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Statutory Body under an Act of Parliament
(Under the jurisdiction of Ministry of Corporate Affairs)

TAX INSIGHTS

By

Tax Research Department

Direct Tax

01.03.2026

Whether the Assessing Officer (AO) can treat the entire sale consideration of property as capital gains without allowing deduction for cost of acquisition/improvement.

Biharilal v. Assessment Unit of Income-tax Department

ITAT INDORE (19.02.2026)

Facts of the Case

1. The AO received information from the INSIGHT Portal about property sales by the assessee.
2. Reassessment proceedings were initiated under Sections 147/148.
3. The assessee:
    - Declared sale of 3 properties
    - Sale consideration: ₹4.50 lakh
    - Cost of acquisition/improvement: ₹26.50 lakh
    - Result: Long-term capital loss of ₹22 lakh
4. However, the AO:
    - Considered 5 property transactions
    - Adopted stamp duty value
    - Computed ₹1.29 crore as long-term capital gain
    - Did not allow any deduction for cost of acquisition or improvement.
5. The CIT(A) denied relief due to lack of documentary evidence.

Assessee's Arguments before ITAT

The assessee contended that:

1. Entire sale consideration was wrongly treated as capital gain.
2. Deduction of cost of acquisition and improvement must be allowed under Sections 48 and 55.
3. Some properties were sold at lower price due to litigation.
4. In certain cases, sale transactions were cancelled.
5. The AO should have referred the valuation dispute to the DVO under Section 50C(2).

Issues Examined by ITAT

Transactions at S.No. 2, 4 & 5

- Assessee accepted the transactions.
- However, actual sale price was lower due to litigation.
- AO used stamp duty value without DVO reference.
- ITAT directed the AO to refer the matter to the DVO and recompute capital gains under Section 50C(2)/(3).

Transactions at S.No. 1 & 3

- Assessee claimed sale transactions were cancelled.
- Documentary evidence was not produced yet.

ITAT remanded the issue to AO to:

- Examine cancellation documents, or
- If not satisfied, refer valuation to DVO and recompute gains.

Deduction of Cost of Acquisition

The Tribunal observed:

- AO incorrectly taxed entire sale consideration as capital gain.
- Under Section 48, capital gains must be computed after deducting:
    - Cost of acquisition
    - Cost of improvement
    - Transfer expenses.
- AO must verify documents and allow cost deduction under Sections 48 and 55.

Decision of ITAT

The Tribunal remanded the matter to the AO for fresh adjudication with directions to:

1. Refer valuation disputes to Departmental Valuation Officer (DVO) under Section 50C.
2. Examine evidence of cancellation of transactions.
3. Allow cost of acquisition and improvement as per Sections 48 & 55.

The appeal was allowed for statistical purposes.

Key Legal Principle

Capital gain cannot be computed by taxing the entire sale consideration.

Under Section 48, the AO must deduct:

- Cost of acquisition
- Cost of improvement
- Other admissible expenses.

Failure to allow these deductions results in incorrect computation of capital gains.

Practical Tax Takeaway

This ruling reinforces that:

- Cost of acquisition cannot be ignored while computing capital gains.
- If stamp duty value exceeds actual sale price, DVO reference under Section 50C(2) is necessary.
- Tax authorities must verify facts and documents before making additions.

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TAX INSIGHTS

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Tax Research Department

Goods & Services Tax

01.03.2026

Whether GST registration cancelled due to non-filing of returns can be restored, even when the assessee suppressed facts while obtaining interim relief.

Sivanandan v. Assistant Commissioner
Madras High Court (20.01.2026)

1. Facts of the Case

- The assessee's GST registration was cancelled through Form GST REG-13 on 03-02-2024.
- The cancellation related to non-filing / delay in returns for June–November 2023.
- The department also issued best judgment assessment orders in Form GST ASMT-13 under Section 62.
- The assessee filed writ petitions before the High Court challenging:
  - Assessment orders
  - GST registration cancellation.
- Earlier, the assessee obtained an interim order from the High Court restraining recovery proceedings.

However, the Court later found that:

- At the time of getting interim relief, the assessee already had the cancellation order, but suppressed that fact before the Court.

2. Legal Issue

Whether GST registration cancelled due to non-filing of returns can be restored, even when the assessee suppressed facts while obtaining interim relief.

3. Court's Decision

The Madras High Court held:

- The GST registration cancellation order is quashed.
- The registration shall be restored, but subject to conditions.

Condition:

- The assessee must pay pending tax arrears / tax liability and comply with the guidelines laid down in:

Tvl. Suguna Cutpiece Center v. Appellate Deputy Commissioner (ST) (GST)

4. Principle Applied

The Court followed the precedent in Suguna Cutpiece Center case, where the High Court allowed restoration of cancelled GST registrations subject to conditions like:

- Filing all pending returns
- Paying tax, interest and late fee
- Compliance with GST law

This approach is used to revive genuine businesses while protecting revenue.

5. Important Observations by Court

- The petitioner suppressed the cancellation order while obtaining interim relief, which is improper.
- However, the Court still granted relief to regularize compliance and recover tax.
- Restoration is allowed only after clearing tax dues.

6. Final Outcome

- Cancellation order quashed
- GST registration restored
- Subject to payment of pending tax dues and compliance

Result: In favour of the assessee (conditional relief).

Key GST Learning from the Case

1. Courts often restore GST registration cancelled for non-filing of returns.
2. Relief is usually granted only after payment of dues and filing pending returns.
3. Suguna Cutpiece precedent is widely followed by High Courts.

TAX INSIGHTS

By

Tax Research Department

Direct Tax

02.03.2026

Whether the Income Tax Department can attach the bank account of the spouse of a company director to recover company tax dues.

Manjulaben Mafatlal Shah v. Tax Recovery Officer-3, Ahmedabad
Bombay High Court (17.02.2026)

1. Facts of the Case

- The petitioner Manjulaben Mafatlal Shah was the wife of a director of Shri Ram Tubes Private Limited.
- The company had outstanding income-tax dues.

To recover the dues:

- The Income Tax Department issued a notice under Section 226(3) to Bank of Baroda.
- The notice directed the bank to transfer money lying in the petitioner's bank account to the department.
- Her personal bank account was attached.

The petitioner challenged the attachment before the High Court.

2. Petitioner's Arguments

The petitioner argued:

- She was not a director of the company.
- She was not a shareholder.
- She was not an employee of the company.
- The bank account was solely in her name.

Therefore:

The department had no jurisdiction to attach her account for company tax dues.

3. Revenue's Position

The department did not dispute that:

- The petitioner had no role in the company.
- She had never been a director.

The attachment was essentially based on her marital relationship with the director.

4. Court's Decision

The Bombay High Court held:

The department cannot attach the bank account of the director's spouse merely because she is married to the director.

Key reasoning:

- Liability cannot be imposed only on the basis of marital relationship.
- Section 226(3) allows recovery from persons who owe money to the assessee, not unrelated third parties.
- The petitioner had no connection with the company.

5. Role of Section 179

The Court clarified:

- The department may proceed against the director personally under Section 179 if conditions are satisfied.
- But Section 179 applies only to directors of a private company.

Therefore:

It cannot be extended to the director's spouse.

6. Final Order

The Court:

- Quashed the notice issued under Section 226(3)
- Ordered the department to withdraw the attachment
- Directed immediate de-freezing of the bank account

Result: In favour of the assessee (petitioner).

7. Important Legal Principle

Tax recovery cannot be extended to family members without legal liability.

Mere relationships like:

- Wife
- Husband
- Family member

do not create tax liability unless the person:

- Is a director
- Is a beneficial owner
- Has received money belonging to the assessee

8. Practical Importance

This case is important because sometimes tax authorities freeze accounts of relatives during recovery proceedings.

The judgment clarifies:

- Recovery must be against the taxpayer or legally liable persons only.
- Spouse's independent assets are protected unless linked to the tax defaulter.

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TAX INSIGHTS

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Tax Research Department

Goods & Services Tax

02.03.2026

Whether DGAP's methodology of comparing ITC ratios without matching actual basket of goods and services was correct.

DGAP v. SVP Builders

GSTAT, New Delhi (15.01.2026)

1. Facts of the Case

- A homebuyer complaint triggered an anti-profiteering investigation against SVP Builders.
- The project involved was "Gulmohar Gardens Phase II".

Investigation was conducted by the Directorate General of Anti-Profiteering (DGAP).

Project details

- Total flats constructed: 1175
- Flats booked under new GST scheme: 857
- Saleable area considered: 9,30,090 sq. ft.

2. DGAP Findings

DGAP compared ITC availability before and after GST.

Period	ITC as % of purchase value
Pre-GST	7%
Post-GST	13.25%

Increase in ITC benefit = 6.25%

DGAP concluded:

- Developer received additional ITC benefit after GST.
- This benefit should have been passed to buyers by reducing prices.

Profiteering calculated

- Base profiteering: ₹1,54,02,290
- GST @12% added: ₹18,48,275

Total profiteering: ₹1,72,50,565

3. Developer's Arguments

The developer challenged the methodology used by DGAP.

Main arguments:

(1) Wrong comparison basket

Pre-GST and post-GST purchases were not identical.

Some items used earlier were not purchased in post-GST period, e.g.:

- RCC pipes
- Chimneys
- Energy meters
- Thermocol sheets
- Safety goods

Hence:

- ITC benefit must be calculated item-wise.
- Compare actual post-GST purchases with their pre-GST tax rates.

Developer claimed profiteering would then reduce to: ₹40,90,542 only

(2) GST cannot be added again

Developer argued:

- GST collected from buyers was already deposited with the Government.
- Adding 12% GST on profiteering amount results in double taxation.

4. GSTAT Decision

The Goods and Services Tax Appellate Authority partly accepted the developer's argument.

It relied on the principle laid down by Reckitt Benckiser India (P.) Ltd. v. Union of India.

Tribunal observations

- Comparison should ideally be between:
  - Actual goods/services used in post-GST period
  - Their applicable tax rates in pre-GST regime
- Comparing non-identical baskets may lead to incorrect profiteering calculation.

5. Final Order

The tribunal did not finalize the profiteering amount.

Instead it ordered:

- Reinvestigation by DGAP
- Verification of item-wise purchase data
- Recalculation of ITC ratio and profiteering

Legal basis: Rule 133(4) of CGST Rules

The developer must also submit additional documents if required.

6. Final Outcome

Result: Matter remanded for fresh computation (partly in favour of assessee).

7. Key GST Takeaways

1. Anti-profiteering under Section 171 CGST Act requires accurate methodology.
2. Actual post-GST basket comparison may be necessary for fair calculation.
3. ITC ratio method cannot be blindly applied when purchases differ significantly.
4. Courts are increasingly relying on the Reckitt Benckiser principle for methodology.

Practical Importance (Real Estate Sector)

This decision is important because construction projects often change input materials, so item-wise comparison may be more accurate than ratio comparison.

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TAX INSIGHTS

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Tax Research Department

Direct Tax

03.03.2026

Whether TDS on Annual Maintenance Contract (AMC) payments should be deducted under: Section 194C – Payments to contractors (TDS 1%/2%) Section 194J – Fees for professional/technical services (TDS 10%).

Orbit Resorts Ltd. v. ACIT
ITAT DELHI (21.01.2026)

Facts of the Case

- The assessee (hotel company) paid ₹2.16 crore for AMC of:
  - computers
  - DG set
  - elevators
  - internet & telecommunication services
- It deducted TDS @ 2% under Section 194C.

AO's View

- Services were rendered by technically qualified persons.
- Therefore payment technical services
- TDS should be 10% under Section 194J.
- Assessee treated as assessee in default u/s 201(1) with demand ₹24.96 lakh.

CIT(A)

- Gave partial relief but still held short deduction on ₹97.85 lakh.

Tribunal Decision (ITAT Delhi)

The Tribunal ruled in favour of the assessee.

Reasoning

1. Nature of AMC services
   - Routine maintenance
   - Periodic repair or servicing
   - Work done under contract
2. Such activities are maintenance work, not specialized technical consultancy.
3. Even if technicians perform the work, it does not automatically become technical services.

ITAT Held

- AMC payments are "work" under Section 194C.
- They do NOT qualify as "fees for technical services" under Section 194J.
- Therefore TDS @ 2% under Section 194C was correct.
- Assessee cannot be treated as assessee in default under Section 201(1).

Key Principle from the Case

Routine maintenance contracts: Section 194C
Not Section 194J, unless the service involves specialized technical consultancy or managerial expertise.

Practical Examples

Payment Type	TDS Section
AMC for computers, elevators, generators	194C
Routine repair contracts	194C
Technical consultancy or system design	194J
Professional services	194J

Important Case Laws Relied Upon

- Hindustan Coca Cola Beverage (P.) Ltd. v. CIT
- CIT v. Mumbai Metropolitan Regional Development Authority
- CIT v. Asian Heart Institute and Research Centre (P.) Ltd.

Practical Takeaway

AMC maintenance contracts: TDS under Section 194C, not Section 194J, when services are routine repair/maintenance without technical consultancy.

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TAX INSIGHTS

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Goods & Services Tax

03.03.2026

HC set aside the retrospective cancellation of registration as the SCN contained no reasons; with no error shown, the department's review application was dismissed.

Radha Rani Metal v. Principal Commissioner of Goods and Service Tax
HIGH COURT OF DELHI (22.01.2026)

Facts

- GST registration of the assessee Radha Rani Metal was cancelled retrospectively from 14-09-2023.
- Cancellation order dated 14-10-2024 was based on an SCN dated 19-09-2024.
- The SCN did not mention reasons or intention for retrospective cancellation.
- The Delhi High Court earlier held that:
    - Lack of reasons in SCN
    - No prior notice of retrospective cancellation
- Violated principles of natural justice.
- Therefore, the Court modified the order:
    - Cancellation valid only from the date of SCN (19-09-2024)
    - Retrospective cancellation quashed.

Department's Review Petition

The GST department filed a review, arguing:

- If retrospective cancellation is not allowed:
    - It may break the chain of tax liability
    - It could affect recovery from parties who dealt with the taxpayer.

