ICMAI
THE INSTITUTE OF
COST ACCOUNTANTS OF INDIA
भारतीय लागत लेखाकार संस्थान
Statutory Body under an Act of Parliament
(Under the jurisdiction of Ministry of Corporate Affairs)

TAX INSIGHTS

By
Tax Research Department

Direct Tax

01.05.2026

Whether delay in filing an income tax return can be condoned under Section 119(2)(b) when caused by internal management disputes (director conflicts leading to NCLT proceedings).

eksons (P.) Ltd. v. Chief Commissioner of Income-tax
High Court of Bombay (17.03.2026)

What the Court Held

The Court allowed condonation of delay and ruled in favor of the assessee.

Key directions:

- Delay of 169 days was condoned
- Assessee permitted to file return within 4 weeks
- Return to be treated as filed under Section 139(4) (belated return)
- Department directed to reopen the e-filing portal

Court's Reasoning

1. "Genuine Hardship" interpreted liberally

The Court accepted that:

- Disputes between directors
- Delay in finalizing financial statements
- Pending proceedings before National Company Law Tribunal
- These constituted a reasonable cause

2. Past compliance matters

- Company had consistent filing history
- Default occurred only for one year
- This strengthened credibility of the explanation

3. Substantive justice over technicalities

- Denying condonation would cause real financial loss (loss of depreciation claim)
- Court preferred fairness over procedural rigidity

4. Authority's rejection was too strict

- Chief Commissioner failed to appreciate:
  - Subsequent explanations
  - Supporting documents
- Hence, order was quashed

Legal Principle Emerging

Internal disputes and management deadlock can qualify as "reasonable cause" / "genuine hardship"- provided they are:

- Genuine
- Supported by evidence
- Not habitual or negligent conduct

Practical Implications

For taxpayers / companies:

- You can seek condonation if delay is due to:
  - Boardroom disputes
  - Litigation affecting accounts
- BUT:
  - Maintain documentation (minutes, NCLT filings, etc.)
  - Show clean compliance history

For tax professionals:

- This case strengthens arguments under:
  - Section 119(2)(b)
- Useful precedent where:
  - Delay arises from corporate governance issues

Bottom Line

This ruling reinforces that genuine business disruptions, like director disputes are valid grounds for condonation, and tax authorities should adopt a pragmatic, justice-oriented approach, not a rigid one.

Can denial of personal hearing at the adjudication stage under GST be cured by giving a hearing at the appellate stage?

Laxmidhan Stores v. State of West Bengal
High Court of Calcutta (01.04.2026)

Court's Verdict
No, it cannot be cured

Final outcome:
- Adjudication order set aside
- Appellate order set aside
- Matter remanded for fresh adjudication
- Refund of pre-deposit directed

Key Legal Findings
1. Personal hearing is mandatory
Under GST law (Section 75(4)):
- If adverse action is contemplated, hearing must be given
- Not optional. It's a statutory right, not just procedural formality.

2. Violation of natural justice = fatal defect
The Court held:
- No hearing at original stage = violation of natural justice
- Such violation goes to the root of the matter
- Entire proceedings become invalid

3. Appellate hearing cannot cure the defect
Even though:
- Assessee got hearing in appeal

The Court said:
- This does NOT validate earlier illegality
- You cannot "fix" a fundamentally flawed process later

4. No need to prove "prejudice"
Important principle:
- Assessee need not show actual loss or harm
- Denial of hearing itself = presumed prejudice

Legal Principle Emerging
If personal hearing is required but not given, the entire GST adjudication collapses, regardless of merits.

Supporting jurisprudence
The Court relied on:
- 63 Moons Technologies Ltd. v. Union of India
- Natural justice violation cannot be cured in appeal

Practical Implications
For taxpayers:
- Always check:
  - Was personal hearing offered?
- If not:
  - Strong ground to challenge order via writ

For GST officers:
- Passing order without hearing:
  - Risks complete annulment
  - Leads to rework and delay

For professionals:
- This case is a powerful procedural defense
- Useful even when:
  - Merits are weak
  - But procedure is flawed

Bottom Line
- This ruling reinforces a strict rule: "No hearing = no valid order"
- Natural justice under GST is not a technicality, it is foundational, and any breach will invalidate the entire proceeding.

Direct Tax

02.05.2026

Whether income of a securitisation trust is taxable in the hands of the trust (as AOP / trust) or in the hands of SR holders (investors)?

ITO v. Arcil Retail Loan Portfolio-001-H Trust
ITAT Mumbai (15.04.2026)

Facts

- Trust created by Asset Reconstruction Company India Ltd. under SARFAESI Act
- Purpose: acquisition & recovery of NPAs
- Funds raised from QIBs through Security Receipts (SRs)
- SRs = undivided beneficial interest in trust assets
- Trust deed allowed revocation of contributions
- Assessee claimed:
  - It is a revocable trust
  - Income taxable in hands of SR holders (Sec. 61–63)
  - Not an AOP

AO's View

- Treated trust as AOP
- Alternatively: non-revocable trust
- Applied Section 164 (MMR tax due to indeterminate shares)
- Alleged tax avoidance
- Assessed income ≈ ₹20.21 crore

CIT(A)

- Accepted assessee's claim
- Held:
  - Trust is revocable
  - Income taxable in hands of SR holders
  - Not an AOP

ITAT Decision

1. Trust is a Revocable Trust
   - Contributions are revocable as per trust deed
   - Covered under Sections 61–63

Rule:
Income from revocable transfer → taxed in hands of transferor (SR holders)

2. Income NOT Taxable in Hands of Trust
   - Trust acts as pass-through entity
   - No independent tax liability

3. Trust is NOT an AOP
   - No common intention or inter se agreement among investors
   - Independent investments ≠ AOP

4. Section 164 Not Applicable
   - Applies only if:
     - Trust is non-revocable, or
     - Shares are indeterminate
   - Here overridden by Sections 61–63

5. Reliance on Precedent

Followed earlier ITAT ruling:
- ITO v. ARCIL Retail Loan Portfolio-001-A Trust (2026)

Final Holding

- Income taxable in hands of SR holders
- Trust not taxable
- Trust cannot be assessed as AOP
- Additions by AO deleted

Key Legal Principles

◆ Revocable Transfer (Sec. 61–63)
- If transferor retains right to revoke
- Income taxed in transferor's hands

◆ AOP Test

Requires:
- Common purpose
- Voluntary combination
- Not satisfied here

◆ Securitisation Trust = Pass-through
- Recognised judicially and legislatively
- Avoids double taxation

Practical Implications

- ARCs / Trusts → No tax liability
- Investors (SR holders) → Direct tax liability
- Tax Department → Cannot apply AOP or Sec. 164

One-line Conclusion

Securitisation trusts with revocable contributions are tax-transparent; income is taxed in investors' hands, not the trust.

Goods & Services Tax

02.05.2026

Whether assessee can be allowed to opt out of QRMP after deadline, and permitted monthly filing, despite portal failure?

Celebration Blenders & Distilleries (P.) Ltd. v. Assistant Commissioner of CGST & CX
Calcutta High Court(10.04.2026)

Facts

- Assessee was under QRMP Scheme (turnover < ₹5 crore).
- Turnover exceeded ₹5 crore in Dec 2025.
- As per law, assessee had to opt out from Jan 2026 quarter.
- Attempt to opt-out on GST portal failed due to technical issues.
- Representations to GST authorities remained unresolved.
- Department argued:
  - Opt-out deadline (31 Jan 2026) was missed.
  - Migration possible only with late fee & interest + refund route.

Held

The Court ruled in favour of the assessee:

- Assessee must be allowed to opt out of QRMP
- Authorities to enable backend migration
- Monthly filing (GSTR-1 & GSTR-3B) allowed from March 2026
- Assessee must: File returns with late fee & interest
- Assessee can: Claim refund, to be decided as per law

Key Legal Principle

Procedural/technical lapses (like GST portal failure) cannot defeat substantive rights.

Important Observations

- Crossing ₹5 crore makes QRMP inapplicable by law
- System limitations cannot force incorrect compliance
- Courts can order backend corrections in GSTN

Relevant Sections

- Section 37 – GSTR-1
- Section 39 – GSTR-3B
- Section 146 – Common Portal

(All under CGST Act, 2017)

Practical Takeaway

If:

- You cross ₹5 crore, and
- GST portal blocks QRMP opt-out

Then:

- Document attempts
- Approach authorities
- Courts can grant relief + migration + refund option

Direct Tax

03.05.2026

The third proviso to Section 50C(1) is retrospective in operation, and the safe harbour benefit applies where the variation between the stamp duty value and the declared sale consideration does not exceed 5% : ITAT

Rasmeet Singh Malhotra v. DCIT
ITAT, Indore (17.04.2026)

Case Summary

In Rasmeet Singh Malhotra v. DCIT, the Tribunal held that the third proviso to Section 50C(1) of the Income-tax Act is retrospective and applies from 01.04.2003.

The proviso grants a safe harbour of 5% between:

- actual sale consideration, and
- stamp duty valuation.

If the variation is within 5%, the actual sale consideration must be accepted for capital gains purposes.

Core issue

Whether Section 50C could be invoked when:

- actual consideration = ₹42,00,000 (assessee's share), and
- stamp duty value = ₹42,50,000,

i.e., difference of only ₹50,000 (1.19%).

Tribunal's ruling

The ITAT held:

1. Third proviso is curative/remedial

The proviso was introduced to remove hardship arising from minor valuation differences.

Hence, though inserted by Finance Act, 2018 w.e.f. AY 2019-20, it operates retrospectively from the inception of Section 50C.

2. Safe harbour applicable

Since variation was only 1.19%, which is below 5%, Section 50C deeming fiction could not be applied.

3. Actual consideration to prevail

AO was directed to adopt:

- ₹42 lakh as full value of consideration,
- instead of
- ₹42.50 lakh.

Important precedents relied upon

The Tribunal followed:

- Maria Fernandes Cheryl v. ITO
- ACIT v. Sunil B. Dalal
- Girdharbhai Haribhai Gajera v. ITO

These cases also held the proviso to be retrospective.

Legal principle emerging

Where:

Stamp duty value ≤ 105% of actual consideration,

Then:

Actual sale consideration shall be deemed full value of consideration for Section 48 computation.

Practical relevance

Useful for:

- old assessment years,
- pending appeals,
- scrutiny cases under Section 50C,
- reassessment matters involving small valuation differences.

Taxpayers can argue:

- the safe harbour is retrospective,
- and marginal differences should not trigger artificial capital gains additions.

ICMAI
THE INSTITUTE OF
COST ACCOUNTANTS OF INDIA
भारतीय लागत लेखाकार संस्थान
Statutory Body under an Act of Parliament
(Under the jurisdiction of Ministry of Corporate Affairs)

TAX INSIGHTS
By
Tax Research Department

Goods & Services Tax

03.05.2026

Whether a GST demand arising from alleged misclassification of exempt air transportation services as taxable support services could be challenged directly through a writ petition, despite availability of statutory appeal, when proper hearing opportunity had been given.

Cargomen Logistics India (P.) Ltd. v. Additional Commissioner of Central Tax
Telangana High Court (18.02.2026)

Brief of the decision

In Cargomen Logistics India (P.) Ltd. v. Additional Commissioner of Central Tax, the Telangana High Court dismissed the writ petition challenging a GST demand order on the ground that:

- adequate opportunity of hearing had been provided,
- the adjudicating authority had considered the assessee's submissions in detail,
- and an effective statutory appellate remedy under Section 107 CGST Act was available.

Hence, the assessee was directed to pursue the statutory appeal instead of invoking writ jurisdiction under Article 226.

Facts

The petitioner:

- was engaged in transportation of goods by aircraft,
- claimed GST exemption under transportation-related notifications,
- and contended that prior GST audits for FY 2017-18 to 2021-22 raised no objections.

Subsequently:

- audit for FY 2022-23 to 2023-24 alleged wrong classification,
- DRC-01A and SCN were issued,
- alleging short payment of GST due to misclassification of support services as exempt transportation services.

The department alleged that:

- the assessee was providing a broader bouquet of logistics/support services,
- not merely exempt transportation services,
- and therefore exemption was wrongly claimed.

Department's order

The adjudicating authority:

- partly accepted assessee's contentions,
- dropped demand of about ₹2.26 crore,
- but confirmed demand of ₹7.02 crore along with:
    - interest, and
    - equivalent penalty under Section 74.

Assessee's arguments before HC

The petitioner argued:

- there was no misclassification,
- GST had been properly discharged,
- Section 74 was wrongly invoked,
- earlier audits accepted the exemption,
- and written submissions/documents were not properly considered.

It therefore sought quashing of the order through writ jurisdiction.

High Court's findings

1. Natural justice complied with

The Court observed that: DRC-01A was issued, SCN was issued, replies were filed, personal hearing was granted, written submissions and documents were considered, and the order discussed the issues in detail.

Hence, allegation of breach of natural justice failed.

2. Matter involved factual adjudication

The dispute related to: classification of services, invoice analysis, exemption eligibility, valuation, and business model.

Such disputed factual issues are more appropriately examined by the appellate authority.

3. Alternate remedy available

Since Section 107 CGST Act provides a statutory appeal mechanism, the High Court held that writ jurisdiction should not ordinarily be exercised.

The Court reiterated that Article 226 intervention is generally restricted to exceptional cases involving:

- patent lack of jurisdiction,
- violation of natural justice,
- or constitutional challenge.

None existed here.

Important legal principle

Mere dissatisfaction with adjudication findings does not justify writ remedy where:

- hearing opportunity was granted,
- submissions were considered,
- and statutory appeal exists.

Direct Tax

04.05.2026

Whether various subsidies, provisions, expenses, and adjustments made by the assessee while computing taxable income and book profit under section 115JB were allowable, and whether the Revenue's appeal raised any substantial question of law.

Commissioner of Income-tax-LTU v. ACC Ltd.
HIGH COURT OF BOMBAY (16.03.2026)

Brief Facts
The assessee, ACC Ltd., received:

- State capital investment subsidy under the West Bengal Incentive Scheme, 1993,
- Capital subsidy for purchase of assets,
- Sales tax subsidy,
- Foreign exchange gains,
- Trial run production receipts, etc.

The Assessing Officer (AO) treated several receipts as taxable/revenue receipts and made additions under normal provisions and section 115JB (MAT provisions).
The CIT(A) and ITAT granted relief on most issues. Revenue appealed before the Bombay High Court.

Issue	Facts	Decision of High Court
1. State Capital Investment Subsidy	Subsidy received for setting up manufacturing units in West Bengal	Held to be capital receipt since subsidy aimed at industrialisation. No substantial question of law arose.
2. Saudi Arabia Corporate Tax under section 115JB	Assessee offered net income after reducing Saudi corporate tax	Since foreign tax was not debited to P&L account, it could not be added back under Explanation 1 to section 115JB.
3. Road Construction Expenditure	Assessee spent ₹39 lakh constructing Government-owned road for business convenience	Allowed as revenue expenditure because no capital asset came into existence in assessee's hands.
4. Sales Tax Subsidy & MAT	Sales tax subsidy excluded from book profit	Appeal admitted on question whether such subsidy should form part of book profits under section 115JB.
5. Capital Gains on Land Sale	Assessee adopted FMV as on 1-4-1981 based on valuer report	Pure factual issue; no substantial question of law arose.
6. Deferred Revenue Expenditure under MAT	AO added deferred revenue expenditure to book profit	Could not be added unless covered by Explanation to section 115JB.
7. Trial Run Production Receipts	Revenue from trial production excluded from MAT computation	Appeal admitted on this question.
8. Foreign Exchange Gain & Subsidy in MAT	Excluded from book profits	Appeal admitted on correctness of deletion.
9. Wealth Tax Provision	AO added provision for wealth tax to book profit	Wealth tax not covered under clause (a) of Explanation to section 115JB; addition deleted.
10. Additional Gratuity Provision	Provision made on actuarial basis	Treated as ascertained liability; no addition permissible.
11. Write-back of Old Provisions	Provisions created prior to 1-4-1997 written back	Not liable for adjustment under section 115JB.
12. Withdrawal from Share Premium Account	Deduction claimed while computing book profit	Allowed since similar issue accepted in earlier years.

Important Legal Principles

A. Subsidy Test – Capital vs Revenue

The Court followed:

- Bajaj Auto Ltd. v. Dy. CIT
- CIT v. P.J. Chemicals Ltd.

Principle:

If subsidy is intended:

- to promote industrialisation,
- encourage setting up of industries,
- or assist capital investment,

then it is a capital receipt, not taxable revenue income.

B. MAT Computation under Section 115JB

The Court relied heavily on:

- Apollo Tyres Ltd. v. CIT

Principle:

While computing book profit under section 115JB:

- AO cannot go behind audited P&L account,
- except to the extent specifically permitted in Explanation 1.

Therefore, unless an item falls within specific adjustment clauses, no addition can be made.

C. Road Construction Expenditure

The Court followed:

- CIT v. Associated Cement Companies Ltd.

Principle:

Expenditure on public infrastructure benefiting business is revenue expenditure if:

- asset does not belong to assessee,
- no enduring capital asset is created in assessee's hands.

Final Outcome

- Majority of issues decided in favour of assessee (ACC Ltd.).
- State capital investment subsidy held to be capital receipt.
- Several MAT additions deleted.
- Only limited MAT-related questions were admitted for further hearing.

Key Takeaway

This judgment reinforces that:

1. Industrial incentive subsidies are generally capital receipts if linked to setting up/expansion of industries.
2. Under section 115JB, the AO's power to alter book profit is strictly limited.
3. Expenditure on Government-owned infrastructure facilitating business may qualify as revenue expenditure.

Whether GST show cause notices issued under section 74 seeking to tax "free flats" provided to existing society members in redevelopment projects were without jurisdiction when:

- **redevelopment agreements were executed before GST came into force, and**
- **GST audit proceedings had already accepted the petitioner's tax position.**

Disha Construction v. Joint Commissioner of CGST, Central Excise Audit
HIGH COURT OF BOMBAY (18.03.2026)

Brief Facts

The petitioner, Disha Construction, undertook redevelopment projects of two co-operative housing societies under development agreements dated:

- 22 November 2008, and 6 March 2011.

Under these agreements:

- existing society members surrendered their old flats/development rights,
- in return, they received reconstructed/new flats free of cost.

GST came into force on: 1 July 2017.
A GST audit under section 65 was conducted for FY 2017-18 to 2021-22.
The audit report dated 26/27 October 2023 indicated that:

- taxable liabilities had already been settled by the petitioner.

Later, the department proposed fresh GST demand alleging:

- free flats given to existing members constituted taxable construction service.

Accordingly, show cause notices (SCNs) under section 74 were issued.
The petitioner challenged the SCNs before the Bombay High Court through a writ petition.

Petitioner's Arguments

The petitioner contended that:

- Development agreements were executed before GST regime.
- Obligations to provide free flats had already crystallized under those agreements.
- Flats were not sold but allotted in exchange for surrender of old tenements/development rights.
- Audit proceedings under GST had already examined and settled the issue.
- Department was unlawfully reopening a concluded matter.
- Section 74 proceedings alleging suppression/fraud were without jurisdiction.

Revenue's Stand

The department argued that:

- GST was payable on construction services represented by free flats provided to society members.
- Chief Commissioner directed issuance of SCNs despite earlier audit findings.

Findings of the High Court

1. Prima Facie SCNs Appeared Without Jurisdiction

The Court observed that:

- development agreements were entered into in 2008 and 2011,
- obligations had crystallized before GST introduction,
- flats were handed over free of cost to existing members.

Therefore, the Court found prima facie merit in the petitioner's argument that:

- section 74 proceedings were improperly invoked.

2. Audit Report Had Prima Facie Settled the Issue

The Court noted:

- GST audit report dated 26 October 2023 accepted petitioner's tax position,
- petitioner had settled tax liabilities relating to taxable components.

The Court observed that reopening the same issue appeared contrary to the audit findings.

3. Serious Jurisdictional Question Raised

The Court held that:

- whether the audit had conclusively settled the issue required final adjudication,
- however, the petitioner established a strong prima facie case for interim relief.

Decision

The Bombay High Court:

- Issued Rule in the writ petition.
- Stayed further proceedings of the impugned show cause notices pending final hearing.

TAX INSIGHTS
By
Tax Research Department

Direct Tax

05.05.2026

Whether attachment orders over mortgaged properties continued to remain valid after expiry of the seven-year limitation period under Rule 68B of the Second Schedule to the Income-tax Act, thereby preventing registration of SARFAESI auction sale certificates.

South Indian Bank Ltd. v. ACIT
High Court of Kerala (02.03.2026)

Brief Facts

The petitioner, South Indian Bank Ltd., had granted credit facilities of approximately ₹237 crores in 2013 to borrower companies:

- M/s Atlas Jewellery Pvt. Ltd.
- M/s Atlas Gold Land and Developers Pvt. Ltd.

The loans were secured by equitable mortgages over immovable properties.
Upon default:

- loan accounts were classified as NPAs on 22.12.2015,
- SARFAESI proceedings were initiated,
- DRT proceedings were also pending.

Meanwhile, Income Tax authorities attached the mortgaged properties:

1. 63.62 cents at Velloor Village attached from 23.12.2016.
2. 35 cents at Chevoor Village attached on 15.06.2017.

The bank later auctioned the 35 cents property under SARFAESI proceedings.
However:

- the Registering Authority refused registration of the sale certificate because encumbrance certificates reflected the income-tax attachments.

The bank requested withdrawal of attachments but no action was taken.
Hence, the writ petition was filed before the Kerala High Court.

Relevant Law

Rule 68B of Second Schedule to Income-tax Act
The Rule provides:

- No sale of attached immovable property can be made after expiry of:
    - 7 years from the end of the financial year in which the recovery demand became final.
- Under Rule 68B(4):
    - if sale is not conducted within this period,
    - attachment is deemed to be vacated automatically.

Findings of the High Court

1. Seven-Year Period Had Expired
The Court observed:

- attachments were made in 2016 and 2017,
- no sale had been conducted by tax authorities within the prescribed period,
- therefore the statutory seven-year limitation had expired.

Hence:

- attachments stood automatically vacated under Rule 68B(4).

2. Tax Department Also Accepted Position
Counsel for the Income Tax Department admitted:

- no tax sale had taken place,
- seven-year period had elapsed.

3. Registration Could Not Be Refused
Since attachments had legally lapsed:

- registration authorities could not continue refusing registration of SARFAESI sale certificate.

Decision

The Kerala High Court:

- Allowed the writ petition.
- Directed withdrawal/removal of attachment entries.
- Directed registering authorities to register the SARFAESI sale certificate in Book No.1 within two weeks.
- Directed revenue authorities to mutate property in auction purchaser's name within one month thereafter.

Key Takeaway

This judgment is important for: banks, auction purchasers, insolvency/recovery practitioners, property registration authorities.

The Court clarified that:

1. Income-tax attachments cannot survive beyond Rule 68B limitation.
2. Expired attachments cannot block SARFAESI sales.
3. Registration authorities must recognize automatic statutory vacation of attachment.

TAX INSIGHTS

By

Tax Research Department

Goods & Services Tax

05.05.2026

Acruti Design Services v. Office of the Deputy Commissioner of Commercial Taxes High Court of Karnataka(25.03.2026)

Issues Before the Court

Issue1: Whether an ex parte order under Section 74 can survive when the taxpayer was allegedly not served with the SCN and was denied opportunity to reply?

Issue2: Whether consequential garnishee proceedings and recovery adjustments can continue once the principal adjudication order is set aside?

Issue3: Whether multiple SCNs involving overlapping subject matter for the same tax period should be clubbed for common adjudication?

Background of the Case

The petitioner, Acruti Design Services, challenged:

1. An ex parte adjudication order passed under Section 74 CGST Act alleging wrongful availment of Input Tax Credit (ITC);
2. Consequential recovery proceedings including:
    - garnishee notices under Section 79(1)(c), and
    - adjustment/recovery through the Electronic Credit Ledger;
3. Multiple show cause notices (SCNs) issued for the same tax period involving overlapping allegations.

