that the provision was unconstitutional or that their specific service did not qualify as intermediary at all. The Finance Act, 2026 has now omitted the provision through Section 157 of the Act. For transactions on and after 30 March 2026, the chapter is closed. The difficulties that preceded this closure, however, deserve a careful and detailed record.

2. Historical Evolution: From Service Tax to GST

The concept of an intermediary in indirect taxation did not originate with GST. It has a longer ancestry in the service tax regime and understanding that lineage is essential to appreciating why the GST provisions created such prolonged controversy.

2.1 The Service Tax Era

Under the Export of Service Rules, 2005, services were classified into three categories for purposes of determining export eligibility. Category-based treatment aligned, at least partially, with destination. But the classification was not always clear-cut, and disputes about which category a given service fell into were commonplace.

The real turning point came with the Place of Provision of Services Rules, 2012, notified under the Finance Act, 1994. Rule 9 of these Rules specifically addressed intermediary services and deemed the place of provision to be the location of the intermediary, not the recipient. This was a conscious departure from the destination principle. The stated legislative intent was to prevent tax avoidance by service providers who might otherwise structure transactions through offshore arrangements. However, the provision also caught entirely legitimate service providers in its dragnet, causing collateral damage.

2.2 The Carry-Forward into GST

When GST replaced service tax in 2017, the drafters carried forward the intermediary-specific place of supply rule into Section 13(8)(b) of the IGST Act. This was done without a fundamental reconsideration of whether the provision remained necessary or whether its consequences were proportionate to any legitimate regulatory objective it might have served. While the GST framework was intended to operate broadly as a destination-based consumption tax, Section 13(8)(b) continued to apply a supplier-location rule for intermediary services.

That failure to re-examine the provision at the time of the GST transition is, with the benefit of hindsight, one of the more regrettable design choices in the GST legislative exercise. The service tax regime had generated disputes about the provision. Those disputes were well known at the time of the GST drafting. Carrying the provision forward without modification simply transferred the problem into the new regime and allowed it to compound over the following years.

3. The Statutory Scheme: What the Law Actually Said

3.1 Definition of Intermediary

The definition of "intermediary" in Section 2(13) of the IGST Act reads as follows:

> *"Intermediary means a broker, an agent or any other person, by whatever name called, who arranges or facilitates the supply of goods or services or both, or securities, between two or more persons, but does not include a person who supplies such goods or services or both or securities on his own account."*

Three essential elements emerge from this definition. First, there must be a minimum of three parties: the intermediary and at least two others between whom a supply is being arranged or facilitated. Second, the intermediary must arrange or facilitate a supply between those other parties. Third, a person who supplies goods or services on their own account is expressly excluded from the definition.

3.2 The Operation of Section 13(8)(b)

Section 13(8)(b) provided that the place of supply of intermediary services shall be the location of the supplier. Read together with Section 8(2) of the IGST Act, this meant that the supply would be treated as an intra-state supply, making it liable to CGST and SGST rather than IGST.

Section 16 of the IGST Act, read with Section 2(6), defines exports of services. One of the statutory conditions for export classification is that the place of supply must be outside India. Since Section 13(8)(b) deemed the place of supply to be in India, the export condition was automatically and inescapably negated. There was no refuge within the statute. An Indian intermediary serving a foreign client, receiving foreign exchange, performing work entirely for offshore benefit, could not achieve export status. The fiction overwhelmed the commercial reality.

4. The Definitional Quandary: Who is an Intermediary?

If the provision itself was harsh, the definitional uncertainty surrounding the term "intermediary" made matters considerably worse. Every business operating in any cross-border facilitation capacity had to assess whether it was an intermediary or a principal-to-principal service provider. The stakes were high, the guidance was inadequate, and the results were inconsistent.

4.1 CBIC Circular No. 159/15/2021-GST

Recognising the scale of the confusion, the Central Board of Indirect Taxes and Customs issued Circular No. 159/15/2021-GST dated 20 September 2021. The Circular attempted to crystallise the essential characteristics of an intermediary in the following terms:

- An intermediary does not supply the main service on its own account. It merely arranges or facilitates someone else's supply.
- There must be a clear three-party structure: the intermediary, the supplier of the main supply, and the recipient of the main supply.
- An intermediary's role is distinct from that of a main service provider who subcontracts ancillary tasks. The person who delivers the primary service is not an intermediary even if it coordinates delivery through sub-contractors.
- The intermediary's fee or commission is typically linked to the value or outcome of the main supply, not to the inputs consumed in delivering it.