Legal Principles on Review Jurisdiction

The Court relied on Kamlesh Verma v. Mayawati, which states that review is allowed only if:

1. New evidence discovered
2. Error apparent on the face of record
3. Any other sufficient reason

Review cannot be used:

- To re-argue the case
- To correct an allegedly wrong decision
- As a substitute for appeal.

High Court Decision

The Delhi High Court dismissed the review petition.

Court's reasoning

- The earlier judgment clearly held that:
    - SCN lacked reasons for retrospective cancellation.
- The department could have sought liberty earlier to issue a fresh SCN with proper details.
- Instead, it allowed the court to decide on the existing record.
- The review petition was merely re-arguing the same issues.
- No manifest error or miscarriage of justice was shown.

Final Ruling

- Review petition rejected.
- Earlier judgment quashing retrospective cancellation stands.

Important GST Law Principle from the Case

Retrospective cancellation of GST registration is invalid if:

- The SCN does not mention reasons for retrospective effect.
- The taxpayer is not put on notice that cancellation may operate retrospectively.

This reinforces principles of natural justice in GST proceedings.

Practical GST takeaway for professionals:

- If GST registration is cancelled retrospectively without proper SCN reasons, it is strongly challengeable in writ jurisdiction.

Direct Tax

04.03.2026

Whether a statutory housing board registered u/s 12A is eligible for exemption under Section 11 when it sells residential units/plots and executes construction works, which appear similar to commercial real estate activities.

Chhattisgarh Housing Board v. ACIT (Exemption)
ITAT RAIPUR (17.02.2026)

Facts of the Case

- The assessee Chhattisgarh Housing Board was established by State law to provide housing, especially for LIG and weaker sections.
- It was registered under Section 12A.
- It sold plots and houses and also executed construction work for government bodies.
- AO held:
  - Activities were similar to real estate developers.
  - Housing units were not sold at cost-to-cost basis.
  - Therefore activity was commercial, so Section 11 exemption denied.

CIT(A) confirmed the AO's view.

Assessee's Argument

- The board functions as a statutory public body, not a profit-making entity.
- Houses were sold at cost or near cost.
- Surplus arose mainly due to interest and rental income, not commercial profit.

Tribunal's Observations

The ITAT relied heavily on the Supreme Court judgment in:
CIT (Exemptions) v. Ahmedabad Urban Development Authority
Key principles from that decision:

1. Statutory bodies performing public functions may carry out activities resembling business.
2. Charging a fee or price is not automatically business.
3. The decisive test is:
   - Whether the activity is driven by profit motive.
4. If consideration charged is:
   - Cost or cost & nominal mark-up - not business.
   - Substantially higher than cost - treated as business.

ITAT Decision

The Tribunal held:

- Housing boards perform public functions (housing development).
- Such activities may resemble business but are not necessarily commercial.
- The crucial factor is whether profit element exists.

Therefore:

- The case was remanded to the Assessing Officer to verify:
  - Whether sale price of houses/plots was cost & nominal mark-up, or
  - Substantially above cost (profit motive).

Final Holding

- If no profit element is found - Exemption under Section 11 must be allowed.
- If significant profit is found - exemption can be denied.

Key Principle:

Statutory housing boards performing public functions do not lose charitable status merely because they charge consideration, provided the charges are limited to cost or cost plus nominal margin without profit motive.

TAX INSIGHTS

By

Tax Research Department

Goods & Services Tax

04.03.2026

Whether Input Tax Credit (ITC) can be denied as time-barred under Section 16(4) when the claim falls within the extended period allowed under Section 16(5) of the CGST Act.

Rajagopal and Co. v. Assistant Commissioner GST & Central Excise
HIGH COURT OF MADRAS (03.02.2026)

Relevant Provisions

- Section 16 of the CGST Act, 2017

Section 16(4)

ITC cannot be claimed after:

- 30 November following the end of the financial year, or
- Date of filing annual return,
- whichever is earlier.

Section 16(5) (Inserted by Finance Act, 2024)

For invoices relating to FY 2017-18 to FY 2020-21, ITC can be claimed in returns filed up to 30-11-2021, notwithstanding Section 16(4).

Facts of the Case

- The petitioner Rajagopal & Co., a registered GST dealer, claimed ITC through GSTR-3B.
- The department held that the ITC claim was time-barred under Section 16(4) and:
  - reversed ITC,
  - demanded tax, interest and penalty, and
  - initiated recovery proceedings including freezing the bank account.

The taxpayer challenged the order before the High Court.

Petitioner's Argument

- The ITC claim was within the extended time permitted under Section 16(5).
- Therefore, denial based solely on Section 16(4) was incorrect.

Court's Observations

The Court relied on its earlier ruling in:

Sri Ganapathi Pandi Industries v. Assistant Commissioner (State Tax)

Important points:

- The 53rd GST Council Meeting (22-06-2024) recommended extension for ITC claims.
- The Finance Act (No. 2) 2024 inserted Section 16(5).
- This provision allows ITC for FY 2017-18 to FY 2020-21 if GSTR-3B was filed up to 30-11-2021.
- Section 16(5) overrides Section 16(4) using "Notwithstanding anything contained in sub-section (4)".

Therefore, if ITC was claimed within the extended statutory period, denial on limitation grounds is invalid.

High Court Decision

The Court held:

- ITC denial based solely on Section 16(4) is unsustainable if the claim falls within Section 16(5).
- The impugned assessment order was quashed.

Directions Issued by the Court

The Court ordered:

- Quashing of the ITC reversal order.
- Department restrained from initiating recovery proceedings.
- Bank account to be de-frozen.
- Any recovery orders to be dropped.
- Refund of tax amounts collected, if any.
- Department may still proceed if there are other issues like fake or excess ITC.

Final Principle

If ITC relating to FY 2017-18 to FY 2020-21 is claimed in GSTR-3B filed up to 30-11-2021, it cannot be denied as time-barred, even if it appears barred under Section 16(4).

TAX INSIGHTS

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Tax Research Department

Direct Tax

05.03.2026

Whether reassessment proceedings are valid when: Order u/s 148A(d) and Notice u/s 148 are issued by the Jurisdictional Assessing Officer (JAO) after the faceless reassessment scheme became mandatory.

Mohd. Shoaib Ur Rahman v. Income Tax Officer
ITAT HYDERABAD (16.01.2026)

Facts

1. Information under Risk Management Strategy (NMS case) showed:
    - Large equity share transactions
    - Cash deposits
    - No return filed
2. Jurisdictional AO (JAO):
    - Passed order u/s 148A(d)
    - Issued notice u/s 148
3. Assessee filed return declaring ₹1.69 lakh income.
4. Faceless AO (FAO) completed reassessment:
    - Added ₹1.33 crore as unexplained money u/s 69A
    - Total income assessed ₹1.35 crore
5. CIT(A) upheld the reassessment.
6. Assessee appealed before ITAT.

Assessee's Main Argument

After the introduction of the faceless reassessment scheme (2022):

- Proceedings under 147 / 148 / 148A must be initiated through faceless mechanism
- JAO cannot issue notice u/s 148
- Therefore:
    - Order 148A(d) and 148 notice issued by JAO are illegal
    - Entire reassessment becomes void

Tribunal Decision

ITAT relied on the Telangana High Court judgment:
Kankanala Ravindra Reddy v. ITO
High Court held:

- After CBDT Notifications dated 28-03-2022 and 29-03-2022
- Reassessment must be conducted only through faceless mechanism
- Notice u/s 148 must be issued by FAO through automated allocation
- JAO has no jurisdiction

ITAT Ruling

The ITAT held:

- 148A(d) order and 148 notice issued by JAO were illegal.
- They violated:
    - Section 144B
    - Section 151A
    - E-Assessment of Income Escaping Assessment Scheme, 2022
- Therefore:
    - FAO had no valid jurisdiction
    - Entire reassessment void ab initio
- Assessment order quashed

Important Principle

- If initiation itself is invalid, all subsequent proceedings collapse.
- When law prescribes a procedure to be followed in a particular manner, it must be followed strictly.

Important Note

The Tribunal noted:

- The issue is pending before the Supreme Court because the department filed SLP against Kankanala Ravindra Reddy v. ITO.
- Therefore, revenue may revive proceedings depending on the Supreme Court outcome.

Also linked to the Supreme Court judgment:
Union of India v. Ashish Agarwal

Practical Takeaway for Tax Practice

If any of the following happened after 29-03-2022:

- Notice 148 issued by Jurisdictional AO
- Order 148A(d) passed by JAO
- Case not allocated through faceless automated system
- Reassessment can be challenged as without jurisdiction.

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TAX INSIGHTS

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Goods & Services Tax

05.03.2026

Whether a complainant (who is also the investigating officer) can refer to the private complaint while giving evidence during pre-charge stage.

Naqeeb Najeeb Mulla v. Superintendent of Central Tax
High Court of Karnataka (04.02.2026)

Facts

- GST department filed a private complaint alleging fake invoices under GST law.
- During pre-charge evidence, the complainant-cum-investigating officer was examined as PW-1.
- While giving evidence, he referred to the complaint to state details like TIN numbers.
- The defence objected, saying:
  - A witness cannot refer to the complaint while deposing.
- The Magistrate allowed it.
- The accused challenged this order before the High Court under Section 482 BNSS.

High Court Decision

The High Court dismissed the petition and upheld the Magistrate's order.

Court's Reasoning

1. Private complaint is similar to FIR

Once the Magistrate takes cognizance, the private complaint assumes the character of an FIR under Code of Criminal Procedure, 1973 Section 154.

Therefore PW-1 can refer to it while deposing.

2. Witness cannot check investigation papers

The court clarified:

- Investigating officer should not look into internal investigation papers while giving evidence.
- Evidence must be based on investigation conducted.

3. But documents supplied to accused can be referred

If documents are:

- already part of the record
- supplied to the accused

then the witness can refer to them.

4. Practical reasoning

The court said:

No witness is expected to memorize technical details like TIN numbers.

Therefore limited reference to complaint or supplied documents is permissible.

Legal Principle

A complainant-cum-investigating officer can refer to the private complaint or documents already supplied to the accused while deposing, for limited factual particulars.

Reason:

- Private complaint takes the nature of FIR once cognizance is taken.
- Witness need not memorize technical data.

Final Result

Petition dismissed; Magistrate's order upheld.

TAX INSIGHTS

By

Tax Research Department

Direct Tax

06.03.2026

Whether interest for late payment of TDS can be charged when the assessee submitted the cheque to the bank within the due date but it was realised later.

Hongkong and Shanghai Banking Corporation Ltd. v. Income-tax Officer (TDS)
Bombay High Court (09.02.2026)

Facts of the Case

- The taxpayer (HSBC) deducted TDS for FY 2007-08.
- It deposited TDS by submitting cheques to the authorised bank within the statutory due date.
- The cheques were submitted to State Bank of India (authorised bank).

However:

- The tax system OLTAS (Online Tax Accounting System) recorded the date of cheque realisation, not the date of cheque submission.
- Since realisation happened after the due date, the department levied interest for delayed TDS payment.

Because of the demand:

- The bank paid ₹1.48 crore under protest to avoid recovery proceedings.

Department's Stand

The Income Tax Department argued:

- The system does not allow correction of challan deposit date.
- Therefore, the demand continued to appear on the TRACES/OLTAS system.

Court's Observations

1. CBDT circular already clarified the rule

The court relied on: CBDT Circular No. 261 dated 08-08-1979

It states: Date of tendering the cheque to the bank is the date of payment, provided the cheque is honoured.
Since the cheques were honoured, the payment was within time.

2. System errors cannot override law

The court strongly criticised the department:

- Taxpayer cannot be denied relief due to portal limitations.
- Technology should facilitate tax administration, not obstruct justice.

The court stated: Administration cannot be held hostage by its own technology.

3. 15-year delay unacceptable

The dispute related to FY 2007-08, and the issue remained unresolved for over 15 years, which the court called an "unfortunate picture."

Final Decision

The High Court ruled in favour of the assessee and ordered:

- Date of cheque tender must be treated as date of TDS payment.
- Interest demand of ₹1.34 crore must be deleted.
- Refund ₹1.48 crore paid under protest.
- Pay interest under Section 244A from 26-12-2017 till refund.

Key Legal Principle

If a cheque for tax payment is tendered within the due date and later honoured, the date of tender is treated as the date of payment.
Therefore: No interest for delayed payment can be charged.

Practical Importance

This ruling is important for:

- TDS compliance disputes
- OLTAS / TRACES system errors
- Tax payments made through cheque

It confirms that legal principles prevail over technical system errors.

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Goods & Services Tax

06.03.2026

Whether delay in filing GST appeal under Section 107 can be condoned when the taxpayer acted under a bona fide belief and lacked awareness, especially in cases involving ITC denial due to supplier's non-uploading of invoice.

Vishal Durgadas Jaiwant v. Joint Commissioner of Commercial Taxes (Appeals)
High Court of Karnataka (30.01.2026)

Facts of the Case

- The taxpayer claimed Input Tax Credit (ITC) based on a genuine invoice issued by a supplier.
- The supplier failed to upload the invoice in GSTR-1, causing ITC mismatch.
- Consequently, ITC was denied and an order under Section 73 was passed.
- The taxpayer:
  - Issued legal notice to the supplier for correction.
  - Believed the issue would be resolved by the supplier.
- Due to:
  - lack of awareness of GST procedures
  - absence of professional assistance

the appeal under Section 107 was filed after the limitation period.

The appellate authority rejected the appeal as time-barred.

High Court's Observations

1. Delay explained with bona fide reasons

The taxpayer explained that:

- He believed the supplier would rectify the GSTR-1 error.
- He had sent a legal notice to the supplier.
- Delay occurred due to lack of procedural knowledge and legal support.

The court held that the explanation was genuine and not mala fide.

2. Justice-oriented approach required

Although Section 107 of the CGST Act prescribes strict limitation for appeals, the court stated that:

- Courts must adopt a justice-oriented approach.
- If reasonable justification exists, delay should be condoned so that case can be decided on merits.

3. GST Circulars support relief

The court referred to:

- Circular No. 183/15/2022-GST
- Circular No. 193/05/2023-GST

These circulars provide guidance for ITC mismatch due to supplier default, indicating that genuine buyers should not be denied relief without proper verification.

Final Decision

The High Court ruled in favour of the assessee:

- Order rejecting the appeal as time-barred was set aside.
- The appeal was treated as filed within time.
- The appellate authority was directed to decide the appeal on merits considering the GST circulars.