The petitioner argued that:

- no effective service of the SCN had taken place,
- no opportunity of hearing/reply was provided,
- the proceedings were conducted ex parte,
- and parallel proceedings on overlapping issues would lead to duplicative adjudication.

Court's Observations

(A) On Violation of Natural Justice

The Court observed that:

- the order at Annexure-A was passed without the benefit of any reply from the petitioner;
- serious civil consequences followed from the order;
- therefore, fairness required restoration of opportunity to respond.

The Court emphasized that adjudication under Section 74 must comply with:

- procedural fairness,
- opportunity of hearing,
- and proper adjudication standards under Section 75.

(B) On Recovery Proceedings

Since the main order itself was being set aside:

- garnishee notices under Section 79(1)(c) could not survive;
- consequential recoveries had to be rescinded.

The Court further clarified:

- adjustments made in the Electronic Credit Ledger would remain subject to fresh adjudication.

(C) On Overlapping SCNs

The Court accepted the petitioner's grievance regarding overlapping proceedings.

It held that:

- since one matter was remanded to the reply stage,
- and the second SCN was also at reply stage,
- both should be clubbed together for common adjudication.

This would:

- avoid multiplicity, prevent inconsistent findings and ensure procedural efficiency.

Decision

The Karnataka High Court held:

(1) Ex Parte Order Set Aside

The adjudication order under Section 74 was quashed and remanded to the stage of reply to SCN (Annexure-G).

(2) Liberty to File Reply

The petitioner was granted liberty to: file reply, produce documents, and establish genuineness/existence of supplier.

(3) Garnishee Notices Rescinded

Third-party recovery notices under Section 79(1)(c) were directed to be withdrawn forthwith.

(4) Electronic Credit Ledger Adjustment Subject to Fresh Adjudication. Earlier recoveries/adjustments would remain subject to the outcome of fresh proceedings.

(5) Overlapping SCNs Clubbed

Proceedings relating to: Annexure-G and Annexure-B were directed to be clubbed and adjudicated together.

(6) All Contentions Kept Open

The petitioner retained liberty to raise all legal and factual defenses.

Direct Tax

06.05.2026

Whether gains arising from sale of listed equity shares declared as short-Term Capital Gains (STCG) and long-Term Capital Gains (LTCG) could be assessed as "Business Income" merely because the assessee used unsecured/borrowed funds for making investments in shares?

Deputy Commissioner of Income-tax v. Kutir Navinchandra Patel
Income Tax Appellate Tribunal(23.04.2026)

Facts of the Case

- The assessee was an individual engaged in:
  - manufacturing corrugated boxes, and
  - cloth trading through proprietary concerns.
- For AY 2017-18, the assessee declared:
  - STCG: approximately ₹8.51 crore
  - Exempt LTCG: approximately ₹4.59 crore
  - arising from sale of listed equity shares.
- Shares were:
  - held in demat form,
  - delivery-based,
  - consistently shown as "Investments" in books.
- During scrutiny assessment, the AO:
  - examined demat statements, contract notes, source of investments and loan details;
  - observed that unsecured loans were used for investments;
  - held that the activity was systematic and profit-oriented.
- Accordingly, AO treated total gains of about ₹13.10 crore as:
  - Business Income under section 28 instead of Capital Gains under section 45.

Assessee's Contentions

The assessee argued that:

1. Shares were always treated as investments in books.
2. Transactions were genuine and delivery-based.
3. LTCG shares were held for more than 12 months.
4. There was no organized share trading business setup.
5. Investments were concentrated in limited scrips and not frequent trading.
6. Mere use of borrowed funds does not convert investment activity into business activity.

The assessee relied on:

- Pr. CIT v. Bhanuprasad D. Trivedi (HUF)
- CIT v. Rewashanker A. Kothari
- CIT v. Gopal Purohit

Findings of CIT(A)

The CIT(A) held that:

- AO failed to examine: intention, holding period, frequency of transactions, accounting treatment.
- Shares were: delivery-based, reflected as investments, not stock-in-trade.
- No evidence existed of: speculative trading, repetitive trading, organized trading infrastructure.
- LTCG was protected by CBDT Circular No. 6/2016 because:
  - listed shares were held for more than 12 months,
  - assessee treated them as investments.

Therefore, CIT(A):

- treated both STCG and LTCG as Capital Gains,
- deleted the addition of ₹13.10 crore.

Final Decision

- Revenue's appeal dismissed.
- Gains from sale of shares held taxable under:
  - Capital Gains
  - and not
  - Business Income.
- Deletion of addition of ₹13.10 crore upheld.

Legal Principles Emerging from the Case

1. Mere use of borrowed funds does not change investment into trading activity.
2. Consistent accounting treatment as "Investment" is important.
3. Delivery-based share transactions generally support capital gain treatment.
4. CBDT Circular No. 6/2016 is binding on the AO.
5. Intention, frequency, holding period and conduct are key tests to distinguish:
   - Capital Gains vs Business Income.

TAX INSIGHTS

By

Tax Research Department

Goods & Services Tax

06.05.2026

Whether a GST refund of pre-deposit made for filing appeal can be withheld solely on the basis of a supposed SFIO investigation, when in reality no investigation was pending or initiated?

Aelite Logistics and Marketing (P.) Ltd. v. Chief Commissioner of CT & GST
HIGH COURT OF ORISSA (30.03.2026)

Facts of the Case

- The petitioner deposited a pre-deposit amount as a condition for filing an appeal under GST law.
- The petitioner later sought refund of the pre-deposit.
- The GST authorities rejected the refund claim, not on merits, but solely because:
  - a letter from the Serious Fraud Investigation Office (SFIO) allegedly directed withholding of refund due to an "ongoing investigation".
- However, during proceedings before the High Court:
  - SFIO clarified that no investigation was ever initiated or pending against the petitioner.
- Despite this, the refund was not processed, leading to filing of a writ petition.

Revenue's Argument

The department contended that:

- Refund was barred due to pending investigation instructions from SFIO.
- It was also argued that:
  - the claim was time-barred under Section 54 of the CGST Act,
  - procedural requirements under Rule 89 must be satisfied,
  - interest provisions under Section 56 were relevant.

Court's Findings

1. No SFIO Investigation Existed
   - The Court found that:
     - SFIO itself confirmed no investigation was pending or initiated.
   - Therefore, the sole basis for withholding refund collapsed completely.
2. Refund Rejection Not on Merits
   - The authorities had:
     - not examined the refund claim on merits
     - rejected it only based on SFIO communication.

This was held to be legally unsustainable.

3. Pre-deposit Refund is Not "Tax Refund"
   - The Court clarified:
     - pre-deposit is not "tax" under Section 54 of the Central Goods and Services Tax Act, 2017.
   - It is an "other amount" recoverable under Rule 89 of the CGST Rules.

Thus, technical objections under Section 54 were misplaced.

4. Misapplication of Statutory Provisions
   - Section 54 limitation arguments were rejected.
   - Section 56 (interest provision) was also held irrelevant to the core dispute.
   - Rule 89 was interpreted broadly to include refund of non-tax amounts like pre-deposits.
5. Legal Principle from Supreme Court

The Court followed:
State of Jharkhand v. BLA Infrastructure (P.) Ltd.
which clarified proper treatment of refund and appeal-related deposits under GST framework.

Held (Decision)

The High Court held:

- The refund rejection order was illegal and unsustainable.
- Withholding of pre-deposit based on non-existent SFIO investigation was unjustified.
- The impugned order was set aside.

Final Directions

The Court directed that:

1. The GST authorities must immediately release the pre-deposit refund.
2. Payment must be made within four weeks.
3. Interest at applicable rate must be paid if legally due.

.

Outcome

- Writ petition allowed
- Refund directed with interest
- SFIO-based withholding rejected
- Order of GST authority quashed

Direct Tax

07.05.2026

Whether rental income can be added on a deemed basis when rent for certain months was waived through an amended agreement, no invoices were raised for the waived period, and the assessee neither received nor accounted for such rent?

Integrated Promoters (P.) Ltd. v. Deputy Commissioner of Income-tax
ITAT (24.04,2026)

Facts of the Case

- The assessee, Integrated Promoters (P.) Ltd., had leased out property and declared rental income of ₹8.25 lakhs under the head "Income from House Property".
- Due to the Covid-19 pandemic, the parties executed an amended rent agreement providing:
    - Rent waiver for April to June 2021.
    - Rent for July 2021 reduced to ₹75,000.
    - Rent for remaining months fixed at ₹1.50 lakhs per month.
- The assessee claimed that:
    - It raised invoices only for the period July to December 2021.
    - Actual rent billed and received was only ₹8.25 lakhs.
    - GST records (GSTR-9) showed:
        - Gross rent: ₹11.75 lakhs
        - Credit notes issued: ₹3.85 lakhs
        - Net taxable rent: ₹8.25 lakhs
- The Assessing Officer (AO) held that:
    - Actual rental income should have been ₹13.75 lakhs.
    - There was under-reporting of rental income by ₹5.50 lakhs.
    - After allowing deduction under Section 24(a), addition of ₹3.85 lakhs was made under Section 22.
- The CIT(A) confirmed the addition.

Assessee's Contentions

The assessee argued that:

- Rent waiver was genuine and documented through an amended rent deed.
- Only actual rent of ₹8.25 lakhs was billed and received.
- GST returns and credit notes substantiated the reduced rental income.
- No invoices were raised for the waived period; therefore, no income accrued or was received.

Revenue's Contentions

The Revenue contended that:

- As per the original rental arrangement, higher rent was receivable.
- The assessee had suppressed rental income by ₹5.50 lakhs.
- Addition under Section 22 was justified.

Tribunal's Decision

The ITAT allowed the appeal in favour of the assessee and deleted the addition.

Key Findings of the Tribunal

The Tribunal observed that:

- The amended rent agreement clearly established the rent waiver due to Covid-19.
- GST records corroborated the assessee's claim.
- The assessee had issued credit notes and disclosed only the actual rent received.
- No invoices were raised for the waived rent period.
- In absence of billing or receipt of rent, there was no basis to assume accrual or receipt of additional rental income.

The Tribunal held that:

"Since the assessee has not raised any bills for the rent of remaining period, there is no occasion to hold that the rent for the remaining period was also received by the assessee."

Accordingly, the addition of ₹3.85 lakhs was deleted.

Ratio / Principle Laid Down

Rental income cannot be assessed on a hypothetical or deemed basis where:

- rent has been validly waived through contractual modification,
- no invoices were raised,
- no amount was received, and
- documentary evidence such as GST records supports the assessee's claim.

ICMAI
THE INSTITUTE OF
COST ACCOUNTANTS OF INDIA
भारतीय लागत लेखाकार संस्थान
Statutory Body under an Act of Parliament
(Under the jurisdiction of Ministry of Corporate Affairs)

TAX INSIGHTS
By
Tax Research Department

Goods & Services Tax

07.05.2026

Whether Input Tax Credit (ITC) is admissible on cement, steel, construction materials and works contract/construction services used for construction of a warehouse or shed used for providing storage and warehousing services, or leasing/renting to tenants?

Premlata Rakesh Jain, In re
Authority for Advance Ruling (23.12.2025)

Facts of the Case

- The applicant, M/s Sambhav Warehousing, is engaged in providing: Storage services, and Warehousing services.
- The applicant was constructing a warehouse/shed and intended to use: Cement, Steel, Beams, Columns, and Other construction materials.
- The applicant also planned to avail:
  - Construction services and works contract services for building the warehouse.
- The warehouse was intended to be:
  - Used for providing warehousing/storage services, or Given on lease/rent to tenants.
- The applicant acknowledged that under Section 17(5) of the CGST Act, 2017, ITC on construction-related goods and services was generally blocked.
- However, relying upon the Supreme Court judgment in:
- Chief Commissioner of Central GST v. Safari Retreats (P.) Ltd.,
- the applicant argued that the warehouse should be treated as "plant" based on its functional use, and therefore ITC should be allowed.

Applicant's Contentions

The applicant argued that:

- The warehouse is used directly in business operations.
- Applying the "functionality test" laid down in Safari Retreats, the warehouse should qualify as "plant".
- Therefore, ITC should be allowed on construction inputs and input services used for the warehouse.

Observations of the AAR

The AAR examined the Supreme Court ruling in Safari Retreats and made the following observations:

1. Distinction between "Plant and Machinery" and "Plant or Machinery"

The Supreme Court had distinguished:

- "Plant and machinery" under Section 17(5)(c), and "Plant or machinery" under Section 17(5)(d).

The definition of "plant and machinery" specifically excludes: Land, Buildings, and Civil structures.
Therefore, works contract services used for warehouse construction are blocked under Section 17(5)(c).

2. Amendment by Finance Act, 2025

The AAR noted that:

- The Finance Act, 2025 amended Section 17(5)(d),
- Replacing the words "plant or machinery" with "plant and machinery" retrospectively from 01.07.2017.

A clarification was also inserted stating that any reference to "plant or machinery" shall always mean "plant and machinery".
This amendment effectively nullified the benefit arising from the Safari Retreats judgment for immovable property like warehouses.

3. Warehouse is a Civil Structure

The AAR held that:

- Warehouse/shed is a civil structure/building,
- Buildings are specifically excluded from the definition of "plant and machinery",
- Hence ITC remains blocked.

Decision / Ruling

The AAR ruled against the applicant and held that:

- ITC is not admissible on: Cement, Steel, Beams, Columns, Construction materials, and Construction/works contract services used for construction of warehouses or sheds.

This applies even if:

- The warehouse is used for business purposes,
- Warehousing/storage services are provided from it, or
- The property is leased/rented to tenants.

Final Outcome

- Advance Ruling issued in favour of Revenue
- ITC on warehouse construction: Denied

ICMAI
THE INSTITUTE OF
COST ACCOUNTANTS OF INDIA
भारतीय लागत लेखाकार संस्थान
Statutory Body under an Act of Parliament
(Under the jurisdiction of Ministry of Corporate Affairs)

TAX INSIGHTS
By
Tax Research Department

Direct Tax

08.05.2026

Whether reassessment proceedings under Sections 148A and 148 are valid when the original notice under Section 148A(b) alleged fictitious derivative/equity trading losses but the final order under Section 148A(d) proceeded on an entirely different allegation relating to sham dividend transactions?

Jyoti Bhatia v. Assistant Commissioner of Income-tax
High Court of Delhi (05.03.2026)

Facts of the Case

- The Assessing Officer (AO) issued notice under Section 148A(b) for AY 2018-19.
- The allegation in the notice was:
  - the assessee had claimed fictitious losses of ₹2.53 crore in equity/derivative trading.
- In response:
  - the assessee explained that she had invested in: JM Equity Hybrid Fund,
  - and had earned dividends therefrom.
  - She submitted:
    - bank statements,
    - mutual fund statements,
    - investment details.
- However, while passing the order under Section 148A(d), the AO changed the basis of reassessment and alleged:
  - dividends were generated through: sham transactions, colourable devices, and therefore dividend income should be taxed.
- Based on this new reasoning, notice under Section 148 was issued.
- The assessee challenged both: the Section 148A(d) order, and Section 148 notice before the Delhi High Court.

Assessee's Contentions

The assessee argued that:

- The original allegation was about fictitious trading losses.
- The final reassessment order proceeded on a completely different footing:
  - sham dividend receipts.
- AO cannot change the foundational basis of reassessment midway.
- Reassessment must stand or fall on the reasons originally recorded.

Revenue's Stand

The Revenue contended that:

- dividend transactions were sham,
- income had escaped assessment,
- and reassessment proceedings were therefore justified.

High Court's Decision

Held: Reassessment proceedings quashed

The Delhi High Court held that:

- the reasons recorded in the final order under Section 148A(d) were entirely different from the allegations in the Section 148A(b) notice.
- The AO had materially changed the basis of reassessment.

The Court observed:

"Formation of opinion cannot be based on a set of reasons which are of changing hues."

Thus:

- reassessment proceedings were legally unsustainable.

Important Findings of the Court

1. AO Cannot Change the Basis of Reassessment

The Court emphasized that:

- reassessment proceedings must be judged only on the basis of:
  - original reasons,
  - foundational material,
  - and allegations communicated to the assessee.

If the AO wants to proceed on different grounds:

- a fresh notice is required.

2. Final Order Was Beyond Original Allegations

Original allegation in Section 148A(b):

- fictitious derivative/equity losses.

Final reasoning in Section 148A(d):

- sham dividend transactions using colourable devices.

The Court held:

- both allegations were fundamentally different,
- hence reassessment could not survive.

Result

The writ petition filed by the assessee was allowed, and:

- the order under Section 148A(d),
- along with the notice under Section 148,

were quashed by the Delhi High Court.

ICMAI
THE INSTITUTE OF
COST ACCOUNTANTS OF INDIA
भारतीय लागत लेखाकार संस्थान
Statutory Body under an Act of Parliament
(Under the jurisdiction of Ministry of Corporate Affairs)

TAX INSIGHTS

By

Tax Research Department

Goods & Services Tax

08.05.2026

Whether Input Tax Credit (ITC) is available on leasing, renting, hiring of motor vehicles, used for transportation of women employees during night shifts, where such transportation is mandatory under the Tamil Nadu Shops and Establishments Act, 1947?

AGS Health (P.) Ltd., In re
AAR - TAMILNADU (04.03.2026)

Facts of the Case

- The applicant, AGS Health Private Limited, operated in the ITES/BPO sector.
- Due to international clients and different time zones: employees worked in night shifts.
- Under Tamil Nadu labour laws: employers must provide safe transportation facilities to women employees working between: 8 PM and 6 AM.
- The company: hired/leased/rented motor vehicles, provided cab facilities, ensured safety measures for women employees.
- No recovery was made from employees for transportation.
- The applicant sought clarification whether GST paid on such transportation services was eligible for ITC.

Questions Before AAR

1. Whether ITC is available on leasing/renting/hiring of motor vehicles used for women employee transportation?
2. Whether entire ITC can be availed for transport in all shifts?
3. From which date can such ITC be claimed?

Applicant's Contentions

The applicant argued that:

- transportation was mandatory under Tamil Nadu law,
- therefore proviso to Section 17(5)(b) applied,
- blocked credit restriction should not apply,
- CBIC Circular No. 172/04/2022 clarified that the proviso applies to the entire Section 17(5)(b),
- transportation facility was essential for business continuity and statutory compliance.

The applicant relied on:

- Troikaa Pharmaceuticals Ltd., In re
- CMA CGM Global Business Services (India) (P.) Ltd., In re

Result

The Tamil Nadu AAR ruled in favour of the applicant and held that:

- ITC on hiring/leasing/renting of motor vehicles for transportation of women employees during night shifts is admissible,
- because it was a statutory obligation imposed on the employer under Tamil Nadu law.

AAR's Findings

Issue 1: Eligibility of ITC

Held: ITC Allowed

The AAR held:

- Normally, ITC on leasing/renting/hiring of motor vehicles is blocked under Section 17(5).
- However, the proviso to Section 17(5)(b) creates an exception where: the employer is legally obligated to provide such facility.

Since:

- Tamil Nadu law mandated transportation and safety arrangements for women employees, the applicant became eligible for ITC.

Important Observation

The AAR noted:

- Once provision of transport becomes a statutory obligation, ITC restriction under Section 17(5) is relaxed through the proviso.

Issue 2: Extent of ITC Availability

Held: ITC restricted to statutory requirement

The AAR clarified:

- ITC is available only for: transportation of women employees, travelling between 8 PM and 6 AM, where transportation is legally mandatory.

The applicant also undertook:

- not to claim ITC for transportation involving exclusively male employees.

Issue 3: Effective Date for ITC

Held: ITC available from 28.05.2019 onwards

The AAR observed:

- Though amended Section 17(5)(b) became effective from 01.02.2019,
- Tamil Nadu statutory obligation arose only from: 28.05.2019, via Government Notification G.O. Ms. No. 60.

Therefore:

- ITC becomes available from 28.05.2019 onward.

Limitation under Section 16(4)

The AAR further clarified:

- ITC remains subject to: Section 16 conditions, including time limits under Section 16(4).

Thus:

- old credits beyond statutory limitation periods cannot automatically be revived merely because clarification came later.

Direct Tax

09.05.2026

Whether agricultural land situated beyond 8 km from the municipal limits and recorded as agricultural land in revenue records constitutes a "capital asset" under Section 2(14)(iii)(b) of the Income-tax Act, 1961, even if actual agricultural operations are not fully proved?

Madhavi Farms (P.) Ltd. v. Income-tax Officer
Income Tax Appellate Tribunal (23.04.2026)

Facts of the Case

- The assessee-company sold agricultural land measuring about 15 acres 28 guntas situated in Jainapally Village, Bibinagar Mandal, Nalgonda District.
- The land was:
  - Classified as agricultural land in revenue records.
  - Described as agricultural land in the sale deed.
  - Located approximately 8.56 km from Bhongir Municipality.
- The assessee claimed that:
  - The land was rural agricultural land.
  - Hence, it was excluded from the definition of "capital asset" under Section 2(14)(iii)(b).
  - Therefore, no capital gains tax was payable.

Findings of the Assessing Officer (AO)

The AO:

- Conducted local enquiries through the Income Tax Inspector and village authorities.
- Found that:
  - The land was rural agricultural land.
  - Crops such as kandi, jowar, and grass were cultivated.
  - The distance from municipal limits was about 8.56 km.

However, the AO still treated the land as a capital asset because:

- The assessee did not produce sufficient documentary evidence of agricultural operations or agricultural income.
- The land appeared mostly dry/open.
- The village fell within HMDA limits.
- Subsequent purchasers transferred the land quickly, suggesting possible commercial intent.

Accordingly, the AO taxed the gains as long-term capital gains under Section 45.

CIT(A)'s Decision

The CIT(A) upheld the AO's addition, holding that:

- Agricultural use was not adequately proved.
- Conditions of Section 2(14)(iii)(b) were not satisfied.

Assessee's Arguments

The assessee argued that:

- The decisive factors under Section 2(14)(iii)(b) are:
  a. Whether the land is agricultural in revenue records; and
  b. Whether it is situated beyond the prescribed municipal distance.
- Actual agricultural operations are not mandatory once the land is officially classified as agricultural.
- Agricultural income had already been declared in earlier years and was accepted by the department.
- Future development potential or HMDA coverage cannot change the nature of the land.

The assessee relied on several precedents including:

- CIT v. Smt. Debbie Alemao
- Mrs. Sakunthala Vedachalam v. ACIT

Revenue's Arguments

The Revenue contended that:

- The assessee failed to prove actual agricultural activity.
- The nature of subsequent transactions indicated commercial exploitation.
- Therefore, the land should be treated as non-agricultural and taxable as a capital asset.

Tribunal's Decision

The ITAT allowed the assessee's appeal and deleted the capital gains addition.

Key Findings of the Tribunal

1. Agricultural Classification in Revenue Records is Crucial

The Tribunal held that:

- The land was admittedly classified as agricultural land in revenue records.
- It had not been converted to non-agricultural use by any competent authority.

Therefore, it retained its agricultural character.

2. Distance Beyond 8 KM Excludes Land from "Capital Asset"

The Tribunal noted:

- The AO himself accepted that the land was situated 8.56 km from Bhongir Municipality.
- Hence, the land satisfied the distance condition under Section 2(14)(iii)(b).

3. Actual Agricultural Use is Not Mandatory

The Tribunal clarified:

- Section 2(14)(iii) does not require proof of continuous agricultural operations.
- Once land is agricultural in revenue records and beyond the prescribed municipal limits, absence of evidence of cultivation does not convert it into non-agricultural land.

4. Future Commercial Potential is Irrelevant

The Tribunal observed:

- Speculation about future plotting or development cannot alter the present legal character of the land.
- HMDA inclusion or subsequent transfers by buyers are not determinative.

5. Dry Land Remains Agricultural Land

The Tribunal further held:

- Mere non-cultivation or classification as dry land does not change the nature of agricultural land.

Final Ruling

The ITAT held that:

- The land was rural agricultural land.
- It was situated beyond 8 km from municipal limits.
- Therefore, it was not a "capital asset" under Section 2(14).
- Consequently, no capital gains tax was chargeable under Section 45.

