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TAX INSIGHTS

By

Tax Research Department

Direct Tax

01.06.2026

Whether compensation payable pursuant to a mediation settlement in compulsory land acquisition proceedings was liable for deduction of tax at source (TDS) under Section 194LA of the Income-tax Act.

Karnataka Neeravari Nigama Ltd. v. Shakuntalabai
High Court of Karnataka (27.04.2026)

Facts of the Case

- The case arose out of long-pending land acquisition disputes relating to irrigation projects undertaken by:
  - Karnataka Neeravari Nigama Limited (KNNL).
- KNNL challenged an appellate award passed in a land acquisition appeal.
- The High Court noted that:
  - acquisition proceedings had remained pending for many years,
  - land losers had not received compensation within a reasonable time,
  - and multiple execution and ancillary proceedings were continuing.
- To avoid prolonged litigation and mounting interest liability, the Court invoked principles underlying:
  - Section 89 CPC (ADR mechanisms),
  - and referred the matter to mediation.

2. Mediation Proceedings

- The disputes were referred to mediation before:
  - Justice A.V. Chandrashekhar.
- After several rounds of negotiations:
  - the State Government,
  - KNNL,
  - and the land losers
  - arrived at a comprehensive settlement.
- A detailed Mediation Agreement was executed covering:
  - compensation amount,
  - statutory benefits,
  - waiver/reduction of certain interest claims,
  - timelines for payment,
  - withdrawal of pending execution proceedings,
  - and final settlement of disputes.

Concern Raised by Claimants

The land losers expressed apprehension that:
- TDS may be deducted from compensation amounts,
- and Form 16A may be issued by authorities.

They sought a direction that compensation be released without TDS deduction.

Court's Decision

The High Court held that:
- compensation awarded for compulsory acquisition of land is not liable to TDS deduction,
- and all payments under the mediation agreement must be released without deduction of tax at source.

Key Findings of the Court

(A) Mediation settlement is legally enforceable

The Court held that:
- the mediation agreement formed a lawful settlement under:
  - Section 89 CPC,
  - read with Order XXIII Rule 3 CPC.

The settlement was therefore:
- binding,
- enforceable,
- and substituted prior awards/decrees.

(B) Compensation for compulsory acquisition not subject to TDS

The Court relied upon its earlier decision in:
- W.P. No. 102884/2025 dated 20.08.2025,

where it had already held that:
compensation awarded on compulsory acquisition of land is not subject to TDS under the Income-tax Act.

Accordingly, the Court directed that:
- all payments under the mediation settlement,
- whether made to joint or individual accounts,
- shall be released without any TDS deduction.

(C) Mediation preferred over prolonged adversarial litigation

The Court emphasized that:
- prolonged land acquisition litigation harms all stakeholders:
  - land losers suffer delayed compensation,
  - while the State and acquiring authority face increasing interest liabilities.

Hence, mediation and negotiated settlement were encouraged as efficient dispute-resolution mechanisms.

Directions Issued by the Court

The Court directed:
1. The mediation agreement shall form part of the Court order.
2. Payments shall be made:
   - through RTGS/NEFT,
   - directly into claimants' accounts.
3. No TDS shall be deducted from compensation amounts.
4. Concerned courts shall draw decrees in terms of the mediation settlement within 60 days.
5. If payment is delayed beyond stipulated timelines:
   - claimants may initiate execution proceedings,
   - and interest consequences may revive.

Final Outcome

- Writ petition disposed of in terms of mediation settlement.
- Settlement treated as lawful compromise decree.
- Compensation directed to be paid without TDS deduction.

1. **Whether the arrest and detention were illegal due to non-compliance with procedural safeguards under law.**
2. **Whether absence of:place of arrest in the arrest memo and CBIC-DIN on the grounds of arrest, rendered the detention unconstitutional and illegal.**
3. **Whether subsequent remand by the Magistrate cured the defects in the arrest procedure.**

Ashish Tyagi v. Director General of GST Intelligence
High Court of Allahabad (29.05.2026)

Facts of the Case

1. The petitioner, Ashish Tyagi, was arrested by the Directorate General of GST Intelligence (DGGI) for alleged offences under Section 132 of the CGST Act.
2. After arrest, he was produced before the Special Chief Judicial Magistrate (SCJM), Meerut, who remanded him to custody.
3. The petitioner filed a habeas corpus writ petition before the Allahabad High Court challenging:
   - his arrest,
   - detention, and
   - remand order.
4. The petitioner argued that the arrest process violated mandatory legal safeguards because:
   - the arrest memo did not mention the grounds of arrest,
   - the grounds were allegedly not supplied as an annexure,
   - the arrest memo did not disclose the place of arrest,
   - the "jama talashi" columns were left blank,
   - the grounds of arrest did not contain a mandatory CBIC-DIN number,
   - the remand magistrate ignored these defects while granting remand.
5. The respondents filed a counter affidavit but failed to produce material rebutting these allegations.

Court's Observations

1. Non-disclosure of Place of Arrest
The Court observed that the arrest memo failed to mention the place of arrest, which violated the safeguards laid down by the Supreme Court in D.K. Basu v. State of West Bengal.

2. Absence of CBIC-DIN
The Court found that the grounds of arrest dated 10.12.2025 did not bear a CBIC-DIN.
The petitioner's contention that every departmental document must contain a DIN under the departmental circular remained unrebutted by the respondents.

3. Mere Endorsement Was Insufficient
Although the petitioner had signed an endorsement stating:
- he received the arrest memo and grounds of arrest, and
- informed a friend about his arrest,

the Court held that such endorsements could not cure the foundational procedural defects.

4. Failure of Respondents to Rebut Allegations
The respondents failed to produce any material disproving the procedural violations alleged by the petitioner.

Holding

The Allahabad High Court held that:
- the arrest and detention of the petitioner were illegal,
- statutory instructions and constitutional safeguards had been violated,
- continued custody was therefore unlawful.

Accordingly, the Court:
- allowed the writ petition,
- declared the detention illegal, and
- directed immediate release of the petitioner.

However, the Court clarified that the authorities were free to proceed afresh against the petitioner strictly in accordance with law.

Key Legal Principle Evolved

Non-compliance with mandatory arrest safeguards under GST law and constitutional protections — especially:
- failure to disclose place of arrest, and
- absence of mandatory CBIC-DIN on arrest-related documents -

can render GST detention and custody illegal, even after judicial remand.

Significance of the Judgment

This judgment reinforces:
- procedural safeguards in GST arrests,
- strict compliance with CBIC circulars,
- accountability of DGGI officers during arrest,
- constitutional protection against arbitrary detention.

It also shows that judicial remand does not automatically validate an otherwise illegal arrest process.

Direct Tax

02.06.2026

- **Whether additions based solely on documents seized from a third party can be made in a regular assessment under Section 143(3).**
- **Whether the AO was required to invoke reassessment proceedings under Sections 147/148 read with Explanation 2(iv) to Section 148.**

Ramesh Zalpuri v. DCIT/ACIT, Central
ITAT, Delhi (20.05.2026)

Facts of the Case

1. A search and seizure operation under Section 132 was conducted on the Uflex/Montage Group on 21.02.2023.
2. During the search:
   - documents,
   - emails, and
   - Excel sheets
3. were retrieved from the office system of an HR Manager, Abhijit Giri.
4. The seized material allegedly showed that top employees, including the assessees, received:
   - regular salary through banking channels, and
   - additional cash salary ("B part salary").
5. Based on these third-party documents, the Assessing Officer (AO):
   - treated cash payments of approximately ₹30.96 lakh as unexplained money under Section 69A,
   - and completed assessment under Section 143(3).
6. The Commissioner (Appeals) upheld the additions.
7. The assessees appealed before the ITAT contending that:
   - no incriminating material was found from their possession,
   - the material belonged to a third party,
   - therefore proceedings should have been initiated under Sections 147/148,
   - and not through a normal scrutiny assessment under Section 143(3).

Assessee's Arguments

The assessees argued that:

- no incriminating material was recovered from them directly,
- all documents were seized from another person during search,
- Explanation 2(iv) to Section 148 specifically governs such situations,
- AO bypassed mandatory reassessment safeguards,
- no satisfaction note or approval from PCIT was obtained,
- hence the assessment under Section 143(3) lacked jurisdiction.

Revenue's Arguments

The Revenue argued that:

- notice under Section 143(2) was still within limitation,
- therefore the AO was justified in proceeding under Section 143(3),
- separate reassessment proceedings under Section 148 were unnecessary.

Tribunal's Observations

1. Material Was Found from a Third Person

The Tribunal noted that:

- no addition was based on material recovered from the assessee,
- the entire addition relied upon documents seized from another person during search.

2. Applicability of Explanation 2(iv) to Section 148

The Tribunal held that where:

- documents seized from another person pertain to the assessee,
- the law deems such information as "income escaping assessment,"
- requiring proceedings under Section 147/148.

3. Mandatory Procedure Was Ignored

The Tribunal observed that the AO failed to:

- record satisfaction,
- obtain approval from PCIT,
- follow the reassessment framework under the Finance Act, 2021.

4. Reliance on Earlier Decisions

The Tribunal followed:

- Ace Mega Structures (P.) Ltd. v. Dy. CIT/ACIT
- Homelife Buildcon (P.) Ltd. v. Dy. CIT

which had held that third-party seized material cannot be used in a normal assessment without invoking reassessment provisions.

Holding

The ITAT held that:

- the assessment framed under Section 143(3) was bad in law,
- additions based on third-party search material required proceedings under Sections 147/148,
- the AO bypassed mandatory statutory safeguards,
- therefore the assessment order was invalid and liable to be quashed.

Accordingly:

- both appeals were allowed,
- assessment orders were quashed.

Goods & Services Tax

02.06.2026

Whether general penalty under Section 125 can be imposed for delayed filing of GST returns when the statute already specifically provides for levy of late fee under Section 47.

Caussa Tec Solutions (P.) Ltd. v. Assistant Commissioner (ST)
High Court of Madras (29.04.2026)

Facts of the Case

1. The assessee, Caussa Tec Solutions (P.) Ltd., delayed filing GST returns.
2. The department issued a DRC-01 show cause notice proposing:
   - levy of late fee, and
   - levy of general penalty under Section 125 under both CGST and SGST laws.
3. The assessee:
   - did not file a reply,
   - and did not appear for personal hearing despite reminders.
4. Consequently, the department passed an order confirming:
   - late fee of ₹95,498 each under CGST and SGST, and
   - general penalty of ₹25,000 each under CGST and SGST.
5. The assessee challenged the order before the Madras High Court through a writ petition.

Petitioner's Contention

The assessee argued that:

- delayed filing of returns is specifically governed by Section 47,
- once late fee is leviable for such default,
- the department cannot additionally impose residual/general penalty under Section 125.

Court's Observations

1. Issue Already Covered by Earlier Judgment

The Court held that the issue was squarely covered by the earlier decision in:

Kandan Hardware Mart v. Assistant Commissioner (ST) (FAC)

2. Nature of Section 125 Penalty

The Court observed that:

- Section 125 is a residual/general penalty provision,
- it applies only where no specific penalty or statutory levy exists for a contravention.

3. Late Fee Specifically Covers Delayed Returns

Since Section 47 specifically prescribes late fee for delayed filing of returns:

- the department cannot superimpose an additional general penalty under Section 125 for the same default.

4. Double Penal Consequence Not Permissible

The Court effectively held that:

- once the statute has chosen a specific consequence (late fee),
- resort to residual penalty provision becomes impermissible.

Relevant Provisions

- Section 47 – Late Fee for Delayed Filing of Returns
- Section 125 – General Penalty
- Section 73 – Determination of Tax Not Paid/Short Paid

under the:

- Central Goods and Services Tax Act, 2017
- Tamil Nadu Goods and Services Tax Act, 2017

Holding

The Madras High Court held that:

- imposition of general penalty under Section 125 was unsustainable,
- only late fee under Section 47 could be levied for delayed filing of returns.

Accordingly:

- the writ petition was partly allowed,
- general penalty was deleted,
- the assessee remained liable to pay the late fee.

The Court directed payment of late fee within 30 days if not already paid.

Key Legal Principle

Section 125 (general penalty) under GST law can be invoked only where:

- no separate penalty or statutory levy exists for the contravention.

Where delayed filing of returns is already specifically covered by:

- late fee provisions under Section 47,

a separate general penalty under Section 125 cannot be imposed for the same default.

Importance of the Judgment

This judgment is important because it:

- restricts excessive penal action by GST authorities,
- clarifies the limited scope of Section 125,
- prevents duplication of penalties for the same offence,
- reinforces the principle that specific provisions override general provisions.

The ruling provides significant relief to taxpayers facing:

- simultaneous levy of late fee and general penalty for delayed GST return filing.

Direct Tax

03.06.2026

Whether criminal prosecution under Section 276B read with Section 278B of the Income-tax Act should continue when:

1. **TDS had already been deposited,**
2. **statutory interest for delayed payment had also been paid, and**
3. **the delay occurred due to temporary financial difficulties.**

Darsh Digital Network (P.) Ltd. v. State of Bihar
High Court of Patna (27.04.2026)

Facts

- The assessee-company, Darsh Digital Network (P.) Ltd., was engaged in the cable TV business as a Multi-System Operator (MSO).
- The company deducted Tax Deducted at Source (TDS) from payments as required under the Income-tax Act.
- However, the deducted TDS was not deposited within the prescribed statutory time.
- The company explained that due to mandatory digitization requirements introduced under the Cable Television Networks (Regulation) Amendment Act, 2011, substantial funds had to be diverted for infrastructure and digitization compliance, leading to temporary financial constraints.
- Subsequently:
  - the entire TDS amount was deposited with the Central Government; and
  - statutory interest under section 201(1A) was also paid for the delayed deposit.
- Despite full payment of tax and interest, prosecution proceedings were initiated under:
  - Section 276B (failure to deposit TDS), read with
  - Section 278B (offences by companies).
- The Special Judge, Economic Offences, Patna took cognizance against the company and its officers by order dated 30.11.2017.
- The petitioners approached the High Court seeking quashing of the criminal proceedings.

Arguments by the Petitioners

The petitioners contended that:

- there was no dishonest intention to evade tax;
- delay occurred due to genuine financial hardship caused by mandatory digitization expenses;
- the entire TDS liability along with statutory interest had already been discharged by July 2013;
- Section 201(1A) itself contemplates delayed payment with interest;
- therefore, continuation of criminal prosecution was unnecessary and unjustified.

Arguments by the Revenue

The Income Tax Department argued that:

- failure to deposit TDS within the prescribed time itself constitutes an offence under Section 276B;
- subsequent payment does not automatically wipe out criminal liability;
- company directors/officers are also liable under Section 278B.

The Revenue relied on:

- Anil Kumar Sinha v. Union of India
- Deepak Engineering Works v. CIT
- Madhumilan Syntex Ltd. v. Union of India

to support the maintainability of prosecution.

Decision of the High Court

The Patna High Court allowed the petition and quashed the prosecution.

The Court held that:

- once the deducted tax had been deposited;
- statutory interest had also been paid; and
- there existed provisions enabling exemption from prosecution,

continuation of criminal proceedings would serve no useful purpose.

The Court observed that:

"In the interest of dockets of the court and in the interest of justice, there is no justification in continuing with the prosecution."

Accordingly, the cognizance order dated 30.11.2017 passed by the Special Judge, Economic Offences, Patna was set aside.

Goods & Services Tax

03.06.2026

Whether manual filing of a GST appeal is permissible where electronic filing is impossible because the DRC-07/order is not available on the GST portal.

Dinesh Dnyandeorao Pawade v. State of Maharashtra
High Court of Bombay (08.05.2026)

Background

- The petitioner intended to file an appeal against a GST order before the Appellate Authority under Section 107 of the CGST/MGST Act.
- The appeal was required to be filed electronically in FORM GST APL-01 under Rule 108(1) of the CGST Rules, 2017.
- However, the summary order in FORM GST DRC-07 was not uploaded or available on the GST portal.
- Due to non-availability of DRC-07, the petitioner was unable to file the appeal electronically.
- Consequently, the petitioner requested permission from the Appellate Authority to file the appeal manually.
- The Appellate Authority rejected the request on the ground that Rule 108(1) mandates electronic filing of appeals.
- Aggrieved by this rejection, the petitioner approached the Bombay High Court through a writ petition.

Arguments by the Petitioner

The petitioner contended that:

- filing the appeal electronically was impossible because the DRC-07 summary order was not uploaded on the GST portal;
- the Appellate Authority wrongly relied only on Rule 108(1) and ignored the proviso to the Rule;
- the proviso permits manual filing in cases where the decision/order is unavailable on the common portal;
- therefore, rejection of the manual appeal request was illegal and unsustainable.

Stand of the Department / Appellate Authority

The Appellate Authority held that:

- Rule 108(1) specifically requires appeals to be filed electronically in FORM GST APL-01;
- since the appeal could not be electronically filed, the request for manual filing was "non-considerable."

Relevant Legal Provision

Rule 108(1) of the CGST Rules, 2017
The Rule prescribes electronic filing of appeals in FORM GST APL-01.
Proviso to Rule 108(1)
The proviso contemplates situations where the certified copy/order is unavailable on the portal and recognizes filing outside the standard electronic mechanism.
The High Court interpreted the proviso as enabling manual filing where electronic filing is not possible due to non-availability of the order on the portal.

Decision of the High Court

The Bombay High Court allowed the writ petition and held that:

- the Appellate Authority overlooked the proviso to Rule 108(1);
- the authority itself had recorded that DRC-07 was unavailable on the portal;
- once electronic filing became impossible for reasons beyond the petitioner's control, manual filing could not be rejected mechanically.

The Court held that the rejection order was unsustainable in law.

Final Outcome

- The impugned order dated 29.08.2025 was set aside.
- The matter was remanded back to the Appellate Authority.
- The authority was directed to reconsider the petitioner's request in light of the proviso to Rule 108(1) and decide the matter expeditiously.

Direct Tax

04.06.2026

Whether service or attempted service of reassessment notices at the address reflected in PAN/passport records constitutes valid service upon an NRI assessee.

Anuradha Doshi v. Income-tax Officer
High Court of Delhi (19.05.2026)

Background

- The assessee, Anuradha Doshi, had been residing in Abu Dhabi since 2006 and claimed NRI status with no taxable income in India.
- Reassessment proceedings were initiated under Section 147 of the Income-tax Act for AY 2017-18.
- The reassessment was completed ex parte under Section 147 read with Section 144 (best judgment assessment).
- Consequential actions followed, including:
  - demand notices,
  - penalty proceedings,
  - recovery proceedings, and
  - attachment of the assessee's HDFC Bank account under Section 226(3).
- The assessee claimed she first became aware of the reassessment only when she attempted to operate her bank account in January 2026.
- Notices had been issued at an old Inderpuri, New Delhi address, which:
  - appeared in her PAN records; and
  - was also reflected in her passport.
- The assessee challenged:
  - validity of service of notice,
  - reassessment proceedings, and
  - consequential recovery actions.

Arguments by the Assessee

The assessee contended that:

- no actual notice was ever served upon her;
- the Department relied on a nearly 20-year-old address;
- under Rule 127 of the Income-tax Rules, the Assessing Officer should have attempted service through the address available with her bank;
- the reassessment order violated principles of natural justice;
- she had no opportunity to present her case before the AO.

Arguments by the Revenue

The Department argued that:

- notices were sent to the address available in:
  - PAN records, and
  - passport records;
- the assessee had failed to update her address details;
- the Assessing Officer did not possess the assessee's bank account particulars during reassessment proceedings;
- bank details became available only later during recovery proceedings;
- therefore, service at PAN/passport address was legally sufficient.

Findings of the High Court

1. Validity of Service of Notice

The Delhi High Court held in favour of the Revenue on this aspect.

Key Observations

The Court observed that:

- an Assessing Officer is entitled to serve notice at:
  - the PAN address; or
  - the passport address.
- Expecting the AO to obtain address details from a bank branch was unreasonable, especially when:
  - the assessee was an NRI; and
  - bank details were unavailable with the Department at the relevant time.

The Court specifically held that:

"In relation to an NRI, service or attempt to serve notice on the address given in the passport is sufficient compliance of law in normal circumstances."

Conclusion on Service

The Court held that:

- there was no illegality in attempting service at the PAN/passport address;
- the reassessment proceedings were not invalid merely on the ground of defective service.

The assessee was also barred from later raising a plea of limitation/time-barred notice upon remand.

2. Violation of Natural Justice

Despite upholding validity of attempted service, the Court found that:

- the assessee had never actually participated in the proceedings;
- the assessment order had been passed entirely ex parte;
- principles of natural justice required that the assessee be given a proper opportunity of hearing.

The Court emphasized that:

- even where procedural compliance exists,
- denial of effective hearing can justify interference under Article 226.

Decision of the High Court

The Court partly allowed the writ petition.

The Court:

- quashed the reassessment order dated 31.03.2022;
- quashed consequential:
  - demand notices,
  - penalty orders, and
  - recovery proceedings including bank attachment.

The Court further directed that:

- the Assessing Officer must issue fresh notice in accordance with law;
- reassessment proceedings may continue afresh after granting proper opportunity of hearing;
- principles of natural justice must be observed.

TAX INSIGHTS

By

Tax Research Department

Goods & Services Tax

04.06.2026

Whether GST proceedings initiated and concluded against a deceased proprietor are legally valid.

Balasubramanian v. State Tax Officer
High Court of Madras (24.04.2026)

Facts of the Case

- The case involved a proprietorship concern whose proprietor had already died before initiation of GST proceedings.
- Despite the death of the proprietor:
  - a Show Cause Notice (SCN) under Section 73 of the GST Act was issued in the name of the deceased person; and
  - the final assessment order dated 18.12.2025 was also passed in the name of the deceased proprietor.
- The legal heir/petitioner challenged the validity of the proceedings before the Madras High Court.

Arguments by the Petitioner

The petitioner contended that:

- the proprietor had died before issuance of the SCN;
- proceedings initiated against a dead person are void ab initio;
- the assessment order passed in the name of a deceased person lacked jurisdiction;
- therefore, the entire proceedings were a nullity in law.

Stand of the Department

The Revenue defended the assessment proceedings but sought liberty to initiate fresh proceedings in accordance with law if required.

Findings of the High Court

The Madras High Court observed that:

- the records clearly established that:
  - the SCN was issued after the death of the proprietor; and
  - the assessment order was also passed in the name of the deceased person.

The Court held that:

- proceedings against a dead person are fundamentally without jurisdiction;
- such a defect is not a mere procedural irregularity;
- the defect goes to the root of the matter and vitiates the entire proceedings.

The Court therefore concluded that:

- the entire GST proceedings were a nullity in law.

Decision of the High Court

The High Court allowed the writ petition.

The Court:

- set aside the impugned assessment order dated 18.12.2025; and
- declared the proceedings invalid.

However, the Court granted liberty to the Revenue authorities to:

- initiate fresh proceedings against the legal heirs,
- in accordance with law.

Final Outcome

Issue	Decision
SCN issued against deceased proprietor	Invalid
Assessment order in deceased person's name	Void
Entire GST proceedings	Quashed as nullity
Liberty to initiate fresh proceedings against legal heirs	Granted

Key Legal Principles Emerging from the Case

1. Proceedings initiated against a deceased person are void ab initio and without jurisdiction.
2. An assessment order passed in the name of a dead person is a nullity in law.
3. Such defects are substantive and not curable procedural irregularities.
4. Revenue authorities must implead or proceed against legal heirs after the death of a taxpayer/proprietor.
5. Courts may quash defective proceedings while preserving the department's right to initiate fresh proceedings lawfully.

Practical Significance

This judgment is important for:

- proprietorship concerns,
- legal heirs of deceased taxpayers,
- GST litigation involving procedural jurisdictional defects.

The ruling reinforces that:

- tax authorities must verify the status of the assessee before issuing notices;
- proceedings against deceased persons cannot be sustained merely as technical defects;
- however, lawful proceedings against legal heirs may still be initiated where permitted under the statute.