Key Legal Principle

Delay in filing GST appeal may be condoned when the taxpayer shows bona fide belief, reasonable explanation, and absence of mala fide intention.

Courts may adopt a justice-oriented approach to ensure merits of the case are examined.

Practical Importance

This ruling is important in cases involving:

- ITC mismatch due to supplier default
- GST appeal limitation disputes
- Relief against strict procedural timelines

It reinforces that procedural technicalities should not defeat substantive justice.

Direct Tax

07.03.2026

Whether the Assessing Officer (AO) must refer the valuation of a property to the Departmental Valuation Officer (DVO) when: the stamp duty value exceeds the purchase price, and the assessee disputes the stamp duty value on valid grounds under Section 50C(2)

Naynish Harishchandra Rahane v. Income-tax Officer
ITAT Mumbai (27.02.2026)

Facts of the Case

- The assessee purchased a residential flat for ₹24 lakh.
- The Stamp Valuation Authority valued it at ₹33.32 lakh.
- Difference of ₹9.22 lakh.

The AO added the difference as income under Section 56(2)(x)(b) without referring the property to the DVO.
The assessee explained that:

- The flat was in an MMRDA-developed building constructed in 2003.
- At the time of purchase in 2017, the building was 12–14 years old.
- The building was poorly maintained and occupied by lower-income families.

The CIT(A) rejected the explanation and upheld the addition.

Tribunal's Observations

1. Applicability of Section 56(2)(x)

Under Section 56(2)(x)(b):
If property is purchased below stamp duty value, the difference may be treated as income from other sources.
However, an important safeguard exists.

2. Third proviso allows DVO reference

The third proviso to Section 56(2)(x)(b) states:
If the assessee disputes the stamp duty valuation on grounds mentioned in Section 50C(2), the AO may refer the property valuation to the DVO.

3. Conditions of Section 50C(2) were satisfied

Under Section 50C(2), reference to DVO is possible when:

1. The assessee claims that stamp duty value exceeds fair market value, and
2. The stamp value is not disputed before any other authority or court.

Both conditions were satisfied in this case.

4. AO committed an error

The Tribunal held that:

- The AO failed to refer the valuation to the DVO.
- The CIT(A) also repeated the same mistake.

Thus the addition was made without following the proper statutory procedure.

Tribunal's Decision

The tribunal set aside the addition and ordered:

- The matter to be restored to the Assessing Officer.
- The AO must obtain a DVO valuation report.
- The issue will then be re-adjudicated afresh (de novo).

Result:

- Appeal allowed for statistical purposes.

Key Legal Principle

When a taxpayer disputes stamp duty valuation on valid grounds under Section 50C(2), the Assessing Officer should refer the property valuation to the DVO before making addition under Section 56(2)(x).

Practical Significance

This ruling protects property buyers where:

- the stamp duty value is artificially high, and
- the actual property condition justifies a lower price (old building, poor maintenance, distress sale etc.).

It reinforces the principle that stamp duty value cannot be automatically adopted without giving the assessee the benefit of DVO valuation.

TAX INSIGHTS

By

Tax Research Department

Goods & Services Tax

07.03.2026

Whether Input Tax Credit (ITC) is available on: Goods (pipes, fittings) and Works contract services used for laying underground cross-country pipelines for transmission of natural gas.

GAIL (India) Ltd., In re
Appellate Authority for Advance Ruling, Odisha (15.01.2026)

Facts of the Case

- GAIL (India) Limited operates ~16,000 km natural gas pipeline network in India.
- It lays cross-country pipelines to transport natural gas.
- For this purpose, it procures:
  - pipes and fittings
  - pipeline laying services from contractors.
- The company sought an advance ruling on whether ITC can be claimed on these expenses.
- The original ruling by the AAR denied ITC.
- GAIL appealed before the AAAR.

Appellant's Argument

GAIL argued:

1. Pipelines are essential for business
   - Transmission of gas cannot occur without pipelines.
   - Hence inputs are used in course of business under Section 16.
2. Pipeline should be treated as plant & machinery
   - Plant & machinery is excluded from blocked ITC provisions.
   - Pipelines function as apparatus/equipment for supply of services.
3. Pipelines are movable
   - They can be relocated if required.
   - Hence they should not be treated as immovable property.

AAAR's Findings

1. Cross-country pipelines are immovable property

The authority held:

- Pipelines are embedded underground.
- They are intended for permanent infrastructure use.
- Under the doctrine of fixtures, anything permanently attached to land becomes immovable property.

Thus pipelines are immovable property.

2. ITC blocked for construction of immovable property

Under Section 17(5) of the GST Act:

- 17(5)(c) – ITC not allowed on works contract services used for construction of immovable property.
- 17(5)(d) – ITC not allowed on goods/services used for construction of immovable property on own account.

Since pipelines are immovable property, ITC is blocked.

3. Pipelines outside factory excluded from plant & machinery

The explanation to Section 17 defines plant & machinery but excludes:

"Pipelines laid outside the factory premises."

The authority held:

- Natural gas is processed at regasification terminals (factory-like premises).
- Pipelines then transport gas outside the factory.

Therefore pipelines cannot be treated as plant & machinery.

4. Pipeline not "apparatus or machinery"

The AAAR also observed:

- In common parlance, a pipeline is neither machinery nor equipment.
- It is simply a conduit for transport.

Hence it cannot be classified as plant & machinery.

Final Ruling

The AAAR upheld the earlier decision and ruled: ITC is NOT available on:

- goods (pipes and fittings) used for pipeline construction
- works contract services for laying pipeline

because the pipeline:

- is immovable property, and
- falls under blocked credit under Section 17(5)(c) & (d).

Key Legal Principle

ITC cannot be claimed on goods or works contract services used for construction of pipelines laid outside factory premises, as such pipelines are immovable property and excluded from "plant & machinery"

.

Importance of the Ruling

This decision affects industries such as:

- natural gas transmission
- petroleum pipelines
- infrastructure utilities

It clarifies that large infrastructure pipelines outside factory premises attract blocked ITC under GST.

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TAX INSIGHTS

By

Tax Research Department

Direct Tax

08.03.2026

Whether payments made by the assessee to its group companies for marketing, advertisement, sales promotion and handling services, calculated as a percentage of net sales, can be treated as mere reimbursements (no TDS) or contractual payments requiring TDS u/s 194C.

Deys Medical (U.P.) (P.) Ltd. v. Principal Commissioner of Income-tax
HIGH COURT OF CALCUTTA (18.02.2026)

Key Facts

- Assessee manufactured cosmetic and pharmaceutical products.
- It did not have its own marketing infrastructure.
- Group companies provided:
  - Advertisement
  - Sales promotion
  - Marketing staff
  - Handling, storage and collection services.

Payments were made as:

Service	Basis
Advertisement	10% of net sales
Marketing staff	3% of net sales
Sales promotion	19% of net sales
Handling & storage	2.5% of net sales

Assessee treated these payments as reimbursement of expenses and did not deduct TDS.

Tax Department's View

Assessing Officer held:

- Payments were contractual payments for services.
- Covered under Section 194C (work contract).
- Since TDS was not deducted, expense was disallowed u/s 40(a)(ia).

Tribunal Decision

ITAT held:

- Payments were not reimbursements.
- They were consideration for services.
- Hence TDS u/s 194C applicable.

Therefore disallowance partly upheld.

High Court Ruling

The Calcutta High Court upheld the Tribunal.
Court held:

- Payments were contractual consideration
- Not genuine reimbursements
- TDS under Section 194C mandatory
- Failure to deduct TDS disallowance u/s 40(a)(ia) justified.
- Decision in favour of Revenue.

Important Legal Principles from the Judgment

1. Meaning of Genuine Reimbursement

A payment qualifies as reimbursement only if:

- It is post-facto
- Linked to actual expenditure
- Supported by bills / vouchers
- No profit element

Here:

- Payments were fixed percentage of sales
- Not linked to actual expenses.

Therefore not reimbursement.

2. Percentage of Sales Indicates Service Fee

If payment is:

- predetermined
- based on turnover or sales
- without expense proof
- It resembles commission / service fee, not reimbursement.
- Hence TDS applicable.

3. Payee Paying Tax Does NOT Remove TDS Liability

Court clarified an important rule:

- Payer must deduct TDS even if the recipient has already paid tax.
- TDS obligation arises at the time of payment or credit.

4. Downstream TDS is Irrelevant

The assessee argued:

- Group companies deducted TDS when they made payments further.
- Court rejected this.

Reason:

- Primary TDS responsibility lies with the payer.

Supporting Supreme Court Principle

Court relied on:
Shree Choudhary Transport Company v. ITO
Principle:
Even informal arrangements for executing work constitute contractual work under Section 194C.

Practical Tax Implications

TDS must be deducted when:

- Payment for marketing / advertisement services
- Percentage of sales arrangements
- Shared services between group companies
- Cost allocations not backed by bills

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TAX INSIGHTS

By

Tax Research Department

Goods & Services Tax

08.03.2026

Whether the developer failed to pass on the benefit of additional Input Tax Credit (ITC) to homebuyers after introduction of GST, as required under anti-profiteering provisions.

DGAP v. Pacifica Developers (P.) Ltd.
Goods and Service Tax Appellate Authority, New Delhi

Facts of the Case

- A homebuyer filed a complaint alleging profiteering by the developer.
- The project involved was "Reflections", developed by Pacifica Developers Pvt. Ltd.
- The project:
  - Started before GST (2012)
  - Received Occupancy Certificate after GST (17-09-2018)
  - Consisted of 468 residential units in 9 towers.

The allegation was that the developer did not reduce prices to pass on ITC benefit after GST implementation (1 July 2017).

Investigation by DGAP

The investigation was carried out by the Directorate General of Anti-Profiteering.

ITC Ratio Comparison

Period	ITC to Purchase Ratio
Pre-GST	7.09%
Post-GST	6.44%

Difference: –0.65% (Decrease)

This means:
- The ITC benefit did not increase after GST.
- Instead, the ratio decreased.

Tribunal Findings

The Goods and Service Tax Appellate Authority held:
1. Anti-profiteering under Section 171 applies only if additional ITC benefit arises due to GST.
2. Since the ITC ratio decreased post-GST, the developer did not receive any extra benefit.
3. Therefore, no benefit was required to be passed on to buyers.

The tribunal accepted the DGAP report and dismissed the complaint.

Final Decision

- No violation of anti-profiteering provisions.
- Complaint rejected.
- Developer not required to reduce price or refund amount.

Key Principle

Under Section 171 CGST Act:
- Businesses must pass on benefit of tax reduction or additional ITC to consumers.
- But anti-profiteering applies only when there is an actual increase in ITC benefit.
- If ITC ratio does not increase after GST, no profiteering arises.

Practical Insight

In construction projects:
Anti-profiteering calculation generally compares:

ITC availed÷Total turnover or purchases

between:
- Pre-GST period
- Post-GST period

If the post-GST ratio is higher, the developer must reduce price proportionately.

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TAX INSIGHTS

By

Tax Research Department

Direct Tax

09.03.2026

When international transactions are benchmarked under TNMM, separate TP adjustment for notional interest on receivables or individual items like royalty is generally not justified, unless transactions are benchmarked separately.

Teejay India (P.) Ltd. v. Deputy Commissioner of Income-tax
Income Tax Appellate Tribunal Visakhapatnam Bench (18.02.2026)

Major Issues Before the Tribunal

1. TP adjustment for interest on outstanding receivables from AE
2. Arm's length interest rate for External Commercial Borrowings (ECB)
3. Allowability of amortization of leasehold land
4. Separate TP adjustment for royalty payment

1. TP Adjustment on Outstanding Receivables

Issue:
TPO made notional interest adjustment on delayed receivables from Associated Enterprises (AEs).
Tribunal's Finding
The Transactional Net Margin Method (TNMM) was used to benchmark the international transactions.
Under TNMM:

- Net profit margin already captures the impact of delayed receivables.
- Therefore separate adjustment for notional interest is not justified.

Decision:

- Adjustment deleted.
- In favour of assessee.

Principle:
When TNMM is the most appropriate method, the net margin subsumes working capital effects including receivables.

2. Interest on External Commercial Borrowings (ECB)

Issue:
Determination of Arm's Length Interest Rate for ECB taken from AE.
Tribunal's Ruling
The appropriate ALP rate is:
LIBOR + 200 basis points\textbf{LIBOR + 200 basis points}LIBOR + 200 basis pointsThis rate aligns with:

- RBI Master Circular limits
- Earlier judicial precedents.

Decision:

- ALP = LIBOR + 200 bps upheld.
- In favour of Revenue.

3. Leasehold Land Amortization

Facts

- Land taken on 23-year lease
- Lump sum payment: ₹5.40 crore
- Assessee claimed annual amortization.

AO's View
Treated payment as one-time capital expenditure and disallowed deduction.
Tribunal's Finding

- Long-term lease payments can be amortized over the lease period.
- Consistent with earlier ITAT ruling in assessee's own case.

Decision

- Amortization allowed as revenue expenditure.
- In favour of assessee.

4. Royalty Payment to AE

Issue
TPO:

- Rejected benchmarking by assessee.
- Determined ALP of royalty = NIL.
- Made TP adjustment of ₹20.72 crore.

Tribunal's Observation
Royalty payment was already:

- Aggregated with other transactions
- Benchmarked under TNMM
- Included in operating cost for PLI calculation.

Therefore:

- TPO cannot separately benchmark royalty after accepting TNMM.

However:

- There was discrepancy in operating cost figures used by TPO vs books.

Decision

- Matter remanded to AO for fresh adjudication after reconciliation.

Final Outcome

Issue	Decision
Interest on receivables	Adjustment deleted
Interest on ECB	LIBOR + 200 bps upheld
Leasehold amortization	Allowed
Royalty payment	Remanded for fresh examination

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TAX INSIGHTS

By

Tax Research Department

Goods & Services Tax

09.03.2026

Whether assignment of leasehold rights of MIDC land along with factory building to a third party amounts to a taxable supply of services under GST.