The addition made by the AO was deleted.

Legal Principle

Agricultural land recorded as such in revenue records and situated beyond the prescribed municipal limits does not become a capital asset merely because:

- agricultural activities are not fully proved,
- the land is dry/open,
- it falls within development authority limits, or
- it has future commercial potential.

Important Precedents Relied Upon

- CIT v. Smt. Debbie AlemaoAgricultural classification in revenue records is significant.
- Future non-agricultural conversion by purchaser is irrelevant.
- Mrs. Sakunthala Vedachalam v. ACITActual cultivation is not decisive.
- Revenue records and land revenue payment are important indicators.

Practical Takeaway

For exemption under Section 2(14)(iii)(b), the most important considerations are:

- Classification as agricultural land in revenue records; and
- Distance from municipal limits.

Lack of agricultural income proof alone is insufficient to treat such land as a taxable capital asset.

- **Whether the applicant must obtain GST registration in other States where project sites are located.**
- **Whether temporary construction sites within Tamil Nadu should be declared as additional places of business.**
- **Whether movement of materials from Tamil Nadu to project sites in other States amounts to "supply" even without consideration.**

Teemage Builders (P.) Ltd., In re
Authority for Advance Ruling, Tamil Nadu (21.01.2026)

Facts of the Case

- The applicant, Teemage Builders Pvt. Ltd., is engaged in precast concrete construction.
- It manufactures precast structures (beams, columns, slabs, staircases, wall panels, etc.) at its factory in Tirupur, Tamil Nadu.
- These precast components are transported to customer sites located both within and outside Tamil Nadu.
- At the site, the applicant assembles and erects the structures into completed buildings using cranes and limited manpower (about 6–7 employees).
- Customers provide temporary office space at the project site.
- Contracts are executed on a composite basis, covering:
  - manufacture of precast structures, transportation, and erection/assembly at site.
- The applicant argued that:
  - it had no "fixed establishment" in other States, the sites were temporary, therefore, separate GST registration was not required.

Findings and Reasoning of the AAR

A. Construction Site Constitutes a "Fixed Establishment"

The AAR held that:

- The construction site had:
  - sufficient permanence (project duration around 150 days),
  - human resources (employees/supervisors),
  - technical resources (machinery/cranes),
  - capability to supply services.

Therefore, the site qualified as a "fixed establishment" under GST law.

The Authority rejected the applicant's argument that temporary presence and limited manpower meant there was no fixed establishment.

B. Separate GST Registration Required in Other States

Since the applicant had a fixed establishment in other States:

- it was required to obtain GST registration in the respective State where the project site was located.

The AAR held that the applicant could not execute inter-State works contracts solely using the Tamil Nadu registration.

C. Additional Place of Business Within Tamil Nadu

For project sites within Tamil Nadu:

- the applicant may declare such sites as additional places of business under the existing Tamil Nadu GST registration.

D. Movement of Materials to Other States Amounts to Supply

The AAR held that:

- once registration is required in another State, the establishments become distinct persons under Section 25(4) and 25(5).

Therefore:

- movement of goods/materials from Tamil Nadu to another State project site, even without consideration, qualifies as "supply" under Schedule I read with Section 7.

Thus, GST implications arise on such stock transfers.

E. Procedural Questions Not Maintainable

Questions relating to:

- invoicing, delivery challans, e-way bills, applicable tax rates, HSN/SAC mismatch, movement/return of machinery and tools, were rejected because they were considered: procedural in nature, and outside the scope of Section 97(2) governing advance rulings.

Issue	**Decision**
1.Whether registration is required in other States:	Yes
2.Whether Tamil Nadu sites can be added as additional place of business :	Yes
3.Whether transfer of materials to other State sites amounts to supply:	Yes
4.Procedural questions on invoices/challans/e-way bills:	Rejected as not maintainable

Direct Tax

10.05.2026

Whether delay of 759 days in filing appeal against rejection of registration under Section 12AB could be condoned when the delay occurred because the accountant failed to monitor the registered e-mail account, and whether the matter should be remanded for fresh consideration.

Parsee Education Society v. Commissioner of Income-tax (Exemption)
ITAT AHMEDABAD (23.04.2026)

Facts of the Case

1. The assessee was a charitable trust registered under:Bombay Public Trust Act since 1952, Section 12AA since 1998, and had provisional registration under Section 12AB through Form 10AC.
2. The trust modified its objects by expanding educational activities from only primary schools to: high schools, colleges, engineering, pharmacy, postgraduate institutions, etc.
3. Due to modification of objects, the trust filed Form 10AB seeking fresh registration under Section 12A(1)(ac)(v).
4. The CIT(Exemptions) rejected the application because: the assessee did not respond to notices, did not participate in proceedings, and allegedly failed to submit proof of modified objects.
5. The assessee later filed appeal before ITAT with delay of 759 days.
6. Reason for delay: the accountant's e-mail was registered with the Income Tax Department, he failed to regularly check emails, therefore notices and rejection order were missed, the issue came to light only during return filing in October 2025.
7. Affidavits from both: the trust, and the accountant were filed explaining the circumstances.
8. The assessee also demonstrated that documents regarding modified objects had actually been uploaded along with Form 10AB.

Assessee's Arguments

The assessee contended that:

- delay was bona fide and unintentional;
- all relevant documents were already filed;
- non-participation resulted solely from oversight of accountant;
- trust had always been law-compliant;
- denial of hearing violated principles of natural justice.

Revenue's Position

- The Revenue mainly relied upon the CIT(E)'s order rejecting registration due to: non-compliance, absence of participation, and failure to furnish details.
- However, the Revenue did not dispute: the affidavits, e-mail communication facts, or denial of refund due to rejection of registration.

Tribunal's Observations

The ITAT observed that:

1. The assessee had consistently remained law-compliant for decades.
2. The trust had: obtained registrations properly, promptly applied under new registration regime,and sought fresh registration immediately after object modification.
3. The only lapse was: failure to monitor e-mails, resulting in missed notices and delayed appeal.
4. The explanation supported by affidavits constituted "sufficient cause".
5. A law-abiding assessee ordinarily would not intentionally ignore departmental notices.
6. The documents proving modification of objects were apparently already filed with Form 10AB.

Decision / Conclusion

The ITAT held that:

- sufficient cause existed for condoning delay of 759 days;
- delay deserved liberal consideration in interests of justice;
- non-participation was due to genuine oversight;
- matter required fresh adjudication after proper opportunity.

Accordingly:

- Delay was condoned.
- Order of CIT(E) was set aside.
- Matter was remanded to CIT(Exemptions) for fresh consideration.
- Appeal allowed for statistical purposes.

ICMAI
THE INSTITUTE OF
COST ACCOUNTANTS OF INDIA
भारतीय लागत लेखाकार संस्थान
Statutory Body under an Act of Parliament
(Under the jurisdiction of Ministry of Corporate Affairs)

TAX INSIGHTS

By
Tax Research Department

Goods & Services Tax

10.05.2026

1. **Whether supply of tobacco-based or non-tobacco hookah in a restaurant along with food constitutes: a composite restaurant service taxable at concessional 5% GST, or a separate supply taxable independently.**
2. **Whether hookah qualifies as: "food or any other article for human consumption" under Clause 6(b) of Schedule II.**
3. **Applicable GST rates on: restaurant food service, tobacco hookah, herbal/non-tobacco hookah.**

Indian Wire Products Company, In re
Authority for Advance Ruling, W.B. (27.02.2026)

Facts of the Case

1. The applicant operated a restaurant named "Pappu Chaiwala".
2. Apart from food and beverages, the restaurant proposed to serve: tobacco hookah, and herbal/non-tobacco hookah.
3. The applicant argued that:
   - hookah was part of the dining experience,
   - prepared and served using restaurant infrastructure, and therefore formed part of restaurant service taxable at 5%.
4. Hookah apparatus remained property of the restaurant and customers consumed hookah only within restaurant premises.
5. Revenue opposed the claim stating:
   - hookah flavours/tobacco are goods classified under Heading 2403, tobacco hookah attracts high GST and cess, concessional restaurant rate cannot apply.

Applicant's Arguments

The applicant contended that:

- Hookah preparation resembles food preparation involving mixing, curing, flavouring and service by trained staff.
- Hookah cannot be consumed independently without restaurant infrastructure and assistance.
- Supply was naturally bundled with restaurant service.
- It therefore constituted a "composite supply" where restaurant service was the principal supply.
- Clause 6(b) of Schedule II covers:
  - "food or any other article for human consumption".
- Since only alcoholic liquor is expressly excluded, hookah should not be excluded by implication.
- Consequently, entire supply should attract 5% GST applicable to restaurant services.

Revenue's Arguments

The Revenue argued that:

- The principal supply was hookah tobacco/flavour products, not restaurant service.
- Hookah products are classified under Heading 2403 and attract:
  - 28% GST + compensation cess (earlier structure),
  - subsequently 40% GST under amended notifications.
- Hookah is not "food or drink".
- Restaurants were wrongly availing concessional 5% GST by disguising tobacco supply as restaurant service.
- If hookah were treated as restaurant service, then cigarettes and pan masala could also wrongly claim concessional treatment.

Final Conclusion

The Authority held that:

- Hookah is not "food or drink" for human consumption under Clause 6(b).
- Restaurant food and hookah are separate supplies.
- Hookah service is not covered by concessional restaurant GST rate.
- Tobacco hookah is taxable separately as tobacco goods under Heading 2403 at higher GST rate.
- Herbal hookah is also taxable separately as goods at 18%.

Key Takeaways

- Restaurant services under GST cover edible consumables, not inhaled substances.
- Hookah cannot claim concessional restaurant GST merely because it is served in a restaurant.
- Composite supply analysis depends on identifying the "principal supply".
- Tobacco products retain independent GST classification even when supplied with hospitality services.
- Artificial bundling with food does not automatically convert taxable goods into restaurant service.

Direct Tax

11.05.2026

Whether a notice issued under Section 153A of the Income-tax Act for AY 2011-12 pursuant to a search conducted on 08.10.2020 was barred by limitation because the assessment year fell outside the permissible ten-year block period prescribed under Section 153A read with Explanation 1.

Popular Developers v. Assistant Commissioner of Income-tax
High Court of Gujarat (02.02.2026)

Facts of the Case

- The assessee, Popular Developers, was a partnership firm engaged in the real estate business.
- It filed its original return for AY 2011-12 declaring income of approximately ₹61,719.
- A search under Sections 132/132A was conducted on 08.10.2020 (FY 2020-21).
- Since the search occurred prior to 31.03.2021, the old search assessment provisions under Sections 153A/153C applied.
- The Department issued a notice dated 11.03.2022 under Section 153A for AY 2011-12.
- Subsequently, an assessment order dated 31.03.2022 under Section 153A read with Section 143(3) was passed making additions of approximately ₹8.65 crore.
- The assessee challenged both the notice and the assessment order before the Gujarat High Court.

Assessee's Contentions

The assessee argued that:

1. Under Section 153A read with Explanation 1, the outer limitation for reopening assessments pursuant to search is ten assessment years.
2. For a search conducted during FY 2020-21:
   - Relevant assessment year = AY 2021-22.
3. The ten-year block should be computed backward from the end of AY 2021-22.
4. Accordingly:
   - AY 2021-22 = 1st year
   - AY 2012-13 = 10th year
5. Therefore, AY 2011-12 fell beyond the permissible ten-year period.
6. Consequently:
   - Notice under Section 153A was time-barred.
   - Assessment order based on such notice was void.

Revenue's Arguments

The Department contended that:

1. Different methods cannot be adopted for computing:
   - six assessment years, and ten assessment years.

- The expression "from the end of the assessment year" should not exclude the search year.
- Legislative intent behind the Finance Act, 2017 amendments was to permit reopening for six plus four additional years.
- Therefore, AY 2011-12 should still fall within the ten-year permissible period.

Court's Analysis

The High Court examined:

- Section 153A(1)(b)
- Explanation 1 to Section 153A
- Earlier judgments of Delhi and Madras High Courts

The Court held that:

1. Separate computation mechanisms exist for:
   - six assessment years, and ten assessment years.
2. Six-year computation

Under Section 153A(1)(b), six years are computed as:

- "immediately preceding" the assessment year relevant to the previous year in which search is conducted.

3. Ten-year computation

Explanation 1 specifically states:

- the ten-year period is to be computed "from the end of the assessment year" relevant to the previous year of search.

Thus, the search assessment year itself gets included while calculating the ten-year block.

Court's Computation

Search Date: 08.10.2020
Financial Year: 2020-21
Relevant Assessment Year: AY 2021-22
Ten-year block: AY 2021-22 to AY 2012-13
Therefore: AY 2011-12 fell outside the permissible ten-year period.

Decision / Held

The Gujarat High Court held that:

- Notice issued under Section 153A for AY 2011-12 was barred by limitation.
- The consequential assessment order dated 31.03.2022 was also invalid and illegal.
- Both the notice and the assessment order were quashed.

ICMAI
THE INSTITUTE OF
COST ACCOUNTANTS OF INDIA
भारतीय लागत लेखाकार संस्थान
Statutory Body under an Act of Parliament
(Under the jurisdiction of Ministry of Corporate Affairs)

TAX INSIGHTS
By
Tax Research Department

Goods & Services Tax

11.05.2026

Whether the GST authorities could deny ITC and raise demand on account of mismatch between GSTR-3B and GSTR-2A without following the reconciliation procedure prescribed under Circular No. 183/15/2022-GST dated 27.12.2022.

Ganges International P. Ltd. v. Assistant Commissioner of Tax
High Court of Karnataka (24.03.2026)

Facts of the Case

The petitioner, Ganges International P. Ltd., challenged an Order-in-Original dated 10.12.2025 issued by the GST authorities.

The department alleged that the petitioner had wrongly availed Input Tax Credit (ITC) on multiple grounds, including:

- Excess ITC claimed in GSTR-3B
- Mismatch between GSTR-3B and GSTR-2A
- ITC claimed on invoices issued by non-existing suppliers
- Non-payment of GST under Reverse Charge Mechanism (RCM)
- Excess ITC availed relating to RCM entries

Based on these allegations, the adjudicating authority passed an order confirming tax demand and denying ITC.

The petitioner approached the Karnataka High Court through a writ petition.

Petitioner's Arguments

The petitioner contended that:

1. The assessing authority failed to follow the mandatory reconciliation procedure prescribed in Circular No. 183/15/2022-GST.
2. Paragraphs 3 and 4 of the Circular specifically provide a mechanism for reconciliation of differences between:
   - ITC claimed in GSTR-3B, and
   - ITC reflected in GSTR-2A.
3. Without allowing proper reconciliation, denial of ITC was arbitrary and unsustainable.
4. The department should also proceed against defaulting suppliers before taking adverse action against the recipient taxpayer.

Revenue's Arguments

The department argued that:

- The petitioner should have raised these objections before the assessing officer during adjudication.
- The adjudication order was validly passed based on discrepancies noticed during assessment.

Decision of the High Court

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

- The contention regarding non-following of the prescribed reconciliation procedure was not disputed by the department.
- The assessing authority ought to have allowed reconciliation of GSTR-3B and GSTR-2A mismatches in accordance with Circular No. 183/15/2022-GST.
- Since the prescribed procedure was not followed, the adjudication order could not be sustained.

Accordingly, the Court:

- Set aside the Order-in-Original
- Set aside the consequential demand
- Remanded the matter back to the assessing authority for fresh consideration
- Allowed the petitioner to raise all contentions again before the authority

The Court also directed that reconsideration should proceed from the stage of reply to the show-cause notice.

Legal Principle

- Where ITC mismatch exists between GSTR-3B and GSTR-2A, GST authorities must follow the reconciliation mechanism prescribed under Circular No. 183/15/2022-GST before denying ITC or raising demand.
- Failure to follow the prescribed procedure violates principles of proper adjudication and renders the order liable to be set aside.

Relevant Provisions Involved

Statutory Provisions

- Section 16 of the Central Goods and Services Tax Act, 2017 – Eligibility and conditions for ITC
- Sections 38, 39 and 168 of the CGST Act
- Rule 36 of the CGST Rules

Circular Relied Upon

- Circular No. 183/15/2022-GST dated 27.12.2022

ICMAI
THE INSTITUTE OF
COST ACCOUNTANTS OF INDIA
भारतीय लागत लेखाकार संस्थान
Statutory Body under an Act of Parliament
(Under the jurisdiction of Ministry of Corporate Affairs)

TAX INSIGHTS

By
Tax Research Department

Direct Tax

12.05.2026

Whether reassessment proceedings initiated beyond three years from the end of the relevant assessment year are invalid when sanction under Section 151 was granted by the Principal Commissioner of Income Tax, instead of the competent authority prescribed under Section 151(ii)?

Skypak Travels (P.) Ltd. v. Income-tax Officer
High Court of Bombay (24.04.2026)

Facts of the Case

- The assessee company had not filed its income tax return for AY 2018–19.
- The Income Tax Department received information through its risk management system that the assessee had sold immovable property worth approximately ₹2.29 crore.
- A notice under Section 148A(b) was allegedly issued on 23 March 2022.
- Thereafter:
  - Order under Section 148A(d) dated 06 April 2022 was passed.
  - Notice under Section 148 dated 07 April 2022 was issued for reopening the assessment.
- Approval for reopening was granted by the Principal Commissioner of Income Tax (PCIT).
- Ultimately, reassessment order under Sections 147/144 was passed on 26 March 2024 treating the transaction as short-term capital gain under Section 50C and raising tax demand.
- Penalties under Sections 270A and 272A(1)(d) were also levied.

The assessee challenged the entire reassessment proceedings before the Bombay High Court through a writ petition.

Assessee's Arguments

The assessee contended that:

1. Since more than three years had elapsed from the end of AY 2018–19, sanction should have been obtained from the authority specified under Section 151(ii), namely:
   - Principal Chief Commissioner / Principal Director General, or
   - Chief Commissioner / Director General.
2. Approval by the PCIT was without jurisdiction and therefore invalid.
3. The proviso inserted to Section 151 with effect from 01-04-2023 could not apply retrospectively to notices issued in April 2022.
4. No proper service of notices was effected, violating principles of natural justice.

Revenue's Arguments

The Revenue argued that:

- Alternate statutory remedy of appeal was available.
- Reassessment was validly initiated based on risk management information.
- Considering provisos to Section 149, the sanction by PCIT was proper.

Decision of the Court

The Bombay High Court:

- Quashed the order under Section 148A(d),
- Quashed the notice under Section 148,
- Quashed the reassessment order under Sections 147/144,
- Quashed consequential demand notice and penalty orders.

The writ petition was allowed in favour of the assessee.

Key Legal Principle

Where a notice under Section 148 is issued beyond three years from the end of the relevant assessment year, approval must be obtained from the authority prescribed under Section 151(ii). Approval by an incompetent authority (such as PCIT) renders the entire reassessment proceedings void ab initio for lack of jurisdiction.

Significance of the Judgment

This judgment reinforces that:

- Reassessment provisions must be strictly complied with.
- Jurisdictional conditions under Sections 148, 149 and 151 are mandatory.
- Approval by the correct sanctioning authority is essential.
- Defects relating to jurisdiction cannot be cured retrospectively unless expressly provided by statute.

The ruling provides strong support to taxpayers challenging reassessment notices issued beyond three years with sanction from an incorrect authority.

Goods & Services Tax

12.05.2026

Whether the restriction/blocking of the Electronic Credit Ledger under Rule 86A can continue beyond one year from the date of imposition?

NZS Traders (P.) Ltd. v. Union of India
High Court of Bombay (25.03.2026)

Facts of the Case

1. On 16 February 2024, the GST Department blocked the petitioner's Electronic Credit Ledger (ECL) under Rule 86A of the CGST Rules, 2017.
2. The amount blocked was approximately ₹4.25 crore.
3. The petitioner contended that:
    - No show cause notice (SCN) was issued.
    - No opportunity of hearing was granted.
    - No formal order was communicated before blocking the ITC.
4. The petitioner wrote letters dated:
    - 29 February 2024
    - 27 March 2024
5. requesting removal of the restriction and stating that GSTR-3B could not be filed due to blockage of ITC.
6. The department did not remove the restriction even after expiry of one year from the date of blocking.
7. The petitioner therefore approached the Bombay High Court under Article 226 of the Constitution.

Relevant Provision

Rule 86A(3) of CGST Rules, 2017

The restriction imposed on utilization of ITC:

- Restriction under Rule 86A shall cease after one year from the date of imposition.
- In essence, the Rule provides that blockage of ITC automatically ceases after one year.

Petitioner's Arguments

The petitioner argued that:

- Rule 86A(3) clearly limits the blockage period to one year.
- Since the ledger was blocked on 16 February 2024, the restriction automatically expired in February 2025.
- Continuation of the block thereafter was illegal.
- The department acted without:
    - notice, hearing or speaking order.

The petitioner relied on:

- Seya Industries Ltd. v. State of Maharashtra

where the Bombay High Court held that Rule 86A restriction cannot continue beyond one year.

Department's Arguments

The department contended that:

- The petitioner's GST registration had already been cancelled.
- Further proceedings could still be initiated against the petitioner.
- Therefore, the petition should be dismissed.

However, the department admitted in its affidavit that under Rule 86A(3), restriction cannot remain beyond one year.

Key Findings of the Court

1. Restriction Cannot Continue Beyond One Year

The Court held that Rule 86A(3) clearly mandates that blockage of ITC cannot continue beyond one year from the date of imposition.

Since the block was imposed on 16 February 2024, it automatically ceased after expiry of one year.

2. Automatic Cessation by Operation of Law

The Court observed that:

- No separate court declaration was required.
- The restriction automatically lapses by operation of law after one year.

3. Registration Cancellation Irrelevant for Continuation of Block

The Court rejected the department's argument that cancellation of registration justified continuation of the block.

The Court clarified that: issues relating to cancellation, eligibility of ITC or future proceedings would be governed independently under the GST law, but cannot justify continuation of Rule 86A restriction beyond one year.

4. Impugned Blocking Set Aside

The Court set aside the blocking/attachment of the electronic credit ledger dated 16 February 2024.

Final Outcome

The writ petition was disposed of with the following directions:

- Blocking of ITC under Rule 86A stood quashed/set aside.
- Restriction had already ceased by operation of law after one year.
- Both parties were free to take further action in accordance with GST law regarding other issues.

Direct Tax

13.05.2026

Whether addition under Section 56(2)(vii)(b) can be made when the difference between agreement value and stamp duty value is within 10% tolerance band under Section 50C.

Manjit Singh Baxisingh Dev v. INT Tax
ITAT, Mumbai (06.04.2026)

Background of the Case

The assessee, a non-resident individual, sold a property and claimed exemption under Section 54 of the Income-tax Act. During assessment proceedings for AY 2015-16, the Assessing Officer (AO) made three additions:

1. Addition under Section 56(2)(vii)(b) due to difference between purchase price and stamp duty value.
2. Disallowance of part of indexed cost of acquisition while computing capital gains.
3. Addition under Section 69 for alleged unexplained investment in purchase of property.

The assessee challenged these additions before the ITAT.

Facts of the Case

1. Addition under Section 56(2)(vii)(b)

- Assessee purchased a flat for ₹50.78 lakh. Stamp duty valuation was ₹51.95 lakh. Difference was ₹1.16 lakh (approximately 2.3%).

AO treated the difference as taxable income under Section 56(2)(vii)(b).

The assessee argued:

- Difference was within the permissible tolerance band.
- Amendments introducing 5%/10% tolerance are curative and retrospective in nature.

2. Indexation Dispute

- Assessee purchased an under-construction flat in March 2002 for ₹22 lakh.
- Claimed indexation from FY 2001-02 (date of agreement/allotment).
- AO granted indexation only on the basis of actual installment payment dates.

This reduced indexed cost and resulted in an addition of ₹2.43 lakh.

3. Unexplained Investment under Section 69

- AO alleged unexplained investment of ₹4.99 lakh.
- Assessee explained that amount was paid by father-in-law directly to seller.
- Supporting bank statements and confirmation were produced before DRP.