Direct Tax

05.06.2026

- **Whether issuance of TDS certificates and corresponding tax filings amounted to acknowledgment of a jural (legal) lender-borrower relationship.**
- **Whether the respondent could deny liability in civil proceedings after having acknowledged the transaction before Income Tax authorities.**
- **Whether the plaintiff established a prima facie case justifying interim injunction and protective orders.**

Divij Mercantiles Pvt. Ltd. v. Smt. Sabita Rungta
High Court of Calcutta (27.04.2026)

Background

- The appellant-plaintiff, Divij Mercantiles Pvt. Ltd., filed a civil suit seeking recovery of money allegedly lent and advanced to the respondent, Smt. Sabita Rungta.
- The plaintiff claimed that the respondent had:
  - borrowed money from it,
  - paid interest on such borrowing, and
  - issued TDS certificates under section 194A acknowledging deduction of tax on interest payments.
- The respondent had also filed income-tax returns reflecting the same transaction and deposited TDS with the Income Tax Department.
- However, in the civil suit, the respondent denied the lender-borrower relationship and contended that the loan transaction was actually arranged through another individual and no liability existed towards the plaintiff.
- The plaintiff sought:
  - interim injunction, and
  - protective relief akin to attachment before judgment under Order XXXVIII Rule 5 CPC.

Arguments by Parties

Plaintiff/Appellant:

The plaintiff argued that:

- TDS certificates issued by the respondent clearly proved:
  - existence of loan transactions,
  - payment of interest, and
  - acknowledgment of liability.
- The respondent had represented before Income Tax authorities that:
  - interest income was payable to the plaintiff, and
  - tax was deducted accordingly.
- Therefore, the respondent could not take a contradictory stand before the civil court.

Respondent:

The respondent contended that:

- The loan transaction was actually arranged through a third party.
- No enforceable liability existed towards the plaintiff.
- Requirements for attachment before judgment under Order XXXVIII Rule 5 CPC were not satisfied.

Court's Observations

The Court made several important observations:

1. TDS Certificate Constitutes Acknowledgment

The Court held that the TDS certificates and income-tax filings clearly established:

- existence of financial transactions,
- acknowledgment of debt, and
- lender-borrower relationship between parties.

2. Doctrine of Approbate and Reprobate

The Court observed that the respondent:

- acknowledged liability before Income Tax authorities,
- invited assessment based on such declarations,
- but later denied the same relationship before the civil court.

The Court held that such contradictory conduct was impermissible.

3. Prima Facie Case Established

The Court found that:

- the plaintiff had established a strong prima facie case,
- balance of convenience favored the plaintiff, and
- denial of protection could cause irreparable prejudice.

4. Reliance on Supreme Court Decision

The Court referred to:

Raman Tech & Process Engineering Company v. Solanki Traders

The Court reiterated that:

- for attachment before judgment,
  - prima facie case, and
  - apprehension regarding protection of assets
  - must exist.

Decision of the High Court

The High Court:

- granted interim injunction in favor of the plaintiff,
- directed the respondent to disclose assets by filing an affidavit of assets within two weeks,
- required disclosure of:
  - available assets, and
  - bank balances as on 27 April 2026.

- **Whether proceedings under Section 74 by Central GST authorities were barred because State GST proceedings under Section 73 had already concluded in favour of the assessee.**
- **Whether the burden of statutory pre-deposit could justify bypassing the appellate remedy.**

PEI Industries v. Union of India
High Court of Delhi (29.05.2026)

Facts of the Case

- The petitioner, PEI Industries, challenged an Order-in-Original dated 30 March 2026 passed by the Central GST authorities under Section 74 of the CGST Act.
- The petitioner argued that:
  - earlier proceedings initiated by State GST authorities under Section 73 had already been closed/exonerated on the basis of the same documents and transactions,
  - therefore, fresh proceedings by Central GST authorities under Section 74 were barred by Section 6(2)(b) of the CGST Act.
- The petitioner also alleged:
  - inadequate opportunity of hearing,
  - improper appreciation of evidence,
  - and denial of opportunity to furnish additional documents.
- The Revenue opposed the writ petition on the ground that:
  - an effective statutory appellate remedy under Section 107 was available,
  - and disputed factual issues should be examined by the appellate authority.

Arguments of the Petitioner

The petitioner contended that:

- State GST authorities had already examined the same documents and closed proceedings under Section 73.
- Central GST authorities could not reopen the matter under Section 74 on identical material.
- The impugned order violated: Article 14, principles of natural justice, and fair hearing requirements.
- Only two effective hearing opportunities were granted out of four scheduled dates.
- The Court should entertain the writ because filing an appeal would require statutory pre-deposit.

Arguments of the Revenue

The Revenue argued that:

- Sections 73 and 74 operate in distinct statutory fields.
- Proceedings under Section 74 are independent and involve different considerations.
- Questions regarding:
  - appreciation of evidence,
  - sufficiency of documents,
  - and additional evidence
  - are matters for the appellate authority.
- The appellate authority possesses wide powers including: re-appreciation of evidence, and acceptance of additional evidence.
- Mere existence of pre-deposit requirement cannot justify bypassing the statutory appeal mechanism.

Findings of the High Court

1. Sections 73 and 74 Operate Independently

The Court held that:

- Sections 73 and 74 function in different legal spheres.
- Exoneration in Section 73 proceedings does not automatically bar action under Section 74.

The Court clarified that:

- Section 73 concerns non-fraud cases,
- whereas Section 74 deals with fraud/suppression-related cases.

Hence, closure under Section 73 could not automatically prevent Central GST authorities from proceeding under Section 74.

2. Issues Raised Were Appellate in Nature

The Court observed that:

- disputes regarding appreciation or re-appreciation of evidence, adequacy of opportunity,
- and acceptance of additional documents
- were factual issues best examined by the appellate authority.

The Court emphasized that the appellate authority has broad jurisdiction to: reconsider evidence, re-examine factual findings and permit additional evidence.

3. Statutory Pre-deposit Not a Ground to Invoke Writ Jurisdiction

The Court categorically held that:

- the burden of statutory pre-deposit cannot be a reason to bypass the appellate mechanism created by statute.

The Court stated that:

- merely because an assessee must satisfy pre-deposit conditions,
- writ jurisdiction cannot be invoked to avoid the statutory appeal process.

Decision of the Court

The High Court:

- declined to exercise writ jurisdiction,
- upheld the objection regarding alternate remedy,
- dismissed the writ petition,
- and left it open to the petitioner to file an appeal before the appellate authority.

The Court also directed that:

- if an appeal is filed,
- it shall be decided on its own merits.

- **Whether indexed cost of construction and improvement can be denied merely because old supporting bills and vouchers are unavailable.**
- **Whether expenses such as GST, stamp duty, registration charges, infrastructure charges, utility charges, environment fund, etc., form part of the cost of acquisition eligible for deduction under section 54.**
- **Whether deduction under section 54 can be restricted merely because the new residential property is purchased jointly with the spouse, despite the entire investment having been made by the assessee.**

Jugesh Saluja v. Deputy Commissioner of Income Tax, ITAT, Chandigarh (20.05.2026)

Facts of the Case

The assessee sold a residential property at Chandigarh for a value adopted under section 50C at ₹4.40 crore and computed long-term capital gains after claiming:

- Indexed cost of acquisition and improvement of ₹1.03 crore, comprising:
  - Cost of plot purchased in FY 1985-86,
  - Cost of construction in FY 1986-87,
  - Further improvements in FYs 1996-97 and 2006-07.
- Deduction under section 54 of ₹2.13 crore on investment in a new residential property at Pune.
- Deduction under section 54EC of ₹50 lakh.

During assessment, the Assessing Officer:

1. Disallowed the indexed cost of improvement because the assessee could not produce decades-old bills and vouchers.
2. Restricted section 54 deduction to 50% because the new property was purchased jointly with the assessee's husband.
3. Excluded GST, infrastructure charges, utility charges, cluster fund, environment fund and other incidental expenses from the cost eligible for section 54 deduction.

The CIT(A) affirmed the assessment, following which the assessee appealed before the ITAT.

Tribunal's Decision

The appeal was partly allowed for statistical purposes.

Issue 1 – Indexed Cost of Improvement

Decision

The Tribunal held in favour of the assessee.

Reasoning

- The registered sale deed itself established that the property contained a residential building having a covered area of 3,300 sq. ft.
- The stamp valuation authority had also valued the superstructure while determining stamp duty.
- Therefore, the existence of construction was undisputed.
- In cases involving construction undertaken decades earlier, preservation of bills cannot always be expected.
- Mere non-availability of old vouchers cannot justify complete rejection of the indexed cost of improvement.
- The Revenue also failed to establish that no construction or improvements had actually been made.

Direction

The Assessing Officer was directed to:

- recompute the cost of construction and improvements,
- adopt the covered area mentioned in the registered sale deed,
- apply the applicable PWD rates prevailing during the relevant financial years,
- allow consequential indexation while computing capital gains.

Issue 2 – Eligibility of Various Expenses under Section 54

Decision

The Tribunal partly allowed the assessee's claim.

Expenses held eligible

The following were held to be part of the cost of acquisition of the new residential property:

- One-time premium, GST, Stamp duty, Registration charges, Utility charges, Infrastructure charges, Amanora Cluster Fund, Amanora Environment Fund

These expenditures were directly connected with acquiring leasehold rights in the residential property.

Expenses disallowed

The Tribunal held that:

- Club membership charges and related taxes were not deductible under section 54 because:
  - club membership was optional,
  - it was not necessary for acquisition of the property,
  - it did not enhance ownership rights.

Issue 3 – Joint Ownership and Section 54 Deduction

Decision

The Tribunal decided in favour of the assessee.

Reasoning

- The entire consideration for the new property was paid exclusively from the assessee's bank account using the sale proceeds of the original property.
- The husband had made no financial contribution.
- Mere inclusion of the husband's name in the lease agreement did not reduce the assessee's entitlement.
- The substance of the investment, rather than the title document, governs eligibility under section 54.

Goods & Services Tax

06.06.2026

Whether consideration received from sale of immovable property (land), reflected in FORM 26AS, could be subjected to GST merely because sale deeds were not produced during assessment proceedings.

R.A.R. Retail and Infra LLP v. State Tax Officer
High Court of Madras (08.04.2026)

Facts of the Case

- The petitioner, R.A.R. Retail and Infra LLP, purchased land from GRK Theaters Private Ltd on 17.11.2021.
- The same land was subsequently sold to GRT Hotels and Resorts Private Limited on 09.02.2022.
- During assessment proceedings for FY 2021-22, amounts reflected in FORM 26AS showed TDS credits in favour of the petitioner.
- The department treated these amounts as taxable turnover under GST.
- A Show Cause Notice dated 06.06.2024 was issued under Section 73.
- The petitioner replied to the SCN on 31.07.2025.
- The Assessing Officer passed an order dated 04.09.2025 confirming GST demand on the basis that the petitioner failed to produce sale deeds.
- Subsequently, a rectification order under Section 161 dated 19.01.2026 was also passed.
- The petitioner challenged both orders before the Madras High Court.

Arguments

Petitioner

- The transactions pertained purely to sale of land.
- Sale of immovable property is outside the ambit of GST.
- FORM 26AS entries related to land sale consideration and therefore could not be treated as taxable supply.

Revenue

- Since the petitioner had not produced sale deeds before the Assessing Officer, the amounts reflected in FORM 26AS were treated as taxable turnover.

Decision of the Court

The Madras High Court:

- Quashed both the assessment order under Section 73 and the rectification order under Section 161.
- Held that sale of immovable property is outside the purview of GST.
- Observed that the sale deed and FORM 26AS produced before the Court prima facie established that the transaction related to sale of land.
- Remanded the matter back to the respondent authority for fresh adjudication on merits after granting proper opportunity of hearing.

Key Observations of the Court

1. Sale of land is not taxable under GST.
2. FORM 26AS entries alone cannot automatically establish taxable supply under GST.
3. If documentary evidence shows that the transaction pertains to immovable property, GST cannot be levied.
4. Proper verification and opportunity must be given before confirming tax demands.

Final Outcome

- Impugned orders dated 04.09.2025 and 19.01.2026 were quashed.
- Matter remanded for fresh consideration.
- Writ Petition allowed in favour of the assessee.

Legal Principle Emanating from the Case

Amounts reflected in FORM 26AS cannot be mechanically subjected to GST without examining the underlying nature of the transaction. Sale of land, being excluded from the scope of supply under GST law, is not liable to GST even if TDS entries appear in FORM 26AS.

Relevant Provisions

- Section 7 of the Central Goods and Services Tax Act, 2017
- Section 9 of the CGST/TNGST Act
- Section 73 – Determination of tax not paid/short paid
- Section 161 – Rectification of errors
- Sale of land excluded from "supply" under GST framework

Direct Tax

07.06.2026

Whether filing an appeal before the Commissioner (Appeals) under Section 246A of the Income-tax Act requires payment of any pre-deposit as a condition for maintaining the appeal?

L. Gopalakrishnan v. Income-tax Officer
HIGH COURT OF MADRAS (30.03.2026)

Facts of the Case

- The assessee filed a writ petition challenging the assessment proceedings.
- The learned Single Judge disposed of the writ petition on 2 December 2024, granting liberty to the assessee to avail the statutory appellate remedy under Section 246A before the Commissioner (Appeals).
- The assessee contended before the Division Bench that:
  - He was unable to file his reply to the Assessing Officer in time as he was on a pilgrimage.
  - The Single Judge wrongly observed that no replies had been filed to earlier show-cause notices.
  - Relegating him to the appellate remedy would compel him to make a pre-deposit, causing hardship.
- The Revenue argued that Section 246A contains no provision requiring any pre-deposit for filing an appeal before the Commissioner (Appeals).

Decision of the High Court

The Madras High Court dismissed the writ appeal and held that:

- No pre-deposit is required for filing an appeal before the Commissioner (Appeals) under Section 246A.
- The Single Judge was justified in directing the assessee to avail the statutory appellate remedy.
- The period spent by the assessee in pursuing the writ petition and writ appeal shall be excluded while computing the limitation period for filing the appeal before the Commissioner (Appeals).

Key Observations

- The Court examined Section 246A and found no statutory requirement of pre-deposit for filing an appeal before the Commissioner (Appeals).
- The apprehension of the assessee regarding mandatory pre-deposit was misconceived.
- Availability of an effective statutory remedy justified the refusal to interfere with the order of the Single Judge.
- To safeguard the assessee's rights, the Court directed that the time spent prosecuting the writ proceedings should be excluded for limitation purposes.

Ratio Decidendi

An appeal under Section 246A of the Income-tax Act, 1961 is a statutory right that can be exercised without making any pre-deposit. Therefore, the maintainability of an appeal before the Commissioner (Appeals) is not conditional upon payment of any pre-deposit.

Significance of the Ruling

- Clarifies that, unlike certain indirect tax laws where pre-deposit is mandatory, the Income-tax Act does not prescribe any pre-deposit for appeals under Section 246A.
- Removes uncertainty regarding the maintainability of appeals before the Commissioner (Appeals).
- Reinforces the principle that taxpayers should ordinarily exhaust the statutory appellate remedy before invoking writ jurisdiction.
- Protects taxpayers from limitation issues by directing exclusion of the period spent bona fide pursuing writ proceedings.

Key Takeaway

An assessee can file an appeal before the Commissioner (Appeals) under Section 246A of the Income-tax Act without making any pre-deposit. Courts will ordinarily direct taxpayers to avail this statutory appellate remedy, and where a taxpayer has first pursued writ proceedings in good faith, the time spent in those proceedings may be excluded while computing the limitation period for filing the appeal.

Goods & Services Tax

07.06.2026

Whether a court can direct the GST department to give seven days' prior notice before taking coercive action or arrest, and whether such a direction amounts to granting an impermissible blanket protection against arrest.

Directorate General of GST Intelligence v. Girish Sachdeva
Delhi High Court (05.06.2026)

Facts of the Case

- The Directorate General of GST Intelligence (DGGI) initiated an investigation against M/s Daak International Pvt. Ltd. based on intelligence that the company had issued high-value e-way bills without filing GST returns.
- Upon inspection, the registered office was found to be non-existent, and the premises belonged to another company providing virtual office facilities.
- The respondents, who were directors of the company, admitted to conducting trading activities but had no storage facilities.
- Investigation revealed that:
  - the company stopped filing GSTR-1, GSTR-3B and GSTR-9 from March 2019 onwards;
  - it had allegedly availed and passed on ineligible Input Tax Credit (ITC) through circular trading; and
  - the estimated GST evasion exceeded ₹8 crore.
- Despite repeated summons under Section 70 of the CGST Act, the respondents did not personally appear before the authorities and only sent written replies.
- Apprehending arrest, the respondents filed anticipatory bail applications.
- The Additional Sessions Judge (ASJ) dismissed the anticipatory bail applications but directed the department to give seven days' prior notice before taking any coercive action, enabling the respondents to seek legal remedies.
- The DGGI challenged this direction before the Delhi High Court under Section 482 CrPC, contending that such a direction amounted to an impermissible blanket protection.

Arguments

Revenue (DGGI)

- The direction virtually restrained the statutory power of arrest under Section 69 of the CGST Act.
- It amounted to a blanket protection contrary to Supreme Court decisions on anticipatory bail.
- There was no immediate proposal to arrest the respondents since approval of the Commissioner had not even been sought.
- The respondents were not cooperating with the investigation despite repeated summons.

Respondents

- They had cooperated by furnishing documents and replies.
- They undertook to join the investigation whenever required.
- The seven-day notice merely ensured compliance with principles of natural justice and did not prohibit investigation or arrest.

Decision of the High Court

The Delhi High Court dismissed the petitions filed by the DGGI and upheld the direction requiring seven days' prior notice before any coercive action.

Key Findings of the Court

1. Economic offences are serious, and GST authorities possess full statutory powers to investigate tax frauds.
2. At the relevant stage:
   - only summons had been issued;
   - there was no imminent proposal to arrest the respondents.
3. The ASJ had not granted anticipatory bail.
4. The direction to issue seven days' notice:
   - did not restrain the investigation;
   - did not prohibit arrest;
   - merely enabled the respondents to seek appropriate legal remedies before any coercive action.
5. The respondents were specifically directed to cooperate with the investigation, and failure to do so would permit the department to proceed strictly in accordance with law.
6. Therefore, the direction could not be treated as a blanket order of protection, which has been disapproved by the Supreme Court.

Final Outcome

- Petitions dismissed.
- The direction requiring seven days' prior notice before coercive action was upheld.
- The GST department remained free to continue the investigation and exercise its statutory powers, including arrest, in accordance with law after complying with the notice requirement.

Direct Tax

08.06.2026

- **Whether estimation of 5% net profit on wholesale medicine business was justified where books of account were not produced?**
- **Whether penalty under section 271B could be sustained where delay in uploading the audit report occurred due to reasonable cause?**
- **Whether penalty under section 271(1)(b) for non-compliance with statutory notices was sustainable despite existence of reasonable cause and completion of assessment under section 147 read with section 144B?**

Md. Babar Ali v. Income-tax Officer, ITAT, Kolkata (20.03.2026)

Background Facts

The assessee, engaged in the wholesale trade of medicines, did not file his return of income for AY 2020-21. Based on information received from the GST Department, the Assessing Officer (AO) reopened the assessment under section 147.

The assessee subsequently filed a return declaring:

- Turnover: ₹2.36 crore
- Net Profit: ₹4.85 lakh (2.05% of turnover)

The AO required production of books of account and supporting documents. Since the assessee failed to produce the books, the AO:

- estimated business income at 20% of turnover;
- levied penalty under section 271B for delayed furnishing of audit report; and
- levied penalty under section 271(1)(b) for alleged non-compliance with statutory notices.

The CIT(A):

- reduced the estimated profit rate to 5%,
- confirmed the penalty under section 271B, and
- partly confirmed the penalty under section 271(1)(b).

The assessee appealed before the ITAT.

Tribunal's Decision

The ITAT partly allowed the quantum appeal and allowed both penalty appeals.

Findings on Issue I – Estimation of Business Income

Assessee's Contentions

- Wholesale medicine business operates on very thin margins.
- Net profit disclosed was: AY 2020-21 – 2.05%, Previous year – 1.53%, Subsequent year – 1.42%
- Neither the AO nor the CIT(A) cited any comparable case to justify adoption of 20% or 5% profit.

Tribunal's Findings

The Tribunal observed that:

- wholesale medicine trade generally earns low margins;
- profit rate of 20% adopted by the AO was wholly excessive;
- 5% adopted by the CIT(A) was also on the higher side;
- neither authority relied upon any comparable case.

Considering the nature of business and the assessee's past profit history, the Tribunal estimated the net profit at 4% of turnover.

Decision

- Profit estimation reduced from 5% to 4% of turnover.
- Quantum appeal partly allowed.

Findings on Issue II – Penalty under Section 271B Facts

The assessee:

- resided in a remote village;
- was not conversant with electronic filing;
- depended entirely upon a tax consultant;
- had actually got the accounts audited, but the audit report was uploaded belatedly.

Further, the AO computed penalty by adopting an incorrect turnover of ₹4.47 crore by adding figures appearing in two GST returns.

Tribunal's Findings

The Tribunal held that:

- the delay occurred because of a genuine and reasonable cause;
- the assessee acted immediately after becoming aware of the requirement;
- the AO incorrectly adopted an inflated turnover by aggregating GSTR figures, demonstrating lack of application of mind.

Decision

Penalty under section 271B was deleted in full.

Findings on Issue III – Penalty under Section 271(1)(b)Facts

The AO alleged five instances of non-compliance with statutory notices and imposed penalty of ₹50,000.

The CIT(A):

- deleted penalty for two defaults; and
- sustained penalty for three defaults.

Tribunal's Findings

The Tribunal observed that:

- the CIT(A) accepted the assessee's explanation for two defaults but failed to explain why the same reasonable cause was not applicable to the remaining defaults;
- the assessment was completed under section 147 read with section 144B and not under section 144, indicating that the AO ultimately accepted the compliance and waived the defaults;
- where non-compliance is not treated seriously enough to invoke section 144, separate penalty under section 271(1)(b) may not be justified if reasonable cause exists.

Decision

Penalty under section 271(1)(b) was deleted in entirety.

TAX INSIGHTS
By
Tax Research Department

Goods & Services Tax

08.06.2026

Whether a contractor is required to pass on the benefit of additional Input Tax Credit under Section 171 of the CGST Act when the tender was issued before GST, but the entire procurement and execution of the works contract occurred after GST and the contract price was determined under the post-GST tax regime.

DG Anti Profiteering, Director General of Anti-Profiteering (DGAP) v. Belhekar & Kale Associates
GSTAT, New Delhi (05.05.2026)

Background Facts

- The applicant, Mumbai Port Trust Authority, awarded a works contract to Belhekar & Kale Associates for the Modernization of MICT (Mumbai International Container Terminal).
- The tender was floated on 25 May 2017, i.e., before the introduction of GST.
- However:
  - the Letter of Acceptance (LOA) was issued on 8 August 2017;
  - the work commenced on 3 February 2018; and
  - the entire procurement of inputs and execution of the contract took place after GST came into force (1 July 2017).
- The applicant alleged that the contractor had failed to pass on the benefit of additional Input Tax Credit (ITC) under Section 171 of the CGST Act and filed an application under the Anti-profiteering Rules.
- The Standing Committee referred the matter to the Director General of Anti-Profiteering (DGAP) for investigation.

DGAP's Findings

The DGAP concluded that:

- the case did not involve a real estate or construction project where pre-GST and post-GST ITC benefits could be compared;
- no procurement of goods or services had taken place before GST;
- the entire execution occurred under GST;
- therefore, no comparison between pre-GST and post-GST Input Tax Credit was possible;
- the applicant had also unilaterally withheld ₹22.66 crore from the contractor's bills alleging profiteering, despite having no statutory authority to do so.

Accordingly, the DGAP found no violation of Section 171.