The Circular brought some clarity, but not enough. Businesses in IT-enabled services, marketing support, and procurement functions still found themselves classified as intermediaries in some jurisdictions and as principal-to-principal suppliers in others, depending on the precise facts of their contracts and the view taken by the adjudicating authority or the AAR.

4.2 The GCC and Captive Unit Dilemma

Global Capability Centres and captive units of multinational corporations faced a particularly vexing dilemma. They provided support services to their parent or group companies abroad. Were they intermediaries, because they helped the parent serve end customers? Or were they principal-to-principal suppliers of defined services that they delivered on their own account? The law offered no clear answer. The AARs were inconsistent. India hosts several thousand GCCs employing millions of professionals. The scale of the uncertainty was not trivial.

4.3 Advance Rulings: Adding Confusion to Complexity

The Advance Authority for Rulings and the Appellate Authority for Advance Rulings across different states contributed significantly to interpretational confusion. Rulings on factually similar business models varied from state to state. A company in one state might receive a ruling that its services were provided on a principal-to-principal basis, while a company with a substantially identical model in another state might receive the opposite conclusion. These AARs, though not binding on third parties, were routinely invoked by revenue authorities during assessments and audits. Show cause notices were issued based on AARs from other states. Litigation multiplied.

5. The Courtroom Battles: High Court Litigation Across India

The constitutional and legal validity of Section 13(8)(b) was challenged before multiple High Courts. The scale of that litigation, and the very fact that courts were divided, tells its own story about a provision that caused genuine, deep-seated legal controversy.

5.1 Gujarat High Court: Material Recycling Association Case

One of the earliest significant challenges came before the Gujarat High Court in Material Recycling Association of India v. Union of India [2020 SCC OnLine Guj 3205]. The petitioner challenged the constitutional validity of Section 13(8)(b), read with Section 2(13) of the IGST Act, on the ground that the provision was inconsistent with the destination-based structure of GST, resulted in differential treatment of cross-border intermediary services, and could lead to double taxation where the service was taxed in India as well as in the jurisdiction of the overseas recipient.

The Gujarat High Court dismissed the petition and upheld the constitutional validity of the provision. The Court held that Parliament was competent to prescribe specific place-of-supply rules for different categories of services, and that a departure from the general rule under Section 13(2) did not, by itself, render Section 13(8)(b) unconstitutional. The Court also noted the limited relief provided through Notification No. 20/2019 in respect of certain intermediary services involving goods where both the supplier and recipient of goods were located outside India.

This decision, while authoritative within its territorial jurisdiction, did not silence the controversy. Critically, the constitutional grounds canvassed before the Gujarat High Court were not identical to those subsequently raised in Bombay. The challenges under Articles 245, 246A, 269A, and 286(1)(b) of the Constitution, as well as arguments relating to Articles 14 and 19(1)(g), were not fully examined by the Gujarat bench. This distinction became significant in subsequent proceedings in Bombay, where the petitioners rightly argued that the Gujarat judgment could not be treated as binding on a wider set of constitutional grounds that it had not addressed.

5.2 Bombay High Court: The Landmark Split Verdict

The most significant judicial chapter in this story unfolded before the Bombay High Court in Dharmendra M. Jani v. Union of India [2023] 149 taxmann.com 317 (Bombay)/[2023] 72 GSTL 448 (Bombay)/[2023] 97 GST 630 (Bombay) dated 18-04-2023. The petition was originally filed in 2018 and came to represent a cluster of writ petitions filed by businesses across a range of industries including IT/ITES companies, BPO operators, marketing service providers, and export-oriented businesses based in Maharashtra. The constitutional challenge was far more wide-ranging than that in Gujarat, covering Articles 14, 19(1)(g), 245, 246A, 269A, and 286 of the Constitution.

The Division Bench, comprising Justice Ujjal Bhuyan and Justice Abhay Ahuja, delivered a split verdict in June 2021. The division was striking in its starkness.