DRP rejected explanation stating:

- Documents relied upon did not properly establish nexus among payer, assessee, and seller.

Decision of the Tribunal

Issue 1 – Section 56 Addition Deleted

Held:

The ITAT held that:

- The 10% tolerance band under Section 50C is applicable retrospectively.
- Such tolerance applies even for purchase transactions covered under Section 56(2)(vii)(b).
- Since the variation was only 2.3%, no addition could be made.

Key Observation:

The amendment introducing tolerance band was:

- curative,
- intended to remove hardship,
- therefore retrospective in operation.

Result:

Addition of ₹1.16 lakh deleted.

Issue 2 – Indexation Allowed from Date of Agreement

Held:

The Tribunal ruled that:

- Indexation should be available from the date of acquisition of rights in the property (allotment/agreement date),
- and not from dates of actual installment payments.

The Tribunal relied on earlier ITAT and High Court decisions holding that:

- allotment rights constitute a "capital asset".

Result:

Addition of ₹2.43 lakh deleted.

Issue 3 – Section 69 Addition Remanded

Held:

The Tribunal observed that:

- DRP may have examined incorrect documents,
- matter required factual verification,
- assessee had produced supporting evidence including:
  - bank statements,
  - confirmation from father-in-law,
  - purchase deed.

Result:

Matter remanded back to AO for fresh verification.

ICMAI
THE INSTITUTE OF
COST ACCOUNTANTS OF INDIA
भारतीय लागत लेखाकार संस्थान
Statutory Body under an Act of Parliament
(Under the jurisdiction of Ministry of Corporate Affairs)

TAX INSIGHTS
By
Tax Research Department

Goods & Services Tax

13.05.2026

Whether liquor manufacturers were entitled to issuance of C-Forms for inter-State purchase of Extra Neutral Alcohol (ENA) during the period from:

- **1 July 2017 (GST implementation) to**
- **12 November 2024 (statutory amendment excluding ENA from GST)**

despite absence of a final GST Council decision on taxability of ENA used in manufacture of alcoholic liquor for human consumption.

Additional Chief Secretary/Commissioner of Commercial Taxes v. Southern Agrifurane Industries (P.) Ltd.
High Court of Madras (24.03.2026)

Facts of the Case

- The respondent company was engaged in manufacture of alcoholic liquor for human consumption.
- It purchased Extra Neutral Alcohol (ENA) from suppliers located in other States.
- For concessional CST rate on inter-State purchases, the respondent requested issuance of C-Forms.

State's Stand

The State Government refused issuance of C-Forms on the ground that:

- GST regime had come into force from 01.07.2017,
- ENA was allegedly covered under GST framework,
- therefore C-Forms were not permissible.

Later, the State also argued that:

- amendment excluding ENA from GST was introduced only from 12.11.2024,
- hence such exclusion operated prospectively only,
- and no C-Forms could be issued for earlier period.

GST Council Position

The GST Council had:

- noted divergent views regarding taxability of ENA, deferred the issue repeatedly, directed maintenance of "status quo" until final decision.

Proceedings Before Single Judge

The respondent filed a writ petition seeking direction to issue C-Forms.
The Single Judge held that:

- GST Council consciously kept ENA outside GST decision-making, therefore pre-GST position continued, state must issue C-Forms until statutory amendment was made.

The State filed writ appeal against this order.

Issues Before Division Bench

Main Question:
What is the effect of the GST Council's decision to maintain "status quo" regarding ENA?
Specifically:

- Does "status quo" mean continuation of pre-GST regime?
- Can trade rights be restricted merely because GST Council had not taken a final decision?

Decision of the High Court

Appeal Dismissed
The Madras High Court dismissed the State's writ appeal.

Key Findings of the Court

1. "Status Quo" Means Pre-GST Position Continues
The Court held:

- GST Council consciously deferred decision on ENA, therefore status quo must be understood as continuation of legal position existing before 01.07.2017.

Hence:

- CST regime continued to apply,
- eligible dealers remained entitled to C-Forms.

2. Trade Rights Cannot Be Curtailed Due to GST Council's Indecision
The Court observed:

- manufacturers depended on uninterrupted inter-State supply of ENA, denial of C-Forms would adversely affect trade, right to trade is a fundamental right.

The Court specifically stated that:
indecision of the GST Council cannot create impediments to lawful trade.

3. Subsequent Amendment Operates Prospectively
Although the State amended Section 9 of the TNVAT Act from 12.11.2024:

- such later amendment could not retrospectively deny benefits for prior period,
- taxpayers were entitled to treatment prevailing during "status quo" period.

TAX INSIGHTS

By

Tax Research Department

Direct Tax

14.05.2026

Whether TDS under Section 194-IA is required when: a property is jointly purchased by multiple buyers, the total property value exceeds ₹50 lakh, but the individual share of each buyer is below ₹50 lakh.

Harvindra Singh v. ACIT CPC TDS
ITAT,Delhi (29.04.2026)

Facts of the Case

- The assessee jointly purchased an immovable property along with two other persons.
- Total property value: ₹55 lakh.
- Assessee's individual share: ₹18.13 lakh.
- No TDS was deducted under Section 194-IA because the assessee's share was below ₹50 lakh.
- The ACIT, CPC-TDS issued an intimation under Section 200A treating the assessee as "assessee in default" for non-deduction of TDS.
- Demand raised:
  - TDS: ₹3,48,333
  - Interest included: ₹3,51,820

Assessee's Contention

The assessee argued that:

- Section 194-IA applies transferee-wise.
- Since his individual share was less than ₹50 lakh, TDS provisions were not applicable.
- Reliance was placed on earlier Delhi Tribunal ruling in:
- Vinod Soni v. ITO

Revenue's Stand

The Revenue/NFAC held that:

- The ₹50 lakh threshold should be considered with reference to the total sale consideration of the property.
- Since the total property value exceeded ₹50 lakh, TDS under Section 194-IA was mandatory.

Decision of the ITAT

The ITAT Delhi Bench ruled in favour of the assessee.

The Tribunal held that:

- Section 194-IA applies to "each transferee".
- Every buyer is a separate taxable entity.
- The ₹50 lakh threshold must be examined buyer-wise and not property-wise.
- Merely because there is one common sale deed, the law cannot be interpreted differently.

The Tribunal followed the earlier decision in:
Vinod Soni v. ITO
Accordingly:

- The intimation issued under Section 200A was quashed.
- The assessee could not be treated as in default for non-deduction of TDS.

Key Observations of the Tribunal

The Tribunal observed:
"The law cannot be interpreted and applied differently for the same transaction if carried out in different ways."
Meaning:

- If four separate sale deeds below ₹50 lakh each would not attract TDS,
- then a single joint sale deed should also not attract TDS merely because the aggregate value exceeds ₹50 lakh.

Principle Laid Down

For purposes of Section 194-IA:

- The ₹50 lakh threshold is to be considered with reference to the share of each transferee/purchaser individually.
- In joint purchase cases, TDS is not required where the individual buyer's share is below ₹50 lakh, even if the total property value exceeds ₹50 lakh.

Practical Implication

This ruling is beneficial for:

- Joint buyers of immovable property,
- family purchases,
- co-owned residential property transactions.

It reduces unnecessary TDS compliance where individual ownership shares are below the statutory threshold.

Final Outcome

- Appeal of the assessee: Allowed.
- Demand raised under Section 200A: Deleted.
- Assessee not liable to deduct TDS under Section 194-IA.

ICMAI
THE INSTITUTE OF
COST ACCOUNTANTS OF INDIA
भारतीय लागत लेखाकार संस्थान
Statutory Body under an Act of Parliament
(Under the jurisdiction of Ministry of Corporate Affairs)

TAX INSIGHTS
By
Tax Research Department

Goods & Services Tax

14.05.2026

Whether assessment orders passed under Section 62 for non-filing of GSTR-3B returns stand automatically withdrawn when the taxpayer subsequently files pending returns, pays tax, interest, and late fee and delay in filing is satisfactorily explained.

Surya Sreebhavani Infrastructure (P.) Ltd. v. Assistant Commissioner of State Tax
HIGH COURT OF ANDHRA PRADESH (06.05.2026)

Facts of the Case

- The petitioner was a registered dealer under the APGST Act.
- GSTR-3B returns for:
  - March 2024,
  - April 2024, and
  - August 2024
  - were not filed within time.
- Consequently, best judgment assessment orders under Section 62 were passed by the department.

Subsequently:

- The petitioner filed all pending GSTR-3B returns.
- Tax, interest, and late fees were paid.

The delay for August 2024 occurred because:

- GST registration was cancelled retrospectively on 20.03.2025 with effect from 31.07.2024.
- Registration was later restored by appellate authority on 26.06.2025.
- After restoration, pending dues were discharged.

Details of Compliance

Tax Period	Assessment Order Date	Date of GSTR-3B	FilingDelay
March 2024	23.05.2024	28.09.2024	128 days
April 2024	14.06.2024	29.09.2024	106 days
August 2024	01.11.2024	07.07.2025	treated 11 days

The department admitted before the Court that:

- returns had been filed, and
- no tax dues remained outstanding.

Petitioner's Contention

The petitioner argued that:

- Section 62(2) provides automatic withdrawal of best judgment assessment once valid returns are filed with payment of dues.
- Delay for August 2024 was beyond control because GST registration had been cancelled and later restored.

Decision of the High Court

The Andhra Pradesh High Court ruled in favour of the petitioner.

The Court held that:

- Section 62(2) clearly states that assessment orders passed under Section 62 stand deemed withdrawn once:
  - returns are filed, and
  - tax, interest, and late fee are paid.
- The petitioner fulfilled all statutory requirements.
- The delay in filing August 2024 return was satisfactorily explained.
- Such delay deserved condonation to give effect to Section 62(2).

Accordingly:

- Assessment orders dated: 22.05.2024, 14.06.2024, and 01.11.2024 were declared deemed withdrawn.

The Court further held that:

- the department could not recover any tax based on those assessment orders.

Principle Laid Down

Where a registered person:

- subsequently files pending GST returns,
- pays applicable tax, interest, and late fee,

the best judgment assessment under Section 62 automatically stands withdrawn under Section 62(2). Further, procedural delays may be condoned where justified circumstances exist.

Practical Significance

This judgment provides relief to taxpayers facing:

- best judgment assessments for non-filing of returns,
- temporary GST registration cancellation issues,
- delayed return filing due to genuine difficulties.

It reinforces that:

- Section 62(2) is a beneficial provision,
- compliance made subsequently should nullify earlier ex parte assessments.

Final Outcome

- Writ Petition: Allowed.
- Assessment orders under Section 62: Deemed withdrawn.
- Recovery proceedings based on those orders: Not permissible.

Direct Tax

15.05.2026

- **Whether the entire time-share membership fee is taxable in the year of receipt?**
- **Whether the assessee, despite following the mercantile system of accounting, could defer recognition of part of the membership fee over the tenure of membership?**

Commissioner of Income-tax v. Mahindra Holidays and Resorts India Ltd.
High Court of Madras (28.04.2026)

Facts of the Case

- The assessee, Mahindra Holidays and Resorts India Ltd., was engaged in:
  - selling time-share memberships; and
  - providing holiday accommodation facilities to members for a specified number of years.
- Members paid:
  - membership fees either upfront or in instalments;
  - separate annual maintenance charges (AMC) for upkeep of resorts.
- The assessee followed a revenue recognition method whereby:
  - 60% of membership fees was recognized as income in the year of admission;
  - remaining 40% was treated as deferred income and spread over the tenure of membership.
- The Assessing Officer (AO) held that:
  - the entire fee accrued on receipt;
  - no future liability justified deferment because AMC covered maintenance expenses;
  - claiming full expenditure while deferring income violated the matching principle.
- Therefore, the AO taxed the entire membership fee in the year of receipt.
- The Commissioner (Appeals) upheld the AO's view.
- On further appeal, the Income Tax Appellate Tribunal (ITAT) ruled in favour of the assessee, holding that the membership fees were linked to continuing obligations extending over the membership period.
- The Revenue appealed before the Madras High Court.

Revenue's Contentions

- Income accrued immediately on receipt of membership fees.
- Separate AMC was collected for maintenance; therefore, no future liability remained.
- The assessee claimed all expenses in the current year while deferring income, creating mismatch.
- The Income-tax Act did not permit deferment of accrued income.

Court's Observations

The Court carefully examined the membership agreement and observed:

- Members obtained:
  - right to occupy resort accommodation for one week every year;
  - reservation and exchange rights;
  - assured accommodation benefits over many years.
- The company had ongoing obligations throughout the contract period.
- Membership fees were therefore:
  - not mere entrance fees;
  - but consideration for long-term services and facilities.
- Annual maintenance charges were separate and could not replace the company's contractual obligations under the membership agreement.
- The Court held that future obligations were real and accrued liabilities, not contingent liabilities.

Holding

The Madras High Court held:

1. The membership fees were coupled with continuing obligations extending over the membership tenure.
2. Therefore, the entire receipt could not be taxed in the year of receipt.
3. The assessee's method of recognizing:
   - 60% immediately, and
   - deferring 40% over the membership period

   was justified and legally valid.
4. The ITAT was correct in deleting the addition made by the Assessing Officer.
5. The Revenue's appeal was dismissed.

Final Outcome

- Appeal by Revenue: **Dismissed**
- Decision: **In favour of assessee**
- Deferred recognition of membership fee: **Allowed**

Goods & Services Tax

15.05.2026

Whether recovery proceedings under Section 79 could be initiated without fresh adjudication under Sections 73 or 74. Whether prior authorization from a competent authority was necessary before issuing a recovery notice under Section 79. Whether notice to the taxpayer was mandatory before issuing garnishee notice to the bank under Section 79(1)(c).

V.V.S. Enterprises v. State of Andhra Pradesh
High Court of Andhra Pradesh (15.04.2026)

Facts of the Case

- The petitioner, V.V.S. Enterprises, was a registered GST dealer.
- An assessment order dated 17.01.2025 was passed against the petitioner raising GST demand.
- The assessment order was uploaded on the GST portal.
- The petitioner neither challenged the assessment order nor paid the tax dues.
- After about one year, the Deputy Assistant Commissioner issued a notice dated 05.02.2026 under Section 79(1)(c) to the petitioner's bank.
- The bank was directed to remit ₹7.54 lakh from the petitioner's account towards GST arrears.

The petitioner filed a writ petition challenging the recovery notice.

Findings of the High Court

1. No Prior Authorization Required Under Section 79
The Court held that:
- Section 79 itself does not prescribe any requirement for prior approval/authorization.
- Therefore, such authorization cannot be read into the provision.

The officer issuing the notice was duly empowered under the Government Gazette notification.

2. Recovery Valid Once Assessment Attains Finality
The Court observed that:
- the assessment order dated 17.01.2025 was never challenged;
- tax liability had therefore become final and enforceable.

Once tax dues are finalized and unpaid, Section 79 recovery mechanisms can be invoked directly.
Thus:
- no fresh adjudication under Sections 73 or 74 was necessary.

3. No Separate Prior Notice Necessary Before Bank Recovery
The Court held that:
- Section 79 is a recovery provision;
- it enables garnishee proceedings against third parties holding money of the defaulter;
- the provision does not mandate issuance of a fresh notice before attaching bank accounts.

Therefore, direct notice to the bank was legally permissible.

4. Cases Relied Upon by Petitioner Distinguished
The Court distinguished the judgments cited by the petitioner.
It noted that in those cases:
- tax liability itself was disputed or not finally adjudicated.

In the present case:
- assessment had already attained finality;
- hence those precedents were inapplicable.

Final Decision

The High Court:
- upheld the validity of the Section 79 recovery notice issued to the bank;
- held that no prior authorization was required;
- held that no separate adjudication or fresh notice was necessary after assessment attained finality.

Accordingly:
- the writ petition was dismissed.

ICMAI
THE INSTITUTE OF
COST ACCOUNTANTS OF INDIA
भारतीय लागत लेखाकार संस्थान
Statutory Body under an Act of Parliament
(Under the jurisdiction of Ministry of Corporate Affairs)

TAX INSIGHTS
By
Tax Research Department

Direct Tax

16.05.2026

Whether compensation paid for compulsory acquisition of land is subject to TDS under Section 194LA of the Income-tax Act?

Executive Engineer v. State
High Court of Karnataka (27.04.2026)

Facts of the Case

- The case arose from long-pending land acquisition disputes relating to irrigation projects undertaken by:
  - Karnataka Neeravari Nigam Limited (KNNL).
- The acquired landowners ("land losers") had not received compensation within a reasonable period and had initiated execution proceedings for enforcement of decrees.
- Considering:
  - prolonged litigation,
  - mounting statutory interest liabilities,
  - multiplicity of proceedings,
- the Karnataka High Court suggested mediation under Section 89 CPC.
- The matter was referred to mediation before:
  - Justice A. V. Chandrashekhar.
- The parties entered into a Mediation Agreement settling:
  - compensation amounts,
  - statutory benefits,
  - timelines for payment,
  - withdrawal of pending proceedings.
- During proceedings, the landowners expressed concern that:
  - TDS might be deducted from compensation payments; and
  - Form 16A may be issued.

Arguments / Concerns

Claimants' Concern

- Landowners feared deduction of TDS from compensation amounts.
- They sought clarification that compensation awarded under compulsory acquisition proceedings was exempt from TDS.

State / Beneficiary Position

- The dispute primarily concerned implementation of the mediated settlement and disbursement mechanism.
- The parties sought finality and smooth release of compensation.

Court's Observations

The Court observed that:

- The issue regarding TDS on compensation for compulsory land acquisition was already settled by an earlier Karnataka High Court order dated 20.08.2025 in:
  - W.P. No. 102884/2025.
- Compensation awarded for compulsory acquisition of land is not liable for deduction of tax at source under the applicable provisions of the Income-tax Act.
- The nature of payment remained compensation for compulsory acquisition even if:
  - payment was routed through a Mediation Agreement;
  - compensation was paid into joint accounts; or
  - compensation was distributed among individual claimants.

Holding

1- The Karnataka High Court held:
Compensation payable for compulsory acquisition of land is not subject to TDS under Section 194LA.
2- All payments made pursuant to the Mediation Agreement must be released without deduction of tax at source.
3- No distinction exists between:
- payments to joint accounts; and
- payments to individual accounts.

4- The compensation should be disbursed fully without issuance of TDS deductions.

Final Outcome

- Mediation settlement: Accepted
- Compensation payable without TDS: Directed
- Revenue/TDS deduction: Not permissible
- Matter resolved through mediation: Finalized

TAX INSIGHTS

By

Tax Research Department

Goods & Services Tax

16.05.2026

- **Whether Rule 96(10) of the CGST Rules, restricting refund of IGST on exports, was ultra vires Section 16 of the IGST Act and Section 54 of the CGST Act?**
- **Whether proceedings initiated under Rule 96(10) could continue after the rule had been omitted from the statute book without any saving clause?**

Sri Sai Vishwas Polymers v. Union of India
High Court of Uttarakhand

Background of the Case

The petitioner, Sri Sai Vishwas Polymers, was engaged in the manufacture and export of gold bars and jewellery and was registered under GST laws. The petitioner availed Input Tax Credit (ITC) on inward supplies and claimed refund of IGST paid on exports (zero-rated supplies).

The GST Department initiated proceedings alleging that the petitioner had wrongly availed IGST refund amounting to approximately ₹1.05 crore by violating Rule 96(10) of the CGST Rules, 2017.

A show-cause notice was issued under Section 74 of the CGST Act and subsequently an order dated 03.02.2025 confirmed the demand and recovery.

The petitioner challenged:

1. The constitutional validity of Rule 96(10) of the CGST Rules; and
2. The recovery order passed by the department.

Facts Considered by the Court

- The petitioner had claimed IGST refund on exports.
- The Department alleged violation of Rule 96(10).
- Show-cause notice was issued in 2023.
- During pendency of proceedings:
  - Kerala High Court in Sance Laboratories (P.) Ltd. v. Union of India declared Rule 96(10) ultra vires.
  - The Central Government omitted Rule 96(10) through Notification No. 20/2024-Central Tax with effect from 08.10.2024.
- Despite omission of the rule, the adjudication order was passed on 03.02.2025.

Contentions of the Petitioner

The petitioner argued that:

1. Rule 96(10) was unconstitutional and contrary to the IGST Act.
2. Once the rule was omitted without any saving clause, all pending proceedings under that rule automatically lapsed.

- The adjudication order passed after omission of the rule was void.

Contentions of the Department

The Department contended that:

1. Rule 96(10) existed when the show-cause notice was issued.
2. Therefore, proceedings validly initiated under the rule could continue despite later omission.
3. The omission should operate prospectively only.

Court's Findings

1. Challenge to Validity of Rule Became Infructuous

The Court held that:

- Rule 96(10) had already been declared ultra vires by the Kerala High Court.
- The rule had also been deleted from the statute book by Notification No. 20/2024-Central Tax.

Therefore, there was no need for the Uttarakhand High Court to again declare the rule invalid.

Holding

The prayer seeking declaration of Rule 96(10) as ultra vires became infructuous.

2. Proceedings Could Not Continue After Omission of Rule

The Court relied heavily on the Supreme Court judgment in:

Kolhapur Canesugar Works Ltd. v. Union of India

The Court reiterated the principle that:

- When a statutory rule is omitted without a saving clause,
- The rule is treated as if it never existed,
- Pending proceedings under such omitted rule cannot continue.

The Court observed:

- Rule 96(10) was omitted on 08.10.2024.
- No saving clause preserved pending proceedings.
- The adjudication order dated 03.02.2025 was passed after omission.

Hence, the authority lacked jurisdiction to continue proceedings.

Outcome

- Writ Petition Allowed
- Recovery Order Set Aside
- Proceedings under omitted Rule 96(10) could not survive

TAX INSIGHTS

By

Tax Research Department

Direct Tax

17.05.2026

1. **Whether a notice under Section 148 without handwritten or digital signature is invalid?**
2. **Whether mentioning the name and designation of the issuing officer satisfies authentication requirements under Section 282A(2)?**
3. **Whether reassessment proceedings initiated on such notice are sustainable?**

Asro Arcade v. Income-tax Officer
High Court of Delhi (16.04.2026)

Facts of the Case

- The assessee, Asro Arcade, challenged a reassessment order passed under Section 147 for Assessment Year 2022–23.
- The reassessment proceedings had been initiated through a notice under Section 148 dated 31.08.2024.
- The assessee argued that:
  - the Section 148 notice did not contain:
    - a handwritten signature; or
    - a digital signature of the Assessing Officer (AO).
- According to the assessee:
  - absence of signature rendered the notice invalid under Section 282A;
  - consequently, the reassessment proceedings and final assessment order were void.
- However, the notice did contain:
  - the name of the issuing officer; and
  - the designation/office of the officer.

Court's Observations

The Delhi High Court observed that:

- Section 282A(2) states that a notice shall be deemed authenticated if:
  - the name and office of the designated income-tax authority are printed, stamped, or written thereon.
- The impugned notice clearly contained:
  - the name of the officer; and
  - the designation/office.
- Therefore, statutory authentication requirements were fulfilled.

The Court further noted:

- In the digital era, notices and orders are often computer-generated.
- Electronic documents may not necessarily bear physical signatures.
- The statute does not mandate digital signatures under Section 282A(2).

The Court held that:

- mention of name and designation is sufficient authentication;
- absence of handwritten or digital signature does not invalidate the notice.

The Court also distinguished older precedents relied upon by the assessee, observing that:

- those judgments were delivered before widespread use of computer-generated documents;
- legal procedures evolve with technological changes.

Holding

The Delhi High Court held:

- A Section 148 notice containing the name and designation of the issuing officer satisfies Section 282A(2).
- No handwritten or digital signature is mandatory under the provision.
- The impugned notice was valid and duly authenticated.
- Consequently, the reassessment proceedings and reassessment order were legally sustainable.
- The writ petition was dismissed.