Proceedings before GSTAT

- The matter was listed for hearing on three occasions.
- Despite repeated opportunities, the applicant:
  - failed to appear,
  - did not file written objections to the DGAP report, and
  - offered no evidence contradicting the investigation findings.
- The respondent requested acceptance of the DGAP report.
- The DGAP also supported closure of the proceedings.

Decision of the GSTAT

The GST Appellate Tribunal accepted the DGAP report and held that Section 171 of the CGST Act had not been contravened.

The anti-profiteering proceedings were accordingly closed.

Key Findings of the Tribunal

1. Entire Contract was Executed under GST

Although the tender was invited before GST:

- the contract was awarded only after GST;
- work commenced after GST;
- all procurement of materials and services occurred after GST.

Thus, the project was entirely a post-GST contract.

2. No Pre-GST Benchmark Existed

The Tribunal observed that:

- there was no pre-GST procurement;
- there was no pre-GST execution;
- consequently, there was no basis for comparing pre-GST and post-GST tax incidence or ITC availability.

Without such comparison, anti-profiteering provisions could not be invoked.

3. Contract Price Already Reflected GST Regime

Since the contract was awarded after GST implementation:

- the agreed contract price was presumed to have been negotiated considering the post-GST tax structure;
- therefore, no additional ITC benefit arose requiring onward transmission to the recipient.

4. Reliance on Delhi High Court Judgment

The Tribunal relied upon the decision of the Delhi High Court in Reckitt Benckiser India (P.) Ltd. v. Union of India, which held that where the transaction is entirely under the GST regime, there is no obligation to pass on ITC benefit under Section 171 because the contract price is deemed to have factored in the GST tax structure.

5. Applicant Failed to Contest DGAP Report

The Tribunal also noted that:

- despite multiple opportunities,
- the applicant neither appeared nor challenged the DGAP findings.

Accordingly, the Tribunal proceeded on the basis of the investigation report and the available record.

Direct Tax

09.06.2026

Statutory liabilities payable to consumers cannot be disallowed as contingent merely because of accounting recognition or pending disputes.

Principal Commissioner of Income-tax v. Tata Power Delhi Distribution Ltd.
High Court of Delhi, 02.04.2026

Facts of the Case

- The assessee, Tata Power Delhi Distribution Ltd., was engaged in the business of power generation and electricity distribution.
- During assessment, the Assessing Officer (AO) made the following additions/disallowances:
  - Disallowed derecognition of income relating to consumers' share of efficiency gains.
  - Disallowed deduction under section 43B in respect of uncollected energy tax.
  - Disallowed interest paid on additional consumer security deposits by treating it as a contingent liability.
  - Restricted depreciation on UPS by treating it separately from computers.
  - Disallowed deduction claimed under section 80-IA.
- The Commissioner (Appeals) and the Income Tax Appellate Tribunal (ITAT) granted relief on most issues.
- The Revenue filed an appeal before the Delhi High Court.

Decision of the High Court

The Delhi High Court dismissed the Revenue's appeal and decided all issues in favour of the assessee.

Reasoning of the Court

1. Derecognition of Income
   - The issue had already been decided in the assessee's favour by the Delhi High Court in an earlier assessment year.
   - Since there was no distinguishing feature, the earlier judgment was followed.

Held: Disallowance was rightly deleted.

2. Energy Tax under Section 43B
   - The CIT(A) examined the relevant agreements and Municipal Corporation of Delhi bylaws.
   - Under the governing law, energy tax became payable only after collection from consumers.
   - Therefore, before collection there was no enforceable liability to pay the tax.
   - Consequently, section 43B had no application.

Held: Addition under section 43B was unsustainable.

3. Interest on Consumer Security Deposits
   - Consumers were statutorily and contractually entitled to receive interest on security deposits.
   - The liability to pay interest arose by operation of law and contractual terms.
   - Merely because the principal security deposit was under dispute did not make the interest liability contingent.
   - A statutory obligation cannot be treated as a contingent liability simply because quantification or recognition is disputed.

Held: Interest constituted an allowable business expenditure under section 37(1).

4. Depreciation on UPS
   - A UPS is essential for uninterrupted functioning of computers.
   - Without continuous power supply, computer systems cannot function properly.
   - Therefore, UPS is an integral component of a computer system and not merely an accessory.

Held: UPS is eligible for depreciation at the rate applicable to computers.

5. Deduction under Section 80-IA
   - This issue had already been decided in favour of the assessee in earlier litigation.
   - The Court followed its previous decision.

Held: Deduction under section 80-IA remained allowable.

Final Outcome

- Revenue's appeal dismissed.
- All five questions of law were answered against the Revenue and in favour of the assessee.

Key Takeaways

- Statutory liabilities payable to consumers cannot be disallowed as contingent merely because of accounting recognition or pending disputes.
- Section 43B applies only when a legally enforceable liability has accrued.
- UPS qualifies for higher depreciation as part of a computer system.
- Courts will ordinarily follow earlier decisions in the assessee's own case where facts remain unchanged, promoting consistency and certainty in tax administration.

Goods & Services Tax

09.06.2026

Whether the GST Department could continue blocking Input Tax Credit (ITC) in the Electronic Credit Ledger (ECL) beyond one year under Rule 86A of the CGST Rules, 2017, and whether provisional attachment of the assessee's bank accounts could continue beyond the statutory period.

Elitecon International Ltd. v. Union of India
High Court of Bombay (25.03.2026)

Facts of the Case

- The petitioner, Elitecon International Ltd., was subjected to a search by the GST authorities on 12 February 2025.
- The Department alleged that the petitioner had availed ineligible ITC from suppliers whose GST registrations had been cancelled.
- On 11–12 March 2025, ITC amounting to approximately ₹13.76 crore was blocked in the petitioner's Electronic Credit Ledger (ECL) under Rule 86A.
- The petitioner repeatedly sought the reasons for blocking the ITC.
- The Department merely informed the petitioner that the blocking was based on an internal communication dated 27 February 2025, without furnishing independent reasons.
- Simultaneously, the Department provisionally attached the petitioner's bank accounts under Section 83 of the CGST/MGST Act.
- The petitioner challenged:
  - continuation of the ITC blocking beyond one year;
  - provisional attachment of its bank accounts; and
  - failure to provide reasons and a pre-decisional hearing.

Decision of the High Court

The Bombay High Court allowed the writ petition and granted relief in favour of the petitioner.

Reasoning of the Court

1. Rule 86A(3) provides for automatic unblocking after one year
   - Rule 86A(3) clearly states that the restriction on utilization of ITC ceases automatically after one year from the date of imposing the restriction.
   - The statutory language leaves no discretion with the Department to continue the restriction beyond the prescribed period.
   - Consequently, once one year expires, the credit automatically becomes available for utilisation.

Held: Continuation of blocking beyond one year is illegal.

2. Blocking beyond one year is arbitrary
   - The Department continued to keep the Electronic Credit Ledger blocked even after expiry of one year.
   - Such continuation was directly contrary to Rule 86A(3).
   - The Court observed that the petitioner need not seek a judicial declaration for restoration of credit because the benefit flows automatically from the Rule itself.

Held: The continued blocking was arbitrary and without authority of law.

3. Internal departmental communication is not sufficient
   - The Department disclosed only that the ITC had been blocked on the basis of an internal communication.
   - No independent reasons to believe were supplied to the petitioner.
   - The Court noted that Rule 86A requires proper formation of opinion supported by recorded reasons.

Held: Mere reliance on an internal departmental communication was insufficient to justify blocking.

4. Pre-decisional hearing is required
   - Blocking ITC has serious civil and financial consequences, affecting the day-to-day business operations of the taxpayer.
   - The Court agreed with the Karnataka High Court in K-9 Enterprises, holding that unless exceptional circumstances exist, principles of natural justice require a pre-decisional hearing before invoking Rule 86A.
   - The Department failed to demonstrate any extraordinary circumstances warranting dispensation of such hearing.

Held: Blocking ITC without granting a prior hearing violated the principles of natural justice.

5. Provisional attachment of bank accounts
   - Since the statutory period for provisional attachment had also expired, continuation of the attachment was unsustainable.
   - The Court therefore quashed the provisional attachment orders and directed defreezing of the petitioner's bank accounts.

Held: Bank attachment orders were liable to be set aside.

Final Outcome

- Writ Petition Allowed.
- Provisional attachment of the petitioner's bank accounts was quashed.
- The Electronic Credit Ledger stood automatically unblocked under Rule 86A(3).
- The petitioner was permitted to utilise the ITC in the ordinary course of business, subject to any future proceedings permissible under law.
- Both the taxpayer and the Department were left free to initiate or continue any other proceedings in accordance with law.

Direct Tax

10.06.2026

Whether an amount of ₹25 lakh surrendered during a survey and invested in an ongoing hospital building, which was duly recorded in the assessee's audited books of account and disclosed as business income under the Income Declaration Scheme (IDS), 2016, could be treated as an unexplained investment under Section 69 and taxed under Section 115BBE at the enhanced rate.

Mukesh Agarwal v. ACIT
ITAT (21.05.2025)

Facts of the Case

- A survey under Section 133A was conducted on 31 August 2016.
- During the survey, the assessee voluntarily surrendered ₹75 lakh, comprising:
  - ₹50 lakh as business receipts; and
  - ₹25 lakh towards investment in an under-construction hospital building.
- The assessee disclosed the entire ₹75 lakh as business income in the return of income for AY 2017–18.
- During assessment:
  - The Assessing Officer accepted the ₹50 lakh as business income.
  - However, the AO treated the ₹25 lakh invested in the hospital building as an unexplained investment under Section 69 and taxed it under Section 115BBE at 60%, holding that the assessee failed to establish that the investment had been made out of business receipts.
- The Commissioner (Appeals) upheld the AO's action.
- The assessee appealed before the ITAT.

Decision of the Tribunal

The ITAT allowed the assessee's appeal and deleted the addition made under Section 115BBE.

Reasoning of the Tribunal

1. Investment was duly recorded in the books

- The assessee produced: audited books of account, balance sheet, capital account, and fixed asset schedule.
- The Assessing Officer examined these records but:
  - found no defect in the books; and
  - did not reject the books of account.
- The investment of ₹25 lakh formed part of the ongoing hospital construction and was duly reflected in the books.

Held: Once the investment stood recorded in accepted books of account, it could not be regarded as an unexplained investment under Section 69.

2. Entire surrendered income had already been disclosed

- The assessee had voluntarily surrendered the entire ₹75 lakh during the survey.
- The full amount, including the disputed ₹25 lakh, was disclosed as business income under the Income Declaration Scheme (IDS), 2016 and offered to tax in the return.
- Therefore, there was no justification for recharacterising a portion of the disclosed income as unexplained investment.

Held: The AO was not justified in separately taxing ₹25 lakh under Section 115BBE.

3. Section 115BBE could not be applied retrospectively

- The Tribunal noted that the surrender took place on 31 August 2016, prior to the amendment enhancing the tax rate under Section 115BBE through the Taxation Laws (Second Amendment) Act, 2016.
- In the facts of the case, there was no basis to retrospectively invoke the amended provisions of Section 115BBE.

Held: Retrospective application of the enhanced provisions of Section 115BBE was impermissible.

Final Outcome

- Assessee's appeal allowed.
- The addition of ₹25 lakh under Section 69 read with Section 115BBE was deleted.
- The surrendered amount remained assessable as business income under the normal provisions of the Act.

Key Takeaways

- Properly maintained and accepted books of account are a strong defence against additions under Section 69.
- The Revenue cannot invoke Section 115BBE merely because income was surrendered during a survey if the income is duly recorded and offered as business income.
- Recharacterisation of disclosed business income as unexplained investment requires cogent evidence; mere suspicion is insufficient.
- Taxing provisions that impose a higher rate of tax are to be construed strictly and cannot be applied retrospectively unless expressly provided by law.

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TAX INSIGHTS
By
Tax Research Department

Goods & Services Tax

10.06.2026

Whether Input Tax Credit (ITC) relating to the period April 2018 to March 2019 could be denied solely on the ground of delayed filing of GST returns when the taxpayer was entitled to the benefit of the extended time limit provided under Section 16(5) of the CGST Act.

Oyster Auto Body v. State Tax Officer
High Court of Kerala (02.06.2026)

Facts of the Case

- The petitioner was a registered taxpayer under the CGST Act and KGST Act.
- The petitioner claimed ITC relating to the period April 2018 to March 2019.
- The Proper Officer passed an order under Section 73 denying the ITC on the ground that the returns had not been filed within the time limit prescribed under Section 16(4).
- The assessment order recorded that the relevant returns had been filed on:
  - 31 October 2019, and
  - 20 February 2022.
- The petitioner challenged the order relying upon the subsequently inserted Section 16(5), which grants a one-time relaxation for claiming ITC subject to the prescribed cut-off date.

Decision of the High Court

The Kerala High Court allowed the writ petition, quashed the assessment order, and remanded the matter to the Proper Officer for fresh consideration.

Reasoning of the Court

1. Section 16(5) grants a statutory relaxation
   - Section 16(5) was introduced to provide relief to taxpayers who had missed the original time limit under Section 16(4).
   - The provision permits availment of ITC where the prescribed returns are furnished within the extended statutory cut-off date.

Held: The benefit of Section 16(5) must be given effect while deciding eligibility to ITC.

2. Returns were filed within the extended statutory framework
   - The Court examined the assessment order itself.
   - It found that the relevant returns had been furnished on 31 October 2019 and 20 February 2022.
   - Consequently, the petitioner was entitled to seek the benefit of the statutory relaxation under Section 16(5), subject to fulfilment of the remaining conditions prescribed under the Act.

Held: ITC could not be denied solely on the ground of delay under the original limitation period.

3. Fresh consideration was necessary
   - Since the Proper Officer had not examined the petitioner's claim in the light of Section 16(5), the assessment order could not be sustained.
   - The matter therefore required reconsideration after extending the statutory benefit available under the amended provision.

Held: The assessment order was liable to be quashed and remanded.

Key Principles Laid Down

- Section 16(5) provides a statutory relaxation from the original limitation prescribed under Section 16(4) for eligible taxpayers.
- Once the taxpayer satisfies the conditions prescribed under Section 16(5), ITC cannot be denied merely because the returns were filed beyond the original due date.
- Authorities must consider the benefit of the amended provision before rejecting ITC claims based on limitation.
- A denial of ITC ignoring the legislative relaxation under Section 16(5) is unsustainable.

Final Outcome

- Writ Petition Allowed.
- The order denying ITC under Section 73 was quashed.
- The matter was remanded to the Proper Officer for fresh adjudication.
- The Proper Officer was directed to reconsider the claim by granting the benefit of Section 16(5), provided the petitioner satisfied the other statutory conditions for availing ITC.

Key Takeaways

- The one-time relaxation under Section 16(5) overrides the original limitation under Section 16(4) for eligible cases.
- GST authorities cannot reject ITC solely on the ground of delayed filing if the taxpayer falls within the scope of the statutory relaxation.
- While Section 16(5) cures the limitation defect, taxpayers must still satisfy all other substantive conditions for claiming ITC.
- Assessment orders passed without considering the benefit of Section 16(5) are liable to be set aside and remanded for fresh consideration.

Direct Tax

11.06.2026

Whether bank deposits of ₹1.28 crore made by an assessee engaged in the scrap business could be assessed as unexplained money under Section 69A read with Section 115BBE, when under identical facts in the preceding and succeeding assessment years the Department had accepted the deposits as business turnover and estimated income by applying 8% net profit.

Pathan Wajeed Khan Manzoor v. Income-tax Officer, National Faceless Assessment Centre
ITAT, PUNE (01.06.2026)

Facts of the Case

- The assessee, an individual engaged in the scrap trading business, filed his return declaring income of approximately ₹3 lakh.
- Based on information received through the Department's Insight Portal, the Assessing Officer found cash deposits of ₹1.28 crore in the assessee's bank account.
- The assessment was reopened under Section 147.
- The assessee explained that:
  - due to a computer crash and hard-disk corruption, the relevant business records were not available at the time of filing the return;
  - the bank deposits represented business turnover from scrap trading; and
  - income should therefore be estimated by applying 8% net profit on such turnover.
- The Assessing Officer rejected the explanation and treated the entire deposits as unexplained money under Section 69A, taxable under Section 115BBE.
- The CIT(A)/NFAC upheld the assessment.
- The assessee appealed before the ITAT.

Decision of the Tribunal

The ITAT set aside the order of the CIT(A) and remanded the matter to the Assessing Officer for fresh adjudication.

Reasoning of the Tribunal

1. Scrap business had been consistently accepted
   - The Tribunal noted that the assessee had been carrying on the scrap business for several years.
   - Assessment orders passed under Section 143(3) for AY 2014–15 and AY 2017–18 had accepted:
     - the existence of the scrap business; and
     - estimation of income by applying 8% net profit on the business turnover.

Held: The earlier and subsequent assessments supported the assessee's contention that the deposits represented business transactions.

2. Principle of consistency should be followed
   - Under identical facts and circumstances, the Department had accepted estimation of profits at 8% in other assessment years.
   - The Tribunal found no justification for treating the same type of bank deposits as unexplained money for the year under appeal without examining the earlier assessments.

Held: A consistent approach should ordinarily be adopted unless there are distinguishing facts.

3. Fresh examination was necessary
   - The assessee also contended that:
     - the omission to disclose the turnover resulted from a hard-disk failure;
     - no proper opportunity had been given before the remand report was submitted.
   - Considering the overall facts and the previous assessment records, the Tribunal held that the matter required reconsideration by the Assessing Officer after granting adequate opportunity to the assessee.

Held: The issue should be re-examined afresh after considering the assessment records of the preceding and succeeding years.

Final Outcome

- Appeal allowed for statistical purposes.
- The order of the CIT(A)/NFAC was set aside.
- The matter was restored to the Assessing Officer for fresh assessment after:
  - considering the records of the preceding and succeeding assessment years;
  - examining the assessee's claim regarding the scrap business and turnover; and
  - providing the assessee with a reasonable opportunity of being heard.

Key Takeaways

- Consistency in tax treatment across assessment years is an important judicial principle, particularly where facts remain substantially unchanged.
- The mere existence of large bank deposits does not automatically justify addition under Section 69A if the deposits are claimed to arise from an accepted business activity.
- Where the Department has previously accepted estimation of profits on business turnover, it should not depart from that approach without cogent reasons.
- Remand is appropriate where earlier assessments have a material bearing on the correct tax treatment and require fresh examination by the Assessing Officer.

Goods & Services Tax

11.06.2026

Whether procurement support services provided by Dow Europe GmbH (Switzerland) to the Indian company constituted "intermediary services" under section 2(13) of the IGST Act or import of services, and consequently whether the assessee was entitled to refund of IGST paid under the reverse charge mechanism (RCM).

Dow Chemical International (P.) Ltd. v. Commissioner of State Tax
GSTAT, New Delhi (04.06.2026)

Facts of the Case

- The assessee, Dow Chemical International (P.) Ltd., entered into a procurement agreement with Dow Europe GmbH, Switzerland, which functioned as the centralized procurement hub for the Dow Group.
- Dow Europe provided procurement-related services such as: identifying and evaluating suppliers, negotiating procurement terms, procurement strategy, supplier management, procurement analytics and governance.
- During January 2022 to June 2022, the assessee paid IGST under the Reverse Charge Mechanism (RCM), treating the transaction as an import of services.
- Subsequently, the assessee contended that the services were actually intermediary services, whose place of supply would be outside India under section 13(8)(b) (as applicable during the relevant period).
- Based on this contention, the assessee reversed the ITC availed and sought refund of the IGST already paid.
- The refund claims were rejected by both the adjudicating authority and the Commissioner (Appeals), leading to appeals before the GST Appellate Tribunal.

Assessee's Contentions

- Dow Europe merely facilitated procurement between the Indian company and foreign suppliers.
- The arrangement involved three parties: Dow India, Dow Europe, foreign suppliers.
- Therefore, Dow Europe satisfied all ingredients of an intermediary under section 2(13).
- Consideration was linked to procurement (3.5% of purchases), indicating a facilitation role.
- Reliance was placed on:
  - Airbus Group India (AAR)
  - Global Reach Education Services (AAR)
  - Toshniwal Brothers (AAR)
  - CBIC Circular No. 159/15/2021-GST

Revenue's Contentions

- Dow Europe rendered substantive procurement services independently and not merely arranged supplies.
- The Procurement Agreement specifically declared Dow Europe to be an independent contractor.
- Dow Europe had no authority to bind the Indian company.
- The services constituted procurement outsourcing on a principal-to-principal basis.
- Therefore, the exclusion contained in section 2(13) ("services supplied on own account") applied.

Tribunal's Decision

The GST Appellate Tribunal dismissed all six appeals and upheld rejection of the refund claims.
It held that:

- Though three parties existed, Dow Europe was not merely arranging supplies.
- Dow Europe functioned as the centralized procurement hub of the Dow Group and rendered core procurement services.
- The Procurement Agreement clearly established that Dow Europe:
  - acted independently,
  - supplied services on its own account,
  - had no authority to bind the Indian company.
- Consequently, Dow Europe did not qualify as an intermediary.
- The transaction constituted an import of services.
- Therefore, the place of supply remained in India under section 13(2), making IGST payable under RCM.

Refund Issue

The Tribunal further held that:

- Since the transaction was correctly treated as an import of services taxable in India, the statutory conditions for refund were not satisfied.
- Merely claiming that tax had been paid under a mistaken understanding did not create a refund entitlement where tax was legally payable.
- However, the Tribunal disagreed with the Commissioner (Appeals) that the refund claim was merely an "afterthought." It clarified that:
  - Section 54 permits refund applications for taxes paid under mistake within the prescribed limitation period.
  - Nevertheless, on merits, the assessee had no right to refund because the services remained taxable in India.

Ratio Decidendi

Procurement support services rendered by a foreign group entity as an independent contractor, involving strategic procurement and sourcing functions performed on its own account, do not constitute intermediary services. Such services amount to import of services, the place of supply remains in India under section 13(2), IGST is payable under reverse charge, and refund cannot be claimed merely because the recipient subsequently changes its legal interpretation.

Direct Tax

12.06.2026

Whether disclosure of foreign assets in a return filed under Section 153A, which substitutes the original return, protects the assessee from penalty under Section 43 of the Black Money Act for earlier non-disclosure in the original return.

Additional Commissioner of Income-tax v. Ansul Darshan Shah
ITAT Ahmedabad (27.05.2026)

Facts of the Case

- The assessee had acquired foreign assets in the USA from funds earned while he was a non-resident of India.
- While filing the original returns under Section 139(1) for AYs 2016-17 to 2019-20, the assessee failed to disclose these assets in Schedule FA.
- A search under Section 132 was conducted in the case of the ADS Group.
- During the search proceedings, the assessee voluntarily disclosed the foreign assets.
- Thereafter, the assessee disclosed these assets in:
  - Returns filed under Section 153A for AYs 2016-17 to 2019-20; and
  - Return under Section 139(1) for AY 2020-21.
- The Assessing Officer imposed a penalty of ₹10 lakh under Section 43 of the Black Money Act, holding that the foreign assets were not disclosed in the original returns.

Assessee's Contentions

- A return filed under Section 153A substitutes the original return filed under Section 139.
- Foreign assets were voluntarily disclosed during the search proceedings.
- The Revenue accepted the disclosure and made no addition regarding the foreign assets.
- The omission was bona fide and not intended to evade tax.
- Penalty cannot survive when the substituted return contains complete disclosure.

Revenue's Contentions

- The assessee failed to disclose foreign assets in the original returns filed under Section 139(1).
- Disclosure was made only after the search action.
- Therefore, penalty under Section 43 of the Black Money Act was rightly leviable.

Decision of the ITAT

The Tribunal dismissed the Revenue's appeals and upheld the deletion of penalty.

Key Findings

1. Return filed under Section 153A substitutes the original return
   - The Tribunal relied on the Gujarat High Court decision in Kirit Dahyabhai Patel v. ACIT.
   - Once a return is filed under Section 153A, it is treated as a return under Section 139 and replaces the original return.
   - Therefore, disclosure made in the Section 153A return cannot be ignored while considering levy of penalty.