Hindustan Equipment Craft v. Assistant Commissioner of State Tax
HIGH COURT OF BOMBAY (27.02.2026)

Facts of the Case

- The petitioner held MIDC industrial land on a 95-year lease from the
- Maharashtra Industrial Development Corporation.
- The lease permitted transfer of leasehold rights with prior MIDC approval.
- The petitioner:
    - Constructed a factory building on the land.
    - Assigned the leasehold rights with the building to another company.
    - Obtained MIDC consent and paid transfer premium.

GST Department's Allegation

The tax department argued that:

- The transaction amounted to supply of service under:
    - Section 7 of CGST Act
    - Schedule II (lease or letting of building).
- It should be classified under "other miscellaneous services" taxable at 18% under Notification 11/2017.

Court's Findings

1. Assignment is not lease or letting

The court noted:

- The transaction was not a lease or sub-lease.
- Instead, it was an assignment where:
    - The assignor's rights were extinguished.
    - The assignee stepped into the shoes of the lessee.

Thus it was transfer of rights in immovable property, not a service.

2. Transfer of benefits arising from immovable property

The court held that the transaction represented:
Transfer of benefits arising from immovable property
Such transfer is essentially sale/transfer of property rights, which does not fall within GST supply framework.

3. Not "supply in course or furtherance of business"

For GST to apply under Section 7, the activity must occur:
in the course or furtherance of business\text{in the course or furtherance of business}in the course or furtherance of businessThe court observed:

- Assignment of leasehold rights had no nexus with the petitioner's business activities.
- It was simply disposal of immovable property rights.

Hence essential condition of supply was missing.

4. Wrong classification as miscellaneous service

Authorities tried to tax the transaction under Sr. No. 35 of Notification 11/2017.
The court rejected this because that entry covers minor services like:

- Washing, Cleaning, Dyeing
- Beauty and wellness services

Assignment of industrial land rights does not fall in the same category.

5. Reliance on precedent

The court followed the decision of:
Gujarat Chamber of Commerce and Industry v. Union of India
which held that assignment of leasehold rights of industrial land is transfer of immovable property benefits and not taxable under GST.

Final Decision

- Assignment of MIDC leasehold rights with factory building is not a supply under GST.
- GST demand was quashed.
- Writ petition allowed.

Practical Importance

This ruling is very important for industrial land transactions involving:

- MIDC
- GIDC
- Industrial development corporations

Many businesses assign long-term leasehold industrial plots during restructuring, sale of factory units, or relocation.
After this ruling:

- Assignment of leasehold industrial land with building may fall outside GST.

One-line takeaway

Assignment of leasehold rights in industrial land with building, where the assignor's rights extinguish, is transfer of benefits of immovable property and not a taxable supply under GST.

TAX INSIGHTS

By

Tax Research Department

Direct Tax

10.03.2026

TCS under section 206C(1C) applies only when rights in a mine/quarry are granted (lease/license/contract). It does not apply to penalties or compounding fees recovered from illegal mining activities.

Deputy Commissioner of Income-tax (TDS) v. Deputy Director (Mineral and Administration)
SUPREME COURT OF INDIA (27.02.2026)

Legal Provisions Involved

- Income-tax Act, 1961 – Section 206C(1C) (TCS on lease/license of parking lot, toll plaza, mine, quarry etc.)
- Mines and Minerals (Development and Regulation) Act, 1957 – Section 23A (Compounding of offences)
- Rule 71(5) of Chhattisgarh Minor Mineral Rules, 2015

Facts

- A TDS survey was conducted at the office of the District Mining Officer.
- It was found that the officer did not collect TCS on compounding fees/fines recovered from:
  - illegal miners
  - illegal transporters of minerals.
- The Assessing Officer treated the officer as assessee-in-default under section 206C(1C).
- ITAT upheld the AO's order.

High Court Decision

The Chhattisgarh High Court held:

- Section 206C(1C) requires TCS only when rights in mine/quarry/parking lot/toll plaza are transferred to a lease holder, license holder, or contractor.
- Illegal miners/transporters are not license holders or contractors.
- Compounding fee/fine under section 23A of MMDR Act is not royalty.
- The law does not mandate TCS collection on such fines.

Hence, TCS not applicable.

Supreme Court Decision

The Supreme Court dismissed the SLP and refused to interfere with the High Court judgment.

Held:

- There is no legislative mandate to collect TCS on compounding fee/fine recovered from illegal miners or transporters.
- Therefore, the District Mining Officer is not liable to collect TCS under section 206C(1C).

Result: In favour of the assessee.

TAX CALENDER

Due Date	Form/ Certificate	Act/Rule	Description
17 Mar 2026	TDS Certificates (Form 16B/16C/16D/16E)	Income Tax Act, 1961 (TDS)	Issuance of TDS certificates for property purchase u/s 194-IA (Form 16B), rent u/s 194-IB (Form 16C), payments to contractors/professionals u/s 194M (Form 16D), and virtual digital asset transactions u/s 194S (Form 16E) for deductions made in January 2026.
30 Mar 2026	Challan-cum-Statement (194-IA/IB/M/S)	Income Tax Act, 1961 (TDS)	Furnishing challan-cum-statement (Form 26QB/26QC/26QD/26QE) for TDS on property purchase, rent by individuals/HUF exceeding Rs. 50,000 p.m., contractual payments exceeding Rs. 50 lakh, and virtual digital asset transactions, for deductions made in February 2026.
31 Mar 2026	CbC Report (Form 3CEAD)	Income Tax Act, 1961 (Sec 92D/286)	Filing of Country-by-Country Report by eligible MNE constituent entities. Due within 12 months from end of the reporting accounting year. 31 Mar 2026 applies where reporting year ends 31 Mar 2025.
31 Mar 2026	Form 67 – Foreign Tax Credit	Income Tax Act, 1961 (Rule 128)	Filing of Form 67 by taxpayers claiming Foreign Tax Credit for FY 2024-25.
31 Mar 2026	Updated Return – AY 2021-22	Income Tax Act, 1961 (Sec 139(8A))	Last date to file Updated Return (ITR-U) for AY 2021-22 with additional tax under Section 140B.

TAX INSIGHTS

By

Tax Research Department

Goods & Services Tax

10.03.2026

Whether IGST on ocean freight under Reverse Charge Mechanism (RCM) in CIF imports is valid and whether the tax already paid is refundable.

Arinsun Clean Energy (P.) Ltd. v. State of Madhya Pradesh
HIGH COURT OF MADHYA PRADESH (19.02.2026)

Facts

- Petitioner imported solar PV modules on CIF (Cost, Insurance, Freight) basis in FY 2018-19.
- Paid:
    - IGST on import of goods
    - IGST on ocean freight under RCM as per Entry 10 of Notification 10/2017.
- Later filed refund of:
    - ₹26,19,546 (IGST)
    - ₹2,26,036 (interest).
- Refund rejected by GST department.

Petitioner relied on the Supreme Court decision in:

- Union of India v. Mohit Minerals (P.) Ltd..

Key Legal Provisions

1. Section 5 of IGST Act 2017

Provides authority to levy IGST on inter-State supply.

2. Section 8 of CGST Act 2017

States that tax liability of composite supply shall be determined according to principal supply.

3. Notifications involved

- Notification No. 10/2017-Integrated Tax (Rate)
- Imposed IGST on ocean freight under RCM.
- Notification No. 11/2023-Integrated Tax (Rate)
- Notification No. 13/2023-Integrated Tax (Rate)

These removed the levy, effective 1 Oct 2023.

Court's Analysis

1. Supreme Court ruling in Mohit Minerals governs the issue

The Supreme Court in:

- Union of India v. Mohit Minerals (P.) Ltd.

held that:

- CIF import is a composite supply.
- Freight and insurance are part of value of imported goods.
- IGST is already paid on the entire value under Customs law.

Therefore:

- Levying separate IGST on ocean freight under RCM results in double taxation.

2. Separate tax on ocean freight violates Section 8 (Composite Supply)

The court held:

In a CIF contract:

Composite supply consists of:

- Supply of goods, Freight, Insurance

Principal supply is import of goods.

Hence: Freight cannot be taxed separately.

3. Government argument rejected

Department argued:

- Notification 10/2017 was valid until 1 Oct 2023.
- Hence refund for earlier period not allowed.

Court rejected this because:

- The levy itself was declared invalid by the Supreme Court.
- Once struck down, past collections are not saved.

Court's Decision

The Madhya Pradesh High Court held:

- IGST on ocean freight under RCM was not legally leviable.
- Tax and interest paid by the petitioner must be refunded.
- Refund allowed

Key Legal Principle

Double taxation in CIF imports prohibited

In CIF imports:

- IGST is paid on total import value including freight under customs.
- Separate IGST on freight under RCM results in taxing the same component twice.

Therefore:

- RCM levy on ocean freight is unconstitutional.

Practical GST Implications

1. Importers can claim refunds

Importers who paid IGST on ocean freight under RCM (2017-2022) may claim refunds.

2. Composite supply doctrine reinforced

The case strengthens the principle that:

Components of composite supply cannot be taxed separately.

3. Department cannot deny refund citing prospective notification

Even though the levy was formally removed from 1 Oct 2023, refund must be granted because:

- The levy was already invalidated by the Supreme Court.

TAX INSIGHTS

By

Tax Research Department

Direct Tax

11.03.2026

Whether the tax department could adjust the entire refund despite a Tribunal stay order allowing only 20% adjustment, and whether the Tribunal erred in not ordering refund of excess recovery with interest.

Piramal Finance Ltd. v. Deputy Commissioner of Income-tax
High Court of Bombay(10.02.2026)

Facts:

1. Assessment and Demand:
    - Assessment Year (AY) 2020-21: Final assessment order dated 22-07-2024, total demand Rs. 74.06 crore.
    - Refund due for AY 2005-06: Rs. 43.36 crore.
2. Stay Proceedings:
    - Assessee filed appeal and applied for stay of demand. AO rejected stay (10-12-2024).
    - Tribunal granted conditional stay on 17-01-2025:
        - Only 20% of demand (Rs. 14.81 crore) recoverable from AY 2005-06 refund.
        - Remaining 80% (Rs. 28.55 crore) protected under stay.
3. Violation of Tribunal Order:
    - On 17-02-2025, respondents adjusted the entire refund of Rs. 43.36 crore against AY 2020-21 demand.
    - Petitioner sought refund of excess Rs. 28.55 crore on 05-05-2025.
    - Tribunal extended stay on 09-01-2026 but did not direct refund of excess adjustment.

Contentions:

- Petitioner:
    - Refund adjustment beyond 20% violated Tribunal order.
    - Tribunal erred in not directing refund of excess Rs. 28.55 crore with interest.
- Revenue:
    - Petitioner had originally consented to adjustment of 20%; cannot now seek excess refund.

Observations & Findings:

- Tribunal order of 17-01-2025 was operative on 17-02-2025; respondents' adjustment of full refund was illegal.
- Tribunal erred in its 09-01-2026 order by not directing refund of excess adjustment.
- Legal and factual position remained unchanged; stay terms were extended on same basis.
- Excess adjusted amount of Rs. 28.55 crore must be refunded with interest as per law.

Decision / Held:

- Tribunal's 09-01-2026 order set aside to the extent of non-refund of excess adjustment.
- Respondents directed to refund Rs. 28.55 crore & interest within three weeks from order uploading.
- Other terms of stay of recovery of AY 2020-21 demand remain operative.
- Writ petition disposed; no order as to costs.

Key Legal Principles:

- Stay orders must be strictly complied with; any action in violation is illegal.
- Tribunal has duty to protect assessee's rights under operative stay, including directing refund of any excess adjustments.
- Extension of stay does not absolve respondents from complying with prior orders.
- Refunds adjusted beyond allowed limit must include interest for period of wrongful retention.

Goods & Services Tax

11.03.2026

HC Rejects Plea to Convert Section 74 GST Order to Section 73 Due to Lack of ITC Documentation

R B Pandey and Sons v. Assistant Commissioner, Central CGST & Central Excise, Division IX (Ankleshwar)
High Court of Gujarat(13.02.2026)

Facts:

1. Demand and Orders:
   - FY 2017-18: OIO No. 47 passed under Section 74 CGST for Rs. 79,34,968/- against petitioner.
   - Section 74 deals with fraudulent availment of ITC, Section 73 deals with non-fraud cases.
2. Petitioner's Claim:
   - Sought conversion of Section 74 order to Section 73 to claim benefits available for non-fraud cases (waiver of interest/penalty under Section 128A CGST).
3. Documentary Evidence:
   - Court directed petitioner to produce supporting documents (tax invoices, debit notes, bills of entry, ISD invoices, GSTR-3B/2A) to justify ITC claims.
   - Petitioner admitted no supporting documents were available.

Findings:

1. Adjudicating Authority:
   - Found petitioner fraudulently availed ITC without receipt of goods/services.
   - Petitioner failed to produce documents required under Rule 36 CGST Rules.
   - Held that Sections 16, 41(1), and 42(5) of CGST Act were violated deliberately.
2. Comparison with Other Year:
   - FY 2018-19: Section 73 order passed where petitioner produced supporting documents, hence no fraud findings.
   - Court clarified that prior compliance does not justify current fraud.
3. Court's Observations:
   - Without documentary evidence, conversion from Section 74 to Section 73 is not warranted.
   - Adjudicating authority correctly proceeded under Section 74.

Decision / Held:

- Petition rejected; prayer to convert Section 74 order to Section 73 denied.
- Court emphasized strict compliance with documentation for ITC claims and upheld fraud findings.

Key Legal Principles:

- Section 74 vs Section 73:
  - Section 74: Fraudulent or ineligible ITC, stringent consequences.
  - Section 73: Non-fraudulent / mistaken ITC, procedural and penalty relief possible.
- Documentary Evidence is Crucial:
  - Taxpayer must produce invoices, debit notes, bills of entry, GSTR forms, etc., to substantiate ITC claims.
  - Absence of documents, no conversion; order under Section 74 valid.
- Fraud Finding Cannot Be Overturned Without Evidence:
  - Prior non-fraud cases or other years' compliance cannot mitigate current fraud findings.

Petitioner failed to substantiate ITC claims; fraudulent availment confirmed; Section 74 order stands; conversion to Section 73 denied.

TAX INSIGHTS

By

Tax Research Department

Direct Tax

12.03.2026

Validity of notice of demand under Section 156 for Dividend Distribution Tax (DDT) without any assessment/reassessment order.