Final Outcome

- Section 148 notice: Valid
- Signature absence objection: Rejected
- Reassessment order under Section 147: Sustained
- Writ petition: Dismissed

Goods & Services Tax

17.05.2026

Whether cancellation of GST registration under Section 29 of the CGST Act is valid when:

- **the show cause notice (SCN) is vague and does not specify the default period, and**
- **the cancellation order is non-speaking and does not contain specific reasons for cancellation.**

Nijumoni Gogoi v. Union of India
Gauhati High Court (11.05.2026)

Facts of the Case

- The petitioner was engaged in the business of transport services and was registered under GST since 07.03.2022.
- The Proper Officer issued a Show Cause Notice (SCN) dated 12.02.2025 proposing cancellation of GST registration for: "Failure to furnish returns for a continuous period of six months."
- However, the SCN did not mention:the exact months, the relevant tax period, or details of the alleged default.
- The petitioner's GST registration was simultaneously suspended.
- Subsequently, the Proper Officer passed an order dated 17.04.2025 cancelling the GST registration.
- The cancellation order merely stated: "Others – Rule 22(1)/21A(2A)" without assigning any specific reason.
- The order also recorded that no reply had been filed by the petitioner.
- The petitioner challenged the cancellation before the High Court.

Petitioner's Contentions

The petitioner argued that:

1. The SCN was vague and lacked material particulars.
2. The cancellation order was a non-speaking order without reasons.
3. Rule 22 of the CGST Rules requires a reasoned order in Form GST REG-19.
4. Cancellation of GST registration has serious civil consequences and therefore principles of natural justice must be followed.
5. The case was covered by earlier Gauhati High Court ruling in: Mohan Mech v. UOI

Revenue's Contentions

The department contended that:

1. The petitioner failed to file returns continuously for six months.
2. The petitioner neither: filed revocation application in time, nor preferred appeal within limitation.
3. Hence, the petitioner was negligent and not entitled to relief.

Observations of the Court

The Court made the following important observations:

1. SCN was vague

The show cause notice merely stated non-filing of returns for six months but did not specify:

- which months,
- what period, or
- details of default.

Hence, the notice lacked material particulars.

2. Cancellation order was non-speaking

The order merely referred to:
"Others – Rule 22(1)/21A(2A)"
without giving any factual or legal reasoning.
The Court held that:

- Form GST REG-19 requires specific reasons.
- A speaking order is mandatory.

3. Natural justice violated

The Court emphasized:

- Even if the taxpayer does not reply,
- the Proper Officer must still pass a reasoned order.
- Orders having adverse civil consequences cannot be passed mechanically.

4. Requirement of application of mind

The Court held that:

- recording reasons demonstrates application of mind,
- absence of reasons indicates arbitrariness.

5. Delay not fatal

Although the writ petition was filed after delay, the Court held:

- serious statutory breaches outweighed the delay,
- illegal cancellation affecting business rights justified interference.

Decision

The High Court held that:

- the SCN was vague,
- the cancellation order was non-speaking,
- Rule 22 requirements were violated,
- principles of natural justice were breached.

Accordingly:

- the cancellation order dated 17.04.2025 was quashed,
- the matter was restored to the SCN stage.

Direct Tax

18.05.2026

Whether demonetised cash routed through a third party's bank account and retransferred to the original owner constituted a "benami transaction" under Section 2(9)(A) of the Benami Act.

Harvinder Pal Miglani v. Initiating Officer, ACIT, Benami Prohibition Unit
Appellate Tribunal SAFEMA

Background Facts

- During the demonetisation period, the appellant, Harvinder Pal Miglani, possessed ₹5 lakh in demonetised currency.
- On 12.11.2016, he handed over the cash to Ghanshyam Patel, proprietor of Shyama Trading Company.
- The amount was deposited into the company's bank account and retransferred to the appellant through RTGS/banking channels.
- Investigation revealed that approximately ₹30 lakh of demonetised currency had been routed through the account of Shyama Trading Company and transferred to various persons.
- Ghanshyam Patel stated that the transactions were not genuinely his and that pre-signed cheques had been used by another individual.

The Initiating Officer:

- treated Ghanshyam Patel/Shyama Trading Company as a "benamidar";
- treated the transferred amount as "benami property";
- provisionally attached: bank balances, investments, movable and immovable properties, to the extent of ₹5 lakh.

The appellant had already:

- declared the amount under PMGKY,
- paid tax/surcharge/penalty of ₹2.47 lakh,
- deposited ₹1.25 lakh in PMGKY bonds.

Findings of the Tribunal

1. Cash is "Property"

The Tribunal held that:

- cash is movable property;
- the definition of "property" under Section 2(26) is very wide;
- it includes tangible and movable assets, including cash.

Thus, demonetised currency constituted "property" under the Benami Act.

2. Routing Cash Through Another's Account Constituted a Benami Transaction

The Tribunal held that:

- the appellant provided the consideration (cash);
- the property (money in the bank account) was held in another person's name;
- the amount was ultimately retransferred for the appellant's benefit.

Therefore, all ingredients of Section 2(9)(A) were satisfied.

The Tribunal emphasized:

- temporary holding of property is sufficient;
- retransferring the money back does not remove the benami character;
- demonetisation-related routing of cash through third-party accounts falls within the Benami Act.

It further held that:

- Ghanshyam Patel acted as a benamidar;
- Shyama Trading Company merely lent its name for holding the funds.

3. Earlier Judgments Distinguished

The Tribunal disagreed with the earlier ruling in:

- T. Raja v. K. Visakh

It observed that the earlier decision did not correctly appreciate the statutory provisions.

The other cited cases were distinguished on facts.

4. Attachment Should Be Limited

The Tribunal noted: ₹2.47 lakh had already been paid as PMGKY tax/penalty; ₹1.25 lakh was locked in PMGKY bonds; only ₹1.27 lakh effectively remained with the appellant.

Accordingly:

- attachment could continue only for: ₹1.27 lakh remaining amount, plus ₹1.25 lakh PMGKY bond amount. Total sustainable attachment: ₹2.52 lakh.

The attachment of other immovable properties was not justified.

Final Decision

The appeal was partly allowed.

The Tribunal:

- upheld the finding that the transaction was benami;
- upheld that cash falls within "property" under the Benami Act;
- modified the attachment order and restricted attachment to ₹2.52 lakh only.

Goods & Services Tax

18.05.2026

Whether interest under Section 50(1) of the CGST Act for delayed payment of GST is payable on: the gross tax liability, or only the net cash liability after adjusting available Input Tax Credit (ITC), particularly after the retrospective amendment to the proviso to Section 50(1) effective from 1 July 2017.

Vandana Global Ltd. v. Principal Commissioner Central GST Central Excise
High Court of Chhattisgarh (08.05.2026)

Facts of the Case

- The petitioner, Vandana Global Ltd., received demand notices dated 08.07.2019 demanding interest on delayed GST payment.
- The department computed interest on the entire output tax liability, without considering available ITC.
- The petitioner challenged: levy of interest on gross liability, non-adjustment of ITC, and technical limitations of the GSTN portal regarding utilization of credit.
- During pendency of the matter, Section 50(1) of the CGST Act was amended through notification dated 01.06.2021.
- The amendment inserted a proviso with retrospective effect from 01.07.2017, clarifying that interest is payable only on the portion of tax paid through the electronic cash ledger.

Arguments by the Petitioner

The petitioner contended that:

1. Interest cannot be levied on the gross output liability when sufficient ITC was available.
2. After retrospective amendment to Section 50(1), interest is payable only on the cash component.
3. Therefore, the show cause notice demanding interest on gross liability was unsustainable.

Arguments by the Revenue

The Revenue argued that:

- Interest is payable for delayed payment of tax relating to the cash portion.
- The matter required determination by the authorities in light of the amended provision.

Legal Provisions Involved

Statutory Provisions

- Section 50 of the Central Goods and Services Tax Act, 2017
- Rule 88B of the Central Goods and Services Tax Rules, 2017

Decision of the Court

The High Court held that:

- The retrospective amendment to Section 50(1) clearly mandates that interest is chargeable only on the net cash tax liability.
- Therefore, interest cannot be demanded on the portion of liability discharged through ITC.
- The authorities must recompute the interest liability accordingly.

Final Ruling

The Court:

- Remitted the matter back to the tax authorities,
- Directed reconsideration of the interest demand,
- Ordered fresh adjudication after granting opportunity of hearing to the petitioner,
- Directed authorities to apply the amended Section 50(1) retrospectively from 01.07.2017.

The writ petition was accordingly disposed of in favour of the assessee.

Key Takeaways

1. Interest under GST is payable only on net cash liability, not on ITC-adjusted liability.
2. The proviso to Section 50(1) applies retrospectively from 1 July 2017.
3. Available ITC must be excluded while computing delayed payment interest.
4. Demand notices based on gross tax liability are liable to reconsideration.
5. The judgment reinforces taxpayer protection against excessive interest demands.

Practical Significance

This ruling is important for businesses facing:

- GST interest demands on gross liability,
- disputes relating to delayed return filing,
- or legacy notices issued before the retrospective amendment.

Taxpayers may seek recomputation wherever interest was charged ignoring available ITC.

TAX INSIGHTS

By

Tax Research Department

Direct Tax

19.05.2026

Whether the option provided under the proviso to Section 36(1)(viia) to claim deduction for provision for bad and doubtful debts belongs exclusively to the assessee-bank, and whether the Assessing Officer (AO) can override that choice while rectifying the assessment under Section 154.

Indian Bank v. Assistant Commissioner of Income-tax
High Court of Madras (28.04.2026)

Facts of the Case

1. The assessee, Indian Bank, a nationalised bank, filed its return for AY 2001–02 declaring a loss of approximately ₹836.73 crores.
2. Assessment was completed under Section 143(3) after scrutiny.
3. The assessee later filed a rectification application under Section 154 pointing out certain errors in the assessment order.
4. While disposing of rectification petition, the AO:
   - granted partial relief,
   - but disallowed deduction of approximately ₹173.73 crores claimed under Section 36(1)(viia)(a) for provision for bad and doubtful debts,
   - thereby reducing the assessed loss.
5. The AO treated the claim as an "error apparent from record".
6. The Commissioner (Appeals) upheld the AO's action.
7. The Income Tax Appellate Tribunal (ITAT) also upheld the disallowance, holding:
   - the main clause and proviso under Section 36(1)(viia) were alternative benefits,
   - once the assessee exercised the proviso option, it could not claim deduction under the main clause,
   - and the issue was not debatable, therefore rectification under Section 154 was valid.
8. Aggrieved, the assessee appealed before the Madras High Court.

Assessee's Arguments

The assessee contended that:

- the phrase "at its option" in Section 36(1)(viia) clearly grants the choice to the assessee,
- the AO cannot substitute or override the assessee's lawful choice,
- the issue already stood settled by the Supreme Court in:
- CIT v. Tamilnadu Industrial Investment Corporation Ltd.
- rectification under Section 154 was improper because the issue was debatable.

Revenue's Arguments

The Revenue argued that:

- while considering the rectification application, the AO noticed an apparent error regarding deduction under Section 36(1)(viia),
- therefore rectification was justified,
- the assessee could not simultaneously enjoy both benefits under the main clause and proviso.

Decision of the High Court

The High Court allowed the appeal in favour of the assessee-bank.

Key Findings / Ratio Decidendi

1. Option belongs exclusively to the assessee

The Court held that the expression "at its option" clearly confers the choice upon the assessee-bank alone.

The AO has no authority to substitute his own interpretation for the assessee's lawful election.

2. AO cannot override assessee's statutory choice

Where the assessee exercises an option permitted by law, the AO cannot supersede or alter that choice.

Otherwise, the words "at its option" would become meaningless.

3. Reliance on Supreme Court precedent

The Court followed the Supreme Court ruling in:

CIT v. Tamilnadu Industrial Investment Corporation Ltd.

and applied the same interpretation to Section 36(1)(viia).

4. Rectification under Section 154 not sustainable

Since the interpretation issue was debatable and involved legal interpretation, it could not properly be treated as an "error apparent from record".

Accordingly, the AO's rectification action failed.

Final Holding

- Appeal allowed in favour of the assessee.
- Orders of the AO, Commissioner (Appeals), and ITAT were set aside.
- AO directed to recompute taxable income in accordance with the interpretation accepted by the High Court and Supreme Court.

- **Whether the respondent-builder had profiteered by not passing on additional Input Tax Credit (ITC) benefit to homebuyers after GST implementation.**
- **Whether penalty under Section 171(3A) was leviable despite subsequent refund of profiteered amount.**
- **Whether interest at 18% per annum was payable from the date of collection of excess amount till refund.**

Director General of Anti-Profiteering v. Unnathi Associates
Goods and Services Tax Appellate Authority (19.03.2026)

Facts of the Case

1. A complaint was filed alleging that the developer, Unnathi Associates, failed to pass on GST-related ITC benefits to buyers in its housing project "Raunak Heights".
2. Investigation was conducted by the DGAP under Section 171 of the CGST Act.
3. Pursuant to directions of the Delhi High Court regarding revised anti-profiteering methodology for real estate projects, the matter was re-investigated.
4. DGAP compared the ratio of ITC to purchase value in:
   - Pre-GST period (April 2016 – June 2017)
   - Post-GST period (July 2017 – December 2019)
5. Findings of DGAP:
   - Pre-GST ITC ratio: 7.67%
   - Post-GST ITC ratio: 12.08%
   - Additional ITC benefit: 4.41%
6. DGAP computed total profiteering at:
   - ₹42,02,357 (including GST)
7. Out of this:
   - ₹35,48,496 had already been passed on,
   - ₹6,53,861 remained payable to homebuyers.
8. The respondent accepted the DGAP findings and submitted proof of refund/payment to eligible buyers.

Findings of the Tribunal

1. Profiteering established

The Tribunal held that:

- the increase in ITC ratio from 7.67% to 12.08% clearly showed additional ITC benefit under GST,
- the respondent failed to pass this benefit through commensurate price reduction,
- therefore Section 171(1) was violated.

The profiteered amount of ₹6,53,861 stood established.

Penalty Issue

No penalty imposed

The Tribunal held:

- Section 171(3A), which provides for penalty, came into force only from 01.01.2020,
- the relevant violation period ended on 31.12.2019,
- additionally, the proviso to Section 171(3A) states that no penalty is leviable if the profiteered amount is deposited/refunded within the prescribed period,
- since the respondent had already refunded the amount to buyers, no penalty could be imposed.

Interest Issue

Interest at 18% upheld

The Tribunal rejected the respondent's contention that:

- interest should not apply, or
- should run only from the date of completion certificate.

The Tribunal held that:

- obligation to pass on ITC benefit arises at the time of supply itself,
- retention of such amount amounts to excess consideration collected from buyers,
- Rule 133(3)(b) expressly mandates payment of interest at 18% per annum,
- interest is compensatory in nature and restores the time value of money retained by the supplier.

Accordingly, interest was payable:

- from the date of collection of excess amount,
- till the actual date of refund.

Final Decision

The Tribunal:

1. Confirmed profiteering of ₹6,53,861.
2. Directed refund to eligible homebuyers with 18% interest.
3. Granted one month for compliance.
4. Held that no penalty was leviable.

Direct Tax

20.05.2026

Whether income-tax demands arising from additions made for periods prior to the effective date of the approved resolution plan could survive after approval of the NCLT resolution plan?

Whether the assessee could continue to carry forward and set off its brought-forward business losses and unabsorbed losses despite obtaining a "clean slate" under the resolution plan?

Orchid Pharma Ltd. v. DCIT
ITAT, Chennai (11.05.2026)

Facts of the case

1. The assessee filed its return declaring Nil income.
2. A search under section 132 was conducted in the case of another group, during which certain documents relating to the assessee were found.
3. Based on these materials, proceedings under section 153C were initiated against the assessee.
4. Since the assessee had international transactions, the matter was referred to the TPO, who proposed a transfer pricing adjustment of approximately ₹9.26 crore.
5. The Assessing Officer (AO) passed an assessment order making:
   - Transfer pricing adjustments, and
   - Various other additions/disallowances.
6. Meanwhile, the assessee underwent the Corporate Insolvency Resolution Process (CIRP) under the Insolvency and Bankruptcy Code, 2016.
7. The resolution plan was approved by the National Company Law Tribunal and subsequently restored by the Supreme Court of India.
8. The approved resolution plan contained a "clean slate" clause extinguishing all claims relating to periods before the effective date unless specifically included in the resolution plan.

Assessee's Arguments

- Section 238 of the IBC gives the Code overriding effect over all other laws.
- Since no income-tax claim or demand was filed before the NCLT and such claim was not part of the approved resolution plan, any tax demand relating to the pre-resolution period stood extinguished.
- The "clean slate" principle cannot be selectively applied to deny tax attributes such as brought-forward losses.
- The availability of losses would have been considered by the resolution applicant while valuing and acquiring the company.

Revenue's Arguments

- If the assessee receives a "clean slate" from past tax liabilities, it should not simultaneously enjoy the benefit of carrying forward losses.
- Allowing both would result in a double benefit:
  a. Extinguishment of past tax demands, and
  b. Future set-off of accumulated losses against profits.

Tribunal's Decision

1. Tax Demands Extinguished

The Tribunal held that:

- The NCLT-approved resolution plan expressly extinguished all claims relating to periods before the effective date unless included in the plan.
- No income-tax demand or claim had been lodged before the NCLT.
- Therefore, any demand arising from additions sustained by the Commissioner (Appeals) relating to the pre-resolution period could not be enforced against the assessee.

2. Carry Forward of Losses Allowed

The Tribunal rejected the Revenue's contention that brought-forward losses should also disappear.

It relied on the decision of the Bombay High Court, which held that:

- Tax losses are valuable assets of a company.
- A resolution applicant would likely consider the availability of such losses while submitting a resolution proposal.
- If the Income-tax Department had notice of the CIRP and failed to raise objections before the NCLT, it cannot later deny the carry-forward of losses.

Accordingly, the Tribunal held that the "clean slate" principle cannot be invoked to deny the assessee's brought-forward and unabsorbed losses.

Final Outcome

Appeal	Result
Assessee's Appeal	Partly Allowed
Revenue's Appeal	Dismissed

Goods & Services Tax 20.05.2026

Whether the Kerala Devaswom Recruitment Board is required to obtain GST registration? Whether examination/application fees collected from candidates are liable to GST? Whether conducting recruitment examinations amounts to a taxable supply of services under GST?

Kerala Devaswom Recruitment Board, In re
Kerala Authority for Advance Ruling (AAR) (08.10.2026)

Background Facts

1. The applicant is a statutory autonomous body established under the Kerala Devaswom Recruitment Board Act, 2015.
2. Its primary function is to conduct recruitment examinations and selection processes for appointments to various posts in five Devaswom Boards in Kerala.
3. The Board:
   - Publishes recruitment notifications,
   - Conducts written examinations,
   - Holds practical tests/interviews,
   - Evaluates answer scripts,
   - Prepares and publishes rank lists.
4. The Board receives grants from the State Government but also collects application/examination fees from candidates.
5. The fees are utilized to meet recruitment-related expenses such as:
   - Printing question papers,
   - Hiring examination centres,
   - Payment to invigilators,
   - Evaluation charges,
   - Honorarium to subject experts,
   - Conduct of interviews and practical tests.

The applicant sought an advance ruling on:

1. Whether GST registration is required.
2. Whether GST is payable on examination/application fees collected from candidates.
3. Whether the activity of conducting recruitment examinations constitutes a taxable supply.

Findings of the AAR

1. Recruitment Activity Constitutes "Business"

The AAR observed that:

- Section 2(17) of the CGST Act gives a very wide definition of "business".
- Activities undertaken by public authorities are also covered even if they are not carried out for profit.
- The Board conducts examinations, evaluates candidates, publishes results and facilitates recruitment.

Therefore, the recruitment-related activities amount to carrying on a "business" for GST purposes.

2. Conducting Examinations is a Supply of Services

The AAR held that:

- Candidates pay examination fees to participate in the recruitment process.
- In return, the Board provides recruitment-related services such as:
  - Conducting examinations,
  - Evaluating answer scripts,
  - Holding interviews,
  - Publishing results and rank lists.

There exists a clear quid pro quo (service in return for consideration).

Hence, the activity satisfies the definition of "supply" under Section 7 of the CGST Act.

3. No Exemption Available as Governmental Authority

The AAR acknowledged that the Board qualifies as a governmental authority because it is established under a State legislation.

However, exemptions under Serial Nos. 4 and 5 of Notification No. 12/2017-Central Tax (Rate) are available only for activities relating to functions entrusted to:

- Municipalities under Article 243W, or
- Panchayats under Article 243G of the Constitution.

Recruitment of employees for Devaswom Boards is not one of those constitutional functions.

Accordingly, the exemption is unavailable.

4. Examination Fees are Consideration for Services

The AAR held that:

- The fee collected is not a statutory levy or donation.
- It is consideration charged for allowing candidates to participate in the recruitment process.
- The fee is directly linked to the services provided by the Board.

Therefore, examination fees form part of the taxable value under Section 15 of the CGST Act and are liable to GST.

5. GST Registration Requirement

Since the Board is making taxable supplies:

- Registration becomes mandatory if aggregate turnover exceeds the threshold prescribed under Section 22 of the CGST Act (₹20 lakh in a financial year, subject to statutory amendments/applicability).
- Registration may also be required if the Board falls under any category specified in Section 24.

Direct Tax

21.05.2026

Whether commission income from bogus/circular transactions should be computed at 1% of the correct turnover and whether telescoping of income already offered by the assessee should be allowed?
Whether cash deposits made during the demonetisation period were liable to addition under Section 69A as unexplained money?
Whether credit of self-assessment tax reflected in Form 26AS should be granted?

Empower India Ltd. v. ACIT, Central
ITAT Mumbai (18.05.2026)

Facts

The assessee-company filed its return declaring income of ₹24.69 lakh.

During scrutiny assessment, the Assessing Officer (AO) observed that:

- The assessee belonged to a group controlled by a person against whom a search had earlier revealed accommodation entry operations.
- The assessee reported:
  - Turnover: ₹90.36 crore
  - Book Profit: ₹22.68 lakh
  - Returned Income: ₹24.69 lakh

The AO concluded that:

- The assessee was not carrying on genuine business.
- Transactions represented circular/bogus transactions.
- Income should be assessed as commission income earned for providing accommodation entries.

The AO consequently:

1. Estimated commission income at 1% of turnover and fresh investments.
2. Added cash deposits made during demonetisation under Section 69A.
3. Denied credit for self-assessment tax paid.

The CIT(A) upheld the assessment, leading to appeal before the Tribunal.

Issue 1: Estimation of Commission Income and Telescoping

Tribunal's Decision

The Tribunal noted:

- The finding that the transactions were bogus/circular was not disputed.
- The accepted methodology was to tax commission income at 1% of turnover plus fresh investments.
- The AO had incorrectly adopted turnover of ₹61.38 crore instead of ₹90.36 crore.

The Tribunal held that:

Correct Turnover Must Be Used

Commission income should be recomputed at:

- 1% of turnover of ₹90.36 crore; plus
- 1% of fresh investments of ₹4.50 crore.

Telescoping Allowed:

The Tribunal accepted that income already offered in the return should not be taxed again.

Therefore, telescoping was allowed against the net income returned (₹24.69 lakh).

Result:

Matter remanded to the AO for recomputation.

Issue 2: Cash Deposits During Demonetisation

Tribunal's Decision

The Tribunal observed that:

- Detailed withdrawal records were furnished.
- Bank statements and books supported the explanation.
- The Revenue did not produce any adverse evidence disproving the explanation.

Accordingly, the Tribunal held that:

- The explanation was reasonable and credible.
- The cash deposits stood explained.

Result:

Addition of ₹29.45 lakh under Section 69A was deleted.

Issue 3: Credit of Self-Assessment Tax

Facts

The assessee claimed that self-assessment tax of approximately ₹5.98 lakh had been paid and reflected in Form 26AS.

The AO failed to grant credit.

Tribunal's Decision

The Tribunal directed the AO to:

- Verify the payment from Form 26AS and records.
- Grant appropriate credit after verification.