2. Voluntary disclosure accepted by the Department
   - The assessee voluntarily disclosed the foreign assets during search proceedings.
   - The Revenue accepted the disclosure.
   - No addition relating to the foreign assets was made in the assessment under Section 153A.

3. No evidence of deliberate tax evasion
   - The Tribunal observed that the Revenue failed to produce any material showing a deliberate attempt to conceal foreign assets or evade tax.
   - The omission was considered a technical and bona fide lapse.

4. Penalty under Section 43 not justified
   - Since:
     - the disclosure was made in the substituted return under Section 153A,
     - the disclosure was accepted,
     - no addition was made, and
     - there was no evidence of mens rea or tax evasion,
   - penalty under Section 43 of the Black Money Act was held to be unsustainable.

Judicial Precedents Relied Upon

- Kirit Dahyabhai Patel v. ACIT
  - Return filed under Section 153A substitutes the original return under Section 139.
- Addl. CIT v. Leena Gandhi Tiwari
  - Once foreign assets are disclosed in a Section 153A return, penalty under Section 43 of the Black Money Act cannot be imposed merely because the original return omitted such disclosure.

Ratio Decidendi

Where an assessee voluntarily discloses foreign assets in a return filed under Section 153A, which legally substitutes the original return under Section 139, and such disclosure is accepted without any addition or evidence of deliberate tax evasion, penalty under Section 43 of the Black Money Act cannot be levied solely on the ground that the assets were not disclosed in the original return.

Key Takeaways

- A return filed under Section 153A replaces the original return for relevant assessment years.
- Disclosure of foreign assets in the substituted return is valid for penalty proceedings.
- Mere omission in the original return does not automatically attract penalty under the Black Money Act.
- Voluntary disclosure during search proceedings, coupled with acceptance by the Department and absence of any addition, strongly supports deletion of penalty.
- The Revenue must establish a deliberate attempt to conceal foreign assets before invoking Section 43 of the Black Money Act.

Goods & Services Tax

12.06.2026

Whether supply of water through lorries/tankers qualifies for GST exemption and whether the burden of proving that supplies were exclusively through tankers, and not as packaged drinking water, lies on the assessee claiming the exemption.

Roundwell Raja Water v. Deputy State Tax Officer-1
High Court of Madras (17.04.2026)

Facts of the Case

- The petitioner was engaged in the business of supplying water.
- The petitioner contended that water was supplied exclusively through lorries/tankers to customers and, therefore, the entire supply was exempt from GST.
- The Assessing Officer passed an assessment order under Section 73 of the Tamil Nadu GST Act, 2017, treating the supplies as taxable packaged drinking water.
- The assessment order recorded that the petitioner had failed to produce evidence establishing that the supplies were only through tankers/lorries and not in packaged form.
- Aggrieved by the assessment order, the petitioner filed a writ petition before the Madras High Court.

Assessee's Contentions

- The petitioner supplied water through lorries/tankers directly to customers.
- Such supplies constitute supply of water in bulk and are exempt from GST.
- The assessment treating the supplies as packaged drinking water was erroneous.

Revenue's Contentions

- The assessment was based on the finding that the petitioner had not produced evidence proving that the supplies were exclusively through tankers.
- Packaged drinking water bearing a brand name falls within the GST net.
- Since the petitioner claimed exemption, it was required to substantiate the claim with documentary evidence.

Decision of the High Court

The Madras High Court set aside the assessment order and remanded the matter to the Assessing Officer for fresh consideration.

Key Findings

1. Supply of water through tankers/lorries is exempt

The Court reaffirmed that:

- Supply of water through tankers or lorries is exempt from GST.
- The exemption applies where water is supplied in bulk without packaging.

2. Packaged drinking water is taxable

The Court clarified that:

- Packaged drinking water sold with a brand name and in packaged form falls within the GST tax net.
- Therefore, the nature and mode of supply determine taxability.

3. Burden of proving exemption lies on the assessee

The Court reiterated the settled principle that:

- A person claiming an exemption must establish eligibility.
- Since the petitioner claimed exemption, it was incumbent upon the petitioner to prove that:
  - water was supplied only through tankers/lorries; and
  - no packaged drinking water was supplied.

Mere assertion without supporting documents was insufficient.

4. One more opportunity should be granted

Although the petitioner had failed to produce adequate proof during assessment, the Court considered it appropriate to provide one further opportunity because:

- the petitioner claimed complete exemption; and
- justice required that relevant documents be examined before final determination.

Directions of the High Court

The Court directed that:

- the assessment order dated 15.12.2025 be set aside;
- the matter be remanded to the Assessing Officer;
- the petitioner shall file an additional reply along with supporting documents within two weeks; and
- the Assessing Officer shall reconsider the matter and pass a fresh order in accordance with law.

No additional conditions or pre-deposit requirements were imposed.

Ratio Decidendi

Where an assessee claims GST exemption on the ground that water is supplied exclusively through tankers or lorries, the burden of proving such exempt mode of supply rests on the assessee. In the absence of supporting evidence, exemption cannot be granted merely on assertion. However, where adequate opportunity has not been effectively availed, the matter may be remanded to enable the assessee to produce relevant documents and establish eligibility for exemption.

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TAX INSIGHTS
By
Tax Research Department

Direct Tax

13.06.2026

- **Whether the fifth and final instalment of deduction under section 35D could be disallowed when the same claim had been accepted in the preceding four assessment years?**
- **Whether ESOP expenses recharged by the holding company to the assessee in respect of the assessee's employees are allowable as business expenditure under section 37(1)?**
- **Whether share issue expenses incurred for raising equity to meet working capital and IRDAI solvency requirements are allowable as revenue expenditure under section 37(1)?**

Navi General Insurance Ltd. v. Assessment Unit, Income-tax Department
ITAT, Bangalore (05.06.2026)

Facts of the Case

The assessee, Navi General Insurance Ltd., engaged in the business of general insurance, filed its return of income declaring a loss.

During assessment, three major disallowances were made:

1. Preliminary Expenses (Section 35D)
   - The assessee claimed ₹1.74 crore, being the fifth and final instalment (1/5th) of preliminary expenses incurred for obtaining an IRDAI licence.
   - The Assessing Officer (AO) disallowed the claim alleging that:
     - the expenditure was not covered under section 35D(2); and
     - complete workings were not furnished.
2. ESOP Expenditure
   - The holding company issued ESOPs to employees of the assessee.
   - The holding company recharged the ESOP compensation cost to the assessee.
   - The assessee reimbursed the amount and claimed deduction under section 37(1).
   - The AO disallowed the expenditure, holding that:
     - no shares were allotted during the year; and
     - the payment was merely a reimbursement and not an allowable business expense.
3. Share Issue Expenses
   - The assessee incurred ₹18.57 lakh towards issue of equity shares.
   - The assessee claimed the expenditure as revenue expenditure under section 37(1), contending that the funds were raised:
     - for working capital; and
     - to satisfy IRDAI solvency norms.
   - The AO treated the expenditure as capital in nature.

The Commissioner (Appeals) upheld all three disallowances.

Tribunal's Decision

Issue 1: Deduction under Section 35D

Decision: Allowed in favour of the assessee.

Reasoning:

- The Revenue had already allowed identical deduction for four consecutive years (AYs 2017–18 to 2020–21).
- Once the deduction is accepted in the initial year, the Revenue cannot deny the final instalment without disturbing the original allowance.
- Consistency must be maintained.
- The Tribunal relied upon the Karnataka High Court decision in Subex Ltd. v. CIT.

Held:

The AO was directed to delete the disallowance of the fifth instalment under section 35D.

Issue 2: ESOP Recharge Expenses

Decision: Allowed in favour of the assessee.

Reasoning:

- The ESOP cost related exclusively to the assessee's own employees.
- The holding company merely recovered the cost from the assessee.
- The assessee had actually incurred the expenditure.
- Employees had paid tax on the ESOP benefit.
- The expenditure was wholly and exclusively for business purposes.
- Merely because payment was routed through the holding company, it did not become notional expenditure.

Held:

The ESOP recharge constituted an allowable business expenditure under section 37(1).

Issue 3: Share Issue Expenses

Decision: Decided against the assessee.

Reasoning:

- Share issue expenses are directly connected with expansion of the capital base.
- Even if equity is raised:
  - for working capital,
  - or to meet regulatory solvency norms,
  - the expenditure retains its capital character.
- The Tribunal followed the Supreme Court decision in Brooke Bond India Ltd. v. CIT.
- Decisions of coordinate benches relied upon by the assessee were distinguished.

Held:

Share issue expenses remain capital expenditure and are not deductible under section 37(1).

Key Takeaways

- Revenue authorities must maintain consistency in allowing amortised deductions under section 35D.
- ESOP costs recharged by a parent company are deductible where they represent genuine employee compensation incurred by the subsidiary.
- Share issue expenses continue to be capital expenditure, even if the capital is raised solely to meet working capital needs or regulatory solvency requirements.
- The Supreme Court's ruling in Brooke Bond India Ltd. remains the governing authority on the tax treatment of share issue expenses.

Goods & Services Tax

13.06.2026

- **Whether Section 6(2)(b) of the CGST Act bars CGST authorities from initiating proceedings where no prior State GST proceedings on the same subject matter exist?**
- **Whether the sealing of business premises and seizure of goods under Section 67 of the CGST Act can be challenged directly through a writ petition without availing statutory remedies?**
- **Whether provisional attachment of a bank account under Section 83 can be quashed through a writ petition when statutory remedies are available?**

Murliwala Pigment v. Union of India, High court og Rajasthan (20.04.2026)

Facts of the Case

- The petitioner, Murliwala Pigment, was a registered dealer under the Rajasthan GST Act.
- On 10 March 2026, CGST authorities conducted simultaneous searches under Section 67(2) at five business premises.
- During the search:
  - Goods were seized.
  - Four business premises were sealed.
  - The petitioner's bank account was provisionally attached through Form DRC-22 under Section 83.
- Summons were issued on 14 March 2026 and 18 March 2026.
- Although the petitioner submitted written replies, it failed to appear before the investigating authorities.
- Instead, the petitioner filed a writ petition challenging:
  - the sealing of premises,
  - seizure of goods,
  - provisional attachment of the bank account, and
  - the jurisdiction of the CGST authorities.

The petitioner relied heavily on the Supreme Court judgment in Armour Security (India) Ltd. and contended that Section 6(2)(b) prohibited parallel proceedings.

Petitioner's Contentions

The petitioner argued that:

- No coercive action should be taken merely on the basis of summons.
- Proceedings formally commence only upon issuance of a show cause notice.
- Section 67 does not authorize sealing of business premises in the manner adopted.
- The provisional bank attachment violated Section 83.
- Since proceedings were allegedly barred under Section 6(2)(b), the entire action of the CGST authorities was without jurisdiction.
- Business operations had come to a standstill due to sealing of the premises.

Revenue's Contentions

The Revenue submitted that:

- Search and seizure were validly conducted under Section 67.
- The petitioner failed to cooperate despite repeated summons.
- No proceedings had ever been initiated by State GST authorities on the same subject matter.
- The petitioner had adequate statutory remedies for:
  - release of seized goods,
  - de-sealing of premises, and
  - challenging provisional attachment.
- Therefore, the writ petition was not maintainable.

High Court's Decision

Issue 1: Applicability of Section 6(2)(b)
Decision: Held in favour of the Revenue.
Reasoning:
The Court observed that:

- Section 6(2)(b) applies only where a State GST or UTGST officer has already initiated proceedings on the same subject matter.
- The petitioner failed to establish:
  - any prior State GST investigation,
  - any existing show cause notice, or
  - any parallel proceedings concerning the same alleged tax liability.
- Therefore, the statutory bar under Section 6(2)(b) was not attracted.

The Supreme Court decision in Armour Security (India) Ltd. was held to be distinguishable on facts.

Issue 2: Legality of Sealing of Premises
Decision: Held in favour of the Revenue.
Reasoning:
The Court held that:

- Section 67(4) expressly empowers authorized officers to seal business premises during search proceedings.
- Section 67(6), read with Rules 140 and 141 of the CGST Rules, provides a complete statutory mechanism for:
  - provisional release of goods,
  - de-sealing of premises, and
  - furnishing bond and security.
- The petitioner had not invoked these statutory remedies.

Accordingly, a writ petition was not the appropriate remedy.

Issue 3: Provisional Attachment of Bank Account
Decision: Held in favour of the Revenue.
Reasoning:
The Court observed that:

- The provisional attachment was made under Section 83 to safeguard Government revenue.
- The petitioner failed to point out any procedural irregularity in issuing Form DRC-22.
- The statutory mechanism for challenging attachment had not been exhausted.
- In view of the availability of an effective alternative remedy, the writ petition was not maintainable.

Direct Tax

14.06.2026

Whether a donation made as part of mandatory Corporate Social Responsibility (CSR) expenditure to a trust approved under Section 80G qualifies for deduction under Section 80G despite the disallowance of CSR expenditure under Section 37(1)?

Cosmo First Ltd. v. Deputy Commissioner of Income-tax
ITAT, Delhi (05.06.2026)

Facts of the Case

- The assessee, Cosmo First Ltd., engaged in the manufacture of bi-axially oriented polypropylene films and flexible packaging films, filed its return for AY 2022–23.
- During the year, it incurred CSR expenditure of ₹3.55 crore, comprising:
  - ₹2.80 crore contributed to Cosmo Foundation, a trust approved under Section 80G; and
  - ₹75 lakh spent on other social welfare activities.
- The assessee:
  - voluntarily disallowed the entire CSR expenditure under Section 37(1); and
  - claimed deduction under Section 80G of ₹1.40 crore (50% of the eligible donation to Cosmo Foundation).
- The Assessing Officer (AO) denied the deduction, holding that CSR expenditure is mandatory and cannot be treated as a voluntary donation.
- The Dispute Resolution Panel (DRP) upheld the disallowance.
- The assessee also challenged:
  - denial of enhanced deduction under Section 80-IA;
  - non-consideration of revised TP adjustment;
  - TP adjustment on outstanding receivables from AEs.

Tribunal's Decision

Deduction under Section 80G for CSR Donation
Decision: Allowed in favour of the assessee.
Reasoning:

- The assessee had already disallowed the CSR expenditure under Section 37(1); therefore, there was no double deduction.
- Cosmo Foundation was a trust duly approved under Section 80G, and donations to such institutions qualify for deduction if statutory conditions are fulfilled.
- The Tribunal rejected the Revenue's contention that CSR expenditure loses the character of a "donation" merely because it is mandatory under the Companies Act.
- It relied on its own decision in the assessee's earlier assessment year and several coordinate bench rulings holding that:
  - CSR expenditure may be disallowable under Section 37(1),
  - but the same does not bar deduction under Section 80G where the recipient institution satisfies the prescribed conditions.

Held:
The assessee was entitled to claim deduction under Section 80G in respect of the eligible CSR donation.

Key Legal Principle

CSR Donation Eligible for Section 80G Deduction
A donation made to an institution approved under Section 80G does not lose eligibility merely because it constitutes CSR expenditure. While CSR expenditure is not deductible under Section 37(1), deduction under Chapter VI-A is independently governed by Section 80G.

Key Takeaways

- Mandatory CSR donations made to a Section 80G-approved trust remain eligible for deduction under Section 80G, even though the CSR expenditure itself is disallowable under Section 37(1).
- The provisions of Section 37(1) and Section 80G operate independently; denial of one does not automatically preclude relief under the other.

Goods & Services Tax

14.06.2026

- **Whether an order passed under Section 73 of the CGST/TGST Act after the expiry of the statutory limitation period is void for lack of jurisdiction?**
- **Whether administrative reasons, such as heavy workload or technical delay in uploading the order, can validate an order passed beyond the prescribed limitation period?**
- **Whether the appellate authority can sustain a time-barred assessment order by ignoring the jurisdictional defect?**

Divya Textile Industries v. Assistant Commissioner
HIGH COURT OF TELANGANA (08.06.2026)

Facts of the Case

- The petitioner, Divya Textile Industries, was issued a Show Cause Notice (SCN) under Section 73 of the Telangana GST Act for the tax period April 2019 to March 2020, alleging discrepancies between GSTR-9, GSTR-3B, and related records.
- The petitioner:
  - did not file objections in Form GST DRC-06;
  - did not avail the opportunity of personal hearing despite reminders.
- Consequently, the Proper Officer passed an ex parte best judgment assessment order.
- Under the notifications issued pursuant to Section 168A, the extended last date for passing orders under Section 73 for FY 2019–20 was 31 August 2024.
- However, the GST portal reflected that the assessment order was dated 2 September 2024 (Reference No. ZD360924002306K).
- The petitioner's appeal was dismissed on the ground of delay.
- The petitioner approached the Telangana High Court challenging both the assessment order and the appellate order.

Revenue's Contentions

The Department contended that:

- The Proper Officer was simultaneously holding charge of two GST circles and had to process hundreds of time-bound assessment orders before the limitation expired.
- The substantive assessment order had been completed before midnight on 31 August 2024, but could not be uploaded due to:
  - the large volume of pending orders,
  - change of date after midnight,
  - 1 September 2024 being a public holiday.
- The order was therefore uploaded on the next working day, i.e., 2 September 2024.
- The subsequent explanation furnished by the petitioner indicated that the major ITC dispute related to import IGST on capital goods, suggesting that there was no substantial revenue loss.

High Court's Decision

Issue 1: Validity of Order Passed Beyond Limitation

Decision: Held in favour of the assessee.

Reasoning:

The Court observed that:

- The extended statutory deadline for passing orders for FY 2019–20 expired on 31 August 2024.
- The impugned order was admittedly dated and uploaded on 2 September 2024.
- Limitation under Section 73 is not merely procedural; it directly affects the jurisdiction of the Proper Officer.
- Once the limitation period expires, the authority loses the legal power to determine tax liability.

Held:

The assessment order passed after 31 August 2024 was without jurisdiction and void in law.

Issue 2: Whether Administrative Difficulties Can Extend Limitation

Decision: Held against the Revenue.

Reasoning:

The Court held that:

- Heavy administrative workload,
- additional charge of multiple circles,
- delay in digital authentication, or
- technical constraints in uploading orders,

cannot extend or override a statutory period of limitation.

The Court emphasized that administrative inconvenience cannot confer jurisdiction where it has already ceased by operation of law.

Issue 3: Effect of Absence of Revenue Loss

Decision: Held to be irrelevant.

Reasoning:

The Department argued that subsequent verification suggested that there was no major revenue loss, as the disputed ITC pertained to import IGST on capital goods.

The Court held that:

- The existence or absence of revenue loss does not cure a jurisdictional defect.
- Once the order is barred by limitation, its merits become immaterial.

Direct Tax

15.06.2026

Whether reassessment notices issued under the reassessment regime could survive when there was ambiguity regarding the relevant Assessment Year (AY), particularly where the notices might pertain to AY 2015-16, which had already been held to be time-barred in light of the decision in Union of India v. Rajeev Bansal.

Income-tax Officer v. Sai Kumar Mateti
Supreme Court of India (04.05.2026)

Facts of the Case

- A batch of 103 civil appeals relating to reassessment proceedings was before the Supreme Court.
- These appeals were originally part of the larger batch decided in ITO v. Tej Partap Singh.
- However, they were segregated because it was believed that they related to AY 2015-16.
- The Revenue conceded that if the reassessment notices indeed pertained to AY 2015-16, they would be barred by limitation in view of the Supreme Court's ruling in Rajeev Bansal.
- Since there was uncertainty regarding the assessment year involved in each case, the Court had to determine the appropriate course of action.

Supreme Court's Decision

The Supreme Court held that:

If the case pertains to AY 2015-16

- The reassessment notices are liable to be struck down outrightly.
- This follows the Revenue's concession recorded in Rajeev Bansal that such notices are barred by limitation.

If the case pertains to any assessment year other than AY 2015-16

- The assessees shall be entitled to raise all contentions and legal objections available under the judgment in Tej Partap Singh.
- The issues must then be adjudicated in accordance with the principles laid down in that decision.

Remand to High Courts

- The Supreme Court set aside the impugned judgments.
- All matters were remanded to the respective jurisdictional High Courts.
- The High Courts were directed to first determine the relevant assessment year.
- Only if the assessment year is found to be other than AY 2015-16 should they proceed to examine the merits of the reassessment proceedings.

Key Principles Laid Down

- Determination of the correct assessment year is a threshold issue in reassessment litigation.
- Reassessment notices relating to AY 2015-16 cannot survive due to limitation, consistent with Rajeev Bansal.
- For other assessment years, taxpayers retain all challenges and defenses recognized by the Supreme Court in Tej Partap Singh.
- High Courts must undertake a fresh examination of reassessment disputes after first determining the relevant AY.

Practical Implications

- Assessees whose reassessment notices relate to AY 2015-16 can seek outright quashing of such notices on limitation grounds.
- Revenue authorities must establish the correct assessment year before defending reassessment proceedings.
- The decision ensures uniform application of the Supreme Court rulings in Rajeev Bansal and Tej Partap Singh.
- Numerous pending reassessment matters may now require fresh consideration by jurisdictional High Courts.

Key Takeaway

The Supreme Court clarified that reassessment notices pertaining to AY 2015-16 are time-barred and liable to be quashed, while disputes relating to other assessment years must be reconsidered by the respective High Courts in accordance with the principles laid down in ITO v. Tej Partap Singh. The Court therefore remanded all 103 appeals for fresh determination after identifying the relevant assessment year.

Goods & Services Tax

15.06.2026

Whether the developer failed to pass on the benefit of additional Input Tax Credit (ITC) accrued under GST to homebuyers through a commensurate reduction in prices, thereby violating Section 171 of the CGST Act, 2017, and whether the profiteered amount along with GST, interest, and penalty was recoverable.

DGAP v. Siddha Infradev LLP
GSTAT (20.05.2026)

Facts of the Case

- The complainants purchased a residential flat in the project "Siddha Sky" developed by Siddha Infradev LLP.
- It was alleged that after the introduction of GST, the developer received additional ITC benefits but did not pass on such benefits to buyers by reducing the sale price.
- The matter was referred to the Director General of Anti-Profiteering (DGAP) for investigation.
- Initially, DGAP determined profiteering based on the ITC-to-turnover methodology.
- Following the Delhi High Court's ruling in Reckitt Benckiser India Pvt. Ltd., the matter was re-investigated using the revised methodology.
- DGAP's final report found that:
  - Additional ITC benefit available post-GST was 8.69%.
  - Only 9 pre-GST homebuyers were eligible for the benefit.
  - Total profiteered amount was ₹57,08,244, and with GST @12%, the total came to ₹63,93,233.

Tribunal's Findings

1. Limitation under Rule 128 – Directory, Not Mandatory
   - The developer argued that the Standing Committee referred the matter to DGAP beyond the prescribed two-month period.
   - GSTAT rejected this contention.
   - It held that the timelines prescribed under Rule 128 are directory and not mandatory.
   - Procedural delays by authorities cannot defeat consumer rights under a beneficial legislation such as anti-profiteering provisions.
2. GST Component Forms Part of Profiteered Amount
   - The developer contended that GST of ₹6.85 lakh already stood deposited with the Government and therefore should not be included in the profiteered amount.
   - GSTAT rejected the argument.
   - Relying on the Delhi High Court's decision in Reckitt Benckiser, it held that the supplier had collected GST on an inflated price and therefore the GST component must also be refunded to consumers.
3. Interest @ 18% Payable
   - The developer argued that Section 171 does not authorize levy of interest.
   - GSTAT held that Rule 133(3)(b) validly provides for interest and has judicial backing.
   - Interest at 18% per annum was held payable from the date of collection of the excess amount until actual refund.
4. Penalty under Section 171(3A)
   - Since the profiteering period extended beyond 1 January 2020, the penalty provisions under Section 171(3A) were attracted.
   - The Tribunal held that the developer was liable to penalty equivalent to 10% of the profiteered amount, subject to the statutory benefit available if the amount was deposited within the prescribed period.