Zydus Infrastructure (P.) Ltd. v. Deputy Commissioner of Income-tax
High Court of Gujarat (02.02.2026)

Facts:

1. Assessee: SEZ developer, filed return for AY 2012-13, disclosing distribution of profits to shareholders.
2. Assessment:
    - Scrutiny under Section 143(3) completed.
    - Assessing Officer accepted computation and returned Nil tax liability for Dividend Distribution Tax (DDT) under Section 115-O.
3. Subsequent Action:
    - Four years later, AO issued Notice of Demand under Section 156 for DDT of Rs. 5,02,30,558/- without any reassessment under Section 147.
4. Petitioner's Argument:
    - Notice under Section 156 issued without a valid assessment/reassessment order, therefore beyond jurisdiction.
    - Liability already determined as Nil; no reassessment undertaken.
    - Issue constitutes a mere change of opinion, which is not permissible.

Issues Before Court:

1. Whether a Notice under Section 156 can be issued when the original assessment under Section 143(3) had Nil demand and no reassessment under Section 147 was undertaken.
2. Whether such demand notice constitutes jurisdictional overreach.

Findings:

- Section 156 Requirement:
    - Notice of demand can only be issued "in consequence of any order passed under or in pursuance of the Act."
    - No assessment or reassessment order exists determining any tax or interest, Section 156 notice invalid.
- Reopening / Reassessment:
    - Demand notice issued after four years without invoking Section 147, constitutes mere change of opinion.
    - Reliance on CIT v. Kelvinator of India Ltd. [2010] 320 ITR 561 (SC): mere change of opinion is not permissible.
- Revenue's Argument:
    - Reliance on Cognizant Technology Solutions India (P.) Ltd. [2020] 424 ITR 302 (SC) rejected, as facts materially differ; that case involved advance tax proceedings, not post-assessment demand.

Decision / Held:

- Impugned Notice of Demand under Section 156 is beyond jurisdiction and quashed.
- Rule made absolute with no order as to costs.

Key Legal Principles:

- Prerequisite for Section 156:
    - Tax, interest, penalty, or fine must be due as per an assessment/reassessment order.
    - Notice of demand without such an order is void.
- Mere Change of Opinion:
    - Revenue cannot issue demand on the same material after completion of assessment, violates principle in CIT v. Kelvinator (SC).
- Assessment & Reassessment Requirement:
    - Reassessment under Section 147 is mandatory before issuing demand on previously scrutinized facts.

DDT liability already assessed as Nil → AO issued Section 156 notice without reassessment → invalid / beyond jurisdiction → quashed.

TAX INSIGHTS

By

Tax Research Department

Goods & Services Tax

12.03.2026

Whether leasing a residential property to an educational institution for hostel / accommodation purposes qualifies as: "renting of residential dwelling for use as residence" and hence exempt from GST?

Bhandary Gas Agency v. Joint Commissioner of Commercial Taxes, DGSTO, Shivamogga
High Court of Karnataka(05.11.2026)

Facts:

1. Nature of Transaction:
   - Petitioner leased residential property to an educational foundation.
   - Property used for accommodation of students, staff, and teachers.
2. GST Paid & Refund Claim:
   - Petitioner initially paid GST on rent under protest.
   - Claimed refund relying on exemption under Entry 13 (renting of residential dwelling for use as residence).
3. Department's Stand:
   - Audit initially accepted exemption.
   - Later reversed position and denied refund.
   - Objections and appeal rejected, writ petition filed.

Court's Findings:

1. Reliance on Precedent:
   - Followed Taghar Vasudeva Ambrish v. AAAR Karnataka.
2. Meaning of "Residential Dwelling":
   - Includes any residential accommodation.
   - Excludes hotels, guest houses, etc. meant for temporary stay.
3. Hostel equals Residence:
   - Students/staff eat, sleep, and live there, qualifies as residence.
   - Duration (months) distinguishes it from hotels.
4. Key Clarification:
   - Who uses the property is irrelevant.
   - Even if leased to an institution, if end-use is residential, exemption applies.
5. Application to Present Case:
   - Property was certified as residential dwelling.
   - Used for accommodation of students/staff, residential use satisfied.
   - Hence, GST not leviable on such rent.

Decision / Held:

- Impugned order denying refund set aside.
- Matter remanded: authorities directed to reconsider refund claim within 6 weeks.
- Rent for such leasing not exigible to GST.

Key Legal Principles:

- Substance over Form:
  - Focus is on actual use (residence), not identity of tenant.
- Hostels Covered:
  - Student/staff accommodation qualifies as residential dwelling.
- Exemption Scope (Entry 13):
  - Covers leasing of residential property for residential use, even if through institutions.
- Refund Entitlement:
  - GST wrongly paid on such transactions is refundable.

In Simple Terms:

Renting a residential building to a school/college for hostel or staff housing

- is treated as residential use
- therefore no GST applies
- and refund of GST paid can be claimed.

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Direct Tax

13.03.2026

- **Section 69A – Can cash withdrawn from disclosed bank accounts be treated as unexplained money if utilisation is doubted?**
- **Section 37(1) – Is a 5% ad hoc disallowance valid without pointing out defects in books?**

DCIT v. F A Construction
ITAT MUMBAI(23.01.2026)

ITAT's Key Findings

1. On Section 69A (Unexplained Money)

Held: Addition NOT sustainable
Reasoning:

- Section 69A applies only when:
  - Money is not recorded in books, AND
  - Source is unexplained
- Here:
  - Cash was withdrawn from disclosed bank accounts
  - Properly recorded in books

Therefore, source is explained
Legal Principle:
Once the source of cash is proved, addition u/s 69A cannot be made merely due to doubt about utilisation.

Further observations:

- Assessee produced:
  - Cash books
  - Vouchers
  - Site-wise utilisation details
- AO:
  - Examined in remand
  - Did NOT find any discrepancy

Result: ₹35.87 crore addition deleted

2. On Ad Hoc Disallowance (Section 37(1))

Held: Disallowance NOT valid
Why?

- AO made 5% disallowance of expenses simply calling them "unverifiable"
- But:
  - No specific defect identified
  - No bogus expense pointed out
  - Books not rejected

Legal principle:
Ad hoc disallowance without defects is not sustainable in law
Also:

- Full records submitted in appellate stage
- AO (in remand) accepted no adverse findings

Result: ₹12.09 crore disallowance deleted

Important Legal Principles

Principle 1: Source vs Utilisation

- Section 69A concerns SOURCE, not utilisation
- If source is explained then addition fails

Principle 2: Burden Shift

- Once assessee shows:
  - Bank withdrawals
  - Entries in books

Burden shifts to AO to prove otherwise
Principle 3: No Ad Hoc Additions

- Disallowance must be:
  - Evidence-based
  - Defect-specific

Not allowed:

- Estimation without rejecting books
- Blanket % disallowance

Principle 4: Role of Remand Report

- If AO:
  - Examines documents
  - Finds no defect

Department cannot sustain additions later

Practical Takeaways

- Maintain:
  - Cash book
  - Supporting vouchers
  - Utilisation trail
- Especially in cash-heavy industries (construction, labour work etc.)

One-Line Ratio
Cash withdrawn from disclosed bank accounts, duly recorded and supported by evidence, cannot be taxed u/s 69A merely due to doubts about its utilisation.

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TAX INSIGHTS

By

Tax Research Department

Goods & Services Tax

13.03.2026

Jurisdiction Challenge Rejected: Joint Commissioner Held Competent to Impose ITC Fraud Penalty under Sections 122 r/w 74: HC

Alokadei Holdings (P.) Ltd. v. Commissioner of Central Tax
High Court of Telangana(17.02.2026)

Key Facts

- SCN issued on 02.05.2025 by Joint Commissioner.
- Allegation:
  - ITC availed without receipt of goods
  - ITC passed using fake invoices
- Assessee:
  - Did not reply to SCN
  - Did not attend hearings
  - Did not challenge jurisdiction initially
- Order-in-Original passed on 28.10.2025
- Meanwhile, Circular No. 254/11/2025-GST clarified jurisdiction of officers.

Court's Key Findings

1. Jurisdiction valid on date of order
   - By the time the order was passed, the Joint Commissioner had become a "proper officer" via the Circular.
   - Hence, jurisdiction existed at the time of adjudication, which is crucial.
2. No prior objection means waiver of jurisdiction challenge
   - Assessee participated (or allowed proceedings) without objection.
   - Later challenge to jurisdiction was held untenable.
3. Protection under Section 160 (saving clause)
   - Proceedings cannot be invalidated due to:
     - technical defects
     - or procedural lapses
   - Especially when:
     - notice is acted upon, and
     - no objection raised earlier
4. Penalty under Sections 122 r/w 74 is valid
   - Under Section 74(9):
     - Proper officer can impose penalty equal to tax in fraud cases
   - Since:
     - fraud (fake ITC & invoices) was alleged
     - and same officer handled entire proceeding
     - Penalty held legally valid

Legal Principles Established

Principle 1: Timing of jurisdiction matters
- If officer has jurisdiction at the time of passing order, it is sufficient.

Principle 2: Waiver of objection
- Failure to challenge jurisdiction at early stage is loss of that ground later

Principle 3: Section 160 saves proceedings
- Technical defects won't invalidate proceedings if substance is valid.

Outcome

- Writ petition dismissed
- Penalty upheld
- Assessee allowed to file appeal on merits

Practical Takeaways

- Always challenge jurisdiction at SCN stage if you intend to.
- Non-participation can seriously weaken your case.
- Circulars clarifying jurisdiction can validate pending proceedings.
- Section 74 & Section 122 combo ,serious exposure in fraud cases (tax Plus equal penalty).

Direct Tax

14.03.2026

HC Remands Settlement Case After Authority Fails to Examine Income Disclosure from Inflated Refinery Loss.

Khazana Jewellery (P.) Ltd. v. Income-tax Settlement Commission
High Court of Madras (16.02.2026)

Fact of the case

1. Company Background: Khazana Jewellery (P.) Ltd. engaged in jewellery manufacture and trading.
2. Search and Discovery:
    - Search conducted under Section 132.
    - Managing Director admitted inflating refinery loss by 3–5% and siphoning excess gold, selling it in the black market.
    - Undisclosed income generated: Rs. 70.66 crore (AY 2011-12 to 2016-17).
    - For AY 2017-18, Rs. 80 crore was offered as stock-in-trade held with employees, goldsmiths, and agents.
3. Settlement Application:
    - Filed under Section 245C during pendency of assessment under Section 153.
    - Application included detailed confidential disclosure ("Confidential Enclosure D") explaining how undisclosed income was derived.
4. Rejection by Settlement Commission:
    - Application rejected for lack of full and true disclosure.
    - Authority claimed that materials/evidence on derivation of Rs. 80 crore were insufficient.
    - Focused on whether the Rs. 80 crore was stock-in-trade or investment.
5. Single Judge Decision:
    - Upheld rejection.
    - Held that converting undisclosed income into declared stock under Section 69B was beyond settlement proceedings.

High Court Decision

- Full and True Disclosure Requirement:
    - Section 245C(1) requires the assessee to disclose:
        - Income not previously disclosed
        - Manner of derivation
        - Additional tax payable
        - Other prescribed particulars

2. Findings:
    - Assessee had provided detailed disclosure in Confidential Enclosure D (25 paragraphs explaining refinery loss inflation and stock derivation).
    - Settlement Commission failed to properly examine these details and rejected application mainly on technical grounds.
    - The undisclosed Rs. 80 crore was directly linked to the inflated refinery loss.
3. Remand for Reconsideration:
    - The matter is remanded to the Settlement Commission to scrutinize afresh the manner in which the undisclosed income was derived.
    - Court noted that rejection can result in interest, penalty, and prosecution, so a proper review is necessary.
    - Rs. 70 crore (earlier undisclosed income) is already eligible for settlement according to the revenue.
4. Outcome:
    - Single Judge's order set aside.
    - Settlement Commission to re-examine the application with full regard to detailed disclosures.
    - Writ appeal allowed; no order as to costs.

Key Takeaways

1. Importance of Scrutiny: Settlement authorities must carefully scrutinize the manner in which undisclosed income is derived, especially when detailed explanations are submitted.
2. Disclosure vs Technicalities: Mere technical defects or skepticism about how stock-in-trade is treated should not lead to outright rejection without proper examination.
3. Impact of Rejection: Rejecting settlement applications can trigger interest, penalties, and prosecution, making thorough review essential.
4. Precedent: Authorities cannot ignore detailed confidential disclosures, even if the mode of disclosure (like converting undisclosed income into stock-in-trade) is unconventional.

High Court Denies Bail in GST Fraud Case Involving Massive ITC Claims via Dummy Companies, Terming It a Serious Economic Offence

Hari Shankar Sharma v. Union of India
HIGH COURT OF ALLAHABAD (27.02.2026)

Fact of the case

1. Applicants:
    - Hari Shankar Sharma – Director of M/s WMCA Trade Mart Pvt. Ltd. & Karta of M/s Hari Shankar Sharma HUF
    - Deepak Jain – Proprietor of M/s Madhuban Trading Company
    - Sushant Goyal – Proprietor of M/s Omtex
2. Allegations:
    - The accused created interlinked dummy firms to fraudulently avail and pass on large Input Tax Credit (ITC) without actual supply of goods.
    - ITC involved (April 2020 – July 2025):
        - M/s Madhuban Trading: Rs. 45.79 crore
        - M/s WMCA Trade Mart: Rs. 15.48 crore
        - M/s Hari Shankar Sharma HUF: Rs. 28.16 crore
        - M/s Omtex: Rs. 14.17 crore
    - Conspiracy involved issuing invoices from non-existent firms to wrongfully avail and pass on ITC, generating massive revenue loss.
3. Bail Applications:
    - Applicants sought bail under Section 483, citing:
        - No criminal history
        - Completed investigation and filed complaint
        - Limited maximum punishment (arguing analogy to prior cases like Vineet Jain v. UOI)
        - Incarceration period already served
4. Revenue's Stand:
    - Applicants were masterminds of a large-scale fraud.
    - Serious economic offence involving public money and financial system integrity.
    - High chances of tampering with evidence or absconding.
    - Precedent: principles of bail for heinous crimes should apply to serious economic offences.