Final Outcome

Ground	**Tribunal's Decision**
Estimation of commission income:	Remanded for recomputation at 1% of correct turnover plus fresh investments
Telescoping claim:	Allowed against net income of ₹24.69 lakh
Telescoping of gross profit :	Rejected
Addition under Section 69A:	Deleted
Credit of self-assessment tax	Directed to be allowed after verification

Goods & Services Tax

21.05.2026

Whether an assessment order issued without the signature of the Assessing Officer is valid under the GST law?
Whether the writ petition could be entertained despite delay when the order was uploaded only on the GST portal?
Whether the assessment should be quashed and remanded for fresh adjudication?

Shaik Abdulla v. State of Andhra Pradesh
High Court of Andhra Pradesh (06.05.2026)

Background Facts

1. The petitioner challenged a GST assessment order dated 04.05.2023.
2. The primary ground of challenge was that the assessment order did not contain the signature of the Assessing Officer.
3. The Revenue objected to the writ petition on the ground of delay, contending that:
   - The order had already been served through the GST portal.
   - The petitioner approached the Court belatedly.
4. The petitioner argued that:
   - The order was never served through conventional means.
   - Mere uploading on the portal did not result in actual knowledge of the order.

Petitioner's Contentions

The petitioner submitted that:

- Signature of the Assessing Officer is an essential requirement for a valid assessment order.
- The impugned order suffered from a fundamental defect.
- Such a defect cannot be cured through Sections 160 or 169 of the GST Act.
- The order had not been properly served upon him.

Revenue's Contentions

The Revenue argued that:

- The writ petition suffered from substantial delay.
- Under Section 169(1)(d) of the GST Act, uploading an order on the GST portal constitutes valid service.
- Therefore, the petitioner could not challenge the order after a prolonged period.

Decision of the Court

The Court held that:

Assessment Order Invalid

Since the assessment order did not contain the Assessing Officer's signature:

- The order suffered from an inherent and incurable defect.
- The assessment order was liable to be set aside.

Matter Remanded

The assessment was remanded to the Assessing Officer for fresh adjudication after granting:

- Proper opportunity of hearing, and
- Compliance with principles of natural justice.

Condition Imposed

The petitioner was directed to:

- Deposit 20% of the disputed tax within six weeks.

The Court further directed that:

- Any amount already recovered or paid would be adjusted against the 20% requirement.
- Any coercive recovery proceedings, including attachment, would stand set aside.
- The period during which the writ petition remained pending would be excluded for limitation purposes.

Final Outcome

Issue	Decision
Validity of unsigned assessment order	Invalid
Whether defect is curable	No
Assessment order	Set aside
Fresh assessment	Directed
Deposit condition	20% of disputed tax within six weeks
Recovery proceedings	Set aside pending reassessment
Limitation period	Excluded during pendency of writ petition

Direct Tax

22.05.2026

- **Whether reopening of assessment after four years was valid when all material facts relating to loan waiver had already been disclosed during the original assessment proceedings.**
- **Whether waiver of the principal amount of a working capital loan is taxable: as a business benefit under section 28(iv) or as remission/cessation of liability under section 41(1).**

Mukat Pipes Ltd. v. ACIT
ITAT Mumbai (24.04.2026)

Facts of the Case

- The assessee, Mukat Pipes Ltd., filed its return declaring Nil income.
- During the relevant year, banks waived the principal portion of a loan amounting to ₹11.03 crore under a rehabilitation scheme.
- The assessee credited the waived amount to the Profit & Loss Account as an extraordinary item but reduced it in the computation of income, treating it as a non-taxable capital receipt.
- The original assessment was completed under section 143(3) on 17.03.2015.
- Subsequently, the Assessing Officer (AO) reopened the assessment under section 147/148 on 27.03.2019 (beyond four years), alleging that:
  - The loan was a working capital loan.
  - Waiver of such loan constituted remission of trading liability taxable under section 41(1).

Assessee's Contentions

- All facts regarding the loan waiver were disclosed in:
  - Balance Sheet, Profit & Loss Account, Computation of income.
- Reopening was merely based on a re-examination of existing records and amounted to a change of opinion.
- The principal loan waiver is a capital receipt.
- Reliance was placed on:
  - Mahindra & Mahindra Ltd. (SC)
  - SICOM Ltd. (Bom HC)
  - I.G. Petrochemicals Ltd. (Kar HC)

Revenue's Contentions

- The loan was a working capital borrowing used for business purposes.
- Therefore, its waiver assumed the character of business income.
- The issue had not been examined during the original assessment.
- Explanation 1 to section 147 permitted reopening despite disclosure of books of account.

Tribunal's Decision

A. Reopening Held Invalid

The Tribunal quashed the reassessment on jurisdictional grounds and held that:

- Notice under section 148 was issued beyond four years from the end of the assessment year.
- The reasons recorded by the AO were based entirely on:
  - Balance Sheet,
  - Computation of income,
  - Existing assessment records.
- There was no fresh tangible material.
- The assessee had disclosed all primary facts fully and truly.
- Reopening therefore amounted to a review of the same material, which is impermissible.

Held: Reassessment proceedings were invalid and liable to be quashed.

B. Loan Waiver Not Taxable on Merits

Even on merits, the Tribunal held in favour of the assessee.

(i) Section 28(iv) Not Applicable

- Section 28(iv) applies only where the benefit/perquisite is other than money.
- Waiver of loan results in a monetary benefit.
- Following Mahindra & Mahindra Ltd. (SC), such waiver cannot be taxed under section 28(iv).

(ii) Section 41(1) Not Applicable

- Section 41(1) requires:
  - a prior deduction/allowance, and
  - remission of a trading liability.
- Principal amount of a loan:
  - is not a trading liability,
  - was never allowed as a deduction.
- Merely because the loan was used as working capital does not convert it into a trading liability.

Held: Principal loan waiver does not attract section 41(1).

Goods & Services Tax

22.05.2026

Whether the exporter was entitled to statutory interest under Section 56 of the CGST Act on delayed refund of IGST, where refund was withheld because of customs proceedings but ultimately became payable after appellate authorities set aside the confiscation proceedings?

Charan Singh Surjit Singh Gujral v. Union of India
High Court of Bombay (15.04.2026)

Background Facts

- The petitioner, engaged in the export of motor vehicle parts and mobile accessories, exported goods under 30 shipping bills during the period 21 December 2018 to 14 January 2019.
- IGST was duly paid on the exported goods.
- Upon assessment and export clearance, the shipping bills automatically constituted applications for refund of IGST paid on exports.
- Subsequently, the Special Intelligence and Investigation Branch (SIIB) seized the goods alleging overvaluation/undervaluation and misdeclaration of export value.
- An Order-in-Original: Rejected declared export values, Ordered confiscation of goods, Reduced export incentives, Imposed penalties.
- The petitioner challenged the order before the Commissioner (Appeals), who:
  - Set aside the entire adjudication order,
  - Held that the investigation was conducted in a haphazard manner,
  - Found violation of principles of natural justice.
- The Department's appeal before CESTAT was dismissed.
- The appellate orders attained finality and the goods were released.

Assessee's Arguments

The petitioner contended that:

1. Assessment of shipping bills itself constituted a valid refund application under Section 54.
2. Refund was not granted within the statutory period of 60 days.
3. Once appellate authorities and CESTAT set aside the confiscation proceedings, the Department had no justification for withholding the refund.
4. Therefore, interest under Section 56 was mandatorily payable from the expiry of 60 days until the actual date of refund.

Department's Arguments

The Department argued that:

- Refund was withheld due to genuine investigations regarding valuation and eligibility.
- The delay arose from bona fide administrative and statutory processes.
- Since there was no mala fide intention to withhold the refund, interest should not be payable.

Findings of the High Court

1. Shipping Bill Is a Valid Refund Application

The Court held that:

- For exports with payment of IGST, the assessed shipping bill itself operates as an application for refund under Section 54.
- Therefore, the statutory timeline for granting refund commenced from that stage itself.

2. Sections 54 and 56 Create a Mandatory Obligation

The Court observed that:

- Section 54 mandates processing of refund claims within the prescribed period.
- Section 56 provides for payment of interest where refund is not granted within 60 days.

A combined reading of both provisions shows that:
Delayed refund automatically attracts interest liability.

3. Final Appellate Orders Removed Any Basis for Withholding Refund

The Court noted:

- The Commissioner (Appeals) completely set aside the confiscation proceedings.
- CESTAT affirmed the appellate order.
- The Department accepted these orders.
- Consequently, the petitioner became unquestionably entitled to the refund.

Thus, withholding of refund after such finality could not deprive the exporter of statutory interest.

4. Administrative Delay Is Not a Defence

The Court rejected the Department's contention that interest is not payable when delay results from administrative procedures.

It held that:

- Section 56 does not create any exception for administrative delays.
- Once the statutory conditions are satisfied, payment of interest becomes mandatory.

The Court also criticized the Department for filing an affidavit that ignored:

- Binding appellate orders,
- Statutory provisions,
- The settled legal position.

Reliance Placed By the Court

The Court relied upon:

- Ms. Anita Agarwal v. Union of India
- Circular No. 131/1/2020 dated 23 January 2020.

The Court reiterated that export refunds are critical for exporters' working capital and must be processed expeditiously.

Decision

The Bombay High Court:

- Allowed the writ petition.
- Directed the Department to pay statutory interest under Section 56 on the delayed IGST refund.
- Ordered compliance within four weeks.

Direct Tax

23.05.2026

Whether a tax demand reflected on the ITBA portal can be legally enforced and refunds adjusted under Section 245 when:

1. **No assessment order exists or is traceable; and**
2. **No demand notice under Section 156 has been served on the assessee.**

Somic ZF Components (P.) Ltd. v. National Faceless Assessment Centre, Income-tax Department
Delhi High Court (11.05.2026)

Facts of the Case

- The assessee, Somic ZF Components (P.) Ltd., was subjected to assessment proceedings for AY 2017-18 involving transfer pricing adjustments.
- The Assessing Officer (AO) issued a draft assessment order on 30.03.2021.
- The assessee filed objections before the Dispute Resolution Panel (DRP) on 29.04.2021.
- The DRP disposed of the objections on 24.09.2021 (signed on 08.10.2021).
- According to the assessee, after receiving the DRP directions, the AO was required to pass a final assessment order under Section 144C within the prescribed time limit.
- However, no final assessment order or demand notice was ever served upon the assessee.
- Despite the absence of any assessment order, an outstanding tax demand of approximately ₹37.75 lakh was reflected on the ITBA portal.
- Subsequently, the Income-tax Department issued intimations under Section 245 and adjusted ₹26.86 lakh from refunds due to the assessee for AYs 2008-09 and 2021-22.
- During the writ proceedings, the Revenue itself admitted through an email dated 05.06.2025 that although the demand was appearing on the ITBA portal, no assessment order was available either in physical or electronic form.

Assessee's Contentions

The assessee argued that:

- No final assessment order had ever been passed or served.
- In the absence of an assessment order and demand notice, no legally recoverable demand could exist.
- Mere reflection of a demand on the ITBA portal does not create a valid tax liability.
- Consequently, the adjustment of refunds under Section 245 was illegal and liable to be reversed.

Revenue's Position

- The Revenue could not produce any assessment order.
- The jurisdictional AO admitted that no assessment order was available either physically or electronically, although the demand was appearing on the ITBA system.

Decision of the Delhi High Court

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

- Since the AO himself did not possess any assessment order, there was no question of the same having been served upon the assessee.
- In the absence of an assessment order and a valid demand notice, no legally enforceable tax demand could exist.
- A mere entry in the ITBA portal cannot create or sustain a legally recoverable demand.
- Therefore, the refund adjustments made under Section 245 were illegal.

Directions Issued by the Court

The Court directed the Revenue to:

1. Quash the Section 245 intimations dated 13.04.2023 and 24.01.2024.
2. Delete the outstanding demand entry for AY 2017-18 from the ITBA portal within two weeks.
3. Refund ₹26.86 lakh adjusted against the assessee's refunds.
4. Pay applicable interest on the refunded amount from the date of recovery until payment.
5. Complete the refund within two months.

The Court also clarified that:

- If the Department subsequently locates the assessment order, it may serve the same on the assessee in accordance with law.
- Upon such service, the assessee would be free to challenge the order on all available grounds, including limitation.

Goods & Services Tax

23.05.2026

- **Whether confiscation proceedings under Section 130 can be initiated without prior determination of tax liability under Sections 73 or 74 of the GST Act?**
- **Whether proceedings under Section 130 can be invoked merely for alleged stock discrepancies and violations relating to maintenance of accounts and records under Section 35?**
- **Whether a writ petition is maintainable at the show cause notice stage when the notice is alleged to be without jurisdiction?**

KVN FMCG (P.) Ltd. v. State of U.P.
Allahabad High Court (18.05.2026)

Facts of the Case

- The GST authorities conducted a search at the premises of KVN FMCG (P.) Ltd.
- During the search, the Department alleged:
  - Excess stock was found at the premises; and
  - There were discrepancies in stock records and maintenance of accounts under Section 35.
- During the search proceedings, the assessee deposited approximately ₹64.91 lakh through Form GST DRC-03.
- Thereafter, the Department issued a Show Cause Notice (SCN) dated 12.02.2026 under Sections 122 and 130 proposing:
  - Confiscation of goods;
  - Levy of penalty and fine.
- A confiscation order dated 27.02.2026 was passed under Section 130(1)(i) read with Section 122.
- Demand was subsequently reflected through Form GST DRC-07.
- Aggrieved, the assessee filed a writ petition challenging the jurisdiction of the Department to invoke Section 130.

Assessee's Contentions

The assessee contended that:

A. Prior Tax Determination is Mandatory

- Section 130 proceedings cannot be initiated directly.
- The Department must first determine tax liability under Sections 73 or 74.
- Since no such adjudication was undertaken, the SCN itself was without jurisdiction.

B. Violation of Section 35 Does Not Attract Section 130

- The proceedings were based solely on:
  - Excess stock;
  - Stock discrepancies;
  - Defects in record maintenance.
- Such alleged violations of Section 35 do not justify confiscation under Section 130.

C. Writ Petition Maintainable

- Since the notice was issued without jurisdiction, the assessee could directly approach the High Court despite the availability of alternate remedies.

Department's Stand

The Revenue mainly argued:

- The writ petition was premature because it challenged a show cause notice.
- The assessee should participate in adjudication proceedings instead of invoking writ jurisdiction.

Findings of the Allahabad High Court

A. Section 130 Cannot Be Invoked Without Tax Determination

The Court relied upon earlier decisions including:

- Metenere Ltd. v. Union of India
- Maa Mahamaya Alloys (P.) Ltd. v. State of U.P.
- Dayal Product v. Additional Commissioner Grade-2

The Court held that:

Confiscation proceedings under Section 130 cannot be initiated unless tax liability has first been determined under Section 73 or Section 74.

Since no such determination had been made, the initiation of proceedings itself was jurisdictionally defective.

B. Section 130 Cannot Be Used for Section 35 Violations

The Court further held that:

- The foundation of the proceedings was alleged stock discrepancy and record-keeping lapses.
- Such allegations pertain to Section 35 compliance.
- Section 130 cannot be invoked merely because there are defects in maintenance of accounts or stock records.

Accordingly, the proceedings lacked legal authority.

C. Writ Jurisdiction Can Be Invoked

The Court observed that:

- Where a show cause notice is issued without jurisdiction, the High Court can interfere at the notice stage itself.
- Therefore, the objection regarding maintainability was rejected.

Decision of the Court

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

- The show cause notice dated 12.02.2026 issued under Sections 122 and 130 was without jurisdiction.
- The confiscation order dated 27.02.2026 was also unsustainable.
- The consequential DRC-07 demand could not survive.

Direct Tax

24.05.2026

Whether reassessment proceedings initiated under an incorrect and obsolete PAN are valid when the assessee had already disclosed all transactions under the correct PAN?

Geora Agriculture Co-Operative Service Society Ltd. v. ITO
ITAT, Chandigarh (11.05.2026)

Facts of the Case

- The assessee, a co-operative society, was engaged in:
  - Public Distribution System (PDS) activities;
  - Sale of fertilizers; and
  - Providing loans to members.
- Based on information from the Insight Portal, the Assessing Officer (AO) alleged:
  - Cash deposits of ₹3.25 crore; and
  - Time/Fixed Deposits of ₹3.85 crore.
- Reassessment proceedings were initiated for AY 2015-16.
- The notice under Section 148 was issued on 01.04.2022 under PAN AABTT9927E, which was an old and obsolete PAN.
- The assessee had already obtained a new PAN AAEAT6478N under the correct status and had disclosed all transactions under that PAN.
- During proceedings under Section 148A(b), the assessee specifically informed the AO about the correct PAN and furnished all relevant details.
- Despite this, the AO continued reassessment proceedings under the obsolete PAN and ultimately made additions of approximately ₹7.10 crore under Section 69A.
- The CIT(A) partly allowed relief by holding that the AO had double-counted certain cash deposits and restricted the addition to ₹1.94 crore, while sustaining ₹75 lakh relating to FDRs.
- The assessee appealed before the ITAT.

Tribunal's Findings

I. Reassessment Proceedings Invalid

A. Notice Issued on Wrong PAN

The Tribunal observed that:

- The notice under Section 148 was issued under an incorrect and non-operative PAN.
- The assessee had already informed the AO about the correct PAN during Section 148A proceedings.
- All transactions had already been disclosed under the valid PAN.

The Tribunal held that:

Proceedings initiated against an incorrect PAN constitute a jurisdictional defect and not a mere procedural irregularity.

B. Non-Consideration of Reply under Section 148A

The Tribunal emphasized that Section 148A creates substantive safeguards before reopening assessments.

The AO is required to:

- Conduct inquiry;
- Consider the assessee's reply;
- Apply independent mind;
- Record satisfaction before issuing notice under Section 148.

In the present case:

- The assessee's detailed explanation was ignored.
- The AO mechanically proceeded under the obsolete PAN.

Accordingly, the Tribunal held that:

Failure to consider the assessee's reply under Section 148A(c) amounts to patent non-application of mind and vitiates the reassessment proceedings.

C. Reassessment Also Barred by Limitation

The Tribunal further accepted the assessee's contention that:

- The notice issued on 01.04.2022 for AY 2015-16 was beyond the permissible limitation period under Section 149.

Thus, reassessment was invalid on limitation grounds as well.

II. Addition on Cash Deposits Deleted

Tribunal's Findings

The Tribunal noted that:

- CIT(A) himself found that the AO had double-counted deposits.
- Revenue failed to rebut the assessee's explanations.
- Deposits were supported by books of account.

Therefore:

Cash deposits could not be treated as unexplained money under Section 69A.

III. Rejection of Books Held Unjustified

The AO rejected the books because they were not audited under Section 44AB.

The Tribunal held that:

- Turnover did not exceed the threshold requiring audit under Section 44AB.
- Accounts were already subjected to statutory audit under the Co-operative Societies Act.

Hence:

Books cannot be rejected merely because they were not audited under Section 44AB when audit itself was not legally required.

ICMAI
THE INSTITUTE OF
COST ACCOUNTANTS OF INDIA
भारतीय लागत लेखाकार संस्थान
Statutory Body under an Act of Parliament
(Under the jurisdiction of Ministry of Corporate Affairs)

TAX INSIGHTS
By
Tax Research Department

Goods & Services Tax

24.05.2026

- **Whether the statutory 70:30 valuation mechanism prescribed under the GST notifications applies to supplies of solar power generating systems even where separate invoices are issued for goods and services?**
- **Whether the Department can disregard the deemed 70:30 split and levy GST at 18% on the entire contract value?**
- **Whether different HSN classifications of goods supplied as part of a solar power generating system affect the applicability of the 70:30 mechanism?**

Tata Power Renewable Energies Ltd. v. Union of India
High Court of Andhra Pradesh (29.04.2026)

Facts of the Case

- Tata Power Renewable Energies Ltd. was engaged in the supply of:
  - Solar Power Generating Systems (SPGS);
  - Solar power-based devices;
  - Associated services such as design, installation, testing, commissioning and maintenance.
- For supplies relating to solar projects, the company adopted the valuation mechanism prescribed under GST notifications whereby:
  - 70% of the gross consideration is deemed to be the value of goods taxable at 5%; and
  - 30% is deemed to be the value of services taxable at 18%.
- This resulted in an effective GST incidence of approximately 8.9%.
- During assessment for FY 2020-21, the Department issued a show cause notice under Section 74 and subsequently passed an assessment order demanding:
  - Differential GST of ₹9.19 crore;
  - Equivalent penalty; and
  - Interest.
- The Department's primary reasoning was that:
  - Separate invoices had been raised for goods and services;
  - Different HSN codes were used for various goods;
  - Therefore, the statutory 70:30 mechanism was not applicable.
- Consequently, the Department sought to levy GST at 18% on the entire consideration.

Findings of the High Court

A. Notifications Create a Legal Fiction

The Court examined:

- Entry 234 of Notification No. 1/2017;
- Entry 38 of Notification No. 11/2017;
- Notification No. 24/2018.

The Court held that:

The explanations inserted in these entries create a statutory deeming fiction under which 70% of the gross consideration is deemed to represent goods and 30% is deemed to represent services.

Thus, the valuation split is mandatory.

B. Separate Invoices Do Not Defeat the 70:30 Mechanism

The Court rejected the Department's reasoning and held that:

- The notifications specifically contemplate supplies involving goods and services together.
- Issuing separate invoices does not alter the nature of the transaction.
- The Department failed to show how separate invoicing removes the transaction from the scope of the notifications.

The Court observed:

Mere issuance of separate invoices cannot negate the existence of an overall contract for supply of solar power generating systems.

C. Different HSN Codes Are Irrelevant

The Court held that:

- Components supplied as part of a solar power generating system remain covered by the special GST framework.
- Different HSN classifications do not override the specific deeming provisions in the notifications.

D. Department's Levy of 18% on Entire Turnover Was Unsustainable

The Court noted that even if the Department's theory of separate supplies were accepted:

- It was still required to determine separately:
  - Value of goods; and
  - Value of services.

However:

- No such exercise was undertaken.
- The Department simply applied 18% to the entire turnover.

The Court found this approach legally unsustainable.

Decision of the Court

The Andhra Pradesh High Court held that:

1. The petitioner was entitled to apply the statutory 70:30 valuation mechanism.
2. GST liability was required to be computed as:
   - 70% of consideration taxable as goods at 5%; and
   - 30% of consideration taxable as services at 18%.
3. Levy of 18% GST on the entire consideration was invalid.

ICMAI
THE INSTITUTE OF
COST ACCOUNTANTS OF INDIA
भारतीय लागत लेखाकार संस्थान
Statutory Body under an Act of Parliament
(Under the jurisdiction of Ministry of Corporate Affairs)

TAX INSIGHTS

By

Tax Research Department

Direct Tax

25.05.2026

Whether an Assessing Officer can invoke Section 154 of the Income-tax Act, 1961 to rectify or modify a certificate/order issued under Section 5(2) of the DTVSV Act, 2020?

GAIL (India) Ltd. v. Assistant Commissioner of Income-tax
Delhi High Court (04.05.2026)

Facts of the Case

- The Principal Commissioner of Income Tax (PCIT) had issued an order/certificate under Section 5(2) of the Direct Tax Vivad se Vishwas Act, 2020 (DTVSV Act), determining the amount payable by GAIL (India) Ltd. under the dispute resolution scheme.
- Subsequently, an audit objection was raised alleging that the amount payable under the Vivad se Vishwas Scheme had been incorrectly calculated.
- Based on this audit objection, the Assessing Officer (AO) passed an order dated 05.01.2026 under Section 154 of the Income-tax Act, 1961 seeking to rectify and modify the determination made under the DTVSV Act.
- The rectification order effectively altered the amount determined in the certificate issued under the Vivad se Vishwas Scheme.
- Aggrieved, GAIL (India) Ltd. filed a writ petition before the Delhi High Court challenging the jurisdiction and legality of the rectification order.