Justice Ujjal Bhuyan struck down Section 13(8)(b) as ultra vires the Constitution and the IGST Act itself. He observed that the provision read with Section 8(2) had created a fiction deeming the export of service by an intermediary to be a local supply. In his view, this was an artificial device created to overcome a constitutional embargo. He found the levy arbitrary, unreasonable, and discriminative, in violation of Article 14. He also held that the provision offended Articles 245, 246A, 269A, and 286(1)(b) of the Constitution, as it sought to tax a transaction that had no genuine nexus with Indian territory beyond the physical location of the service provider.

Justice Abhay Ahuja took a diametrically opposite view. He dismissed the challenge to Article 14 and Article 19(1)(g), finding no discrimination between the petitioners and other exporters of services. He held that there was no question of extra-territorial legislation, since the provision merely prescribed a place of supply rule within the framework of the IGST Act. He agreed with the Gujarat High Court's conclusion and remarked that the constitutional legitimacy of Section 13(8)(b) could not be doubted. He further observed that when a specific provision defines intermediary services and specifically prescribes a place of supply rule, the general export provisions under Section 2(6) of the IGST Act would not apply.

Given the cleavage of opinion, the Division Bench referred the matter to the Chief Justice for constitution of a third bench. The matter was placed before Justice G. S. Kulkarni, who, after hearing detailed arguments, upheld the constitutional validity of Section 13(8)(b) in April 2023. Justice Kulkarni held that the fiction created by Section 13(8)(b) was required to be confined only to the framework of the IGST Act and could not be used to levy CGST and SGST, offering at least a partial concession to the taxpayers.

After the third-judge opinion, the matter was placed before the Division Bench for final disposal. By its final judgment dated 6 June 2023, the Division Bench followed the majority view and held that the provisions of Section 13(8)(b) and Section 8(2) of the IGST Act were legal, valid and constitutional. The petitions were accordingly dismissed. The Bombay litigation therefore ended in favour of the validity of the provision, although the split verdict and the third-judge discussion demonstrated the depth of the constitutional controversy surrounding the provision.

The significance of the Bombay High Court proceedings goes beyond the specific legal outcome. The fact that a senior and experienced judge of the Bombay High Court found the provision constitutionally infirm, in strong and unambiguous terms, was a powerful signal to the Legislature. The provision's legitimacy had been seriously and credibly questioned at the highest levels of judicial scrutiny.

5.3 Other Jurisdictions

Apart from Gujarat and Bombay, intermediary-related disputes also arose in other jurisdictions in different forms. These included refund disputes, classification disputes, advance ruling challenges, and disputes on whether a particular cross-border support service was supplied on the provider’s own account or merely arranged or facilitated a supply between other parties.

It would be more accurate to treat these cases as part of a wider litigation environment rather than as a uniform line of constitutional decisions on Section 13(8)(b). The common thread was factual uncertainty. Businesses providing marketing support, procurement support, customer coordination, logistics assistance, freight-related support, booking assistance, and group company support services frequently had to defend their position that they were not intermediaries. The controversy therefore operated at two levels: first, whether Section 13(8)(b) was constitutionally valid; and second, whether the taxpayer's specific service fell within the definition of intermediary at all.

6. Practical Difficulties: The Human Cost of the Provision

Legal analysis of a statutory provision can sometimes overlook the concrete, day-to-day consequences for businesses on the ground. In the case of Section 13(8)(b), those consequences were severe and sustained over nearly nine years. They deserve to be recorded plainly.

6.1 GST as an Irrecoverable Cost

The most immediate impact was financial. When an Indian intermediary charged a foreign client, the foreign client did not have a GST registration in India and could not claim input tax credit. The foreign client would simply refuse to absorb the GST in the pricing. The GST therefore fell entirely on the Indian service provider. Simultaneously, the accumulated input tax credit on the Indian company's own inputs could not be refunded, since the output supply was treated as domestic rather than export. The credit sat idle. GST became, effectively, dead money trapped in the system. For businesses operating on thin margins, this was a structural wound, not a minor inconvenience.

6.2 Working Capital Blockage

Even businesses that managed to secure interim protection through writ proceedings found their working capital tied up in compliance disputes for months and sometimes years. GST amounts were deposited under protest or blocked as credit. Interest costs accumulated even if never fully recognised in the books. For the IT services sector, where billing cycles are tight and client payment terms typically run between 30 and 60 days, the sustained blockage of GST amounts in the system created persistent cash flow pressure.