Legal Principles Applied

1. Serious Economic Offences is Heinous Crime Standard:
    - Cited Tarun Kumar v. Asstt. Director, Directorate of Enforcement :
        - Economic offences with large-scale loss of public funds constitute a class apart.
        - Bail must be considered with stricter standards due to risks to financial system.
2. Relevant Precedents:
    - Vineet Jain v. UOI
    - Rakesh Mittal v. Ajay Pal Gupta – principles of heinous crimes applied to serious economic offences
    - Serious Fraud Investigation Office v. Nittin Johari
    - State of Gujarat v. Mohanlal Jitamalji Porwal – economic offences deliberate and calculated
3. Reasoning:
    - Large-scale ITC fraud affected the financial health of the country.
    - Applicants played central roles in the conspiracy, controlling operations and creating fake invoices.
    - Even though investigation concluded and chargesheet filed, risk to public exchequer and potential evidence tampering outweighs argument for bail.

Decision

- Bail Applications: Rejected
- Trial Court: Expected to proceed expeditiously.
- Reasoning:
    - Nature of offence is serious economic crime
    - Applicants actively involved in massive ITC fraud
    - Public funds at stake, principles for heinous crimes applied

Key Takeaways

1. Serious economic offences are treated like heinous crimes for bail purposes.
2. Large-scale GST/ITC fraud triggers stricter scrutiny and stricter bail standards.
3. Even concluded investigation or limited jail period does not guarantee bail if public funds are at risk.
4. Courts balance individual rights vs. systemic threat, prioritizing protection of economy and public trust.
5. Emphasizes active role of accused and scale of fraud as key factors in bail decisions.

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TAX INSIGHTS

By

Tax Research Department

Direct Tax

15.03.2026

- **Whether Section 54 exemption applies if investment is made in more than one residential property?**
- **Whether investment made after due date of filing ITR, but not deposited in CGAS, is eligible for exemption?**

Mridula Agarwal v. ITO
ITAT Delhi(27.02.2026)

Facts

1. Assessee: Mridula Agarwal
2. Transactions:
    - Sale of a long-term residential property.
    - Reinvestment of capital gains into:
        - Residential flat at Supertech
        - Residential property at Prasad Exotica, Kolkata
3. AO's Action:
    - Allowed exemption under Section 54 only for Supertech flat.
    - Disallowed exemption for Prasad Exotica investment (~Rs. 30.63 lakh) on the grounds:
        - Investment in more than one residential property not eligible.
        - Part of the investment was made after due date for filing ITR without depositing in Capital Gains Account Scheme (CGAS).
4. Appeal:
    - Challenged before CIT(A) and then ITAT.

Tribunal's Findings

I. Investment in more than one residential property

- Section 54 uses the term "a residential house."
- Tribunal relied on precedents:
    - CIT v. Gita Duggal (Delhi HC) – "a residential house" can include plural houses, depending on context; the word "a" is indefinite and should be read with other words ("buildings" and "lands").
    - CIT & Anr. v. Smt. K.G. Rukminiamma, Karnataka HC – same view.
    - Other courts (Madras HC, Delhi HC) concurred.
- Conclusion: Exemption under Section 54 allowed for investment in more than one residential property for AY 2012-13.
- Amendment in Finance Act 2014 substituting "a residential house" with "one residential house" applied prospectively from AY 2015-16. Hence, not applicable to AY 2012-13.

II. Investment made after due date of ITR filing

- Tribunal held that investment made after due date, even if not deposited in CGAS, qualifies for exemption.
- AO was directed to consider such investments while granting Section 54 exemption.

Legal Principle

1. The singular "a residential house" in Section 54 does not preclude multiple properties if interpreted in context (pre-2015 amendment).
2. Capital gains reinvested after ITR filing still eligible for exemption under Section 54, even if not deposited in CGAS.
3. Amendments in Finance Act 2014 restricting to one house are prospective (from AY 2015-16).

Decision

- Appeal Allowed.
- AO and CIT(A)'s orders disallowing exemption for Prasad Exotica and post-due-date investments quashed.
- Assessee entitled to full Section 54 exemption for both properties, including investments beyond ITR filing date.

Key Takeaways

1. Pre-2015 AYs: Exemption under Section 54 can apply to multiple residential properties.
2. Post-ITR due date investments: Eligible for Section 54 exemption, even if not deposited in Capital Gains Account Scheme.
3. Legislative amendment (Finance Act 2014): Limits Section 54 exemption to one house, effective from AY 2015-16 onwards only.
4. Important precedent for capital gains planning:
    - Multiple reinvestments in residential properties allowed pre-amendment.
    - Delayed investments can still claim exemption.

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TAX INSIGHTS

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Tax Research Department

Goods & Services Tax

15.03.2026

- **Can cancellation proceedings under Section 29(2)(c) be dropped if the taxpayer undertakes to file all pending returns and pay dues with interest/late fee?**
- **Is the petitioner eligible for restoration of GST registration under Rule 22(4) proviso despite delay?**

Deepak Construction Co. v. State of Assam
HIGH COURT OF GAUHATI (27.02.2026)

Facts

1. Petitioner: Partnership firm, M/s Deepak Construction Co.
2. GST Registration: No. 118AADFD3069R1ZV (under CGST/AGST)
3. Ground for Cancellation: Non-filing of GST returns for six consecutive months.
4. SCN & Order:
   - Show Cause Notice issued under Section 29(2)(c) on 05.04.2024.
   - GST registration cancelled by Deputy Commissioner on 21.07.2024.
5. Reason for Delay: Petitioner was not conversant with the online GST portal; could not file replies in time.
6. Compliance Undertaken: Petitioner expressed willingness to:
   - File all pending returns
   - Pay tax dues with interest and late fee
   - Seek restoration of registration under proviso to Rule 22(4)

Court Analysis

Rule 22(4) Proviso

- Sub-rule (4) allows a proper officer to drop cancellation proceedings and pass an order in Form GST REG-20 if:
  a. The reply to the SCN is satisfactory; or
  b. The petitioner furnishes all pending returns and makes full payment of tax, interest, and late fee.

Court Observations

1. The petitioner is ready to comply with all statutory requirements under the proviso.
2. Serious civil consequences flow from cancellation of registration; therefore, the petitioner should be allowed to approach the competent authority.
3. The authority has jurisdiction to consider the application for restoration and drop the cancellation proceedings.
4. Delay raised by Revenue is not a bar if full compliance is undertaken.
5. Petitioner directed to approach the authority within 2 months, with proceedings to be completed preferably within 60 days.
6. Payments of arrears, interest, penalties, and late fees will be required.

Decision

- Writ petition disposed of: Petitioner may seek restoration of GST registration under Rule 22(4) proviso.
- Authority directed to consider the application on merits and pass orders in accordance with law.
- Caveat: This order is not to be treated as precedent.

Key Takeaways

1. Rule 22(4) proviso is enabling: Allows cancellation to be dropped if petitioner files pending returns and clears dues with interest/late fees.
2. Restoration possible despite delay: Courts can direct authorities to restore registration if statutory compliance is undertaken.
3. Civil consequences of cancellation: Courts recognize the hardship caused by cancellation and encourage compliance-based restoration.
4. Time-bound process: Authorities are expected to act expeditiously once the petitioner approaches.

Direct Tax

16.03.2026

ITAT Remands Cancellation of Trust Registrations under Sections 12AB and 80G After Amendment of Objectionable Objects.

Surti Modh Vanik Jagruti Mandal v. CIT (Exemption)
ITAT Mumbai (06.03.2026)

Facts

1. The trust applied on 31.03.2022 for:
   - Regularization of registration under section 12AB
   - Approval under section 80G(5)
2. CIT(E) rejected applications on 27.09.2022, citing:
   - Certain objects favored a particular community (Surti Modh Vanik Gnati)
   - Membership rules were discriminatory (birthright membership for community members)
   - Alleged contravention of section 13(1)(b)
3. Trust amended the objectionable objects via a Board resolution dated 25.09.2024 but:
   - Initially did not inform the Charity Commissioner
   - CIT(E) treated the resolution as backdated and cancelled existing registrations on 30.09.2025
4. The trust appealed to the ITAT, arguing:
   - The objectionable objects were never acted upon
   - Amendments were now duly reported to the Charity Commissioner (26.12.2025)
   - CIT(E) had not given personal hearing, violating natural justice

Tribunal Findings

1. CIT(E) was correct in noting the original objects favored a particular community (section 13(1)(b)).
2. However:
   - The trust never acted on these objects
   - Amendments to the trust deed were now properly reported to the Charity Commissioner
   - All defects noted by CIT(E) were rectified
3. Tribunal held:
   - Matter should be remanded to CIT(E) for fresh consideration in light of the amended objects
   - Trust must be given reasonable opportunity of being heard
   - Appeals were allowed for statistical purposes

Key Legal Takeaways

1. Section 13(1)(b) violation alone does not automatically block registration under 12AB/80G.
   - Such provisions are relevant primarily for determining entitlement to exemption under section 11, not for registration per se.
   - Tribunal cited: CIT Exemption v. Jamiatul Banaat Tankaria (Gujarat).
2. Amendment of objectionable objects post-cancellation:
   - If defects are corrected and reported, the assessing authority must reconsider registration applications.
   - Courts/tribunals prefer substantive compliance over procedural lapses, especially where the trust has not acted on objectionable provisions.
3. Natural justice:
   - Registrations cannot be cancelled without hearing.
   - Any perceived procedural irregularity can support remand for fresh consideration.

Practical Implications for Trusts

- Ensure trust deed objects are community-neutral if claiming 12AB/80G benefits.
- Immediate reporting of amendments to the Charity Commissioner is essential.
- Even if original objects were objectionable, rectifications can allow reconsideration of registration.
- Document that no funds were used to benefit particular communities if challenged.

Conclusion:

The ITAT remanded the case for fresh examination by CIT(E) since the trust had amended its objects, reported changes, and never acted on the objectionable provisions, highlighting a preference for substance over form in charitable trust registrations.

TAX INSIGHTS

By

Tax Research Department

Goods & Services Tax

16.03.2026

Whether ITC can be denied solely on the ground of belated claim, after the retrospective amendment by Finance (No. 2) Act, 2024, which removed the time-bar restriction with retrospective effect from 01.07.2017.

Asian Lifts and Escalator (P.) Ltd. v. Assistant Commissioner of CGST & Central Excise
High Court of Madras (06.02.2026)

Fact of the case

- The petitioner availed Input Tax Credit (ITC) belatedly under GST.
- Authorities issued a Show Cause Notice and denied ITC solely because it was claimed after the original time limit.
- The Original Adjudicating Officer confirmed tax, interest, and penalty for alleged ineligible ITC.
- Petitioner challenged the denial, arguing it was only based on breach of the original time limit, not on other statutory requirements.

Court's Findings

1. Retrospective Amendment Changes:
    - Sections 16(5) and 16(6) inserted by Finance (No. 2) Act, 2024, remove the bar on belated ITC from 1 July 2017.
    - Therefore, denial of ITC merely for delay is no longer valid.
2. Substantial ITC Cannot Be Denied:
    - Since the law now allows belated ITC, the substantial benefit already availed cannot be denied solely due to lapse of time.
3. Other Statutory Conditions Must Be Satisfied:
    - ITC eligibility still requires compliance with other statutory conditions under Section 16 of CGST/TNGST Acts.
    - Authorities must verify compliance before granting ITC.

- Remand for Fresh Adjudication:
    - Impugned order denying ITC was set aside.
    - Matter remanded to the respondent for fresh adjudication on merits, considering all statutory requirements except time limit.
    - Petitioner to produce evidence proving compliance with other conditions.

Court Order

- Impugned Order Set Aside: Yes
- Matter Remanded: Yes, for fresh order on merits
- Condition: Petitioner to provide proof of compliance with all other ITC conditions
- Outcome if Compliance Proven: Proceedings to be dropped
- Costs: None

Legal Principle

Belated availing of ITC cannot be denied solely on the ground of delay if a retrospective statutory amendment removes the time-bar. Denial is only justified if other statutory requirements are not met.

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TAX INSIGHTS

By

Tax Research Department

Direct Tax

17.03.2026

Can the CPC (Centralized Processing Centre) increase tax from 10% to 30% on royalty income while processing return under Sec. 143(1), without: Prior intimation of proposed adjustment, and Giving reasons?

Surendra Himmatlal Shah v. DCIT
ITAT MUMBAI(09.03.2026)

Key Facts

- Assessee earned royalty from a patent eligible for 10% tax under Sec. 115BBF
- Filed return claiming 10% rate
- CPC processed return under Sec. 143(1) and:
  - Applied 30% tax
  - No prior intimation
  - No reasons in intimation order

ITAT Decision

The Tribunal set aside the CPC intimation and deleted the demand.

Legal Principles Established

1. Prior Intimation is Mandatory

Under first proviso to Sec. 143(1):

- CPC must inform the assessee before making adjustments
- This is not optional, even if the issue seems obvious
- No intimation is invalid adjustment

2. Reasons Must Be Given

- Adjustment must be supported by clear reasons
- A silent or unexplained change in tax rate is not valid
- No reasoning is quasi-judicial failure

3. 143(1) is Not Mechanical

The Tribunal emphasized:

- It is a quasi-judicial process, not just automated processing
- Assessee must get:
  - Opportunity to respond
  - Proper consideration of objections

4. "Obvious mistake" argument rejected

Revenue argued:

- Since Form 3CFA wasn't filed in time, adjustment was obvious

ITAT rejected this:

- Even obvious issues require due process

Important Observation

Even though:

- Form 3CFA was filed late (which may affect 115BBF claim),
- ITAT did NOT decide that issue
- Case was decided purely on procedural violation

Practical Impact

You can challenge a 143(1) adjustment if:

- No prior intimation was issued
- No reasons were provided
- You weren't given a chance to respond

Always check:

- Whether 143(1)(a) notice was issued
- Whether adjustment reasons are speaking and specific

Key Precedent Followed

- Kalpesh Synthetics (P.) Ltd. v. DCIT (Mumbai ITAT)
- Established that intimation & reasoned order is mandatory

Bottom Line

- No notice & no reasons is invalid 143(1) adjustment
- CPC cannot unilaterally change tax liability, even if technically justified

Goods & Services Tax

17.03.2026

Whether anti-profiteering provisions under Section 171 of the CGST Act, 2017 apply when a real estate project is entirely post-GST, i.e., started after 1 July 2017.