Decision

The GSTAT held that:

- Siddha Infradev LLP violated Section 171 of the CGST Act by not passing on the benefit of additional ITC to eligible homebuyers.
- The developer was directed to:
  - Refund ₹63,93,233 (including GST) to 9 eligible buyers.
  - Pay interest at 18% per annum from the date of collection till refund.
  - Face penalty proceedings under Section 171(3A).
  - Submit a compliance report within three months.

Key Takeaway

The GSTAT reaffirmed that a developer who retains the benefit of additional ITC without reducing prices violates the anti-profiteering provisions of Section 171. Such benefit, along with the GST collected on the inflated price, must be returned to homebuyers with 18% interest, and the developer may also be subjected to penalty proceedings.

TAX INSIGHTS

By

Tax Research Department

Direct Tax

16.06.2026

Whether Common Area Maintenance (CAM) charges paid by a tenant of commercial premises are subject to TDS under Section 194C (2%) as payments for maintenance services, or under Section 194I (10%) as part of rent, thereby making the assessee liable as an assessee-in-default under Sections 201 and 201(1A).

DCIT v. Air France
ITAT (29.05.2026)

Facts of the Case

- The assessee, Air France, a branch office of a foreign airline operating in India, occupied commercial premises as a tenant.
- Besides rent, it paid Common Area Maintenance (CAM) charges relating to:
  - Maintenance of lifts,
  - Security services,
  - Water and electricity in common areas,
  - Landscaping,
  - Parking facilities, and
  - Other common area services.
- The assessee deducted TDS on CAM charges at 2% under Section 194C.
- The Assessing Officer (AO) held that CAM charges formed part of the rental arrangement and therefore attracted Section 194I, requiring TDS at 10%.
- Consequently, the AO treated the assessee as an assessee-in-default and raised a demand of approximately ₹4.88 lakh under Sections 201 and 201(1A).
- The CIT(A) deleted the demand.
- The Revenue appealed before the ITAT.

Tribunal's Decision

The ITAT dismissed the Revenue's appeal and upheld the order of the CIT(A).

Key Findings

1. CAM Charges Are Separate from Rent

The Tribunal observed that CAM charges relate to specific services such as:

- Maintenance of common facilities,
- Security,
- Utilities in common areas,
- Landscaping, and
- Parking maintenance.

These services are distinct from the right to occupy the leased premises.

Accordingly, CAM charges cannot be treated as rent merely because they arise under the same lease arrangement.

2. CAM Charges Fall Within the Meaning of "Work" Under Section 194C

The Tribunal held that maintenance activities require:

- Deployment of manpower,
- Continuous operational services, and
- Separate maintenance functions.

Therefore, such payments are in the nature of contractual payments for carrying out work and squarely fall under Section 194C.

3. Single Agreement Does Not Change the Nature of CAM Charges

The Revenue argued that rent and CAM charges flowed from the same agreement and therefore should be treated uniformly.

Rejecting this contention, the Tribunal held that:

- CAM charges remain a separately identifiable transaction.
- Section 194C applies irrespective of:
  - Whether there is a separate agreement,
  - Whether the payment is made to the same party or different parties, and
  - Whether rent and CAM charges are invoiced under a common arrangement.

4. Reliance on Earlier Judicial Precedents

The Tribunal followed several earlier decisions including:

- Aero Club v. DCIT
- Yum Restaurants India Pvt. Ltd.
- Connaught Plaza Restaurants Pvt. Ltd.
- HV Global Pvt. Ltd.

which consistently held that CAM charges attract TDS under Section 194C.

5. Revenue's Reliance on Apeejay Surrendra Park Hotels Rejected

The Revenue relied on Apeejay Surrendra Park Hotels Ltd. v. UOI.

The Tribunal distinguished the decision, noting that it concerned TDS on hotel room payments by tour operators and not CAM charges in commercial leasing arrangements.

Final Ruling

The Tribunal held that:

- Rent is subject to TDS under Section 194I at 10%.
- CAM charges are subject to TDS under Section 194C at 2%.
- The assessee had correctly deducted TDS on CAM charges.
- Therefore, the assessee could not be treated as an assessee-in-default under Sections 201 and 201(1A).

The Revenue's appeal was dismissed.

Goods & Services Tax

16.06.2026

Whether Input Tax Credit (ITC) relating to imports, SEZ procurements and Reverse Charge Mechanism (RCM) transactions for the period prior to 1 January 2022 can be denied merely because such credits did not appear in GSTR-2A, resulting in a mismatch with GSTR-3B.

Biocon Ltd. v. State of Karnataka
High Court of Karnataka (30.04.2026)

Facts of the Case

- The assessee, Biocon Ltd., was subjected to GST audit for FY 2018-19.
- During audit, the department compared ITC claimed in GSTR-3B with auto-populated credits appearing in GSTR-2A.
- The department noticed a difference of ₹20.01 crore and treated it as excess ITC availed by the company.
- Consequently, proceedings under section 73 of the CGST/KGST Act were initiated and a demand comprising:
  - Tax: ₹20.01 crore
  - Interest: ₹19.20 crore
  - Penalty: ₹2.00 crore
- was confirmed.
- The assessee contended that:
  - The mismatch arose because ITC relating to imports, SEZ procurements, and RCM transactions was not reflected in GSTR-2A during FY 2018-19 due to GST portal limitations.
  - Import ITC had been wrongly reported under "All Other ITC" instead of "Import of Goods" in GSTR-3B, which was later corrected in GSTR-9.
  - Bills of Entry and other supporting documents substantiated the ITC claim.

Assessee's Arguments

1. Prior to August 2020, GSTR-2A did not capture:
   - Import transactions;
   - SEZ procurements; and
   - Certain RCM transactions.
2. ITC cannot be denied merely because it was absent in GSTR-2A when the system itself was not designed to display such credits.
3. Under Rule 36(1)(d) of the CGST Rules, a Bill of Entry is a valid document for availing ITC on imports.
4. Section 16(2)(aa), which introduced invoice matching requirements, became effective only from 01.01.2022 and therefore could not be applied retrospectively.

Department's Contentions

- The department argued that the ITC claimed in GSTR-3B exceeded the ITC available in GSTR-2A.
- It rejected the assessee's explanation regarding incorrect disclosure in returns and subsequent correction through GSTR-9.
- According to the department, ITC not correctly claimed within the prescribed time limit under section 16(4) could not be subsequently regularised through GSTR-9.

Decision of the High Court

The Karnataka High Court held in favour of the assessee and ruled that:

- GSTR-2A during FY 2018-19 was not designed to capture import and SEZ-related ITC.
- Therefore, denial of ITC merely because it was absent in GSTR-2A was unsustainable.
- Bills of Entry constitute sufficient documentary evidence for availing ITC on imported goods.
- The requirement of matching ITC with supplier-uploaded invoices became relevant only after insertion of section 16(2)(aa) with effect from 01.01.2022.
- Mere reporting errors in GSTR-3B cannot defeat a substantive ITC claim when the credit is otherwise eligible and duly supported by documents.

Accordingly, the Court:

1. Quashed the demand of ₹20.01 crore relating to alleged excess ITC along with corresponding interest and penalty.
2. Set aside and remanded other issues in the assessment order back to the adjudicating authority for fresh consideration.

Key Takeaways

- GSTR-2A mismatch alone is not a ground for denial of ITC for pre-2022 periods.
- Bill of Entry is a sufficient document for availing import ITC.
- Section 16(2)(aa) requiring invoice matching applies prospectively from 01.01.2022.
- Substantive entitlement to ITC cannot be denied because of procedural or reporting errors.
- The ruling provides significant relief to taxpayers facing disputes involving historical GSTR-2A and GSTR-3B mismatches.

TAX INSIGHTS

By

Tax Research Department

Direct Tax

17.06.2026

Whether an addition under Section 69 for unexplained investment in immovable property can be sustained when the assessee establishes that the entire purchase consideration was paid directly by her father from his disclosed bank account, despite the absence of a formal gift deed.

Sameena Shamsuddin Sayed v. Income-tax Officer
ITAT, Mumbai (27.05.2026)

Facts of the Case

- The assessee was a homemaker with no independent source of income and had not filed a return of income for AY 2016-17.
- Information received through the RMS/Insight Portal indicated that she had purchased an immovable property worth ₹1.10 crore during the relevant year.
- Consequently, proceedings under Section 148A were initiated.
- The assessee explained that:
  - The entire purchase consideration was paid by her father, a businessman and regular income-tax assessee.
  - The property was purchased in her name out of natural love and affection.
  - Payments of ₹55 lakh each were made directly by her father to the seller from his ICICI Bank account.
- In support of her claim, she furnished:
  - Registered sale deed;
  - Father's death certificate; and
  - Bank statements evidencing direct payments to the seller.

Assessing Officer's Findings

The Assessing Officer rejected the explanation on the grounds that:

1. The source of credits appearing in the father's bank account had not been explained.
2. No formal gift deed had been executed.
3. Therefore, the investment of ₹1.10 crore represented unexplained investment under Section 69, taxable under Section 115BBE.

Proceedings before CIT(A)

- The assessee preferred an appeal before the CIT(A).
- However, the appeal was dismissed in limine due to a delay of 79 days in filing the appeal without examining the matter on merits.

Decision of the Tribunal

The Tribunal ruled in favour of the assessee and held that:

1. Source of Investment Was Properly Explained

The assessee discharged the initial burden by establishing that:

- The funds originated from her father's disclosed bank account.
- Payments were made directly to the seller through banking channels.
- Documentary evidence fully supported the transaction.

Once the source of funds was identified, the burden shifted to the Revenue to rebut the explanation with adverse evidence.

2. No Evidence of Undisclosed Income of Assessee

The Revenue failed to establish that:

- The assessee had any independent source of income; or
- The investment originated from undisclosed income of the assessee.

Suspicion regarding the father's bank credits could not justify an addition in the hands of the daughter.

3. Gift Deed Not Mandatory

The Tribunal observed that:

- In Indian family arrangements, it is common for parents to purchase property in the name of children out of love and affection.
- Absence of a formal gift deed does not render such transactions unexplained when:
  - payment trail exists;
  - identity of donor is established; and
  - transaction is supported by documentary evidence.

4. Delay in Filing Appeal Should Be Condoned

The Tribunal held that:

- The assessee was a homemaker dependent upon tax consultants.
- The delay was sufficiently explained.
- Substantial justice should prevail over technical procedural objections.

Accordingly, the delay of 79 days was condoned.

Tribunal's Decision

- Delay in filing appeal before CIT(A) was condoned.
- Addition of ₹1,10,00,000 under Section 69 was deleted in entirety.
- The appeal of the assessee was allowed.

Key Takeaways

- A formal gift deed is not indispensable to prove a genuine gift from parent to child.
- Documentary evidence and banking trail are more important than the form of documentation.
- Suspicion cannot substitute evidence for making additions under Section 69.
- The Revenue cannot tax an assessee merely because doubts exist regarding a third party's source of funds.
- Courts and Tribunals favour substantive justice over procedural technicalities such as minor delays in filing appeals.

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TAX INSIGHTS

By
Tax Research Department

Goods & Services Tax

17.06.2026

Whether a service tax demand can be sustained when it is raised solely on the basis of information available in Income-tax Form 26AS, without any independent examination of the nature and taxability of services rendered and without recording the statutory conditions necessary for invoking the extended limitation period under Section 73(1) of the Finance Act, 1994.

Debojit Deb v. Union of India
HIGH COURT OF GAUHATI (12.06.2026)

Facts of the Case

- The assessee was a proprietary concern engaged in execution of roads, bridges and allied infrastructure projects for Government departments including the Public Works Department, Assam.
- The assessee was registered under the service tax law and claimed exemption under Entries 12 and 13 of Notification No. 25/2012-ST dated 20.06.2012 in respect of works contract services provided to Government entities.
- The department obtained payment details from the assessee's Form 26AS and initiated service tax proceedings for FY 2016-17.
- Based solely on Form 26AS figures, the department confirmed:
  - Service tax demand of ₹60,52,413,
  - Interest under Section 75,
  - Penalty of ₹10,000 under Section 77, and
  - Equivalent penalty of ₹60,52,413 under Section 78.
- The demand was raised by invoking the extended period of limitation under the proviso to Section 73(1) of the Finance Act, 1994.

Assessee's Contentions

The assessee contended that:

1. The services provided to Government departments were exempt under Notification No. 25/2012-ST.
2. Form 26AS merely reflected receipts after TDS deduction and could not determine service tax liability.
3. The department failed to independently examine:
   - the nature of services rendered,
   - applicability of exemptions, and
   - actual taxability under the Finance Act, 1994.
4. The show cause notice was allegedly never served, resulting in denial of opportunity of hearing.
5. The extended period under Section 73(1) was invoked without alleging or establishing:
   - fraud, collusion, wilful misstatement, suppression of facts, or intent to evade tax.

Revenue's Stand

The department relied upon:

- Information available in Form 26AS;
- Transitional and saving provisions under GST laws to continue recovery proceedings; and
- Invocation of the extended limitation period for raising the demand.

Decision of the High Court

The Gauhati High Court ruled in favour of the assessee and held that:

1. Form 26AS Alone Cannot Determine Service Tax Liability

The Court observed that:

- Form 26AS merely records payments subjected to TDS under income-tax law.
- It does not establish:
  - the nature of services,
  - taxability of transactions, or
  - eligibility of exemptions under service tax law.

Accordingly, service tax demand cannot be founded solely on Form 26AS data.

2. Independent Scrutiny is Mandatory

Before raising a service tax demand, the department must independently examine:

- nature of services rendered;
- whether services are exempt;
- whether liability falls on service provider or recipient; and
- the applicable statutory provisions.

Failure to undertake such examination renders the demand unsustainable.

3. Preconditions for Extended Limitation Must Be Recorded

The Court reiterated that invocation of the extended period under Section 73(1) requires specific findings regarding:

- fraud; collusion; wilful misstatement; suppression of facts; or deliberate contravention with intent to evade tax.

In the absence of such findings, assumption of jurisdiction under the proviso to Section 73(1) becomes unauthorized.

4. Reliance on Earlier Decision in Technocom

The Court followed its earlier decision in:
Technocom v. Union of India
which had already settled the issue that service tax demands based solely on Form 26AS without independent scrutiny are legally unsustainable.

Final Decision

The Gauhati High Court:

- Set aside the Order-in-Original dated 31.03.2023;
- Quashed the appellate order dated 29.02.2024;
- Deleted the entire service tax demand of ₹60,52,413; and
- Set aside all consequential interest and penalties.

The writ petition was accordingly allowed.

Direct Tax

18.06.2026

Whether bonus shares received on shares originally held as stock-in-trade can be treated as capital assets when the assessee classifies them as non-current investments from the date of allotment, thereby making gains on their sale taxable as Long-Term Capital Gains (LTCG) instead of business income.

Income-tax Officer v. Goldflag Holdings (P.) Ltd.
ITAT, Bangalore (22.05.2026)

Facts of the Case

- The assessee was engaged in the business of stock and commodity trading.
- It originally held Infosys Ltd. shares as stock-in-trade.
- During FY 2014-15:
    - The assessee received bonus shares on these holdings.
    - The original shares were sold.
    - The bonus shares were separately classified as non-current investments from the date of allotment.
- Since bonus shares had nil cost of acquisition, they appeared in the balance sheet with zero carrying value.
- The bonus shares were held for more than 12 months before being sold.
- The assessee claimed the gain of ₹3.55 crore as exempt LTCG.

Assessment Proceedings

The Assessing Officer (AO):

- Held that the original shares were stock-in-trade.
- Therefore, bonus shares automatically inherited the same character.
- Treated the sale proceeds of ₹3.55 crore as business income under Section 28.
- Rejected the claim of exempt LTCG.

Assessee's Contentions

The assessee argued that:

- Bonus shares were intentionally treated as capital investments, not stock-in-trade.
- They were classified as non-current investments immediately upon allotment.
- They were held for more than 12 months.
- CBDT Circular No. 6/2016 requires the AO not to dispute the assessee's treatment of listed shares held for more than 12 months as capital assets.
- Reliance was also placed on:
    - CBDT Circular No. 4/2007
    - CBDT Circular No. 6/2016
    - CIT v. Madan Gopal Radhey Lal (SC)
    - PCIT v. Ashok Apparels (Bombay HC)

Decision of the ITAT

The Tribunal upheld the order of the CIT(A) and dismissed the Revenue's appeal.

Findings of the CIT(A)

The Commissioner (Appeals) held that:

- The bonus shares were consistently reflected as non-current investments.
- Nil cost in the balance sheet was appropriate because bonus shares have zero cost of acquisition.
- The assessee's intention to hold them as investments was clearly established.
- Following CBDT Circular No. 6/2016 and judicial precedents, the gains were taxable as Long-Term Capital Gains, exempt for AY 2017-18.

Key Findings

- Bonus shares were classified as non-current investments from the date of allotment.
- They were held for more than 12 months before transfer.
- CBDT Circular No. 6/2016 is binding on the Assessing Officer.
- Where an assessee chooses to treat listed shares held for more than 12 months as capital assets, the AO should not dispute such treatment.
- Bonus shares do not automatically acquire the character of stock-in-trade merely because the original shares were held as stock-in-trade.
- Accordingly, gains on sale of the bonus shares were taxable as Long-Term Capital Gains, which were exempt for the relevant assessment year.

Legal Principles Laid Down

1. Bonus shares do not automatically inherit the character of the original shares.
2. The assessee's intention, as evidenced by accounting treatment and conduct, is a significant factor in determining whether shares are capital assets or stock-in-trade.
3. CBDT Circular No. 6/2016 is binding on tax authorities and protects an assessee's claim of capital gains on listed shares held for more than 12 months.
4. Bonus shares received on stock-in-trade may nevertheless be held as capital investments, depending on the facts.

Key Judicial Precedents Relied Upon

- CIT v. Madan Gopal Radhey Lal (1969) 73 ITR 652 (SC) – Bonus shares are capital receipts and do not automatically become stock-in-trade merely because the original shares formed part of trading stock.
- PCIT v. Ashok Apparels (P.) Ltd. (Bombay High Court) – Followed the Supreme Court's principle that bonus shares can be treated as capital assets based on the assessee's intention and treatment.

Goods & Services Tax

18.06.2026

Whether the GST Department was justified in invoking the extended limitation period under Section 74 on the ground that the taxpayer had suppressed the value of outward supplies, based on the disparity between seigniorage fees paid and turnover declared in GSTR-1, and whether the assessment based on the National Standard Method was legally sustainable.

KPR Enterprises v. State Tax Officer
HIGH COURT OF MADRAS (12.06.2026)

Facts of the Case

- The petitioner was engaged in the business of sale of rock boulders.
- Extraction of boulders was outsourced to a contractor.
- An inspection was conducted in March 2024.
- The petitioner claimed:
  - No incriminating material was found during inspection.
  - GST had already been discharged on the supplies.
  - The contractor had extracted and sold the boulders.
- The Department issued:
  - DRC-01A intimations
  - DRC-01 show cause notices
  - DRC-07 demand orders
- The Department compared:
  - High seigniorage fees paid for mineral extraction, and
  - Lower outward supplies declared in GSTR-1.
- Using the National Standard Method, the Department estimated the quantity extracted and concluded that turnover had been substantially under-reported.

Petitioner's Contentions

The petitioner argued that:

- No evidence of fraud or suppression was found during inspection.
- The contractor was responsible for extraction and sale.
- GST liability had already been discharged.
- The impugned orders did not establish fraud, wilful misstatement, or suppression.
- No adequate opportunity of personal hearing was granted.
- Therefore, invocation of Section 74 and the extended limitation period was invalid.

Department's Stand

The Department contended that:

- There was a significant mismatch between:
  - seigniorage fee paid, and
  - turnover reported in GSTR-1.
- Higher extraction necessarily indicated higher outward supplies.
- Escaped turnover was reasonably estimated using the National Standard Method.
- Suppression of outward supplies justified proceedings under Section 74.
- All procedural requirements, including DRC-01A, DRC-01 and consideration of replies, had been complied with.

Decision of the High Court

The Madras High Court dismissed the writ petitions and upheld the Department's action.

Key Findings

1. Prima facie material existed for invoking Section 74

The Court held that:

- The petitioner paid substantial seigniorage fees, indicating significant mineral extraction.
- However, the turnover declared in GSTR-1 was disproportionately low.
- This constituted sufficient prima facie material to suspect suppression of outward supplies.

2. Extended limitation under Section 74 was justified

The Court observed that:

- Section 74 uses the expression "where it appears", requiring only a prima facie basis at the stage of issuing notice.
- The available material was sufficient to invoke the extended limitation period.

3. Estimation using the National Standard Method was acceptable

The Court held that:

- The Department reasonably estimated escaped turnover based on:
  - seigniorage fee paid, and
  - standard conversion methodology.
- It was highly improbable that large seigniorage fees would be paid for extracting only small quantities of minerals.

4. No procedural violation

The Court found that:

- The Department had issued:
  - DRC-01A,
  - DRC-01,
  - considered replies, and
  - passed reasoned DRC-07 orders.
- Therefore, no procedural irregularity warranting interference under Article 226 was established.

5. Liberty to pursue statutory appeal

Although dismissing the writ petitions, the Court permitted the petitioner to:

- file a statutory appeal within 30 days, and
- directed that the appellate authority decide the appeal on merits without rejecting it on limitation.

Direct Tax

19.06.2026

Whether an assessment order and DRP directions passed in the name of an amalgamating company that had ceased to exist, despite the Assessing Officer (AO), Transfer Pricing Officer (TPO), and Dispute Resolution Panel (DRP) being duly informed of the amalgamation and subsequent name change, are valid in law.

Brevo CRM Solutions (P.) Ltd. v. Assessment Unit, Income-tax Department, ITO
ITAT, Delhi (29.05.2026)

Facts of the Case

- Silver Line IT Solutions Pvt. Ltd. filed its return of income for AY 2022-23.
- Pursuant to an NCLT-approved Scheme of Amalgamation:
    - Silver Line IT Solutions Pvt. Ltd. merged with Creatorbox Softwares Pvt. Ltd. with effect from 1 April 2024.
    - Subsequently, Creatorbox Softwares Pvt. Ltd. changed its name to Brevo CRM Solutions Pvt. Ltd. on 16 April 2025.
- The assessee:
    - Intimated the AO, TPO, and DRP about the amalgamation and name change through written communications before the assessment proceedings concluded.
- The case involved transfer pricing scrutiny.
- Despite the intimations:
    - The DRP issued directions on 31 October 2025, and
    - The AO passed the final assessment order on 25 November 2025
    - Both documents were issued in the name of Silver Line IT Solutions Pvt. Ltd., which no longer existed.

Assessee's Contentions

The assessee contended that:

- The assessment order was passed against a non-existent entity.
- The tax authorities had been duly informed of:
    - the NCLT-approved amalgamation, and
    - the subsequent change of name.
- An assessment against a non-existent company is without jurisdiction and void.
- Reliance was placed on:
    - PCIT v. Maruti Suzuki India Ltd. (Supreme Court).

Revenue's Stand

The Revenue submitted that the assessment proceedings had been validly conducted and defended the impugned order.

Decision of the ITAT

The Delhi ITAT allowed the assessee's appeal and set aside both:

- the DRP directions, and
- the final assessment order.

The stay application was dismissed as infructuous.

Key Findings

1. Assessment was passed in the name of a non-existent entity

The Tribunal noted that:

- The amalgamation had become effective pursuant to the NCLT order.
- Silver Line IT Solutions Pvt. Ltd. ceased to exist after amalgamation.
- Despite receiving formal intimation, both the DRP and AO continued proceedings in the name of the dissolved company.

2. Authorities had prior knowledge of the merger

The Tribunal found that:

- Written intimations regarding:
    - amalgamation, and
    - subsequent change of name
    - had been furnished to the DRP, AO and TPO before the DRP directions and final assessment order were issued.

Thus, the defect was not merely procedural, but arose despite the authorities having actual knowledge of the merger.