6.3 Competitive Disadvantage in Global Markets

The earlier provision also created a practical competitiveness concern. Indian service providers who were treated as intermediaries had to factor GST into their pricing, even where the recipient was located outside India, and the service was commercially consumed outside India. In many cases, overseas clients were unwilling to bear Indian GST because they had no ability to claim credit in India. The tax cost therefore remained with the Indian service provider.

This placed affected Indian service providers at a disadvantage while competing for global contracts. The concern was particularly relevant for services such as sourcing support, marketing assistance, procurement facilitation, logistics coordination, customer support and other cross-border business support models. The amendment removes this structural impediment for outbound intermediary services, subject to satisfaction of the other conditions for export of services.

6.4 The Classification Gamble and Its Compliance Costs

Businesses spent substantial amounts on legal opinions and compliance documentation to establish that they were not intermediaries. Contract terms were restructured. Scope-of-service clauses were reworded. Billing arrangements were reviewed. All of this was done purely to escape a classification, not to create any commercial or economic value. It was, in the truest sense, a compliance tax.

For smaller exporters without access to specialist legal advice, the situation was worse. Many simply absorbed the GST cost without fully understanding their options. Some restructured their operations in ways that created other regulatory risks. A few stopped bidding for overseas facilitation contracts because the compliance burden was disproportionate to the revenue.

6.5 Revenue Audits and Show Cause Notices

Companies that believed in good faith that they were not intermediaries faced close scrutiny during GST audits. Revenue authorities, armed with AAR rulings and a provision that was, on its face, broadly worded, regularly issued show cause notices. Businesses had to respond, attend hearings, file appeals, and often litigate through the entire appellate hierarchy. The Directorate General of GST Intelligence issued notices in several cases involving significant cross-border service arrangements. The time and cost involved were substantial, diverting management attention away from business operations.

6.6 The FEMA Dimension

There was also an indirect FEMA dimension that received insufficient attention in most commentaries on this subject. When companies restructured contracts to avoid intermediary classification, the revised contract terms sometimes created uncertainty about whether the consideration received from the foreign client was being received for the appropriate category of service. Income classifications under the Foreign Exchange Management Act require alignment between the nature of service and the inward remittance category. A mismatch could create additional regulatory exposure. This was one of the more underappreciated second-order consequences of Section 13(8)(b).

7. The GST Council's Recommendation and the Path to Amendment

The amendment followed several years of representations from industry and professional bodies. In its 56th meeting held on 3 September 2025, the GST Council recommended omission of clause (b) of Section 13(8) of the IGST Act. The recommendation clarified that, after the amendment, the place of supply for intermediary services would be determined under the default rule in Section 13(2), namely the location of the recipient of services. This was intended to enable Indian exporters of such services to claim export benefits.

The recommendation was thereafter carried into the Finance Bill, 2026. The Finance Act, 2026 received Presidential assent on 30 March 2026. Section 157 of the Finance Act, 2026 omits clause (b) of Section 13(8) of the IGST Act. Since no separate deferred commencement date has been prescribed for this amendment, the omission should be treated as effective from 30 March 2026.

8. The Amendment: What Has Changed

Section 157 of the Finance Act, 2026 omits clause (b) of Section 13(8) of the IGST Act. The result is that there is no longer a specific rule which deems the place of supply of intermediary services to be the location of the supplier.

Accordingly, intermediary services will generally be governed by Section 13(2) of the IGST Act, where the place of supply is the location of the recipient of services, unless any other specific place-of-supply provision applies. Therefore, where an Indian intermediary provides services to a recipient located outside India, the place of supply would ordinarily be outside India. Subject to satisfaction of the other statutory conditions, such services may now qualify as export of services and be treated as zero-rated supplies.

The amendment substantially improves the position for outbound intermediary services. However, it also changes the tax position for inbound intermediary services received by Indian businesses from foreign intermediaries. This reverse charge aspect requires equal attention.

9. What the Amendment Does Not Do

The relief is real and substantial, but it is essential to understand its precise boundaries. There are important aspects of the pre-amendment landscape that this change does not address.

9.1 The Amendment is Prospective Only

The amendment operates exclusively from 30 March 2026. All transactions completed before this date remain governed by the old provision. Companies that paid CGST and SGST on intermediary services before 30 March 2026 cannot claim refunds under the amended law. Their only avenues are existing appeals, writ petitions before the appropriate High Courts, or the normal adjudicatory process.

