GST ARTICLE

Reasserting Judicial Independence: Supreme Court Strikes Down the Tribunal Reforms Act, 2021 - Implications for the GST Appellate Tribunal

Ashwarya Sharma, Advocate, Co-Founder & Legal Head, RB LawCorp

The Supreme Court's landmark judgment dated 19 November 2025 in **Madras Bar Association v. Union of India & Anr.** (Writ Petition (C) No. 626 and 1018 of 2021), striking down provisions of the Tribunal Reforms Act, 2021, marks one of the strongest contemporary reiterations of the doctrine of judicial independence, separation of powers, and the impermissible nature of legislative overruling without curing inherent constitutional defects. The Bench led by the Chief Justice of India held that the Union Government had 'merely reproduced, in slightly altered form, the very provisions earlier struck down,' thereby violating the text, structure, and spirit of the Constitution.

Notably, the judgment carries forward the long constitutional legacy of tribunal jurisprudence-from S.P. Sampath Kumar and L. Chandra Kumar to the more recent Madras Bar Association series-highlighting how successive governments have repeatedly failed to absorb the lessons embedded in these rulings. The Court's findings therefore have deep significance not only for the tribunal system at large, but also for the GST Appellate Tribunal (GSTAT) under the CGST Act, whose long-delayed architecture now stands exposed to serious constitutional vulnerabilities.

I. THE SUPREME COURT'S FINDINGS: A STINGING REBUKE OF LEGISLATIVE NON-COMPLIANCE

The Court held that the Tribunal Reforms Act, 2021:

- **reintroduced previously invalidated provisions**,
- failed to cure underlying defects identified by earlier judgments, and

- constituted an **impermissible legislative override**.

The Bench declared:

"Instead of curing the defects identified by this Court, the Impugned Act merely reproduces, in slightly altered form, the very provisions earlier struck down. This amounts to a legislative override in the strictest sense. impermissible under our constitutional scheme."

This was accompanied by unusually strong institutional criticism of the Union Government:

"We must express our disapproval of the manner in which the Union of India has repeatedly chosen to not accept the directions of this Court. It is indeed unfortunate that the legislature has chosen to re-enact provisions that reopen the same constitutional debates."

The Court invoked **Dr. Ambedkar**, observing that repeated reenactments of struck-down provisions make "the form of the administration inconsistent with the spirit of the Constitution.

II. INTERIM ARRANGEMENT: MBA-IV & MBA-V AS THE CONTROLLING FRAMEWORK

The Court held that until Parliament enacts a constitutionally compliant statute, the principles laid down in Madras Bar Association v. Union of India and Another ((2021) 7 SCC 369) (**MBA-IV)** and Madras Bar Association v. Union of India and Another ((2022) 12 SCC 455) (**MBA-V)**, and the earlier Tribunal rulings will continue to govern:

- appointment criteria
- tenure
- qualifications
- service conditions
- administrative control of Tribunals

These rulings are now the **binding constitutional standards** for all Tribunals in India.

The Court also protected:

- appointments completed by Search cum Selection Committee (SCSC) **before** the 2021 Act's commencement, and
- service conditions of ITAT Members appointed on 11 September 2021.

Finally, the Court directed the Union to constitute a **National Tribunal Commission within four months**, noting that piecemeal reforms cannot address systemic deficiencies.

III. A PATTERN OF CONSTITUTIONAL TRANSGRESSION: LEGISLATIVE HISTORY

The judgment traces a long history of similar attempts:

- **2020 Tribunal Rules** struck down in MBA-IV
- **2021 Tribunal Ordinance** struck down in MBA-V
- **Section 184 of the Finance Act, 2017** (as amended by 2021 Ordinance) struck down
- **Tribunal Reforms Act, 2021** now invalidated

Each time, the Legislature reinstated the same unconstitutional features - short 4-year tenure, age-50 minimum, executive-heavy SCSC, and civil-service level service conditions.

The Court stressed that it does not demand legislation in any particular form, but if laws violate structural principles - judicial independence, separation of powers, fundamental rights - it **must strike them down**.

IV. IMPLICATIONS FOR THE CGST ACT: GSTAT PROVISIONS NOW CONSTITUTIONALLY VULNERABLE

THE TRIBUNAL REFORMS ACT AND THE GSTAT PROVISIONS IN THE CGST ACT (SECTION 110 (/SHOWIFRAME?V1ZAA1VSQLJQVDA9=TVRFDW==&DATATABLE=CGST)) SHARE THE SAME DEFECTS:

- **minimum age of 50 years**,

- **4-year tenure**,
- **two-name SCSC panel**,
- **executive-majority selection committee**,
- **service conditions aligned to civil servants**,
- **executive discretion in reappointment**.

All these provisions have been struck down across multiple judgments - and now again.

The Court's emphatic articulation that Parliament cannot reenact struck-down provisions even in another statute applies squarely to the CGST Act. The GSTAT framework now stands exposed as:

- constitutionally infirm,
- administratively unworkable, and
- susceptible to immediate challenge.