Findings of the Delhi High Court

A. AO Attempted to Rectify an Order Passed by PCIT

The Court observed that:

- The order dated 05.01.2026 clearly sought to modify an order passed by the Principal Commissioner.
- The AO was attempting to alter a determination that was not originally made by him.

The Court found this legally impermissible.

B. No Rectification Power Exists Under the DTVSV Act

The Court examined the scheme of the DTVSV Act and held:

- The Act does not contain any provision granting rectification powers.
- Significantly, even the Principal Commissioner who issued the certificate does not possess any statutory power to rectify it.
- Therefore, a fortiori, the Assessing Officer cannot assume such power.

The Court held:

The DTVSV Act is a self-contained code and does not confer any power of rectification.

C. Finality Clause Under Section 5(3)

The Court emphasized that Section 5(3) of the DTVSV Act specifically provides:

The amount determined and the order passed under the Scheme shall be final and conclusive.

Accordingly:

- Once the certificate is issued and the determination is made, the matter attains statutory finality.
- Such determination cannot subsequently be reopened or altered through Section 154 proceedings.

D. Income-tax Act Provisions Not Imported into DTVSV Act

The Court further held that:

- The DTVSV Act does not make Section 154 of the Income-tax Act applicable to proceedings under the Scheme.
- In the absence of an express statutory provision, rectification powers cannot be imported from the Income-tax Act.

Thus:

Section 154 cannot be invoked to modify an order passed under the DTVSV Act.

Decision of the Court

- The Delhi High Court allowed the writ petition and held that:
- The rectification order dated 05.01.2026 was without jurisdiction.
- The DTVSV Act does not permit rectification of a certificate issued under Section 5(2).
- Section 154 of the Income-tax Act cannot be invoked to alter a final determination under the Scheme.
- The impugned rectification order was invalid.

Relief Granted

The Court:

- Quashed and set aside the rectification order dated 05.01.2026.
- Restored the original determination made under the Vivad se Vishwas Scheme.
- Followed its earlier ruling in Satish Kumar Dhingra v. CIT.

ICMAI
THE INSTITUTE OF
COST ACCOUNTANTS OF INDIA
भारतीय लागत लेखाकार संस्थान
Statutory Body under an Act of Parliament
(Under the jurisdiction of Ministry of Corporate Affairs)

TAX INSIGHTS
By
Tax Research Department

Goods & Services Tax

25.05.2026

- **Whether detained goods must be released upon payment of penalty under Section 129(1)(a) despite the revenue disputing ownership?**
- **Whether the authorities could insist on execution of a bond under Rule 140 of the CGST Rules before releasing the goods?**

Ranjeet Kumar Poddar v. Asst. Commissioner of CGST & CX Headquarters
High Court of Calcutta (14.05.2026)

Facts of the Case

- The petitioner, Ranjeet Kumar Poddar, supplied and transported 34,650 kg of dried areca nuts from Bakshirhat (West Bengal) to a buyer, M/s Barman Tradecomm, New Delhi.
- During transit, the CGST authorities intercepted and detained the goods and the vehicle.
- A show-cause notice under Section 129(3) of the CGST Act was issued alleging:
  - Defects in tax invoices and e-way bills;
  - Doubts regarding ownership of the goods;
  - Questions concerning the quantity and genuineness of the consignment.
- The authorities subsequently passed an order demanding:
  - ₹5,18,738 under Section 129(1)(a) (where owner comes forward);
  - ₹51,87,380 under Section 129(1)(b) (where owner does not come forward);
  - ₹2,00,000 relating to the conveyance.
- The petitioner sought release of the goods by offering to pay the penalty applicable under Section 129(1)(a), claiming ownership of the goods and undertaking to file a statutory appeal against the demand order.

Arguments of the Parties

Petitioner

- The show-cause notice itself described him as the consignor and identified the buyer as consignee.
- Relevant invoices and e-way bills accompanied the goods.
- As per the GST Circular dated 31 December 2018, consignor or consignee should be treated as owner where documents accompany the goods.
- He was willing to pay the penalty prescribed under Section 129(1)(a).
- The goods were perishable and continued detention would cause irreparable loss.

Revenue

- Ownership of the goods was disputed.
- Documents and e-way bills were allegedly defective.
- Since ownership was doubtful, Section 129(1)(b) should apply, requiring a much higher penalty.
- Release should not be granted until final adjudication.
- A bond under Rule 140 was necessary before release.

Court's Analysis

A. Section 129 is a Complete Code for Detention and Release

The Court held that Section 129 itself comprehensively governs: detention, seizure, and release of goods in transit.

Once the conditions prescribed under Section 129 are fulfilled, release cannot be denied.

B. Legislative Intent is Release, Not Continued Detention

The Court observed that the statute specifically provides mechanisms for release upon payment of prescribed penalties.

Therefore:

The legislature did not intend to create a permanent lien or charge over the detained goods.

If tax liability ultimately crystallizes, recovery proceedings can be initiated separately under the Act.

C. Ownership Dispute Cannot Prevent Release

The petitioner consistently asserted ownership.

The Court noted that:

- No contrary claimant had come forward.
- The department failed to produce any material showing that the goods belonged to someone else.
- Mere suspicion or assertion by the department was insufficient.

Hence, for the limited purpose of release, the petitioner was entitled to be treated as owner.

D. Rule 140 Bond Cannot Be Insisted Upon

The Court held that Rule 140 operates independently and cannot override the specific release mechanism contained in Section 129.

Accordingly, execution of a bond under Rule 140 was not a mandatory precondition for release of the goods.

E. Conveyance Liability is Separate

The Court clarified that release of the goods cannot be withheld merely because payment relating to the vehicle/conveyance has not been made.

Decision of the Court

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

1. The petitioner shall be treated as the owner for purposes of Section 129(1)(a).
2. Upon payment of the penalty prescribed under Section 129(1)(a), the detained goods must be released.
3. The authorities cannot insist upon furnishing a bond under Rule 140.
4. Release of goods cannot be linked to payment relating to the conveyance.
5. The goods must be released within three days of payment of the statutory penalty.
6. The petitioner must file the statutory appeal within the time undertaken before the Court.

ICMAI
THE INSTITUTE OF
COST ACCOUNTANTS OF INDIA
भारतीय लागत लेखाकार संस्थान
Statutory Body under an Act of Parliament
(Under the jurisdiction of Ministry of Corporate Affairs)

TAX INSIGHTS
By
Tax Research Department

Direct Tax

26.05.2026

Whether employees' contribution to PF deposited after the due date prescribed under the PF Act is allowable as a deduction if deposited before filing the income-tax return?

Eveready Spinning Mills (P.) Ltd. v. ACIT
ITAT Chennai (27.04.2026)

Facts of the Case

The assessee, Eveready Spinning Mills Pvt. Ltd., was engaged in the business of manufacturing yarn. It operated:

- A windmill division generating electricity; and
- A spinning division consuming such electricity captively.

For AYs 2018-19 and 2022-23, the assessee claimed deduction under Section 80-IA on profits derived from the eligible power-generation undertaking.

The assessee benchmarked the captive transfer of electricity at ₹6.35 per unit, relying on the fact that the spinning division would otherwise purchase power from TNEB at approximately ₹6.90 per unit.

The Assessing Officer referred the specified domestic transaction to the TPO. The TPO held that the appropriate benchmark was the rate at which TNEB purchased electricity from windmill generators, not the rate at which TNEB supplied electricity to consumers. Accordingly, a transfer pricing adjustment of about ₹23.04 crore was made and the Section 80-IA deduction was restricted.

Additionally, for AY 2018-19, the AO disallowed ₹23,454 representing employees' contribution to PF remitted beyond the due date prescribed under the Provident Fund Act.
The assessee appealed before the ITAT.

Assessee's Contentions

On Section 80-IA

- The correct benchmark is the rate at which electricity is supplied by TNEB to industrial consumers.
- The issue is covered by the Supreme Court decision in CIT v. Jindal Steel & Power Ltd..
- The assessee's transfer price of ₹6.35 per unit was lower than the tariff charged by TNEB.
- Similar relief had been granted in the assessee's own case for earlier years.

On PF Contribution
The assessee challenged the disallowance but could not distinguish the binding Supreme Court ruling in Checkmate Services.

Revenue's Contentions

On Section 80-IA

- The market value should be the rate at which TNEB purchases power from windmill units.
- After amendments relating to "market value" and arm's length price, the Supreme Court decision in Jindal Steel should not govern the issue.

On PF Contribution

- Employees' PF contribution was deposited beyond the due date prescribed under the PF Act.
- Therefore, disallowance was mandatory in view of Supreme Court jurisprudence.

Tribunal's Findings

The Tribunal held that:

- Market value must reflect the price that a consumer would pay in the open market.
- The rate at which TNEB purchases electricity from generators is not a true market value because it is determined under statutory and regulatory mechanisms.
- The relevant benchmark is the tariff charged by TNEB to industrial consumers.

Since the assessee adopted a rate lower than the tariff charged by TNEB to consumers, the benchmarking was reasonable.
Accordingly, the TP adjustment and corresponding restriction of deduction under Section 80-IA were deleted.

The Tribunal relied upon the Supreme Court judgment in: Checkmate Services (P.) Ltd. v. CIT-1
The Tribunal observed that:

- Employees' contribution is governed by Section 36(1)(va).
- Such contribution must be deposited within the due date prescribed under the relevant welfare legislation.
- Deposit before the due date of filing the income-tax return does not cure the default.

Since the assessee remitted employees' PF contribution after the statutory due date under the PF Act, the disallowance was rightly made.

Decision of the Tribunal

Section 80-IA Issue: Assessee succeeded.

- TPO adjustment deleted.
- Deduction under Section 80-IA allowed in full.
- Same relief granted for AY 2022-23.

PF Contribution Issue: Revenue succeeded.

- Disallowance of delayed employees' PF contribution upheld.

ICMAI
THE INSTITUTE OF
COST ACCOUNTANTS OF INDIA
भारतीय लागत लेखाकार संस्थान
Statutory Body under an Act of Parliament
(Under the jurisdiction of Ministry of Corporate Affairs)

TAX INSIGHTS
By
Tax Research Department

Goods & Services Tax

26.05.2026

Whether ITC can be denied merely on the ground of limitation under Section 16(4) when the claim falls within the extended time period granted under Section 16(5) of the CGST Act?

Surya Textile v. Superintendent of GST and Central Excise
High Court of Madras (09.01.2026)

Facts of the Case

- The petitioner, Surya Textile, was a registered dealer under the GST regime.
- The GST Department passed an assessment order reversing/denying Input Tax Credit (ITC) claimed by the petitioner.
- The denial was based on Section 16(4) of the CGST/TNGST Act on the ground that the ITC claim was time-barred.
- Consequential demands of tax, interest and penalty were also raised.
- The petitioner challenged the order through a writ petition, contending that the ITC claim was protected by the newly inserted Section 16(5), introduced through the Finance (No. 2) Act, 2024 with retrospective effect.

Legal Background

Section 16(4):
Prior to the amendment, ITC relating to a financial year could not be availed after the prescribed statutory cut-off date.
Section 16(5):
Inserted by the Finance (No. 2) Act, 2024 with retrospective effect from 1 July 2017, Section 16(5) provides:

- Notwithstanding Section 16(4),
- For invoices/debit notes pertaining to FYs 2017-18, 2018-19, 2019-20 and 2020-21,
- ITC can be availed in any return filed up to 30 November 2021.

Thus, Parliament created a special relaxation overriding the limitation contained in Section 16(4).

Petitioner's Contentions

- The impugned order denied ITC solely because it was allegedly time-barred under Section 16(4).
- After insertion of Section 16(5), the claim became statutorily protected.
- The issue was already covered by the earlier Madras High Court decision in:
- Sri Ganapathi Pandi Industries v. Assistant Commissioner (State Tax)
- Therefore, the assessment order could not survive.

Revenue's Stand

The Government Advocate fairly conceded that the controversy stood covered by the earlier common judgment of the Madras High Court in Sri Ganapathi Pandi Industries.

Court's Analysis

The Court relied entirely upon its earlier decision in Sri Ganapathi Pandi Industries.
The Court noted that:

1. The GST Council, in its 53rd Meeting, recommended relaxation of the limitation period for availing ITC.
2. The recommendation was implemented through:
   - Finance (No. 2) Act, 2024;
   - Notification No. 17/2024-Central Tax dated 27.09.2024; and
   - Circular No. 237/31/2024-GST.
3. Section 16(5) expressly overrides Section 16(4).
4. Therefore, where returns for FYs 2017-18 to 2020-21 were filed within the extended period up to 30.11.2021, ITC cannot be denied merely on limitation grounds.

The Court held that the department's order was unsustainable because it rested solely on Section 16(4) while ignoring the benefit granted by Section 16(5).

Decision of the Court

The Madras High Court allowed the writ petition and:
Quashed the Assessment Order:
The impugned order was set aside insofar as it denied ITC on limitation grounds under Section 16(4).
Restrained Further Proceedings:
The department was restrained from initiating proceedings based solely on the limitation issue covered by the impugned order.
Granted Refund Relief:
The petitioner was permitted to seek refund of amounts already recovered, and the department was directed to consider such claim in accordance with law.
Ordered Restoration of Accounts:
Any bank account frozen pursuant to the impugned order was directed to be de-frozen.
Allowed Re-credit/Adjustment:
Amounts recovered from electronic cash ledger or credit ledger were directed to be refunded or allowed to be utilized/adjusted against future liabilities.
Preserved Department's Rights on Other Issues:
The Court clarified that the department remained free to proceed in accordance with law regarding:

- Wrong availment of ITC,
- Excess ITC,
- Discrepancies,
- Fake ITC,
- Any other substantive violation.

Only the limitation-based denial was set aside.

Direct Tax

27.05.2026

Whether the Assessing Officer could make an addition under Section 40(a)(i) despite a specific DRP direction prohibiting such addition if no departmental appeal had been filed against earlier Tribunal orders?

LX Pantos India (P.) Ltd. v. Assessment Unit, National Faceless Assessment Centre, Delhi
High Court of Delhi (21.04.2026)

Facts of the Case

- The assessee, LX Pantos India (P.) Ltd., was subjected to assessment proceedings involving:
    a. A disallowance under Section 40(a)(i); and
    b. A transfer pricing adjustment.
- During DRP proceedings, the assessee pointed out that identical disallowances under Section 40(a)(i) had already been decided in its favour by the Tribunal in earlier years.
- The DRP issued a specific direction:
- If the Department had not filed any appeal against the Tribunal's orders for AY 2017-18 and earlier years on the same issue, the AO should not make any addition under Section 40(a)(i).
- Despite this direction, the AO passed the final assessment order and made a disallowance of ₹160.43 crore under Section 40(a)(i), resulting in a substantial tax demand.
- The assessee challenged the assessment order directly before the Delhi High Court through a writ petition.

Assessee's Contentions

The assessee argued that:

- The DRP's direction was explicit and conditional.
- No appeal had been filed by the Department against the favourable Tribunal orders for AY 2017-18 and earlier years.
- The AO failed to verify this factual position.
- Consequently, the addition was made in direct violation of the DRP's binding directions.

Revenue's Stand

The Revenue submitted that:

- The assessment order contained two separate additions:
    - Section 40(a)(i) disallowance.
    - Transfer pricing adjustment.
- Since the transfer pricing issue was independent, the assessee should be relegated to the appellate remedy rather than invoking writ jurisdiction.

However, the AO filed an affidavit before the Court admitting that:
As on the date of the affidavit, no appeal had been filed by the Department against the Tribunal orders for AY 2017-18 or earlier years concerning the Section 40(a)(i) issue.

Findings of the High Court

1. DRP's Direction Was Clear and Unambiguous
The Court observed that the DRP had issued a clear instruction:

- If no departmental appeal existed against the Tribunal's orders,
- The AO should not make the addition.

The AO failed to verify this crucial fact before passing the assessment order.

2. Directions Under Section 144C(10) Are Mandatory
The Court emphasized that:

- Section 144C(10) makes DRP directions binding on the Assessing Officer.
- The AO has no discretion to disregard or modify such directions.

Therefore, once the condition stipulated by the DRP stood satisfied, the AO was legally bound to delete the proposed addition.

3. Addition Was Contrary to Law
Since the Department itself admitted that no appeal had been filed against the Tribunal orders:

- The condition imposed by the DRP stood fulfilled.
- The addition under Section 40(a)(i) was made in direct violation of the DRP's directions.

Accordingly, the addition could not survive.

4. Writ Jurisdiction Properly Invoked
Ordinarily, the Court may have directed the assessee to file an appeal.
However, because:

- The addition was patently contrary to a binding DRP direction; and
- A huge demand had been raised based on such illegality,

the Court exercised its writ jurisdiction and granted relief.

Decision

The Delhi High Court:
Allowed the Writ Petition Partly
Set Aside

- The assessment order to the extent it created demand arising from:
    - Disallowance under Section 40(a)(i); and
    - Related interest.

Sustained

- The remaining additions, including transfer pricing adjustments, were left untouched.

Liberty Granted

- The assessee was permitted to challenge the remaining additions through the normal appellate process.

Limitation Protection

- If an appeal was filed within 15 days, the appellate authority was directed not to reject it on limitation grounds.

Goods & Services Tax

27.05.2026

- **Whether service of SCN and notices through the registered e-mail and mobile number is valid under GST law.**
- **Whether failure to update contact details can invalidate service of notice.**
- **Whether passing an ex parte order amounted to violation of principles of natural justice.**

Sarthak Earthmovers and Builders v. State of U.P.
High Court of Allahabad (08.05.2026)

Facts of the Case

- The petitioner, Sarthak Earthmovers and Builders, challenged an assessment order dated 23.12.2025 imposing tax, interest, and penalty amounting to ₹29,84,975 for FY 2021–22.
- The department issued a show cause notice (SCN) on 20.09.2025 through:
  - the GST common portal,
  - the registered e-mail address, and
  - the registered mobile number.
- Dates fixed:
  - Reply: 20.10.2025
  - Personal hearing: 27.10.2025
- Since the petitioner neither replied nor appeared, a reminder notice was issued fixing fresh dates:
  - Reply: 14.11.2025
  - Hearing: 18.11.2025
- Even thereafter, no response was filed and no appearance was made.
- Consequently, an ex parte assessment order was passed on 23.12.2025.
- The petitioner argued:
  a. No effective opportunity of hearing was granted under Section 75(4) of the GST Act.
  b. Notices were not within his knowledge because the registered e-mail and mobile belonged to his accountant.
  c. The order was passed on a date not fixed for hearing.

Court's Observations

1. Valid Service of Notice

The Court held that:

- GST law expressly recognizes service through:
  - registered e-mail,
  - registered mobile number, and
  - uploading on the GST portal.
- The petitioner himself chose to provide the accountant's contact details during registration.
- It was the assessee's responsibility to update any change in contact information.
- Therefore, the department could not be blamed for communicating through the registered details.

2. Adequate Opportunity Was Given

The Court noted:

- Two separate opportunities were provided for reply and personal hearing.
- Despite notices and reminders, the petitioner failed to participate.
- Hence, the allegation of denial of hearing was not sustainable.

3. No Violation of Natural Justice

The Court emphasized:

- Principles of natural justice are not applied mechanically.
- The assessee must demonstrate actual prejudice caused by lack of hearing.
- Since the petitioner never appeared at any stage, he could not claim prejudice merely because the order was passed on a later date not separately fixed for hearing.

Decision

The Allahabad High Court:

- upheld the validity of service of SCN through registered e-mail and mobile;
- held that the duty to maintain updated contact details lies with the assessee;
- found no violation of natural justice; and
- dismissed the writ petition.

Key Takeaways

1. Under GST law, notices sent through:
   - GST portal,
   - registered e-mail, and
   - registered mobile number
   - constitute valid service.
2. Assessees must ensure that contact details on the GST portal remain updated.
3. If notices are ignored despite proper service, ex parte assessment orders are likely to be sustained.
4. Mere technical objection regarding hearing dates is insufficient unless actual prejudice is shown.
5. Courts may refuse interference where the assessee itself failed to participate in proceedings despite repeated opportunities.

Direct Tax

28.05.2026

Whether the assessment order was invalid for failure to provide adequate opportunity of hearing and video-conference hearing.

Mahindra and Mahindra Financial Services Ltd. v. DCIT
ITAT, Mumbai (08.04.2026)

Facts of the Case

- The assessee, Mahindra and Mahindra Financial Services Ltd., a registered NBFC engaged in financial services, filed its return for AY 2019–20 and later filed a revised return.
- The case was selected for complete scrutiny under the e-Assessment Scheme, 2019.
- The Assessing Officer (AO) issued:
  - notice under Section 143(2), and
  - a detailed questionnaire under Section 142(1) covering multiple issues.
- The assessee furnished partial details and informed the AO that the remaining information was being compiled.
- The assessee specifically requested an opportunity of hearing through video conferencing before any adverse inference was drawn.
- However, the AO passed the assessment order under Sections 143(3) read with 144B:
  - without waiting for the final reply,
  - without granting video-conference hearing, and
  - made several additions/disallowances including:
    - Section 14A disallowance, sales promotion expenses, club expenses, Section 41(1) addition, and denial of deduction under Section 80JJAA.
- During appellate proceedings before CIT(A):
  - the assessee filed additional evidence under Rule 46A,
  - the CIT(A) called for a remand report from the AO,
  - the AO initiated remand proceedings,
  - but before receiving the remand report or hearing the assessee finally, the CIT(A) disposed of the appeal.

Tribunal's Observations

1. Denial of Adequate Opportunity by AO

The Tribunal observed that:

- the questionnaire issued under Section 142(1) was extensive and covered multiple issues;
- the assessee had already submitted partial replies and sought time to furnish remaining documents;
- the assessee expressly requested video-conference hearing before any adverse inference;
- despite this, the AO passed the assessment order immediately without:
  - waiting for final submissions, and
  - granting video-conference hearing.

Hence, the Tribunal held that reasonable opportunity of hearing was not provided.

2. Violation of Natural Justice by CIT(A)

The Tribunal found that:

- the assessee had filed additional evidence before CIT(A);
- remand proceedings were already underway before the AO;
- however, the CIT(A):
  - disposed of the appeal without obtaining the remand report,
  - did not issue final notice to the assessee,
  - and did not allow rebuttal of adverse findings.

The Tribunal held that this violated the principle of audi alteram partem (no one should be condemned unheard).

3. Admission of Additional Evidence

The Tribunal held:

- the additional evidence was crucial and relevant for proper adjudication;
- inability to file complete evidence earlier was not deliberate;
- Rule 29 permits admission of additional evidence for substantial cause;
- substantial justice should prevail over procedural technicalities.

Therefore, the additional evidence was admitted.

Decision

The ITAT:

- set aside the order of the CIT(A);
- restored the matter to the file of the Assessing Officer for fresh adjudication;
- directed the AO to:
  - consider all additional evidence,
  - provide adequate opportunity of hearing,
  - grant proper hearing including video conferencing if required,
  - and decide issues afresh in accordance with law.

The appeal was allowed for statistical purposes.

Key Takeaways

1. In faceless assessment proceedings, reasonable opportunity of hearing remains mandatory.
2. Where an assessee requests video-conference hearing before adverse action, denial of such hearing may violate natural justice.
3. CIT(A) should not dispose of appeals:
   - without obtaining remand reports,
   - or without giving opportunity to rebut adverse findings.
4. ITAT can admit additional evidence under Rule 29 where substantial justice requires it.
5. Procedural fairness and adherence to natural justice are essential even in faceless and digital tax proceedings.