For businesses with pending writ petitions challenging Section 13(8)(b), the question of whether those petitions have become infructuous for future periods but remain alive for past periods is an important one. Courts may decline to adjudicate the constitutional validity of a provision that has since been omitted, particularly if the Government argues that the question is academic. Taxpayers seeking declarations that the provision was always constitutionally invalid, with consequential refund implications, will need to press those arguments carefully and pre-emptively before the relevant High Courts.

9.2 The Definition of Intermediary Remains Intact

Section 2(13) of the IGST Act, which defines the term "intermediary", has not been amended or omitted. The definition will continue to be relevant in other contexts, most importantly in the treatment of inbound intermediary services discussed below. The amendment addresses the place of supply consequence of the classification, not the definitional test itself. Businesses must not assume that classification disputes have been resolved. They may arise in new forms.

9.3 The Reverse Charge Implication for Inbound Services

This aspect of the amendment requires urgent attention and has not received adequate coverage in most commentaries. Under the old Section 13(8)(b), when an Indian business engaged a foreign intermediary, such as a foreign commission agent, overseas booking agent, or cross-border facilitator, the place of supply under the old provision would be the location of the foreign supplier, that is, outside India. There was no import of service, and no reverse charge obligation.

Under the amended law, the place of supply is now the location of the recipient, which is India. These inbound intermediary services potentially qualify as imports of service. Indian businesses receiving such services from foreign intermediaries may be liable to pay GST under the reverse charge mechanism with effect from 30 March 2026.

Indian importers, exporters, manufacturers, and trading companies that use foreign agents, overseas commission agents, international freight facilitators, or cross-border booking agents must urgently review their positions. Reverse charge liability from 30 March 2026 could be material, and the absence of prior awareness is not a defence in GST compliance.

9.4 Pending Litigation for Past Periods

Pre-amendment disputes will continue in the appellate system. Companies that received adverse assessment orders or show cause notices for periods before 30 March 2026 must continue defending those positions through the appropriate appellate forums, regardless of the amendment. The legislative change is not retrospective and does not automatically reverse or nullify past assessments. Each case must be addressed on its own merits within the existing legal framework.

9.5 Transitional Issues

A separate review is required for contracts and services that straddle 30 March 2026. The correct treatment should not be determined merely by the date of contract. Businesses should examine the period of service, date of invoice, date of receipt of payment, contractual milestones, time of supply, and the actual date on which the relevant supply is regarded as having been made under GST.

For ongoing contracts, it may be necessary to segregate supplies made before and after 30 March 2026. Invoices raised after 30 March 2026 for services performed prior to that date may require separate analysis. Similarly, advances received before 30 March 2026 for services supplied after that date should be examined with reference to the time-of-supply provisions. Businesses should maintain clear documentation so that export treatment or reverse charge treatment, as the case may be, can be supported during audit.

10. Impact on Outbound Intermediary Services

The principal benefit of the amendment is for Indian entities providing intermediary services to overseas recipients. Under the earlier framework, the place of supply was deemed to be the location of the supplier. This often-denied export status even where the recipient was located outside India and consideration was received from overseas.

After the amendment, the place of supply will generally be determined under Section 13(2). Therefore, where the recipient is located outside India, the place of supply would ordinarily be outside India. Subject to fulfilment of the other conditions under Section 2(6) of the IGST Act, such services may qualify as export of services. These conditions include that the supplier is located in India, the recipient is located outside India, the place of supply is outside India, payment is received in convertible foreign exchange or in Indian rupees wherever permitted by the Reserve Bank of India, and the supplier and recipient are not merely establishments of the same person.

Eligible outbound supplies may therefore be treated as zero-rated supplies under Section 16 of the IGST Act. Businesses may consider supply under LUT or bond without payment of tax, or supply on payment of tax followed by refund, depending on their commercial and compliance position. Refunds of unutilized input tax credit may also be considered in accordance with Section 54 of the CGST Act and the applicable rules.

The sectors that stand to benefit include IT/ITES companies and GCCs, BPO and KPO operations, marketing support service providers, procurement support entities, freight forwarding businesses, commission agents, and educational consultancies. For many of these businesses, the amendment restores export character to transactions that should always have been treated as exports.