V. COMPARATIVE ANALYSIS: TRIBUNAL REFORMS ACT VS. GSTAT PROVISIONS UNDER THE CGST ACT

Below is the consolidated comparative table analyzing how the CGST Act replicates unconstitutional features of the Tribunal Reforms Act in some form or another:

COMPARATIVE TABLE: TRIBUNAL REFORMS ACT, 2021 VS. CGST ACT - GSTAT FRAMEWORK

	Tribunal Reforms Act, 2021 (Struck Down)	CGST Act - GSTAT Provisions	Judicial Position (MBA-IV, MBA-V, 2025 Judgment)
Minimum Age	Minimum 50 years	Same minimum age for Members	Unconstitutional; advocates with 10 years' experience must be eligible

Tenure	4-year tenure with upper age caps of 70/67	Same 4-year tenure	Must be minimum 5 years
SCSC Recommendations	Two names per vacancy	Same two-name recommendation	Only one name per vacancy permitted
SCSC Composition	Executive-heavy	Similar executive dominance	Judicial majority mandatory
Service Conditions	Aligned with civil servant pay	Same civil-service equivalence	Parity must be with higher judiciary judges
Advocates' Eligibility	Only after age 50	Effectively same restriction	Advocates with 10+ years' experience must be eligible
Executive Control	High	High	Tribunals must be insulated from executive
Reappointment	Broad executive discretion	Same	Must be non-arbitrary & judicially insulated
Validity of Appointments	Earlier SCSC recommendations protected	GSTAT appointments vulnerable as not protected	Must comply with MBA-IV & MBA-V

VI. BROADER INSTITUTIONAL CONCERNS: PENDENCY, GOVERNANCE, AND JUDICIAL TIME

The Court's judgment also lamented how repeated legislative non-compliance wastes judicial resources:

> "The continued recurrence of such issues consumes valuable judicial time. Respect for settled law ensures that institutional time is spent in advancing justice rather than revisiting questions long resolved."

This observation has direct implications for GST litigation:

- High Courts are already overburdened with **writ petitions against GST orders**,
- GSTAT's non-constitution has created massive **pendency**,
- taxpayers are compelled to litigate at the High Court level for first appeals,
- uniformity of GST jurisprudence across states is being compromised.

A constitutionally compliant GSTAT is thus not merely desirable but critical for the success of the GST framework.

VII. THE WAY FORWARD: CONSTITUTIONAL REDRAFTING OF GSTAT

The judgment provides Parliament a clear roadmap:

- Remove all unconstitutional features (minimum age, 4-year tenure, two-name panels).
- Ensure judicial dominance in SCSC.
- Insulate GSTAT from executive control in appointments, reappointments, and administration.
- Adopt service conditions equivalent to higher judiciary.
- Follow MBA-IV, MBA-V, and the 2025 ruling as the constitutional baseline.

Only such reforms can finally operationalise a Tribunal that is:

- **independent**,
- **uniform**,
- **effective**, and
- **trusted by taxpayers and industry**.

VIII. CONCLUSION

The Supreme Court's invalidation of the Tribunal Reforms Act, 2021 is far more than another chapter in tribunal jurisprudence-it is a constitutional reckoning. The judgment reasserts with unmistakable clarity that **judicial independence is non-negotiable** and that **recycling unconstitutional provisions is an impermissible attack on the basic structure**. From a GST standpoint, the consequences are both profound and sobering. After more than eight years of sustained effort-

multiple rounds of legislative amendments, Council deliberations, stakeholder consultations, and State-Centre negotiations-the long-awaited GST Appellate Tribunal now stands on constitutionally shaky ground. The architecture painstakingly crafted to operationalise GSTAT appears, once again, to have been reset to **zero**, leaving taxpayers and authorities in the same appellate vacuum that has persisted since 2017.

The absence of a functional GSTAT has already resulted in massive pendency, compelled taxpayers to approach High Courts for first appeals, and led to fragmented and inconsistent GST jurisprudence across the country. The Court's ruling therefore places an urgent and unavoidable responsibility on the Union and the GST Council to redraft the GSTAT provisions under the CGST Act in full fidelity to the constitutional standards reaffirmed from *Sampath Kumar* to the MBA series. Unless this is done swiftly and correctly, the very promise of GST-uniformity, certainty, and ease of doing business-will remain compromised. The judgment is thus not merely a judicial pronouncement; it is a constitutional call to action. The **GST Council and Parliament** must now deliver a Tribunal framework that is robust, independent, and constitutionally sound, ensuring that eight years of effort are not rendered futile and that the GST dispute resolution system finally becomes whole.

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(The author is a practicing advocate, Co-Founder and Legal Head of RB LawCorp. He specializes in GST law. Suggestions or queries can be directed to ashsharma@rblawcorp.in. The views expressed in this article are strictly personal.)