ICMAI
THE INSTITUTE OF
COST ACCOUNTANTS OF INDIA
भारतीय लागत लेखाकार संस्थान
Statutory Body under an Act of Parliament
(Under the jurisdiction of Ministry of Corporate Affairs)

TAX INSIGHTS
By
Tax Research Department

Goods & Services Tax 28.05.2026

- **Whether the GSTAT had statutory power to rectify an apparent error in its final order.**
- **Whether omission of GST component from anti-profiteering benefit calculation constituted an error apparent on record.**

DG Anti Profiteering v. LIC HFL Care Homes Ltd.
Goods and Services Tax Appellate Tribunal, New Delhi Bench (02.04.2026)

Facts of the Case

- The GST Appellate Tribunal had earlier passed a final order dated 23.03.2026 in an anti-profiteering appeal involving benefit to flat buyers.
- The Tribunal determined a per sq. ft. anti-profiteering benefit of ₹76.895 to be passed on to flat owners.
- Subsequently, the original complainant, Niranjan Swain, sent an e-mail dated 25.03.2026 pointing out a calculation omission/error.
- The grievance was that the Tribunal's order mentioned only the base benefit amount and omitted GST at 12%, which should also form part of the benefit.
- A rectification request was therefore made before the GSTAT.

Tribunal's Observations

1. GSTAT Has Power to Rectify Apparent Errors

The Tribunal observed that Section 113(3) expressly empowers GSTAT to:

- amend its order,
- rectify any error apparent on the face of record,
- either suo motu or upon being brought to its notice within the prescribed time.

The complainant's application was filed within the permissible period.

2. Omission of GST Required Clarification

The Tribunal accepted that:

- the earlier order referred only to the base benefit amount of ₹76.895 per sq. ft.;
- GST at 12% had inadvertently not been reflected in the final computation;
- this omission required clarification and rectification.

3. Correct Computation of Benefit

The Tribunal directed that:

- the words:
- "plus GST @ 12%, i.e. totalling Rs. 86.12 per sq. ft."
- be inserted in paragraph 24 of the original final order.
- Accordingly, the total anti-profiteering benefit became:
    - ₹76.895 + GST @ 12%
    - = ₹86.12 per sq. ft.

The Tribunal further clarified that:

- the amount payable to each flat owner should be computed by multiplying:
    - total area purchased × ₹86.12 per sq. ft.

Held

The GSTAT:

- allowed rectification of the earlier final order;
- clarified that anti-profiteering benefit includes GST at 12%;
- amended the order to specify total benefit at ₹86.12 per sq. ft.;
- directed consequential computation for all flat owners; and
- held that the rectification order would form part of the original final order dated 23.03.2026.

Key Takeaways

1. GSTAT possesses statutory power under Section 113(3) to rectify errors apparent on the face of record.
2. Computational omissions in anti-profiteering orders can be corrected through rectification proceedings.
3. Anti-profiteering benefit payable to buyers may include GST component where applicable.
4. Rectification orders become part of the original order and clarify its implementation.
5. Courts and tribunals distinguish between:
    - review/reconsideration of merits, and
    - permissible rectification of apparent mistakes.

ICMAI
THE INSTITUTE OF
COST ACCOUNTANTS OF INDIA
भारतीय लागत लेखाकार संस्थान
Statutory Body under an Act of Parliament
(Under the jurisdiction of Ministry of Corporate Affairs)

TAX INSIGHTS
By
Tax Research Department

Direct Tax

29.05.2026

Whether exemption under Section 11 and benefit of accumulation/application of income can be denied merely because Form 10B was filed belatedly, even though it was filed electronically during the pendency of appellate proceedings before CIT(A).

Anasuya Foundation v. Income Tax Officer (Exemptions)
ITAT,Bangalore,26.05.2026

Facts of the Case

- The assessee was a charitable trust registered under Section 12AA.
- It obtained the audit report in Form 10B on 23 June 2018 before filing the return.
- The return of income for AY 2018-19 was filed on 31 August 2018.
- However, due to oversight, Form 10B was not electronically uploaded along with the return.
- CPC processed the return under Section 143(1) on 4 March 2020 and denied:
  - deduction for application of income, and
  - accumulation/exemption under Section 11.
- Consequently, taxable income was computed at approximately ₹76.74 lakhs instead of the returned income of ₹38.22 lakhs.
- The assessee later uploaded Form 10B electronically on 26 March 2025 and filed an appeal before CIT(A).
- CIT(A) held that Form 10B ought to have been filed within the prescribed time and dismissed the appeal, though suggesting that the assessee may seek condonation of delay under CBDT Circular No. 16/2024.

Relevant Legal Provisions

- Section 11 – Exemption of income from property held for charitable or religious purposes.
- Section 12A(1)(b) – Requirement of audit report in Form 10B.
- Section 143(1) – Processing of return.
- Rule 12(2) of Income-tax Rules – Prescribed manner and timeline for filing Form 10B.

Assessee's Arguments

The assessee contended that:

- Audit report had already been obtained before filing the return.
- Failure to upload Form 10B electronically was only a procedural lapse/oversight.
- Form 10B was eventually uploaded during appellate proceedings.
- Reliance was placed on:
  - CIT (Exemptions) v. Laxmanarayan Dev Shrishan Seva Khendra
  - Social Security Scheme of GICEA v. CIT (Exemptions)
  - Bangalore and Mumbai ITAT rulings holding that delayed filing of Form 10B is directory and not fatal.

Revenue's Arguments

The Revenue argued that:

- Filing Form 10B within the statutory timeline is mandatory.
- The Income-tax Act itself prescribes the due date.
- If such timelines are treated as directory, statutory compliance under the Act would become meaningless.
- Reliance was placed on:
  - Pr. CIT v. Wipro Ltd.

where the Supreme Court held that statutory timelines under Section 10B were mandatory.

Tribunal's Findings

The ITAT observed:

- Form 10B was admittedly not available when CPC processed the return under Section 143(1).
- However, the form was available during pendency of appeal before CIT(A).
- The facts were materially similar to the Gujarat High Court ruling in:
  - CIT (Exemptions) v. Laxmanarayan Dev Shrishan Seva Khendra
- The Gujarat High Court had already distinguished the Supreme Court ruling in:
  - Pr. CIT v. Wipro Ltd.

by holding that Section 10B(8) conditions in Wipro were fundamentally different from delayed filing of Form 10B under Section 12A.

The Tribunal further held that:

- Procedural delay in e-filing Form 10B should not defeat substantive exemption available to a charitable trust.
- Once Form 10B became available during appellate proceedings, exemption under Section 11 could not be denied solely on technical grounds.

Decision / Held

The ITAT allowed the appeal of the assessee and held that:

- Benefit of Section 11 exemption cannot be denied merely because Form 10B was filed belatedly.
- Filing of Form 10B during pendency of appeal before CIT(A) is sufficient compliance.
- The Assessing Officer was directed to allow:
  - deduction for application of income, and
  - accumulation of income.

Goods & Services Tax

29.05.2026

- **Whether post-audit adjudication proceedings under Section 73 can validly be initiated by the STO after completion of audit under Section 65.**
- **Whether the ex parte demand order violated principles of natural justice.**
- **Whether writ petition under Article 226 was maintainable despite availability of statutory appellate remedy under Section 107.**

Ess Ess Enterprises and Electronics FF v. Union of India
HIGH COURT OF JAMMU & KASHMIR AND LADAKH (11.05.2026)

Facts of the Case

- The petitioner was a GST-registered proprietorship concern engaged in works contract services.
- GST audit under Section 65 of the CGST/J&K GST Act was conducted for FYs 2017-18 to 2022-23 by the Assistant Commissioner (Audit).
- Audit culminated in an Audit Report under Section 65(6).
- The assessee claimed that all discrepancies pointed out during audit were rectified and tax liability was discharged.
- Subsequently, the State Taxes Officer (STO) issued:
  - Show Cause Notice (SCN) dated 06.02.2026 under Section 73 for FY 2022-23,
  - Reminder dated 11.03.2026,
  - Final demand order dated 09.04.2026 raising demand of ₹3.41 crore towards tax, interest and penalty.
- The assessee challenged the SCN and demand order directly before the High Court under Article 226.

Assessee's Arguments

The petitioner contended that:

- Audit discrepancies had already been addressed and taxes paid.
- STO lacked jurisdiction to initiate fresh proceedings under Section 73 after audit completion.
- Principles of natural justice were violated because:
  - petitioner was out of station,
  - extension request was allegedly ignored,
  - personal hearing date (21.03.2026) fell on Eid-ul-Fitr holiday.
- Therefore, writ petition was maintainable despite alternate remedy.

Revenue's Arguments

The Revenue argued that:

- Section 65(7) expressly authorizes initiation of proceedings under Sections 73 or 74 where audit detects unpaid tax or wrongful ITC.
- Adequate opportunity had been provided: 30 days initially, further 13 days extension, personal hearing opportunities.
- The petitioner neither filed reply nor sought further adjournment.
- Statutory appeal under Section 107 was the proper remedy.

Court's Findings

A. Validity of Post-Audit Proceedings

The High Court held that:

- Section 65(7) specifically empowers the proper officer to initiate proceedings under Sections 73/74 after audit findings.
- Audit and adjudication are separate statutory stages.
- Therefore, STO had valid jurisdiction to issue SCN and pass demand order.

The Court rejected the argument that audit completion bars subsequent adjudication proceedings.

B. Natural Justice

The Court observed that:

- SCN dated 06.02.2026 granted 30 days to respond.
- Additional time till 21.03.2026 was granted through reminder dated 11.03.2026.
- Personal hearing opportunities were also provided.
- The petitioner:
  - did not file reply,
  - did not attend hearing,
  - did not seek fresh adjournment.

Hence, sufficient opportunity was afforded and allegation of violation of natural justice was untenable.

C. Maintainability of Writ Petition

The Court reiterated settled law on alternate remedy:

- Where effective statutory appeal exists, writ jurisdiction ordinarily should not be invoked.
- Exceptions apply only in cases of:
  - violation of fundamental rights,
  - breach of natural justice,
  - patent lack of jurisdiction,
  - challenge to vires.

The Court held that none of these exceptions were established in the present case.

Accordingly, the writ petition was dismissed as not maintainable, with liberty to file statutory appeal under Section 107.

Held

The High Court held that:

1. Post-audit adjudication proceedings initiated by STO under Section 73 were legally valid.
2. No violation of natural justice occurred since adequate opportunity was provided.
3. Writ petition was not maintainable due to availability of effective statutory appellate remedy.

The petition was dismissed with liberty to pursue appeal.

TAX INSIGHTS

By

Tax Research Department

Direct Tax

30.05.2026

- **Whether provision for interest on an arbitral award is allowable as deduction when the underlying arbitral award itself is subsequently set aside by the Supreme Court.**
- **Whether expenditure incurred on gifts, boarding and lodging during a General Body Meeting qualifies as allowable business expenditure under Section 37(1).**

Commissioner of Income-tax v. National Agricultural Co-Op. Marketing Federation of India Ltd.
HIGH COURT OF DELHI (18.05.2026)

Facts of the Case

The case involved two separate issues relating to allowability of expenditure under Section 37(1) of the Income-tax Act, 1961.

Issue I – Provision for Interest on Arbitral Award

- The assessee-society had an arbitral award passed against it for additional compensation.
- Based on the award, the assessee created a provision for interest liability amounting to approximately ₹7.46 crores and claimed deduction.
- The Tribunal allowed the deduction.
- Subsequently, the Supreme Court, in:
  - National Agricultural Co-operative Marketing Federation of India v. Alimenta S.A.
- set aside the underlying arbitral award itself.

Issue II – Expenditure on General Body Meeting

- The assessee incurred expenditure of ₹42.89 lakhs towards: gifts, boarding, lodging, hospitality expenses,
- in connection with its General Body Meeting (GBM).
- The Assessing Officer disallowed the expenditure on the ground that:
  - it was not incurred wholly for business purposes, and
  - the expenditure was excessive.
- The Tribunal allowed the expenditure as business expenditure under Section 37.

Revenue's Arguments

The Revenue contended that:

On Interest Provision

- Since tax was not deducted at source, deduction was also hit by Section 40(a)(i).
- The liability was contingent and not allowable.

On General Body Meeting Expenses

- Gifts and hospitality expenses were excessive.
- Such expenses were not directly connected with business operations like purchase or sale activities.
- Therefore, they should not qualify as business expenditure.

Assessee's Arguments

The assessee argued that:

On Interest Provision

- Deduction had been rightly allowed by the Tribunal at the relevant time based on the arbitral award.

On General Body Meeting Expenses

- Convening General Body Meeting is a statutory requirement for societies/companies.
- Expenses incurred in relation to such meetings are integral to business functioning.

Court's Findings

A. Interest Provision Not Allowable

The High Court held:

- Once the Supreme Court set aside the basic arbitral award itself, the foundation for the interest liability ceased to exist.
- Therefore:
  - no enforceable liability survived,
  - no interest became payable,
  - provision for such interest could not be allowed as deduction.

The Court directed the Assessing Officer to disallow deduction of ₹7.46 crores.

B. General Body Meeting Expenses Allowable

The Court upheld the Tribunal's view and observed:

(i) GBM is a Statutory Requirement

- General Body Meeting of a society/company is legally mandated.
- Expenses incurred for convening such meetings are connected with business functioning.

(ii) Business Expenditure Must Be Interpreted Broadly

The Court emphasized that:

- business expenditure cannot be narrowly construed,
- it is not confined only to purchase/sale or directly revenue-generating activities.

The expression "business expenditure" under Section 37 must receive:

- purposive,
- practical,
- objective interpretation.

(iii) AO Cannot Decide Commercial Wisdom

The Court observed that:

- Assessing Officer cannot sit in judgment over management decisions regarding reasonableness of expenditure.
- Providing gifts, boarding and lodging during meetings is a normal business courtesy.

(iv) Factual Finding by Tribunal

The Tribunal's finding was factual in nature and based on evidence; therefore, no interference was warranted.

Held

The High Court held that:

On Interest Provision

- Deduction for provision of ₹7.46 crores towards interest on arbitral award was not allowable.
- AO was directed to disallow the claim.

On GBM Expenses

- Expenditure of ₹42.89 lakhs on gifts, boarding and lodging during General Body Meeting was allowable as business expenditure under Section 37(1).

ICMAI
THE INSTITUTE OF
COST ACCOUNTANTS OF INDIA
भारतीय लागत लेखाकार संस्थान
Statutory Body under an Act of Parliament
(Under the jurisdiction of Ministry of Corporate Affairs)

TAX INSIGHTS

By
Tax Research Department

Goods & Services Tax

30.05.2026

Whether passing GST adjudication order without considering the reply to SCN and without granting requested personal hearing violates principles of natural justice.

Janardan Panda v. Commissioner, Commercial Tax & GST
HIGH COURT OF ORISSA (05.05.2026)

Facts of the Case

- A Show Cause Notice (SCN) in Form GST DRC-01 was issued to the petitioner under Section 73 of the CGST/OGST Act for the period April 2021 to March 2022.
- The SCN alleged non-payment of GST under reverse charge mechanism (RCM) on:
  - royalty,
  - District Mineral Foundation (DMF) charges,
  - Environment Management Fund (EMF),
  - dead rent, surface rent.
- The petitioner filed a reply in Form GST DRC-06 on 17.09.2025.
- In the reply:
  - liability was disputed,
  - petitioner contended that no mining activity had commenced and therefore no taxable event arose,
  - petitioner expressly opted for personal hearing by selecting the hearing option in the prescribed form.
- Despite this, the adjudicating authority passed Order-in-Original dated 26.12.2025 stating that:
  - the petitioner had neither replied to the SCN nor appeared for hearing.
- Later, the authority passed a rectification order under Section 161 on 06.01.2026 acknowledging receipt of the reply but still did not provide personal hearing.
- Demand of ₹4,19,278 towards tax, interest and penalty was raised.
- The petitioner approached the High Court under Articles 226 and 227.

Petitioner's Arguments

The petitioner contended that:

- A detailed reply to SCN had already been filed.
- The petitioner had expressly requested personal hearing.
- The adjudicating authority wrongly recorded that no reply had been filed.
- Even after rectification under Section 161 acknowledging the reply, no hearing was granted.
- Orders were therefore passed in gross violation of principles of natural justice.

Revenue's Arguments

The Revenue argued that:

- GST on royalty and related charges under reverse charge mechanism was legally payable.
- The petitioner failed to discharge liability and failed to substantiate its claim.
- Disputed questions of fact were involved.
- Alternate appellate remedy under GST law was available; therefore writ petition should not be entertained.

Court's Findings

The High Court carefully examined the record and observed:

A. Reply to SCN Was Actually Filed

The Court noted that:

- Form GST DRC-06 clearly showed that the petitioner had filed a reply.
- The petitioner had explicitly exercised the option for personal hearing.

Therefore, the finding in the adjudication order that no reply was filed was factually incorrect.

B. No Effective Opportunity of Hearing

The Court found that:

- Neither the original adjudication order nor the rectification order showed that any hearing opportunity was actually granted.
- Even after acknowledging receipt of reply during rectification proceedings, the authority failed to provide hearing despite express request.

C. Mechanical and Arbitrary Adjudication

The Court strongly criticized the adjudicating authority and observed:

- The authority acted mechanically.
- The reply to SCN was not considered.
- The issues raised in the reply were not discussed at all.
- Adjudicating authority must independently apply mind and give reasons even if taxpayer does not appear.

The Court held that:

Reply to SCN cannot be treated as an empty formality or useless formality.

Held

The High Court held that:

- There was a flagrant violation of principles of natural justice.
- The adjudication order under Section 73 and rectification order under Section 161 were unsustainable.

Accordingly:

- both orders were quashed,
- matter was remanded back to the adjudicating authority,
- authority was directed to adjudicate afresh after granting reasonable opportunity of hearing.

ICMAI
THE INSTITUTE OF
COST ACCOUNTANTS OF INDIA
भारतीय लागत लेखाकार संस्थान
Statutory Body under an Act of Parliament
(Under the jurisdiction of Ministry of Corporate Affairs)

TAX INSIGHTS
By
Tax Research Department

Direct Tax

31.05.2026

Whether an addition for unexplained cash deposit can survive when the AO invokes Section 115BBE directly, but fails to specify the actual charging provision.

Pradeep Tyagi HUF v. Income-tax Officer
ITAT,Delhi (30.05.2026)

Facts of the Case

- The assessee, Pradeep Tyagi HUF, was engaged in business activities involving:
  - horticulture,
  - supply of sand/mitti/Yamuna sand,
  - and declared income under the presumptive taxation scheme of Section 44AD.
- During demonetisation, the assessee deposited ₹1 crore in cash into its Kotak Mahindra Bank account on 23.11.2016.
- Total business receipts declared for the year were approximately ₹1.01 crore, and presumptive income of 8% under Section 44AD was offered to tax.
- The Assessing Officer (AO) doubted the genuineness of the business and held that:
  - no real business activity was carried out,
  - the source of the cash deposit remained unexplained,
  - and therefore the ₹1 crore represented unexplained money.
- The AO:
  - added ₹1 crore to taxable income,
  - taxed it under Section 115BBE,
  - and initiated penalty proceedings under Section 271AAC.
- The CIT(A)/NFAC confirmed the addition.
- The assessee appealed before the ITAT.

Assessee's Main Arguments

The assessee contended that:

1. It was consistently carrying on the same business in earlier and subsequent years.
2. Income was declared under Section 44AD, hence:
   - maintenance of books was not mandatory,
   - detailed business records were not legally required.
3. Cash deposit represented business receipts accumulated before demonetisation.
4. The AO relied on irrelevant considerations such as:
   - absence of office,
   - employees,
   - transport details,
   - registrations, etc.,
   - despite the presumptive taxation regime.
5. Most importantly:
   - the AO never specified under which charging section the addition was made.
   - Section 115BBE is merely a tax-rate provision and not an independent charging section.

Revenue's Stand

The Revenue argued that:

- the assessee failed to substantiate actual business operations,
- the cash deposit during demonetisation was suspicious,
- and therefore the amount rightly represented unexplained income taxable under Section 115BBE.

Tribunal's Decision

The ITAT allowed the appeal and deleted the entire addition of ₹1 crore.

Key Findings of the Tribunal

(A) Section 115BBE is not an independent charging provision

The Tribunal held that:

- Section 115BBE merely prescribes the rate of tax applicable to incomes assessed under:
  - Sections 68, 69, 69A, 69B, 69C, or 69D.
- Before invoking Section 115BBE, the AO must first clearly establish:
  - under which deeming/charging provision the income falls.

(B) AO failed to identify the charging section

The Tribunal observed that:

- the assessment order only stated that the amount was "unexplained/unaccounted money",
- but nowhere specified whether the addition was under:
  - Section 68,
  - Section 69A,
  - or any other deeming provision.

This omission was held to be a fatal legal defect.

(C) Legal infirmity vitiated the assessment

The Tribunal specifically remarked that:

- the AO "jumped directly" to Section 115BBE,
- without first fixing the addition under a valid charging provision.

Even during hearing, the Departmental Representative could not clarify the exact charging section applicable. Therefore, the addition became legally unsustainable.

Final Ruling

The ITAT held that:

In absence of a specified charging provision, the addition of ₹1 crore could not survive merely by invoking Section 115BBE.

Accordingly:

- the entire addition of ₹1 crore was deleted,
- and the assessee's appeal was allowed.

ICMAI
THE INSTITUTE OF
COST ACCOUNTANTS OF INDIA
भारतीय लागत लेखाकार संस्थान
Statutory Body under an Act of Parliament
(Under the jurisdiction of Ministry of Corporate Affairs)

TAX INSIGHTS
By
Tax Research Department

Goods & Services Tax

31.05.2026

Whether the assessee could maintain a writ petition alleging violation of natural justice due to non-supply of seized records, or whether it must pursue the statutory appellate remedy under Section 107 of the GST Act after final assessment orders had already been passed.

Bengal Cold Rollers (P.) Ltd. v. Assistant Commissioner (ST)
Supreme Court of India (13.05.2026)

Facts of the Case

- The GST Department conducted a search at the premises of Bengal Cold Rollers (P.) Ltd. and allegedly seized 14 files containing:
  - invoices,
  - transaction records,
  - and other business documents.
- Subsequently, the Department issued multiple show cause notices under Section 74 of the GST Act alleging:
  - fraudulent transactions,
  - bogus invoices,
  - and wrongful availment of ITC.
- The assessee repeatedly requested copies of the seized documents, contending that:
  - the files were necessary to submit an effective reply,
  - and without them, proper defence was impossible.
- According to the assessee:
  - the Department admitted that the 14 seized files were missing/not traceable.
- Despite these objections, the Department proceeded with adjudication and passed:
  - final assessment orders for AYs 2018–19 to 2023–24.

Proceedings Before the High Court

The petitioner filed writ petitions before the High Court for the State of Telangana seeking:

- stay of adjudication proceedings,
- supply of missing seized documents,
- and quashing of further proceedings due to violation of natural justice.

However:

- for AY 2018–19, the High Court had already relegated the petitioner to the statutory appellate remedy,
- and later writ petitions were similarly disposed of.

The matter then reached the Supreme Court through SLPs.

Revenue's Stand

The Department contended that:

- the missing 14 files were not relied upon while passing assessment orders,
- and therefore no prejudice was caused to the assessee.

It further argued that:

- since final assessment orders had already been passed,
- the assessee should pursue the statutory appellate mechanism under Section 107 of the CGST Act.

Petitioner's Arguments

The petitioner argued that:

1. The Department seized 14 important files during search proceedings.
2. These files contained invoices and supporting documents necessary to rebut allegations of:
   - fake transactions,
   - bogus invoices,
   - and tax evasion.
3. Failure to furnish copies of the seized documents:
   - deprived the assessee of effective opportunity of hearing,
   - and violated principles of natural justice.
4. Therefore, adjudication proceedings and consequential orders were legally unsustainable.

Supreme Court's Decision

The Supreme Court disposed of the SLPs and relegated the petitioner to the statutory appellate remedy.

Directions Issued by the Supreme Court

The Court directed:

1. The assessee may file statutory appeals under Section 107.
2. Appeals shall be entertained subject to:
   - 5% pre-deposit of principal tax amount.
3. Four weeks' time was granted to file appeals.
4. The appellate authority shall examine:
   - alleged prejudice caused by missing files,
   - and all related contentions in accordance with law.

Final Outcome

- SLP disposed of.
- Petitioner relegated to appellate remedy under Section 107.
- Liberty granted to raise natural justice objections before appellate authority.
- Matter decided substantially in favour of Revenue on maintainability of writ.