11. Enhancement of India's Services Export Competitiveness

Looking at the broader picture, the amendment is a significant positive for India's position in global services trade. The elimination of embedded, irrecoverable GST costs improves price competitiveness. It reduces the compliance burden associated with classification disputes. It aligns the GST treatment of Indian intermediary services with the approach adopted in most other major jurisdictions.

For companies evaluating India as a location for cross-border service delivery, the amendment removes a structural impediment that has been a negative factor in investment decisions for nearly a decade. This is expected to have positive long-term implications for FDI in the services sector, for employment in GCCs and BPO operations, and for India's overall services export receipts.

12. Immediate Action Points for Businesses

The amendment is prospective and the effective date is clear. Businesses affected by the change should take the following steps without delay.

- Review all contracts involving intermediary or facilitation services to assess export eligibility from 30 March 2026. Verify that all conditions under Section 2(6) of the IGST Act are satisfied, including receipt of consideration in convertible foreign exchange or in Indian rupees wherever permitted by the Reserve Bank of India, within the applicable FEMA realisation timelines.
- Review LUT or bond requirements for zero-rated supplies made without payment of tax. Invoice formats, GST return reporting, refund documentation, and accounting treatment should be updated for supplies made on or after 30 March 2026.
- Evaluate whether accumulated input tax credit can now be utilised or claimed as a refund under Section 54 of the CGST Act in respect of zero-rated supplies made on or after 30 March 2026. File refund applications promptly to avoid time-bar issues.
- Assess reverse charge exposure on inbound intermediary services. Review all arrangements with foreign agents, commission agents, brokers, booking agents, and overseas facilitators. Determine whether those arrangements create reverse charge liability with effect from 30 March 2026 and initiate payment and compliance accordingly.
- For pre-amendment disputes, pending appeals, refund claims, show cause notices, or writ petitions, businesses should take a separate litigation view. The amendment should not be treated as an automatic settlement of past-period positions.
- Update internal compliance frameworks, accounting systems, GST return processes, and contract standard clauses to reflect the new legal position from 30 March 2026.
- Review FEMA compliance in light of changes in the nature of inward remittances. Ensure that purpose codes for foreign exchange receipts are correctly aligned with the revised classification of services as exports.

- Create a separate transition working for contracts, invoices, advances, and service periods that overlap 30 March 2026. This will be important for audit defence and for avoiding inconsistent treatment in GST returns.

13. Conclusion

The omission of Section 13(8)(b) through the Finance Act, 2026 closes a chapter that was never a good one for Indian indirect taxation. For nearly nine years, a single statutory clause denied export benefits to legitimate service exporters, triggered constitutional challenges before multiple High Courts, divided judicial opinion at the highest levels of those courts, caused significant financial damage across a broad range of industries, and undermined India's competitiveness in global services trade.

The Bombay High Court's split verdict, with one judge calling the provision constitutionally infirm in the strongest terms, was perhaps the most eloquent comment on the quality of the legislative drafting. The Gujarat High Court upheld the provision, but even its judgment could not dispel the commercial reality that the provision was causing disproportionate harm.

The amendment is a legislative acknowledgment, however belated, that the provision was incongruent with the foundational principles of GST. Those of us who practise in indirect taxation had said so from the very beginning, in professional forums, in written opinions, and in representations to the GST Council. The Government has acted. The Legislature has corrected the position. That is welcome.

The relief, however, is not without qualification. The amendment is prospective. It does not automatically resolve past-period disputes or create an automatic refund entitlement for taxes already paid. The definition of intermediary continues to remain part of the IGST Act. Classification issues may still arise in respect of earlier periods and in other factual contexts.

The amendment also creates a fresh compliance requirement for Indian businesses receiving intermediary services from foreign suppliers. Such businesses must review their reverse charge exposure from 30 March 2026 onwards.

The definition of "intermediary" remains in the statute and will continue to matter in other contexts.

The practical approach should therefore be balanced. Indian service providers supplying intermediary services to overseas recipients should review their eligibility for export treatment, zero-rating, and refunds. Indian businesses receiving services from foreign intermediaries should examine reverse charge liability. For past periods, existing litigation and refund positions should be reviewed separately. The amendment is welcome, but it should be treated as a trigger for careful contract, tax, FEMA, accounting, and documentation review.

The Finance Act, 2026 does not write a complete full stop on the intermediary story. But it does close the most damaging chapter. For a provision that should never have survived the transition from service tax to GST in its original form, closure, even if delayed, is the right outcome.