3. Assessment against a non-existent entity is void

Relying on the Supreme Court's decision in PCIT v. Maruti Suzuki India Ltd., the Tribunal held that:

- Once a company is amalgamated, it loses its legal existence.
- Any assessment order subsequently passed in its name is without jurisdiction and legally unsustainable.

4. Entire assessment became invalid

Since the DRP directions themselves were issued in the name of the non-existent company, the consequential final assessment order was also invalid and liable to be quashed.

Judicial Precedents Relied Upon

- PCIT v. Maruti Suzuki India Ltd. (2019) 416 ITR 613 (SC) – Assessment on a non-existent amalgamating company is void and without jurisdiction.
- National Thermal Power Co. Ltd. v. CIT (1998) 229 ITR 383 (SC) – A pure question of law going to the root of the matter may be raised as an additional ground before the Tribunal.

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TAX INSIGHTS
By
Tax Research Department

Goods & Services Tax

19.06.2026

Whether writ petitions under Article 226 are maintainable when the petitioners have an effective statutory remedy of appeal under Section 107 of the CGST/RGST Act.

Balaji Cement Agency v. Union of India
HIGH COURT OF RAJASTHAN (30.04.2026)

Facts of the Case

- The petitioners approached the Rajasthan High Court by filing writ petitions challenging GST orders.
- A statutory remedy of appeal was available before the Appellate Authority under Section 107 of the CGST/RGST Act.
- The High Court was required to consider whether the writ petitions should be entertained despite the availability of the appellate remedy.

Petitioners' Position

The petitioners invoked the writ jurisdiction of the High Court instead of filing statutory appeals under Section 107.

Decision of the High Court

The Rajasthan High Court disposed of the writ petitions, holding that the petitioners should avail the statutory appellate remedy under Section 107.

Key Findings

1. Alternative remedy bars exercise of writ jurisdiction

The Court observed that:

- The petitioners admittedly had an effective remedy of appeal under Section 107.
- Therefore, the writ petitions were not maintainable.

2. Liberty granted to file statutory appeals

The Court granted liberty to the petitioners to:

- file appeals before the Appellate Authority; and
- raise all legal and factual grounds before the appellate forum.

3. Appeals to be decided on merits

The Appellate Authority was directed to:

- consider the appeals on their merits; and
- adjudicate all issues raised by the petitioners.

4. Relaxation regarding limitation

The Court further directed that:

- if the appeals are filed within 30 days from the date of the High Court's order, the Appellate Authority shall not reject them on the ground of limitation and shall decide them on merits.

Legal Principles Laid Down

1. Where an effective statutory remedy of appeal exists under Section 107 of the CGST Act, writ jurisdiction under Article 226 will ordinarily not be exercised.
2. Taxpayers should ordinarily exhaust the statutory appellate mechanism before approaching the High Court.
3. High Courts may, in appropriate cases, protect the taxpayer by directing the appellate authority to entertain an appeal without examining limitation, provided it is filed within the time stipulated by the Court.
4. All legal and factual issues may be urged before the statutory appellate authority.

Practical Significance

This decision reiterates the settled principle that:

- The statutory appeal under Section 107 is the primary remedy against GST adjudication orders.
- High Courts generally decline to entertain writ petitions where such an effective alternative remedy exists, unless exceptional circumstances (such as lack of jurisdiction or violation of natural justice) are demonstrated.
- Taxpayers who approach the High Court prematurely may still receive equitable relief by being permitted to file an appeal within a specified period, with protection against dismissal on the ground of limitation.

Direct Tax

20.06.2026

Whether, while computing disallowance under Section 14A read with Rule 8D(2)(ii) for indirect expenses:

1. **Investments in Mutual Funds and Tax-Free Bonds should be excluded from the investment base, and**
2. **Whether no further disallowance is required where the assessee's suo motu disallowance is equal to or higher than the Rule 8D computation.**

Quick Heal Technologies Ltd. v. Income-tax Officer
ITAT, Pune (02.06.2026)

Facts of the Case

- The assessee, a listed company, earned exempt income and made a suo motu disallowance of ₹18.18 lakhs, comprising:
  - Direct expenses: ₹12.56 lakhs
  - Indirect expenses: ₹6.62 lakhs
- The Assessing Officer applied Rule 8D(2)(ii) and computed disallowance at 1% of the annual average of monthly average investments, arriving at about ₹2.44 crores (before adjustments).
- The AO reduced the assessee's suo motu indirect disallowance and made a net disallowance of ₹2.37 crores under Section 14A.
- The assessee challenged the computation, particularly:
  - inclusion of Mutual Funds and Tax-Free Bonds in the investment base, and
  - excess disallowance beyond suo motu computation.

Assessee's Contentions

- Rule 8D computation should exclude:
  - Mutual Fund investments, and
  - Tax-Free Bonds, as they already involve embedded expenses or minimal active management.
- The assessee had already made a reasonable suo motu disallowance covering direct and indirect expenses.
- No further disallowance should be made where Rule 8D computation does not exceed suo motu disallowance.

Revenue's Stand

- Supported the AO's computation under Rule 8D.
- Argued that statutory formula applies to all investments forming part of the average value base.

Decision of the ITAT

The Tribunal gave a partly favourable ruling to the assessee and directed recalculation.

Key Findings

1. Exclusion of Mutual Funds and Tax-Free Bonds
   - For computing disallowance under Rule 8D(2)(ii), the AO must:
     - compute 1% of the annual average of monthly averages, but exclude investments in Mutual Funds and Tax-Free Bonds.

Reasoning:
- Mutual funds already involve built-in management expenses.
- Tax-free bonds require minimal monitoring and are passive investments.

2. Suo motu disallowance vs Rule 8D computation

The Tribunal held:
- If the Rule 8D(2)(ii) computation is less than or equal to the assessee's suo motu disallowance:
  - No further disallowance is required.
- If it is higher, then:
  - only the excess over suo motu disallowance can be added.

3. Rule 8D amendment relevance
   - The Tribunal noted that post-2016 amendments to Rule 8D, earlier precedents cannot be mechanically applied.

Legal Principles Laid Down

1. Mutual Funds and Tax-Free Bonds are to be excluded from investment base for Rule 8D(2)(ii) computation of indirect expenses.
2. Section 14A disallowance under Rule 8D is not automatic and must be adjusted against suo motu disallowance already made by the assessee.
3. Disallowance cannot exceed actual computed amount under Rule 8D after proper adjustments.
4. Post-2016 Rule 8D requires fresh application of principles; earlier case law may not apply directly.

Outcome

- Assessee's appeal partly allowed for statistical purposes.
- Matter remanded for fresh computation by AO in accordance with Tribunal's directions.

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TAX INSIGHTS

By

Tax Research Department

Goods & Services Tax

20.06.2026

Whether the GST authorities can refuse to restore GST registration despite a clear appellate order directing restoration, merely because:
- **the department has filed an appeal against the appellate order, and/or**
- **a subsequent survey allegedly indicates non-functioning of business.**

Shivansh FMCG India (P.) Ltd. v. Union of India
HIGH COURT OF ALLAHABAD (15.05.2026)

Facts of the Case

- The petitioner's GST registration was cancelled under Rule 21(a) and 21(b) alleging:
  - non-existence of business at declared premises, and
  - issuance of invoices without supply.
- The cancellation order dated 29.07.2025 was challenged.
- The Appellate Authority allowed the appeal on 27.01.2026, and:
  - set aside the cancellation/rejection order, and
  - gave a clear direction to restore GST registration immediately.
- Despite this:
  - the department did not restore registration, citing:
    - filing of further appeal, and
    - a subsequent survey (15.04.2026) suggesting no business activity.

Petitioner's Contention

- Once the appellate authority directed restoration, the department was bound to comply immediately.
- Filing of appeal by revenue does not operate as an automatic stay.
- Continued refusal to restore registration was illegal and arbitrary.

Revenue's Stand

- Since an appeal against the appellate order was pending, restoration was not necessary.
- A later survey indicated that no business was being carried out.
- Therefore, non-restoration was justified.

Decision of the High Court

The Allahabad High Court allowed the writ petition and directed immediate restoration of GST registration.

Key Findings

1. No automatic stay on filing appeal
   - The Court held that:
     - Filing of an appeal does not automatically stay the operation of the appellate order.
     - There is no statutory provision under GST law granting automatic stay in such cases.
   - Therefore, the department was legally bound to comply with the appellate order.
2. Binding nature of appellate order
   - The appellate authority had passed a clear and positive direction to restore registration.
   - Such an order must be implemented unless stayed by a competent authority.
3. Subsequent survey cannot override appellate order
   - The department's reliance on a later survey was rejected.
   - The Court observed:
     - Once registration was cancelled, premises could naturally remain inactive or locked.
     - A post-cancellation survey cannot justify non-compliance with a binding appellate direction.
4. Arbitrary conduct by revenue
   - The Court found the department's refusal to restore registration to be arbitrary and unreasonable.

Final Directions

- GST registration must be restored forthwith (within a specified deadline).
- However, such restoration will remain subject to the outcome of the revenue's appeal against the appellate order.

Legal Principles Laid Down

1. Filing of an appeal does not amount to automatic stay of the appellate order under GST law.
2. Authorities are bound to comply with appellate directions unless a stay is granted.
3. Administrative action (like surveys) cannot override or dilute a binding appellate order.
4. Restoration of GST registration must follow appellate directions without delay.

Practical Significance

This judgment reinforces that:
- GST authorities cannot delay compliance with appellate orders by merely citing pendency of appeal.
- Taxpayers are entitled to immediate restoration of registration once allowed by appellate authority.
- Any interim concerns (like alleged non-business activity) must be addressed through proper legal channels, not by ignoring appellate mandates.
- The decision strengthens rule of law and enforceability of appellate remedies under GST.

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TAX INSIGHTS

By

Tax Research Department

Direct Tax

21.06.2026

Whether finance costs incurred for obtaining a fresh loan are allowable as a business expenditure under Section 37(1) when the borrowed funds are used for:

- **repayment of an existing bank loan;**
- **refund of share application money; and**
- **advances to a subsidiary company and a related party.**

Principal Commissioner of Income-tax v. Ebony Retail Holdings Ltd.
High Court of Delhi (09.04.2026)

Facts of the Case

- The assessee obtained a fresh loan of ₹42 crore.
- It incurred finance costs of ₹6.25 crore for obtaining the loan.
- The loan proceeds were utilized as follows:
  - ₹33 crore – repayment of an existing loan from Standard Chartered Bank.
  - ₹6.28 crore – refund of share application money.
  - ₹2.55 crore – advance to a subsidiary company.
  - ₹1.05 crore – advance to a related party.
- The Assessing Officer (AO) disallowed the entire finance cost, holding that the loan was not utilized for business purposes.

Proceedings Before Lower Authorities

Assessing Officer (AO)

- Disallowed the entire finance cost of ₹6.25 crore.
- Held that the borrowed funds were not used wholly and exclusively for business.

Commissioner of Income-tax (Appeals) [CIT(A)]

- Allowed deduction of ₹5.72 crore.
- Sustained disallowance of ₹52.85 lakh, being proportionate finance cost attributable to loans advanced to the subsidiary and related party.

Income Tax Appellate Tribunal (ITAT)

- Upheld the order of the CIT(A).
- Both the Revenue's and assessee's appeals were dismissed.

Decision of the High Court

The High Court dismissed the Revenue's appeal and upheld the orders of the CIT(A) and the ITAT.

Key Findings of the Court

1. Commercial Wisdom Cannot Be Questioned
   - The decision to replace an existing loan with a fresh loan is a matter of commercial prudence.
   - There may be several valid business reasons, such as:
     - obtaining finance at a lower interest rate;
     - changing bankers;
     - improving financial arrangements.
   - The AO cannot substitute his own judgment for the assessee's commercial decision.
2. Repayment of Existing Loan is a Business Purpose
   - Borrowing funds to repay an earlier business loan is a legitimate business necessity.
   - Finance costs incurred for such borrowing are allowable under Section 37(1).
3. Refund of Share Application Money is a Statutory Obligation
   - Refunding share application money is a legal obligation of the company.
   - If a company borrows funds to discharge this obligation, the borrowing is for business purposes.
   - Such expenditure cannot be treated as incurred for non-business or personal purposes.
4. Diversion of Funds to Subsidiary/Related Party
   - The Court agreed with the CIT(A) that finance costs attributable to loans advanced to the subsidiary and related party were not allowable.
   - Accordingly, the proportionate disallowance was correctly sustained.

Final Outcome

- Revenue's appeal: Dismissed.
- Deduction allowed: Finance costs relating to repayment of the earlier bank loan and refund of share application money.
- Deduction disallowed: Proportionate finance costs attributable to advances made to the subsidiary company and the related party.

Key Takeaways

- Commercial decisions regarding refinancing of loans are generally beyond the scope of scrutiny by the Assessing Officer.
- Repayment of an existing business loan through fresh borrowings is a legitimate business purpose.
- Borrowing to refund share application money satisfies a statutory business obligation and supports deduction of related finance costs.
- Interest or finance costs relating to funds diverted to subsidiaries or related parties without business justification may be disallowed on a proportionate basis.

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TAX INSIGHTS

By
Tax Research Department

Goods & Services Tax

21.06.2026

Whether an assessee, whose show cause notice (SCN) was issued before the amendment introducing the mandatory 10% pre-deposit for filing a first appeal under Section 107 of the CGST Act, can claim that the vested right of appeal is governed by the earlier law, and whether the High Court can direct the appellate authority to entertain the appeal without insisting on such pre-deposit.

Anukul Bindal v. Union of India
High Court of Allahabad (06.05.2026)

Facts of the Case

- A show cause notice (SCN) was issued to the petitioner on 31 March 2023.
- The adjudication order was passed on 1 October 2025.
- With effect from 1 October 2025, Section 107 of the CGST Act was amended, requiring a 10% pre-deposit of the penalty amount for filing a first appeal.
- The petitioner intended to file an appeal but challenged the applicability of the amended pre-deposit requirement.
- A writ petition was filed seeking waiver of the statutory pre-deposit and a direction to entertain the appeal without insisting on such deposit.

Petitioner's Contentions

The petitioner argued that:

- The right of appeal is a vested substantive right that accrues on the date of issuance of the show cause notice.
- Such vested right cannot be impaired by a subsequent statutory amendment introducing an additional condition of mandatory pre-deposit.
- The earlier version of Section 107 did not require such pre-deposit in the petitioner's case.
- Reliance was placed on the Supreme Court's decision in Hoosein Kasam Dada (India) Ltd. v. State of Madhya Pradesh, which recognized that the right of appeal is a vested right.

Revenue's Contentions

The Revenue submitted that:

- The amended Section 107 was applicable as the appeal was proposed to be filed after the amendment came into force.
- The petitioner was required to comply with the statutory requirement of depositing 10% of the disputed penalty.
- Reliance was placed on:
  - Chandra Sekhar Jha v. Union of India; and
  - Ganesh Yadav v. Union of India.

Decision of the High Court

The Allahabad High Court entertained the writ petition and granted interim relief in favour of the petitioner.

Key Findings of the Court

1. Writ Petition is Maintainable
   - The Court observed that the petitioner's argument regarding the vested right of appeal based on the date of issuance of the show cause notice required consideration.
   - The issue was prima facie supported by the principle laid down in Hoosein Kasam Dada.
   - Accordingly, the writ petition was maintainable despite the statutory appellate remedy.
2. High Court Can Waive Statutory Pre-deposit in Appropriate Cases
   - Referring to Ganesh Yadav v. Union of India, the Court held that it retains jurisdiction under Article 226 to grant waiver of statutory pre-deposit in appropriate cases.
   - The existence of a statutory pre-deposit requirement does not completely oust the High Court's constitutional powers.
3. Interim Protection Granted
   - As an interim measure, the Court directed that if the petitioner filed the statutory appeal within two weeks, the appellate authority should entertain it without insisting on the 10% pre-deposit.
   - The question regarding the ultimate applicability of the amended provision was kept open for final adjudication.

Final Outcome

- Writ petition: Entertained.
- Interim relief: Granted.
- Direction: If the petitioner files the appeal within two weeks, the appellate authority shall entertain it without insisting on the mandatory 10% pre-deposit.
- The matter was kept pending for adjudication after exchange of pleadings.

Key Takeaways

- The right of appeal may be argued to be a vested substantive right accruing on the initiation of proceedings.
- The constitutional jurisdiction of the High Court under Article 226 can be invoked to seek waiver of statutory pre-deposit in exceptional cases.
- Mandatory pre-deposit provisions are not absolute where constitutional remedies are available and the circumstances justify judicial intervention.
- The decision is an interim order and does not finally determine the validity or applicability of the amended pre-deposit requirement.

Direct Tax

22.06.2026

Whether depreciation on plant and machinery and building forming part of a block of assets can be denied merely because the assessee had discontinued its manufacturing operations, when identical depreciation claims had been allowed in earlier years and there was no change in facts or circumstances.

Principal Commissioner of Income-tax v. India Medtronic (P.) Ltd.
High Court of Bombay (15.04.2026)

Facts of the Case

- The assessee was engaged in manufacturing and trading.
- Manufacturing operations had been discontinued from 25 January 2002.
- For Assessment Year 2010-11, the assessee claimed depreciation on:
  - plant and machinery; and
  - building,
  - under the block of assets concept.
- The depreciation claimed and disallowed amounted to approximately ₹3.41 lakh.
- The Assessing Officer (AO) disallowed the depreciation on the ground that there was no manufacturing activity during the relevant year.

Proceedings Before Lower Authorities

Assessing Officer (AO)

- Disallowed depreciation on plant and machinery and building.
- Held that since manufacturing activity had ceased, the assets were not used for business purposes.

Income Tax Appellate Tribunal (ITAT)

- Deleted the disallowance.
- Observed that identical issues had arisen in earlier assessment years (AYs 2002-03, 2003-04, 2007-08 and 2009-10).
- In those years, appellate authorities had consistently allowed depreciation.
- The Department had accepted those decisions and had not challenged them.

Decision of the High Court

The Bombay High Court upheld the Tribunal's order and held that no substantial question of law arose on the depreciation issue.

Key Findings of the Court

1. Consistency in Earlier Years
   - The Court noted that identical disallowances made by the AO in earlier years had been overturned by appellate authorities.
   - Those favourable decisions had been accepted by the Department.
   - There was no change in facts or circumstances during the year under appeal.
2. Department Cannot Take a Contrary Stand Without Change in Facts
   - Having accepted the appellate decisions in earlier years, the Department could not challenge the same issue in a later year without demonstrating any material change.
   - The principle of consistency applied.
3. Depreciation Under the Block of Assets Concept
   - The Tribunal had correctly applied the block of assets provisions introduced from AY 1989-90.
   - Once assets form part of a depreciable block, depreciation is allowable on the written down value (WDV) of the block, and not by examining the use of each individual asset separately.
   - The Tribunal had also relied on earlier judicial precedents supporting this principle.
4. No Substantial Question of Law
   - Since the issue stood concluded by earlier accepted decisions and involved no new legal question, the Revenue's appeal on this issue was not maintainable.

Final Outcome

- Revenue's appeal on the depreciation issue (Question B): Rejected.
- The Tribunal's order deleting the depreciation disallowance of ₹3.41 lakh was upheld.
- The High Court admitted the appeal only on the other issues relating to transfer pricing (AMP expenses) and disallowance under Section 37(1) for payments to doctors.

Key Takeaways

- Under the block of assets system, depreciation is computed on the entire block and not on individual assets.
- Discontinuance of a particular business activity does not automatically disentitle an assessee from claiming depreciation on a block of assets.
- The principle of consistency prevents the Revenue from taking a different stand in a subsequent year where the facts and law remain unchanged.
- Appeals involving issues already settled in earlier years and accepted by the Department generally do not raise a substantial question of law.

Goods & Services Tax

22.06.2026

Whether the High Court should entertain a writ petition challenging rejection of an SEZ unit's IGST refund claim on group health insurance services, or require the petitioner to pursue the statutory appellate remedy under Section 107 of the CGST Act.

Cognizant Technology Solutions India (P.) Ltd. v. Assistant Commissioner of State Taxes
High Court of Telangana (09.06.2026)

Facts of the Case

- The petitioner was a Special Economic Zone (SEZ) unit engaged in IT/ITeS operations.
- During November 2023 to December 2023, it procured group health insurance services for its employees.
- The petitioner claimed refund of IGST amounting to ₹13.09 crore.
- The Refund Sanctioning Officer, by order dated 8 December 2025, rejected the refund claim.
- Aggrieved by the rejection, the petitioner directly approached the High Court under Article 226 instead of filing a statutory appeal.

Petitioner's Contentions

The petitioner contended that:

- The refund was admissible under Section 16 of the IGST Act read with Section 54 of the CGST Act.
- The authorities wrongly treated the claim as one relating to zero-rated supplies.
- The claim was actually a simple refund of tax paid on services supplied to the SEZ unit.
- Group health insurance services:
  - formed part of the approved default list of SEZ services;
  - were used for authorised SEZ operations; and
  - were essential for employee welfare and IT/ITeS business operations.
- The refund was also rejected on grounds not mentioned in the show cause notice, violating principles of natural justice.
- Therefore, the High Court should exercise its writ jurisdiction.

Revenue's Contentions

The State argued that:

- The petitioner had an effective statutory remedy of appeal under Section 107 of the CGST Act.
- All factual and legal issues could appropriately be examined by the appellate authority.
- The writ petition should therefore not be entertained.

Decision of the High Court

The Telangana High Court declined to entertain the writ petition and directed the petitioner to pursue the statutory appeal.

Key Findings of the Court

1. Disputed Questions Require Appellate Examination
   - The Court observed that the following issues required detailed examination:
     - whether the refund claim fell within or outside the scope of zero-rated supplies;
     - whether it was merely a simpliciter refund claim;
     - whether the services qualified for refund under the GST law.
   - These questions involved both factual and legal determination and were best decided by the appellate authority.
2. Statutory Remedy Should Be Exhausted
   - Since an effective appellate remedy was available under Section 107, the High Court declined to invoke its writ jurisdiction.
   - The petitioner was granted liberty to raise all factual and legal contentions before the appellate authority.
3. Benefit Regarding Limitation
   - The Court directed that if the appeal was filed within two weeks, the appellate authority should consider condoning any delay after taking into account the period during which the petitioner had been prosecuting the writ petition before the High Court.

Final Outcome

- Writ petition: Not entertained.
- Liberty granted: Petitioner permitted to file a statutory appeal.
- Direction: If the appeal is filed within two weeks, the appellate authority should consider the delay sympathetically in view of the pendency of the writ petition.
- Costs: No order as to costs.

Key Takeaways

- High Courts generally refrain from exercising writ jurisdiction where an effective statutory appeal is available.
- Complex GST refund disputes involving factual and legal questions are ordinarily to be decided by the appellate authority.
- Pendency of a bona fide writ petition may be considered while deciding an application for condonation of delay in filing the statutory appeal.
- SEZ refund claims involving characterization as zero-rated supplies or ordinary refund claims require factual examination and are not ordinarily decided in writ proceedings.

Direct Tax

23.06.2026

1. **An estimated disallowance of business expenditure already recorded in the books of account can be treated as "unexplained expenditure" under section 69C, thereby attracting the special tax provisions of section 115BBE; and**
2. **After granting immunity under section 270AA, the Assessing Officer can invoke section 154 (rectification) to deny the set-off of business losses by applying section 115BBE.**

Nilgiri Dairy Farm (P.) Ltd. v. Deputy Commissioner of Income-tax
ITAT, Mumbai (27.05.2026)

Facts of the Case

- The assessee filed its return declaring a business loss of approximately ₹31.90 crore.
- During scrutiny assessment, the Assessing Officer noticed an increase in "other expenses."
- Since complete supporting details were not furnished, the AO disallowed 5% of the expenditure (₹1.777 crore) on an estimated basis.
- Although the expenditure was fully recorded in the books of account, the AO described the disallowance as unexplained expenditure under section 69C.
- The addition was initially adjusted against the current year's business loss, resulting in an assessed loss.
- Penalty proceedings under section 270A were initiated.
- The assessee applied for and was granted immunity under section 270AA, after accepting the assessment and not filing an appeal.
- Nearly three years later, the AO passed a rectification order under section 154, holding that income under section 69C should have been taxed under section 115BBE without allowing set-off of business losses.
- This converted the assessed loss into positive taxable income.