DGAP vs. Bengal Peerless Housing Development Company Ltd.
GSTAT, New Delhi (14.01.2026)

Tribunal's Key Findings

1. Project was fully post-GST
   - No part of the project existed before GST.
   - Everything happened after GST rollout:
     - Booking
     - Agreements
     - Construction
     - RERA registration (2019)
   - So, there was no pre-GST baseline for comparison.

2. No "additional ITC benefit"

Anti-profiteering is triggered when:
- Tax rate is reduced, OR
- Input Tax Credit (ITC) increases after GST

But here:
- Entire project operated under GST
- No transition from old tax regime to GST
- Therefore, no incremental ITC benefit arose

3. DGAP found NIL profiteering
   - The Directorate General of Anti-Profiteering (DGAP) concluded:
     - No extra ITC benefit
     - No excess profit retained by developer

4. Legal Principle Applied

Anti-profiteering applies only when:
- A project spans pre-GST and post-GST periods, allowing comparison

Since this project:
- Started and completed entirely after GST
- There was nothing to "pass on"
- Hence, Section 171 does not apply

Final Outcome

- DGAP report accepted
- No violation of anti-profiteering law
- Proceedings closed

Practical Takeaways

- You can claim anti-profiteering only if:
  - Project started before GST and continued after
  - Developer got extra ITC benefit due to GST
- Not applicable to fully post-GST projects
- If your project is entirely post-GST:
  - No obligation to demonstrate ITC pass-through
  - Lower litigation risk under anti-profiteering

This ruling reinforces a consistent position:
- Anti-profiteering - comparative mechanism
- Without a pre-GST benchmark, the provision fails

Direct Tax

18.03.2026

Whether assessee can be treated as "assessee in default" u/s 201 despite short TDS, when deductees have already paid tax?

Sugee Ten Developers LLP v. Income-tax Officer (TDS)
ITAT MUMBAI (06.03.2026)

Fact of the case

- Assessee (developer) entered into a Joint Development Agreement (JDA) with landowners.
- Deducted TDS @ 1% u/s 194IA on ₹15 lakh paid.
- AO held correct provision is section 194IC (TDS @ 10%).
- Raised demand:
  - ₹1.35 lakh (short TDS) u/s 201(1)
  - ₹1.03 lakh interest u/s 201(1A)
- Assessee argued:
- Deductees already paid tax & disclosed income in ITRs

Held (ITAT Mumbai)

Followed earlier ruling:

- Sugee Seven Developers LLP v. ITO (TDS)

Held:

- Additional evidence (ITR, tax proof) admissible
- AO must verify tax payment by deductees
- Matter remanded to AO for fresh adjudication
- Appeal allowed for statistical purposes

Key Legal Principle

- Section 201 Relief
- Payer is not deemed assessee in default if:
- Deductee has:
  - filed return
  - included income
  - paid tax
- However, factual verification by AO is essential

Important Takeaways

1. Short deduction ≠ automatic liability
   - Wrong section (194IA vs 194IC) does not automatically trigger final demand.
2. Evidence is critical

Assessee must produce:

- ITR of deductee
- Income disclosure proof
- Tax payment evidence

Practical Conclusion

- No double taxation principle applies
- If tax is already paid by recipient, recovery from deductor should not be enforced—subject to verification.

TAX INSIGHTS

By

Tax Research Department

Goods & Services Tax

18.03.2026

Whether detention and penalty can be sustained when the taxpayer specifically challenges, Sampling procedure, Accuracy and relevance of lab report but authorities fail to deal with those objections?

Gas Trade International v. State of UP
Allahabad High Court(17.02.2026)

Facts in Brief

- Petitioner transported Mixed Linear Alpha Olefins (MLAO) with valid documents.
- Goods were intercepted and detained during transit.
- Detention based on:
  - Lab report calling sample "lubricating oil" and "adulterated"
- Penalty imposed → paid under protest → appeal filed → appeal rejected.

High Court's Key Findings

1. Duty to Address Specific Objections
   - Once taxpayer raises specific grounds, authorities must deal with them
   - Ignoring them = defect in decision-making process
2. Speaking Order is Mandatory
   - Orders must:
     - Contain reasoning
     - Show application of mind
   - Mere conclusions (like "intention to evade") are not enough
3. Lab Report Cannot Be Blindly Relied Upon
   - Especially when:
     - Sample description itself is disputed
     - Possible sampling error is alleged

Authority must examine:

- Whether sample corresponds to goods
- Whether testing is reliable

Final Decision

- Appellate order quashed
- Matter remanded
- Direction:
  - Pass fresh speaking order
  - Address each objection with reasons

Key Legal Principles

◆ Natural Justice
- Right to be heard includes:
  - Right to have arguments considered and answered

◆ Speaking Order Doctrine
- Essential in tax adjudication
- Ensures:
  - Transparency
  - Accountability
  - Judicial review

◆ GST Detention Cases (Section 129)
- Authorities must prove:
  - Proper classification/testing
  - Not just suspicion or assumptions

Practical Takeaways

- Always challenge sampling & lab reports if doubtful
- Record discrepancies (like wrong description, missing units)

One-Line Ratio

Failure to consider and give reasons on specific objections (especially on sampling and lab reports) renders GST detention orders unsustainable.

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TAX INSIGHTS

By

Tax Research Department

Direct Tax

19.03.2026

Whether investment in redeemable preference shares of AE can be: re-characterised as a loan, and subjected to notional interest adjustment ?

Assistant Commissioner of Income-tax v. Aegis Ltd.
ITAT MUMBAI (10.03.2026)

Issue 1: TP Adjustment on Preference Shares

What TPO did:

- Treated preference shares in AE as a loan
- Imputed notional interest @ 11.91%
- Made huge TP adjustment (~₹69.9 crore)

ITAT's reasoning:

- A share investment ≠ loan
- Re-characterisation allowed only in exceptional cases, like:
  - Sham transaction
  - Concealment of real nature
- Here:
  - No evidence of sham
  - Genuine investment
  - Same issue already decided in earlier years

Legal principle:

TPO cannot disregard the form of transaction unless there is evidence of abuse.

Held:

- Re-characterisation invalid
- TP adjustment deleted

Issue 2: Disallowance u/s 36(1)(iii)

AO's view:

- Assessee gave interest-free loans to subsidiaries
- Claimed:
  - Borrowed funds were diverted
- Disallowed interest @ 11.91%

ITAT's reasoning:

- Assessee had huge own funds (₹1359 crore)
- Advances were very small comparatively
- Applied settled rule from
- CIT v. Reliance Utilities & Power Ltd.

Legal presumption:

If own funds > investments, then advances are presumed from own funds.

Held:

- No diversion of borrowed funds proven
- No disallowance

Important Legal Principles Established

◆ 1. Re-characterisation rule (TP law)

- Substance-over-form applies only in exceptional cases
- Revenue must prove: Sham OR Tax avoidance structure
- Otherwise, transaction must be respected as is

◆ 2. "Own funds" presumption

Backed by:

- CIT v. Reliance Utilities & Power Ltd.
- South Indian Bank Ltd. v. CIT

If:

- Mixed funds exist
- Own funds are sufficient

Then:

- No interest disallowance

Key Takeaways

1. No TP adjustment on preference shares
   - Investment in redeemable preference shares cannot be re-characterised as a loan.
   - Therefore, no notional interest can be imputed.
   - Allowed in favour of assessee.
2. No disallowance under Section 36(1)(iii)
   - If assessee has sufficient own funds, presumption is:
   - advances are made out of own funds, not borrowed funds
   - Hence, no interest disallowance.
   - Also in favour of assessee.

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TAX INSIGHTS

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Tax Research Department

Goods & Services Tax

19.03.2026

Whether mud engineering services & drilling chemicals/materials supplied under one contract qualify as: Composite Supply (Sec. 2(30), CGST Act) OR Separate supplies (goods & services taxed independently)

Halliburton Offshore Services Inc. v. Union of India
HIGH COURT OF ANDHRA PRADESH (11.02.2026)

Final Verdict (In Favour of Assessee)

The High Court held:

- The contract constitutes a composite supply
- Supplies are:
  - Naturally bundled
  - Supplied in conjunction
- AAR & AAAR rulings were set aside

Court's Key Reasoning

1. Functional Integration
   - Mud engineering involves:
     - Monitoring drilling conditions
     - Injecting customised chemicals into oil wells
   - Services cannot exist without chemicals
2. Chemicals are NOT independent goods
   - Not off-the-shelf products
   - Specifically designed for each drilling site

   Hence:
   - Not separate supply
   - Part of service execution
3. Contract must be read as a whole
   - Objective: Safe & efficient drilling
   - Achieved through:
     - Services & materials together
   - They are inseparable and interdependent
4. Separate billing is irrelevant
   - Even if:
     - Different invoices issued
     - No single consolidated price
   - It does NOT break composite nature
5. Legal Test under Section 2(30)

To qualify as composite supply:

Condition	Status
Multiple supplies	Yes
Naturally bundled	Yes
Supplied together	Yes
Single recipient	Yes

Therefore → Composite Supply

Legal Principle Established

Substance over form in GST classification

- Look at:
  - Commercial reality
  - Functional linkage

NOT:

- Pricing structure
- Invoice pattern

Supporting Case Law

The Court relied on principles from:

- Abbott Healthcare (P.) Ltd. v. Commissioner of State Tax
- State of Andhra Pradesh v. Rashtriya Ispat Nigam Ltd.
- Emphasis: Read contract holistically

They wrongly assumed:

- Separate invoicing = separate supply
- Goods & services available independently = not bundled
- HC rejected this mechanical approach

Practical Implications

For Oil & Gas Industry

- Integrated contracts = Composite supply
- Avoid artificial splitting for taxation

For GST Planning

- Even if:
  - Separate pricing
  - Multiple line items

Still composite if:

- Supplies are interdependent

Conclusion

Supply of mud engineering services & drilling chemicals

- Naturally bundled
- Supplied together
- Interdependent

Therefore,
Composite supply under Section 2(30)
Tax as per principal supply (service)

TAX INSIGHTS

By

Tax Research Department

Direct Tax

20.03.2026

Whether an assessee can claim the remaining 50% additional depreciation in the next year if: New plant & machinery is acquired, and Used for less than 180 days in the year of purchase.

Wheels India Ltd. v. ACIT
HIGH COURT OF MADRAS (02.03.2026)

Facts of the case

- Assessee acquired new plant & machinery
- Used for less than 180 days in year of purchase
- Claimed:
  - 50% additional depreciation in Year 1
  - Balance 50% in Year 2
- AO disallowed balance 50%
- Disallowance upheld by CIT(A) & ITAT
- Matter reached High Court

High Court Decision (Madras HC)
Held: YES - balance 50% is allowable in the subsequent year.

Key Principles Explained

1. Restriction applies only in the first year
   - As per Section 32, if an asset is used for <180 days, only 50% of additional depreciation is allowed in that year.
   - This is merely a timing restriction, not a denial of benefit.
2. Balance 50% must be allowed next year
   - The Court clarified that:
     - The remaining 50% does not lapse
     - It must be carried forward and allowed in the next assessment year
3. Purpose of law matters
   - Additional depreciation is an incentive provision to promote investment.
   - Denying the balance would:
     - Defeat the purpose
     - Create unfair discrimination between:
       - Assets used >180 days
       - Assets used <180 days
4. Legislative intent
   - The amendment clarified ambiguity and supported:
     - Full 100% benefit, split across years if needed
   - Court relied on earlier ruling:
     - CIT v. Shri T.P. Textiles (P.) Ltd.

Practical Impact

What taxpayers can do:
If:

- Asset is eligible for additional depreciation (e.g., manufacturing sector), and
- Used for <180 days in Year 1

Then:

- Claim 50% in Year 1
- Claim remaining 50% in Year 2

What AO cannot do:

- Disallow the balance 50% in subsequent year
- Treat it as excess or ineligible claim

Simple Illustration

Year	Usage	Allowed
Year 1	<180 days50%	additional depreciation
Year 2	—	Remaining 50% allowed

Bottom Line

- Total additional depreciation = 100% entitlement
- If not fully used in Year 1 due to 180-day rule → carry forward balance
- Benefit cannot be denied merely due to shorter usage period

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TAX INSIGHTS

By

Tax Research Department

Goods & Services Tax

20.03.2026

Whether medicines, consumables, implants, etc. supplied by a hospital are: Exempt as part of healthcare services, or Taxable under GST. Distinction made between: In-patients (IPD) & Out-patients (OPD).

Rajarajeswari Hospitals (P.) Ltd., In re
AUTHORITY FOR ADVANCE RULING, TAMILNADU (29.01.2026)

AAR Ruling (Key Findings)

1. Supplies to In-Patients → EXEMPT
   - Covered under Entry 74 of Notification 12/2017-Central Tax (Rate)
   - Treated as composite supply of healthcare services

Includes:
- Medicines
- Consumables
- Implants
- Food (during admission)

Reason:
- These are naturally bundled with treatment
- Hospital provides end-to-end care
- Patient has no choice to procure separately

Therefore:
- Principal supply = Healthcare service (exempt)
- Entire bundle = Exempt

2. Supplies to Out-Patients → TAXABLE (except consultation)

Consultation:
- Exempt (healthcare service)

Medicines / consumables:
- Taxable

Reason:
- Not naturally bundled
- Patient is free to buy from outside pharmacy
- Hence not part of composite supply

Therefore:
- Medicines = Independent supply of goods
- GST applicable at relevant rates

Legal Principle Applied

Composite Supply (Section 2(30), CGST Act)

A supply is composite when:
- Multiple supplies are naturally bundled
- One is principal supply

Applied as:
- IPD → Composite (exempt)
- OPD → Not composite (taxable goods)

Key Distinction

Particulars	In-Patient (IPD)	Out-Patient (OPD)
Nature	Hospital-controlled treatment	Independent consultation
Choice of purchase	No	Yes
Composite supply?	Yes	No
GST on medicines	Exempt	Taxable
Consultation	Exempt	Exempt

Conceptual Understanding

Why exemption for IPD?
- Because treatment is a single integrated service

Why tax for OPD medicines?