Tribunal's Decision

The Tribunal allowed the assessee's appeal and quashed both:

- the rectification order under section 154, and
- the appellate order confirming it.

Key Findings

1. Estimated disallowance is not unexplained expenditure under section 69C

The Tribunal held that:

- Section 69C applies where expenditure has been incurred but its source remains unexplained.
- In this case, the expenditure was:
  - duly recorded in the books,
  - reflected in audited financial statements, and
  - merely disallowed on an estimated basis because of inadequate verification.
- Therefore, such expenditure cannot be characterised as "unexplained expenditure."

Principle:

A book-recorded expenditure disallowed on estimate remains a normal business expenditure disallowance and does not become deemed income under section 69C.

2. Section 115BBE was not attracted

Since section 69C itself was wrongly invoked:

- the addition did not fall within sections 68 to 69D;
- consequently, section 115BBE had no application; and
- business loss could not be denied merely by labelling an estimated disallowance as section 69C income.

3. Scope of section 154 is limited

The Tribunal observed that section 154 permits correction only of:

- patent,
- obvious, or
- clerical mistakes.

Here, the AO attempted to:

- rewrite the assessment,
- convert an assessed loss into taxable income, and
- apply an entirely different tax regime.

This went far beyond the permissible scope of rectification.

4. Effect of immunity under section 270AA

The Tribunal emphasized that section 270AA is intended to:

- provide certainty,
- reduce litigation, and
- grant finality where the assessee accepts the assessment and refrains from appealing.

Once immunity was granted:

- the assessee altered its legal position by foregoing appellate remedies; and
- the Revenue could not subsequently reopen the substantive tax consequences through section 154.

Allowing such rectification would defeat the legislative purpose of section 270AA.

Final Outcome

- Appeal Allowed.
- Rectification order under section 154 quashed.
- Order of the Commissioner (Appeals) set aside.
- Business loss remained eligible for set-off as determined in the original assessment.
- Section 115BBE was held inapplicable.

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TAX INSIGHTS

By

Tax Research Department

Goods & Services Tax

23.06.2026

Whether GST authorities can initiate assessment proceedings for the first time against the legal heir of a deceased proprietor, even though no proceedings were initiated during the proprietor's lifetime, the business had been discontinued after death, and the GST registration had been cancelled.

V. Damayanti v. Superintendent of GST and Central Excise
High Court of Madras (16.06.2026)

Facts

- The petitioner's husband was the sole proprietor of a GST-registered business dealing in industrial soaps and polishes.
- He died on 5 March 2019.
- The business was permanently discontinued and GST registration was cancelled with effect from 31 December 2019.
- In 2025, the GST department issued:
  - Form DRC-01A,
  - followed by a show cause notice in Form DRC-01,
  - alleging non-filing of GST returns corresponding to e-way bills for FY 2018-19.
- The petitioner replied that:
  - she had no involvement in the business,
  - the business had already been closed, and
  - no proceedings had been initiated during her husband's lifetime.
- The department nevertheless passed an order under section 74 determining: tax, interest, and penalty.
- The petitioner challenged the order before the High Court.

Assessee's Contentions

The petitioner argued that:

- Section 74 requires notice to the person chargeable with tax before assessment.
- Since no notice was issued during the deceased's lifetime, proceedings could not begin after his death.
- Section 93 should apply only where proceedings had already commenced before death and remained pending.
- Since the business was discontinued, she was not a "taxable person."
- Fresh proceedings against a legal heir were therefore impermissible.

Revenue's Contentions

The department contended that:

- Section 93 specifically creates liability of legal representatives.
- The provision expressly contemplates tax liability "determined after his death."
- Therefore, both:
  - adjudication, and recovery
  - can validly occur after the death of the taxable person.
- Recovery is permissible against the legal heir only to the extent of the inherited estate.

Decision

The Madras High Court dismissed the writ petition and upheld the validity of the proceedings.

Key Findings

1. Section 93 expressly authorises post-death determination

The Court held that Section 93 clearly covers two situations:

- liability determined before death but unpaid; and
- liability determined after death.

Therefore, the statute expressly authorises adjudication after the death of the taxable person.

2. Fresh proceedings can begin after death

The Court rejected the argument that proceedings must have commenced during the deceased's lifetime.

It held that the phrase:

"determined after his death"

necessarily includes the entire adjudicatory process, namely: issuance of notices, show cause proceedings, hearing, adjudication, and passing of the final order.

Hence, fresh proceedings may be initiated against legal heirs.

3. "Person chargeable with tax" is wider than "taxable person"

The Court distinguished between: taxable person, and person chargeable with tax.

It observed that Section 74 deliberately uses the broader expression "person chargeable with tax."

This expression includes any person upon whom the Act imposes liability, such as: legal representatives, persons liable under reverse charge, e-commerce operators, and others made liable by statute.

Accordingly, legal heirs fall within this expression where Section 93 imposes liability.

4. Liability survives discontinuance of business

The Court held that closure of business or cancellation of GST registration does not extinguish pre-existing tax liabilities.

Outstanding liabilities relating to the period before death may still be adjudicated and recovered.

Final Outcome

- Writ Petition Dismissed.
- GST authorities were held entitled to initiate adjudication against the legal heir despite:
  - the death of the proprietor,
  - discontinuance of the business, and
  - absence of any proceedings during the deceased's lifetime.
- Recovery, however, was restricted to the value of the estate inherited by the legal heir under Section 93 of the CGST Act.

Direct Tax

24.06.2026

Whether an assessee is entitled to deduction under Section 54F of the Income-tax Act, 1961, where the long-term capital gains are invested in substantial construction and structural improvements to an existing residential house (on which deduction under Section 54F had already been claimed earlier), instead of purchasing or constructing a different new residential house.

Mrs. Kaziyur Narayanan Godha v. ITO
ITAT, Bangalore (25.05.2026)

Facts

- The assessee sold a vacant site on 12 April 2021, resulting in a long-term capital gain (LTCG) of ₹25.24 lakh.
- She claimed exemption under Section 54F by stating that the capital gains were invested in construction and structural improvements to a residential house purchased earlier on 13 March 2020.
- The works included:
  - Construction of an additional room and pooja room;
  - Borewell and underground sump;
  - Compound wall with gate; and
  - Other civil works.
- An engineer's certificate and supporting documents were submitted to substantiate the expenditure.

Revenue's Stand

- The Assessing Officer (AO) denied the exemption, holding that:
  - The residential house had been purchased earlier and outside the prescribed purchase period under Section 54F.
  - The expenditure was merely for renovation of an existing house and not for purchase or construction of a new residential house.
- The CIT(A) upheld the disallowance, further observing that:
  - The assessee had already claimed Section 54F deduction in an earlier year for purchase of the same property.
  - A second deduction on the same property was not permissible.

ITAT's Decision

The Tribunal allowed the assessee's appeal and held that:

- Section 54F is a beneficial provision and must be interpreted liberally to achieve its objective of encouraging investment in residential housing.
- The expression "construction of a residential house" should not be interpreted narrowly or hyper-technically.
- The expenditure incurred was not limited to routine repairs but involved substantial structural additions and construction activities.
- The assessee had produced adequate evidence, including an engineer's certificate, and the Revenue failed to disprove the genuineness of the expenditure.
- Merely because the assessee had earlier claimed deduction under Section 54F for purchase of the same property, a subsequent deduction cannot be denied where a fresh capital gain is invested in further construction or structural improvement within the prescribed time.
- The assessee had substantially complied with the conditions of Section 54F.

Reliance Placed

The Tribunal followed the decision of the Karnataka High Court in CIT v. Smt. B.S. Shanthakumari (2015), which held that:

- Section 54F should receive a liberal interpretation.
- What is material is the investment of capital gains in construction, not the completion of construction within the stipulated period.
- Substantial compliance with the statutory conditions is sufficient.

Key Takeaways

- Section 54F should be construed liberally as a beneficial provision.
- Structural additions and significant improvements can qualify as construction for the purposes of Section 54F.
- A prior Section 54F claim on the same residential property does not automatically bar a subsequent claim if fresh capital gains are invested in further construction within the statutory time limit.
- The focus is on the utilisation of capital gains for eligible construction rather than a rigid interpretation of "new residential house."
- Documentary evidence such as engineer's certificates and proof of expenditure plays a crucial role in establishing eligibility for the exemption.

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TAX INSIGHTS
By
Tax Research Department

Goods & Services Tax
24.06.2026

Whether the GST department was justified in invoking the extended limitation period under Section 74 of the CGST/TNGST Act and treating goods sent for job work as deemed supplies, where the taxpayer failed to maintain prescribed job-work records, failed to file Form GST ITC-04, and could not establish that the goods were received back within the statutory period under Section 143 read with Rule 45.

Tvl. Technocast Foundry v. State Tax Officer
HIGH COURT OF MADRAS (08.06.2026)

Facts of the Case

- The petitioner, a registered manufacturer, sent inputs and capital goods to its sister concern for job work under Section 143 of the CGST/TNGST Act.
- During a departmental inspection conducted in September 2024, the authorities found that:
  - the petitioner had not maintained the prescribed job-work records;
  - Form GST ITC-04 had not been filed;
  - there was no documentary evidence showing that the goods were returned within the prescribed period.
- The petitioner contended that:
  - the transactions were genuine job-work movements;
  - technical glitches prevented filing of Form GST ITC-04;
  - the department wrongly invoked Section 74 and the extended period of limitation.
- The department treated the transactions as deemed supplies under Section 143 read with Rule 45 and confirmed:
  - GST,
  - interest, and
  - equal penalty under Section 74.

Decision of the High Court

The High Court partly upheld the department's action while remanding the matter on the issue of revenue neutrality.

1. Deemed Supply Validly Invoked

The Court held that:

- The petitioner failed to produce any records proving that the goods were returned within the statutory time prescribed under Section 143.
- Consequently, the deeming fiction under Section 143 and Rule 45 applied, treating the movement of goods as a taxable supply.
- The liability to pay GST, interest and penalty therefore arose.

2. Failure to Maintain Records Cannot Be Excused

The Court observed that:

- Under the GST self-assessment regime, taxpayers are responsible for maintaining complete statutory records.
- Mere allegations of technical glitches in filing Form GST ITC-04 cannot substitute documentary evidence.
- Proper challans, accounts and job-work records are mandatory.

3. Extended Limitation under Section 74 Upheld

The High Court upheld the invocation of the extended period, holding that:

- The threshold for invoking Section 74 under GST is considerably lower than under the earlier indirect tax laws.
- Where discrepancies or short payment emerge from the taxpayer's own records, Section 74 can be invoked.
- Only genuine bona fide mistakes would exclude the applicability of Section 74.
- Therefore, the petitioner's challenge to jurisdiction and limitation failed.

4. Revenue Neutrality Requires Verification

The Court accepted that:

- The transactions could potentially be revenue neutral if tax had already been paid by either:
  - the principal manufacturer, or
  - the job worker.
- Since this involved disputed questions of fact requiring examination of records, the matter was remanded.

The petitioner was directed to:

- produce evidence within 30 days establishing revenue neutrality; and
- the adjudicating authority was directed to pass fresh orders after verification.

Final Outcome

- Challenge to the invocation of Section 74 and the extended limitation period: Rejected.
- Taxability arising from failure to comply with job-work provisions: Upheld.
- Matter remanded solely to verify the petitioner's claim of revenue neutrality.
- The adjudicating authority was directed to reconsider the matter on merits after examining the evidence produced by the petitioner.

Direct Tax

25.06.2026

Whether a company can claim deduction under Section 80G for donations made as part of its mandatory Corporate Social Responsibility (CSR) obligations under Section 135 of the Companies Act, 2013, after having disallowed the CSR expenditure under Section 37(1).

Schneider Electric IT Business India (P.) Ltd. v. Deputy Commissioner of Income Tax
ITAT (08.06.2026)

Facts

CSR / Section 80G Issue
- The assessee incurred CSR expenditure of ₹5.86 crore.
- It voluntarily disallowed the entire CSR expenditure under Section 37(1) in accordance with Explanation 2 to Section 37.
- Out of the CSR expenditure, it claimed deduction of ₹3.76 crore under Section 80G for eligible donations.
- The Assessing Officer denied the deduction on the ground that:
  - Section 80G applies only to voluntary donations.
  - CSR expenditure is incurred under a statutory obligation under Section 135 of the Companies Act and therefore is not voluntary.
- The DRP upheld the AO's view.

Section 14A Issue
- The assessee did not earn any exempt income during AY 2020-21.
- No exemption under Section 10(34) was claimed.
- Despite this, the AO made a disallowance under Section 14A read with Rule 8D.

Assessee's Contentions

On Section 80G
- CSR expenditure was not claimed as a business deduction under Section 37.
- Deduction was claimed only under Chapter VI-A (Section 80G).
- Explanation 2 to Section 37 only denies deduction while computing business income and does not prohibit deduction under Chapter VI-A.
- Parliament specifically excluded only CSR donations made to:
  - Swachh Bharat Kosh, and
  - Clean Ganga Fund.
- Therefore, CSR donations to other eligible institutions remain deductible under Section 80G.

On Section 14A
- Since no exempt income was earned, Section 14A could not be invoked.
- The Finance Act, 2022 amendment is prospective.

Revenue's Contentions

Section 80G
- Donation under Section 80G must be voluntary.
- CSR expenditure is mandatory under law and therefore cannot qualify as a donation.

Section 14A
- Disallowance under Rule 8D should still be computed despite absence of exempt income.

Tribunal's Decision

Issue 1- Section 80G Deduction Allowed
The Tribunal allowed the deduction.

Key Findings:
1. Section 37 and Section 80G operate in different fields
   - Explanation 2 to Section 37 only prohibits deduction while computing business income.
   - Section 80G forms part of Chapter VI-A, dealing with deductions from total income.
   - Therefore, denial under Section 37 does not automatically bar deduction under Section 80G.
2. Legislature created only two specific exclusions
   The Tribunal noted that Section 80G expressly excludes CSR donations only when made to:
   - Swachh Bharat Kosh
   - Clean Ganga Fund

   If Parliament intended to deny deduction for all CSR donations, it would have expressly stated so.
3. No double disallowance intended
   The assessee had already:
   - disallowed CSR expenditure under Section 37.

   Denying deduction again under Section 80G would amount to double disallowance, which is contrary to legislative intent.
4. Donations were otherwise eligible
   The donations:
   - were genuine,
   - supported by receipts,
   - were not made to Swachh Bharat Kosh or Clean Ganga Fund.

   Hence deduction under Section 80G was allowable.

Issue 2 – Section 14A Disallowance Deleted
The Tribunal deleted the entire disallowance.
Reasons
- The assessee had not earned any exempt income during the year.
- Following the principles laid down in:
  - Cheminvest Ltd. v. CIT, and
  - Pr. CIT v. Kohinoor Project (P.) Ltd.,

Section 14A cannot be invoked where no exempt income exists.

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TAX INSIGHTS
By
Tax Research Department

Goods & Services Tax

25.06.2026

Whether a taxpayer can be permitted to rectify clerical and arithmetical errors in GSTR-1 relating to the initial GST period (2017–18) to enable the correct flow of Input Tax Credit (ITC) to customers, despite expiry of the statutory time limit and absence of portal functionality permitting such correction.

Assistant Commissioner of CGST & Central Excise v. Akshaya Building Solution
High Court of Madras (18.06.2026)

Facts

- The taxpayer had filed GSTR-1 for:
  - August 2017
  - November 2017
  - December 2017
  - January 2018.
- Certain clerical and arithmetical errors were made while uploading outward supply details.
- Due to these errors, the customers could not avail Input Tax Credit (ITC) amounting to approximately ₹23.40 lakh.
- The taxpayer requested permission to rectify the GSTR-1 returns.
- The GST authorities rejected the request on the grounds that:
  - the request was filed beyond the prescribed time limit; and
  - the GST portal did not provide any mechanism for such rectification.
- The taxpayer filed a writ petition before the Madras High Court.
- The Single Judge directed the Department to permit uploading of the corrected GSTR-1.
- The Department filed an intra-court appeal challenging the order.

Revenue's Contentions

The Department argued that:

- the statutory time limit for amendment had expired;
- there was no enabling provision under the GST law permitting such delayed correction; and
- the GST portal did not provide functionality for revising GSTR-1 for those periods.

Assessee's Contentions

The taxpayer submitted that:

- the errors were purely clerical and arithmetical;
- there was no intention to evade tax or claim any undue benefit;
- the mistakes prevented genuine purchasers from receiving eligible ITC;
- procedural or software limitations should not defeat substantive rights.

Decision of the High Court

The Madras High Court dismissed the Department's appeal and upheld the order permitting rectification.

Key Findings

1. Clerical mistakes should be permitted to be corrected

The Court held that taxpayers should be allowed to correct genuine clerical and arithmetical errors, especially when such errors affect the legitimate flow of ITC to recipients.

2. Delay alone is not sufficient to deny rectification

The Court held that rectification cannot be rejected merely because:

- the request was made after the prescribed period, or
- the portal presently lacks functionality.

Substantive justice should prevail over procedural limitations.

3. Software limitations cannot defeat statutory rights

Relying on earlier judicial precedents and the observations of the Supreme Court, the Court reiterated that: Software is intended to facilitate compliance, not to restrict lawful rights. Portal limitations cannot, by themselves, justify denial of correction.

4. Consistency with earlier precedents

The Court followed its earlier decision in Principal Chief Commissioner of GST and Central Excise v. Deepa Traders, which had already settled the issue in favour of permitting GSTR-1 rectification for genuine errors.

The Court also relied upon:

- Sun Dye Chem v. Assistant Commissioner (ST);
- Pentacle Plant Machineries Pvt. Ltd. v. Office of the GST Council; and
- Aberdare Technologies (P.) Ltd. v. CBDT & Customs, where the Supreme Court, while declining to interfere, observed that the right to correct clerical or arithmetical mistakes flows from the right to carry on business.

Final Directions

The High Court directed that:

- The GST Department shall enable the taxpayer to upload the rectified GSTR-1 within four weeks.
- After the corrected GSTR-1 is uploaded, the Department shall:
  - verify the corrections; and
  - allow the corresponding Input Tax Credit (ITC) to the taxpayer's customers, subject to their eligibility.

TAX INSIGHTS
By
Tax Research Department

Direct Tax

26.06.2026

Whether the Assessing Officer (AO) can make or enforce any tax demand when, after the Tribunal remands the matter, the AO fails to pass the fresh assessment order within the limitation period prescribed under Sections 153(3) read with 153(4) of the Income-tax Act, 1961.

Laqshya Media Ltd. v. Assistant/Deputy Commissioner of Income-tax
High Court of Bombay (23.03.2026)

Facts of the Case

- The assessee filed its return of income for AY 2014-15.
- The return was scrutinized and a final assessment order was passed under Sections 143(3) read with 144C(13), making several additions and disallowances.
- On appeal, the Tribunal:
  - Restricted the transfer pricing adjustment on corporate guarantee fees.
  - Deleted disallowances under Sections 36(1)(iii) and 14A.
  - Remanded:
    - the issue of interest on loan to an Associated Enterprise (AE), and
    - reconciliation of Form 26AS receipts with the books of account.
- Pursuant to the Tribunal's directions:
  - The TPO passed an order regarding the corporate guarantee issue.
  - The AO referred the remanded transfer pricing issue to the TPO.
  - The TPO passed an order proposing an adjustment.
- However, despite the TPO's order, the AO did not pass the fresh assessment order.

Limitation Timeline

Event		Date
ITAT order		17 July 2020
Tribunal order received during	:	FY 2020–21
Time limit under Section 153(3)	:	31 March 2022
Extended time under Section 153(4) (due to TPO reference)	:	31 March 2023
Fresh assessment order passed by AO:		Not passed

Arguments

Assessee

- The AO became functus officio after expiry of limitation.
- Since no assessment order was passed by 31 March 2023, the returned income must be accepted.
- No further tax demand can legally survive.

Revenue

- Although remanded issues became time-barred, the Tribunal had already finally decided the corporate guarantee issue.
- Therefore, those findings should continue to operate despite the AO not passing the appeal effect order.

Decision of the Bombay High Court

The High Court allowed the writ petition in favour of the assessee.

It held that:

- The AO was legally required to complete the remand assessment within the statutory period prescribed under Sections 153(3) and 153(4).
- It was undisputed that no assessment order was passed by 31 March 2023.
- Once limitation expired, the Revenue lost its authority to frame a fresh assessment.
- Consequently:
  - no further tax demand could be raised;
  - the assessee's returned income had to be accepted; and
  - the AO was directed to give effect accordingly.

Court's Reasoning

The Court observed that:

- Limitation provisions are mandatory.
- Failure of the AO to comply with the Tribunal's remand within time cannot prejudice the taxpayer.
- The Revenue cannot benefit from its own inaction.
- In the absence of a valid assessment order, there is no legal basis for raising additional tax demand.

Key Precedents Relied Upon

- CIT v. Shelly ProductsWhere a fresh assessment becomes time-barred, the return is deemed accepted and no further demand can be raised.
- Plasticotes Investments (P.) Ltd. v. Chief CITRevenue cannot deny relief merely because it failed to pass the remand assessment order.
- Aircom International India (P.) Ltd. v. DCITIf appeal-effect orders are not passed within the statutory limitation, the returned income must be accepted.

Key Takeaways

- Statutory limitation under Section 153 is mandatory and cannot be ignored.
- Delay by the AO in passing an appeal-effect/remand assessment order extinguishes the Revenue's power to make a fresh assessment.
- Returned income becomes final where no valid assessment order is passed within the prescribed time.
- The Revenue cannot rely on its own procedural lapse to sustain or recover additional tax.
- This judgment reinforces taxpayer protection against prolonged or delayed remand proceedings.

Can contractual disputes regarding reimbursement of GST justify judicial directions overriding the statutory provisions governing GST returns, interest, penalties, limitation, and tax administration?

Office of Principal Commissioner GST and Central Excise v. R. Chandrashekar
High Court of Karnataka (10.06.2026)

Facts of the Case

- The respondents were government contractors executing works contracts awarded before 1 July 2017 under the VAT regime.
- Tender rates were quoted as inclusive of all applicable taxes under the then existing tax structure.
- After GST came into force on 1 July 2017, portions of the works were executed, invoiced, or paid for under the GST regime.
- Consequently, contractors became liable to pay GST (18% initially and later 12%), resulting in an additional tax burden that had not been factored into the original contract prices.
- The contractors sought reimbursement of this additional GST from the concerned government departments (Employers).
- Meanwhile, GST authorities issued notices requiring payment of GST, filing of returns, and proposed cancellation of GST registrations for non-compliance.
- The contractors filed writ petitions seeking relief against both the Employers and GST authorities.

Order of the Single Judge

The Single Judge:
- directed Government departments to recalculate contract values considering the GST transition;
- directed Employers to reimburse differential GST wherever applicable;
- permitted contractors to file delayed or amended GST returns without interest, penalty, or limitation;
- restrained GST authorities from taking coercive action for six months.

The Revenue appealed only against the directions issued to the GST authorities.

Decision of the Division Bench

The Karnataka High Court allowed the Revenue's appeals in part.
It held that:
- GST liability arises under the statute and is independent of contractual arrangements.
- Whether the contractor is reimbursed by the Employer does not affect the contractor's statutory obligation to pay GST.
- Courts cannot issue directions permitting revised or amended GST returns unless the statute itself allows such filing.
- Courts cannot waive mandatory statutory interest, penalties, or limitation prescribed under the GST Acts.
- The levy, assessment, recovery, and enforcement of GST are matters governed exclusively by statute.
- The reimbursement dispute is purely between the contractors and the concerned Government departments.

Ratio Decidendi

The Court laid down that:
1. Statutory tax liability cannot be modified by contractual disputes.
2. High Courts cannot exercise writ jurisdiction to override mandatory provisions of tax statutes.
3. No judicial direction can authorize filing of revised GST returns or waive statutory interest, penalties, or limitation where the statute does not permit such relief.
4. Disputes regarding reimbursement of GST are contractual matters and do not bind tax authorities.

Final Directions

The Court:
- set aside the Single Judge's directions issued to GST authorities permitting revised returns, waiver of interest, penalty, and limitation, and restraining statutory action;
- clarified that the direction regarding reimbursement of differential GST applies only to the concerned Employers and not to the tax authorities;
- upheld the statutory powers of GST authorities to levy, assess, recover tax, interest, and penalties in accordance with the GST Acts.

Key Principles Emerging from the Judgment

- GST liability is determined solely under the GST statutes.
- Contractual reimbursement disputes cannot alter statutory tax obligations.
- Writ courts cannot create remedies inconsistent with tax legislation.
- Statutory interest under GST cannot ordinarily be waived through judicial directions.
- Employers may be liable to reimburse additional GST under contractual principles, but such reimbursement has no impact on the powers or obligations of the tax authorities.

Direct Tax

27.06.2026

- **Whether a best judgment assessment under Section 144 can be sustained when the assessee had already filed the return.**
- **Whether the period during which the writ petition remained pending should be excluded while computing the limitation period under Section 153(2) of the Income-tax Act, 1961.**

Global Publishing Solutions Ltd. v. Deputy Commissioner of Income-tax, International Taxation 1(2)
HIGH COURT OF MADRAS (09.06.2026)

Facts

- The assessee, a UK-based subsidiary of an Indian company, received payments from its Indian holding company.
- The Indian company had not deducted tax under Section 195 of the Income-tax Act, 1961.
- Reassessment proceedings were initiated against the assessee through notices under Sections 148A and 148.
- In response to a notice under Section 142(1) of the Income-tax Act, 1961, the assessee filed its return on 28 March 2023.
- Despite the return having been filed, the Assessing Officer passed a draft best judgment assessment under Section 144 of the Income-tax Act, 1961 stating that no return had been filed.
- A corrigendum issued the next day merely acknowledged the return but did not reconsider the assessment.

High Court's Findings

1. Best judgment assessment was invalid

The Court held that:

- The Assessing Officer's finding that no return had been filed was factually incorrect.
- The return had already been filed in response to the Section 142(1) notice.
- Therefore, the assessment could not legally proceed on the assumption that the assessee had failed to file a return.
- Merely issuing a corrigendum acknowledging the return without reconsidering the assessment did not cure the defect.

Accordingly, the Court set aside both the draft assessment order and the corrigendum.

2. Limitation under Section 153(2)

The Court further held that:

- The reassessment notice under Section 148 was issued on 2 May 2022.
- Normally, the reassessment limitation would have expired on 31 March 2024.
- Since the assessee had filed a writ petition and obtained interim protection, the period spent in prosecuting the writ petition must be excluded while computing limitation.
- Consequently, the Revenue was not barred by limitation from initiating fresh proceedings.

Final Directions

The High Court:

- Quashed the draft assessment order and the corrigendum.
- Permitted the Income-tax Department to initiate fresh proceedings in accordance with law after properly considering the return of income.
- Clarified that the time during which the writ proceedings remained pending would be excluded for limitation purposes under Section 153(2).

Key legal principles

- A best judgment assessment under Section 144 cannot be based on the incorrect assumption that no return was filed when a valid return is already on record.
- A corrigendum that merely notes the existence of the return, without revisiting the assessment, does not rectify the procedural defect.
- The period during which a writ petition is pending, particularly where interim protection is granted, is excluded from the limitation period for completing reassessment under Section 153(2).

Goods & Services Tax

27.06.2026

Whether a government contractor who was awarded a works contract before the introduction of GST is entitled to reimbursement from the State for the additional GST liability (differential tax) arising solely because the tax regime changed from VAT to GST during the execution of the contract.

Er. Roland S. Fernandes v. Government of Karnataka
HIGH COURT OF KARNATAKA (22.06.2026)

Facts

- The petitioner was a Class-I registered civil contractor.
- He was awarded a government contract for repair and renovation of the TLH Building at Haliyal, Karnataka.
- The contract was awarded under the VAT regime.
- During the execution of the contract, GST came into force on 1 July 2017, replacing VAT.
- Due to this transition, the contractor incurred an additional GST liability.
- The contractor paid the differential GST to the tax authorities.
- Thereafter, he submitted a representation seeking reimbursement of ₹6,20,826.56 along with interest.
- Since the Government did not act on the representation, he filed a writ petition seeking a writ of mandamus.

High Court's Findings

The Karnataka High Court held that the issue was no longer res integra (i.e., no longer open to debate).
The Court relied upon its earlier decision in:

- M.G. Arunkumar v. State of Karnataka

which had already held that:

- the recipient of the works contract service must bear the differential GST resulting from the transition from VAT to GST; and
- the State and its departments are obligated to reimburse such differential GST to the contractor.

Reasoning

The Court observed that:

- The petitioner had already discharged the additional GST liability as required by law.
- The State had received the benefit of the completed works.
- The additional tax burden arose solely because of the statutory change in the indirect tax regime, not because of any default or omission by the contractor.
- Consequently, the contractor acquired a legal right to reimbursement.
- The Government had a corresponding legal duty to reimburse the differential GST attributable to the GST transition.

Directions Issued

The High Court:

1. Allowed the writ petition.
2. Directed the State authorities to consider the contractor's representation dated 21 April 2026.
3. Directed them to determine the amount of differential GST payable in accordance with law.
4. Ordered reimbursement within six weeks from receipt of the certified copy of the judgment.
5. Clarified that reimbursement would be limited only to the additional tax liability attributable to the transition from VAT to GST, after verification of records and calculations.

Legal Principle

This judgment reinforces the principle that:

- Where a works contract was awarded under the VAT regime but continued after the introduction of GST, and the contractor incurs an additional GST burden solely because of the statutory transition, the recipient of the works contract service (including the State) is liable to reimburse that differential GST, provided the contractor has actually paid the tax and the amount is duly verified.

Direct Tax

28.06.2026

Whether the entire amount of alleged bogus purchases can be added as unexplained expenditure where the assessee is a trader, corresponding sales are accepted by the Assessing Officer, no discrepancy is found in stock, and purchases are recorded in the books and paid through banking channels.

Pruthvi Singh Solanki v. Income-tax Officer
ITAT (23.06.2026)

Facts

- The assessee was engaged in the business of trading in ferrous and non-ferrous metals under the name Vinay Enterprises.
- The assessment was reopened based on information from the Insight portal alleging purchases from five accommodation entry providers.
- The Assessing Officer treated purchases of ₹50.34 lakh as bogus and added the entire amount to the assessee's income.
- The first appellate authority confirmed the addition.
- The assessee appealed before the ITAT.

Contentions of the Assessee

The assessee submitted that:

- he was merely a trader and not a manufacturer;
- corresponding sales arising from the disputed purchases had been fully accepted by the Assessing Officer;
- once sales are accepted, purchases cannot be treated as entirely non-existent;
- the Revenue had not rejected the books of account;
- there was no shortage or excess stock detected during assessment;
- purchases were recorded in regular books and payments were made through banking channels;
- no evidence established that the assessee had incurred expenditure from undisclosed sources;
- reliance solely on the alleged bogus nature of suppliers could not justify disallowance of the entire purchases.

The assessee nevertheless fairly submitted before the Tribunal that, if any addition was considered necessary, an estimation of profit at 8% of the disputed purchases could be accepted.

Contentions of the Revenue

The Revenue relied upon the information available on the Insight Portal and maintained that the suppliers were accommodation entry providers issuing fictitious invoices.

However, during the course of hearing, the Departmental Representative also fairly accepted that, considering the settled judicial position, estimation of profit at 8% of the disputed purchases would be reasonable.

Decision

The ITAT partly allowed the appeal and held that:

- Since the assessee was a trader and the corresponding sales had not been questioned, it could not be presumed that no purchases had been made.
- There was no adverse stock verification or evidence showing shortage of stock.
- The purchases were recorded in the books and made through banking channels, and there was no allegation that they were financed from undisclosed income.
- At the highest, the transactions indicated purchases from the grey market with accommodation bills obtained to suppress profits.
- Therefore, only the profit element embedded in the alleged bogus purchases could be brought to tax and not the entire purchase amount.
- Considering the submissions of both parties, the Tribunal restricted the addition to 8% of the alleged bogus purchases (₹50.34 lakh).

Key Principle

Where:

- corresponding sales are accepted,
- no stock discrepancy is found, and
- the assessee is engaged in trading,

the entire alleged bogus purchases cannot be disallowed. Only the estimated profit element embedded in such purchases is taxable, as the purchases are presumed to have been made from the grey market rather than being completely non-existent. In the present case, the Tribunal estimated such profit at 8% of the disputed purchases.

Goods & Services Tax

28.06.2026

Whether a proper officer, after a matter has been remanded by the High Court with a specific direction to adjudicate the original show cause notice after granting personal hearing, can issue a fresh show cause notice for the same financial year and pass a fresh adjudication order based on such second notice.

B.K. Steels v. Assistant Commissioner (State Tax)
High Court of Telangana (15.06.2026)

Facts of the Case

- The petitioner, B.K. Steels, was subjected to GST proceedings for Financial Year 2022–23 under Section 74 of the GST Act.
- The Assessing Officer had passed an assessment order without providing the mandatory opportunity of personal hearing as required under Section 75(4) of the GST Act.
- Aggrieved by the assessment order, the petitioner approached the Telangana High Court through a writ petition.

Earlier High Court Proceedings

- In the earlier writ proceedings, both parties agreed that the requirement of personal hearing had not been complied with.
- The High Court set aside the assessment order dated 30.05.2024.
- The matter was remanded back to the Assessing Officer with specific directions:
  - to provide personal hearing to the petitioner;
  - to consider the reply filed by the petitioner; and
  - to adjudicate the original show cause notice in accordance with law.

The petitioner was also granted liberty to submit a reply to the original show cause notice.

Proceedings After Remand

After remand, instead of deciding the original show cause notice:

- The Assessing Officer issued a second show cause notice for the same financial year.
- Based on the fresh notice, the officer passed a new adjudication order dated 11.03.2026 confirming the demand.

The petitioner challenged this order before the High Court, contending that:

- the Assessing Officer had failed to comply with the earlier High Court order;
- the remand was limited to deciding the original show cause notice;
- issuance of a second notice amounted to exceeding the authority granted under the remand order.

Arguments of the Petitioner

The petitioner argued that:

- the High Court had already restricted the scope of proceedings after remand;
- the Assessing Officer was required only to provide personal hearing and decide the original notice;
- issuance of a fresh show cause notice was beyond the scope of the remand;
- the reply submitted by the petitioner was not properly considered;
- the subsequent adjudication order was therefore legally unsustainable.

Arguments of the Revenue

The Department contended that:

- there was no substantial difference between the first and second show cause notices;
- the petitioner had not suffered any prejudice because the allegations remained substantially similar;
- therefore, the fresh notice and subsequent order should not be interfered with.

Findings and Reasoning of the High Court

The High Court examined the scope of the earlier remand order and observed that the Assessing Officer was specifically directed to:

- adjudicate the existing show cause notice;
- provide personal hearing; and
- consider the reply filed by the petitioner.

The Court held that the Assessing Officer was not granted liberty to restart the proceedings by issuing a new show cause notice.

The Court observed that:

- once a superior court remands a matter with specific directions, the authority must act within those directions;
- the scope of proceedings after remand is limited by the terms of the remand order;
- issuing a fresh notice for the same period, instead of deciding the original notice, amounted to bypassing the directions of the High Court.

The Court held that such action effectively amounted to overreaching the earlier judicial order, which could not be permitted.

The Court also noted that similar relief had been granted in connected proceedings concerning another financial year of the same assessee.

Decision

The Telangana High Court:

- set aside the impugned adjudication order dated 11.03.2026;
- remanded the matter back to the Assessing Officer;
- directed the Assessing Officer to:
  - proceed on the basis of the first/original show cause notice;
  - provide proper personal hearing;
  - consider the reply submitted by the petitioner; and
  - pass a fresh order in accordance with law.

The writ petition was accordingly disposed of.

Direct Tax

29.06.2026

Whether a reassessment order passed under the faceless assessment regime is legally sustainable when the assessee specifically requested a personal hearing through video conferencing, but such hearing was not granted as mandated under Section 144B of the Income-tax Act, 1961 and the SOP dated 03.08.2022.

B.M. Developers v. Assessment Unit of Income-tax Department
High Court of Gujarat (17.04.2026)

Facts

- The assessee, a partnership firm engaged in real estate construction, filed its return of income for AY 2018–19.
- The department initiated reassessment proceedings by issuing a notice under Section 148A(b), alleging escapement of income.
- The assessee filed replies to the notices issued under Sections 148A(b), 143(2) read with Section 147, and 142(1).
- During the faceless reassessment proceedings, the assessee specifically requested a personal hearing through video conferencing by application dated 07.01.2024.
- The Assessing Officer did not provide the requested video hearing and proceeded to pass the reassessment order under Sections 147 read with 144B, incorrectly recording that the assessee had not availed the opportunity of personal hearing.

Decision of the High Court

The Gujarat High Court allowed the writ petition, quashed the reassessment order and remanded the matter to the National Faceless Assessment Authority for passing a fresh order after complying with the statutory procedure.

Court's Reasoning

- Section 144B and the Standard Operating Procedure dated 03.08.2022 require that where an assessee seeks a personal hearing through video conferencing, such hearing must be granted in accordance with the prescribed procedure.
- The assessee had expressly requested a video conference, and the department did not dispute that no such hearing was provided.
- Failure to grant the requested hearing amounted to a breach of the principles of natural justice.
- The assessment order also contained an incorrect factual observation that the assessee had not availed the opportunity of personal hearing.
- Since the mandatory procedural safeguards under the faceless assessment regime were not followed, the reassessment order could not be sustained.

Held

- Denial of a requested video conference hearing under Section 144B violates the mandatory procedural requirements and the principles of natural justice.
- The reassessment order and consequential demand were therefore liable to be quashed.
- The matter was remanded to the National Faceless Assessment Authority to conduct the proceedings afresh after granting due opportunity of hearing.

Final Outcome

- Writ Petition: Allowed.
- Reassessment Order: Quashed and set aside.
- Demand Notice: Set aside.
- Matter: Remanded for fresh assessment after complying with Section 144B and the SOP.

Key Takeaway

This decision reinforces that under the faceless assessment regime, a requested personal hearing through video conferencing is not a mere procedural formality. Where the assessee specifically seeks such a hearing, failure to provide it constitutes a violation of the mandatory procedure under Section 144B and the principles of natural justice, rendering the assessment vulnerable to judicial review and remand.

Goods & Services Tax

29.06.2026

Whether interest under Section 50(3) of the CGST/TNGST Act at the prescribed rate (24%) is leviable where the assessee has wrongly availed and utilised Input Tax Credit (ITC) due to a mismatch between GSTR-3B and GSTR-2A, notwithstanding the contention that tax was discharged through the electronic credit ledger and not the cash ledger.

Jayashree Enterprises v. Assistant Commissioner (ST)
High Court of Madras (17.06.2026)

Facts

- The assessee challenged an order dated 12.02.2025 insofar as it imposed interest on alleged wrongful availment and utilisation of ITC.
- The dispute arose because the ITC claimed in GSTR-3B exceeded the ITC reflected in the auto-populated GSTR-2A, leading the department to conclude that the assessee had availed and utilised ineligible ITC.
- The Assessing Officer invoked Section 50(3) read with Rule 88B(3) and computed interest from the date of utilisation of the wrongly availed ITC until its reversal.
- The assessee argued that:
  - A mere mismatch between GSTR-3B and GSTR-2A does not automatically amount to wrongful availment and utilisation of ITC.
  - By virtue of the proviso to Section 50(1), interest is payable only on the tax paid through the electronic cash ledger, whereas the liability had been discharged through the electronic credit ledger.
  - The assessee also relied on the Madras High Court's decision in Maansarovar Motors (P.) Ltd.

Decision of the High Court

The Madras High Court dismissed the writ petition and upheld the levy of interest under Section 50(3).

Court's Reasoning

- Section 50(1) is a general provision dealing with delayed payment of tax and prescribes interest up to 18%.
- Section 50(3) is a special provision applicable specifically to cases of wrongful availment and utilisation of ITC, prescribing a higher rate of interest up to 24%.
- Since the GST statutes do not define the expression "wrongful availment and utilisation," it includes any availment and utilisation of ITC to which the registered person is not legally entitled, irrespective of fraud or mala fides.
- Cases involving fraud or wilful misstatement are separately addressed under Section 74, indicating that Section 50(3) is not confined only to fraudulent conduct.
- Rule 88B(3) specifically provides that interest is to be calculated from the date of utilisation of the wrongly availed ITC until the date of reversal or payment.
- Utilisation of ITC necessarily occurs through the electronic credit ledger, and therefore the assessee could not rely on the proviso to Section 50(1), which applies only to delayed payment of tax through the electronic cash ledger.

Held

- Wrongful availment and utilisation of ineligible ITC attracts interest under Section 50(3) read with Rule 88B(3).
- Interest is payable from the date of utilisation of the wrongly availed ITC until its reversal or payment.
- The proviso to Section 50(1) has no application to cases governed by Section 50(3).
- The impugned order levying interest was legally valid.

Final Outcome

- Writ Petition: Dismissed.
- Interest Demand: Upheld.
- Levy under Section 50(3): Sustained.
- Relief to Assessee: Denied.

Key Takeaway

This judgment clarifies that Section 50(3) is a special provision governing cases of wrongful availment and utilisation of ITC, independent of the general interest provision under Section 50(1). Once ineligible ITC is found to have been availed and utilised, interest is payable from the date of utilisation until reversal, even where the tax liability is discharged through the electronic credit ledger. The benefit of the proviso to Section 50(1), restricting interest to the cash-ledger component, is unavailable in such cases.

Whether an assessment order passed under Sections 143(3) read with 144B of the Income-tax Act, 1961 is valid when the Assessing Officer passes the order on the same day the assessee files a detailed reply with supporting documents, without considering the reply or providing an effective opportunity of hearing.

Apeejay Surrendra Park Hotels Ltd. v. Union of India
High Court at Calcutta (12.05.2026)

Facts

- The assessee, engaged in the hospitality business under the Park Hotels brand, filed its return for AY 2024–25 declaring NIL income.
- The case was selected for CASS scrutiny on issues including:
    - High liabilities compared to income/receipts;
    - Large deductions claimed under Schedule BP;
    - Creditors exceeding 50% of purchases;
    - High-rate depreciation (40% or more) claimed on additions to assets.
- Notices under Sections 143(2) and 142(1) were issued, and the assessee furnished the required information.
- Subsequently, show cause notices dated 08.03.2026 and 11.03.2026 were issued.
- The assessee sought four days' time and filed a comprehensive reply with supporting documents on 24.03.2026, uploading it on the Income Tax Portal around 12:30–12:40 PM.
- On the same day, at 12:42:53 PM, the Assessing Officer digitally signed and passed the assessment order under Sections 143(3) read with 144B:
    - Making an addition of approximately ₹114.77 crore;
    - Raising a tax demand of approximately ₹60.68 crore;
    - Initiating penalty proceedings under Sections 270A, 271AAC(1) and 272A(1)(d).

Decision of the High Court

The Calcutta High Court allowed the writ petition, quashed the assessment order, and directed the Assessing Officer to reconsider the assessee's reply and pass a fresh, reasoned order after providing an opportunity of hearing.

Court's Reasoning

- Although the department argued that adequate opportunities had been granted during the assessment proceedings, the crucial fact remained that the assessment order was passed on the very same day the detailed reply was filed.
- The timing clearly indicated that the Assessing Officer could not have meaningfully examined the comprehensive reply and supporting documents before finalizing the assessment.
- Such a mechanical disposal defeated the purpose of issuing the show cause notice and amounted to a violation of the principles of natural justice.
- A valid assessment requires due consideration of the assessee's submissions and the passing of a reasoned speaking order after providing an effective opportunity of hearing.

Held

- Passing the assessment order on the same day as receipt of the assessee's detailed reply, without considering the reply, is legally unsustainable.
- The assessment order was quashed for violating the principles of natural justice.
- The Assessing Officer was directed to:
    - Consider the assessee's reply filed on 24.03.2026;
    - Afford an opportunity of hearing, including a personal hearing where required;
    - Pass a reasoned speaking order in accordance with law.

Final Outcome

- Writ Petition: Allowed.
- Assessment Order dated 24.03.2026: Quashed and set aside.
- Matter: Remanded to the Assessing Officer for fresh adjudication after considering the assessee's reply and granting an effective opportunity of hearing.
- Merits: The High Court expressly refrained from examining the merits of the additions.

Key Takeaway

This decision underscores that under the faceless assessment regime, granting an opportunity to file a reply is not sufficient; the reply must be meaningfully considered before passing the assessment order. An assessment finalized immediately after receipt of a detailed response, without adequate consideration or effective hearing, is arbitrary, violates the principles of natural justice, and is liable to be quashed.

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TAX INSIGHTS

By
Tax Research Department

Goods & Services Tax

30.06.2026

Whether the GST department was justified in recovering the entire tax demand from the assessee's bank account before the expiry of the statutory period for filing a second appeal under Section 112 of the CGST Act, and whether the amount recovered should be refunded to the assessee's bank account instead of merely being re-credited to the electronic cash ledger.

Phoenix Spaces (Guntur) (P.) Ltd. v. Additional Commissioner of Central Tax
High Court of Telangana (08.06.2026)

Facts

- An Order-in-Original dated 24.12.2024 confirmed GST demand along with interest and penalty against the petitioner.
- The petitioner filed a first appeal after making the prescribed pre-deposit.
- The first appeal was dismissed, and Form GST APL-04 was issued on 19.01.2026.
- The statutory period for filing a second appeal under Section 112 had not expired and remained available until 30.06.2026.
- Despite the subsisting appellate remedy, the department issued Form GST DRC-13 (garnishee notice) to the petitioner's bank and recovered the entire outstanding demand.
- During the pendency of the writ proceedings, the department re-credited the recovered amount to the petitioner's electronic cash (E-Cash) ledger instead of refunding it to the bank account from which the amount had been recovered.
- The petitioner contended that the premature recovery severely affected its business operations and sought a refund to its bank account.

Decision of the High Court

The Telangana High Court disposed of the writ petition by granting liberty to the petitioner to file a refund application and directing the department to decide the same expeditiously in accordance with law.

Court's Reasoning

- The Court noted that the dispute had narrowed to a limited issue-whether the amount recovered from the petitioner's bank account should remain as an e-cash ledger credit or be refunded to the bank account.
- Since the recovery had taken place before the expiry of the statutory period for filing a second appeal under Section 112, the petitioner was permitted to seek refund of the amount that had been re-credited to the electronic cash ledger.
- Instead of granting repeated adjournments to the Revenue, the Court considered it appropriate to direct the competent authority to examine the refund claim promptly.

Held

- The petitioner was granted liberty to file a refund application for the amount re-credited to the electronic cash ledger.
- If the application was filed within one week, the Assistant Commissioner was directed to decide it within one week thereafter, in accordance with law and keeping in view the Court's observations.

Final Outcome

- Writ Petition: Disposed of.
- Recovery: No direct adjudication on legality; the Court focused on the refund issue.
- Refund: Liberty granted to apply for refund of the amount to the bank account.
- Matter: Remanded to the Assistant Commissioner for consideration of the refund application.

Key Takeaway

This decision emphasizes that where the GST department recovers tax before the expiry of the statutory period for filing a second appeal, and subsequently re-credits the recovered amount to the electronic cash ledger, the assessee may seek a refund of the amount to its bank account, particularly where the recovery has adversely affected business operations. The Court stressed the need for expeditious consideration of such refund claims in accordance with law.