Because supply of medicines is:
- Optional
- Separable
- Commercial in nature

Supporting Clarification

Relies on:
- Circular No. 32/06/2018-GSTFood/medicines for IPD = part of healthcare (exempt)
- Supplies to non-admitted patients = taxable

Final Takeaway

- IPD = Complete treatment package → GST EXEMPT
- OPD = Consultation & optional medicine → Medicines TAXABLE

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TAX INSIGHTS

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Tax Research Department

Direct Tax

21.03.2026

Whether denial or non-completion of cross-examination of a third party (whose statement was relied upon) vitiates an order passed under Section 148A(d)?

Vishnu Highrise (P.) Ltd. v. Union of India
Calcutta High Court(05.03.2026)

Facts of the Case

- The assessee (Vishnu Highrise Pvt. Ltd.) challenged an order passed under Section 148A(d) initiating reassessment.
- The reopening was based on a statement of Amit Kumar Agarwal recorded under Section 132(4) during a search at the Agarwal Group.
- Key allegation:
    - Receipt of ₹2.25 crore in cash by the assessee (unaccounted transaction).
- Procedural steps:
    - Show-cause notice under Section 148A(b) was issued.
    - Assessee filed a reply.
    - AO considered the reply and passed order under Section 148A(d).
- Cross-examination angle:
    - AO fixed a date for cross-examination of the third party.
    - However, cross-examination was not completed before passing the order.

Arguments

Assessee's Contentions

- Non-provision of cross-examination violates principles of natural justice.
- Once a date was fixed, AO could not pass order without completing it.
- Hence, order under Section 148A(d) is invalid and incomplete.

Revenue's Contentions

- No right to cross-examination at Section 148A stage.
- Section 148A is only a preliminary stage (prima facie satisfaction).
- Cross-examination, if required, can be provided during reassessment under Section 147.

Court's Analysis

1. Nature of Section 148A Proceedings
    - Section 148A is not a final adjudication stage.
    - It only requires prima facie satisfaction of income escaping assessment.

Contrast drawn:
- Section 148A → Preliminary / threshold stage
- Section 147 → Final determination stage

2. Role of Third-Party Statement
    - Statement under Section 132(4) can be used as "information suggesting escapement".
    - At this stage, detailed evidentiary testing is not required.
3. Cross-Examination Requirement
    - The Court clearly held:
    - Cross-examination is NOT mandatory at Section 148A stage
        - It becomes necessary only when:AO relies on such statement
        - While passing final reassessment order under Section 147
4. Effect of Incomplete Cross-Examination
    - Even though AO initiated cross-examination:
        - It does not create a legal obligation to complete it at 148A stage
    - Therefore:
        - Non-completion does not invalidate proceedings

Held

- Cross-examination is not required at the stage of Section 148A(d).
- Denial or non-completion of cross-examination does not vitiate the order.
- Such right arises only at reassessment stage (Section 147) if the statement is relied upon.

Final Decision

- Writ Petition dismissed
- Order under Section 148A(d) upheld
- However:
- Assessee must be given opportunity of cross-examination during reassessment proceedings

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TAX INSIGHTS

By

Tax Research Department

Goods & Services Tax

21.03.2026

Whether seizure of cash under Section 67 of the CGST Act is valid when no "reason to believe" is recorded and no notice is issued within six months as required by law.

Smurti Waghdhare v. Joint Director Directorate General of GST Intelligence
HIGH COURT OF BOMBAY(10.03.2026)

Facts of the Case

- Petitioner: GST-registered proprietor engaged in metal & scrap trading.
- GST Intelligence conducted searches (June 2023) at:
  - Business premises, Additional office, Residence, Parents' residence
- Seizure: ₹1 crore cash
  - ₹60 lakh (office premises)
  - ₹40 lakh (parents' residence)
- Background:
  - A third party (Hitesh Chheda) was allegedly involved in a fake ITC racket (~₹312.8 crore)
  - Authorities suspected nexus and seized cash
- Post-seizure actions:
  - Cash handed over to Income Tax Department
  - Notices issued under Income-tax law

Petitioner's Arguments

- Cash is not covered under Section 67(2)
- No "reason to believe" recorded (mandatory condition)
- No proof cash was: Relevant & Useful for proceedings
- Section 67(7) violated (no notice within 6 months)
- Ownership of cash clearly established
- Seizure caused hardship (medical treatment of parents)

Revenue's Arguments

- Cash falls under "things" → can be seized
- Linked to fake ITC fraud network
- Petitioner connected with accused
- Cash may be proceeds of tax evasion
- Investigation ongoing and serious

Court's Analysis

1. "Reason to Believe" is Jurisdictional Requirement

- Court held:
  - It is the foundation of search & seizure power
  - Must be recorded before action
- In this case:
  - No reasons recorded
  - No nexus shown between cash and proceedings

Relied on:
ITO v. Lakhmani Mewal Das

- "Reason to believe" must have live link with material
- Cannot be based on mere suspicion

2. Seizure of Cash Held Illegal

- Section 67(2) permits seizure of:
  - Goods, Documents, Books, Things (if relevant)
- Court observed:
  - No proof cash was useful/relevant
  - No justification for seizure

3. Violation of Section 67(7) (6-Month Rule)

- Legal requirement:
  - Notice must be issued within 6 months of seizure
- In this case:
  - No notice issued & No extension obtained

Consequence:

- Mandatory return of seized items

4. Ownership of Cash Established

- Statements confirmed:
  - Cash belonged to petitioner
- Department:
  - Failed to rebut ownership
- Strengthened finding of illegality

5. Illegal Transfer to Income Tax Department

- Court strongly criticized:
  - GST authorities handing over seized cash to Income Tax

Held:

- No such power under CGST Act
- Action was:
  - Unauthorized & Legally unsustainable

Held

- Seizure violated:
  - Section 67(2) → No "reason to believe"
  - Section 67(7) → No notice within 6 months
- Seizure declared:
  - Illegal, Arbitrary & Without jurisdiction

Final Decision

- Seizure orders quashed
- ₹1 crore to be:
  - Returned to petitioner
  - With applicable interest
- Within 2 weeks
- Clarification:
  - Judgment does not affect Income Tax proceedings

TAX INSIGHTS

By

Tax Research Department

Direct Tax

22.03.2026

Whether deduction under Section 54F of the Income-tax Act, 1961 can be denied solely because the new residential property was registered in someone else's name (here, the assessee's sister), even though the entire investment was made by the assessee.

Deputy Commissioner of Income-tax (International Taxation) *vs* Revanth Challagalla
ITAT HYDERABAD(13.03.2026)

What happened in this case?
- Assessee (an NRI) sold villas and earned long-term capital gains
- Invested proceeds in a new residential house
- Property was registered in sister's name (he couldn't travel to India)
- All payments were made by him
- Later, sister gifted the property back to him

ITAT's key reasoning

The Tribunal (Income Tax Appellate Tribunal Hyderabad Bench) held:

1. Substance over form matters
   - What matters is who actually paid and intended to invest
   - Not just whose name appears on the registry
2. Source of funds is crucial
   - Entire purchase consideration came from the assessee
   - This strongly supported the claim
3. Genuine intention proved
   - Allotment letter in assessee's name
   - Payments from his bank account
   - Supporting MOU/confirmation from sister
   - Subsequent gift transfer back to assessee
   - These showed the sister was only a name-lender for convenience
4. Liberal interpretation of Section 54F
   - Courts already allow relief when property is in:
     - spouse's name
     - children's name
   - Though sister is normally outside this scope, facts justified exception here

Important limitation

The ITAT also clarified:
- This does NOT mean you can freely buy property in anyone's name and claim exemption
- Relief depends on strong factual evidence

When 54F can still be allowed (based on this case)

You're likely safe if:
- Entire consideration is paid by you
- Clear documentation proves your ownership intent
- The other person is only holding property for convenience
- Property is eventually transferred back (adds strength, though not always mandatory)

When exemption may be denied
- Funds are mixed or unclear
- Real ownership lies with the other person
- No documentation of arrangement
- Transaction appears as benami or tax avoidance

Practical insight

This ruling reinforces a key principle in tax law: "Substance over form" - tax benefit depends on the real nature of the transaction, not just paperwork.

Core takeaway

The Section 54F of the Income-tax Act, 1961 exemption cannot be denied merely because the new property is registered in someone else's name, if:
- the entire investment comes from the assessee, and
- the arrangement is genuine and for convenience, not tax avoidance.

Goods & Services Tax

22.03.2026

Whether GST registration cancelled solely for non-filing of returns (without any fraud or tax evasion) can be restored upon later compliance.

Mohammad Javed *vs* Union of India
HIGH COURT OF CALCUTTA (11.02.2026)

Core Principle

If a GST registration is cancelled only due to non-filing of returns, and there is no allegation of fraud, tax evasion, or misconduct, then:

- The taxpayer can get the registration restored
- But only after full compliance

What the Court Held

The Court said:

- Cancellation based purely on non-filing of returns is not severe enough to permanently block business activity.
- If the taxpayer shows willingness to comply, they should be given one more opportunity.
  - Restoration is allowed provided the taxpayer:Files all pending GST returns
  - Pays:
    - Outstanding tax
    - Interest
    - Late fees
    - Penalties/fines

Time-bound Relief

- The Court gave 6 weeks to complete compliance.
- If compliance is done within this period:
  - Cancellation order is treated as set aside
  - GST registration must be restored
- If not:
  - Relief automatically lapses
  - Petition stands dismissed

Directions to GST Department

- Authorities must:
  - Reactivate GST portal/login within 1 week
  - Enable filing of pending returns and payment

Legal Basis

- Central Goods and Services Tax Act, 2017, Section 29 → Cancellation
- Section 30 → Revocation
- Rule 23 of CGST Rules → Revocation procedure

Practical Takeaway

This judgment is very important for businesses:

- GST cancellation for non-filing is not final
- Courts are lenient where there is no fraud
- You still get a chance — but:
  - Full compliance is mandatory
  - Delay can cost you the relief

In Simple Terms

- Missed returns? You can recover
- Fraud? Much harder
- Compliance = revival

TAX INSIGHTS

By

Tax Research Department

Direct Tax

23.03.2026

Can tax be levied on apparent/book differences without real income?

ACIT v. PNC Rajasthan Highways (P.) Ltd.
ITAT DELHI (11.03.2026)

Facts of the case

Background

- The assessee is an engineering & infrastructure company (SPV) engaged in highway development.
- It follows:
  - Mercantile system of accounting
  - IND-AS standards

Issue 1: Turnover Difference (GST vs P&L)

- For AY 2020–21, the assessee filed return declaring a loss (~₹24.33 crore).
- The Assessing Officer (AO) noticed:
  - Turnover as per GSTR-1 > Turnover as per P&L
  - Difference: ~₹218.61 crore
- AO treated this difference as undisclosed turnover and added it to income.

Assessee's Explanation

- The difference was due to:
  - Invoices raised during the year for GST purposes
  - But relating to milestone payments already accounted in FY 2017–18 & 2018–19
- Supporting documents submitted:
  - NHAI confirmation
  - Bank statements
  - Form 26AS

Remand Proceedings

- AO verified additional evidence and accepted:
  - Difference was due to earlier years' invoices

Issue 2: Notional Interest

- Assessee:
  - Recognized notional interest in P&L (as required by IND-AS)
  - Reduced it in tax computation (since not actually accrued)
- AO:
  - Treated it as taxable income u/s 56
  - Added ~₹26.06 crore

The case arises from:

- Mismatch between GST returns and books, and
- Taxability of IND-AS driven notional income

First Appeal (CIT(A))

- Deleted both additions:
  a. Turnover difference → properly explained and reconciled
  b. Notional interest → not real income

Appeal Before ITAT

- Revenue challenged:
  - Deletion of turnover addition
  - Deletion of notional interest addition

Why the Assessee Won

- AO's own remand report supported the assessee Critical evidentiary value.
- Documentary proof NHAI confirmation, bank entries, Form 26AS.
- Consistency principle Same treatment accepted by department in later years.
- Real income theory Courts consistently reject taxation of notional income.

Practical Implications for Taxpayers

For GST vs Books Reconciliation

- Maintain:
  - Invoice-wise reconciliation
  - Year-wise mapping (GST vs revenue recognition)
- Keep:
  - Customer confirmations
  - 26AS / bank proofs

TAX INSIGHTS

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Tax Research Department

Goods & Services Tax

23.03.2026

Whether the contractor passed on the benefit of additional Input Tax Credit (ITC) and reduced tax burden under GST to NTPC Ltd., as required under anti-profiteering provisions.

DGAP v. Kanwar Enterprises (P.) Ltd.
GSTAT NEW DELHI (12.02.2026)

Legal Provision

- Section 171 of the CGST Act, 2017 mandates passing of GST benefits (ITC & tax reduction) to recipients
- Rule 133 of CGST Rules empowers authority to order return of profiteered amount with interest

Key Facts

- Contract: Construction work for NTPC (post-GST period: 1 July 2017 – 31 Oct 2023)
- Contractor had given ₹11.01 crore rebate (CA-certified) for pre-GST taxes
- Investigation found:
  - Incorrect pre-GST tax computation
  - Actual tax incidence higher, short rebate of ₹2.54 crore
  - Additional ITC benefit under GST not fully passed on

Profiteering Calculation

- DGAP computed profiteering based on key materials (pipes, binding wire, instruments)
- Total profiteering: ₹12,20,694

Amount Payable

- Work completed: ~76.73%
- Amount payable now (proportionate): ₹9,36,700
- Balance to be adjusted in future work

GSTAT Decision

- Contractor did profiteer by ₹12.20 lakh
- Must:
  - Pay ₹9.36 lakh (for completed work) to NTPC
  - Pay interest
  - Comply within 30 days

Key Takeaways

- Anti-profiteering applies even in long-term contracts like construction
- Incorrect tax assumptions (pre-GST) can lead to recovery later
- Additional ITC benefit must be passed on fully, even if:
  - Contract already adjusted
  - Or mistake was "inadvertent"
- Authorities may use material-wise costing analysis to compute benefit

Direct Tax

24.03.2026

Whether use of another person's premises without rent agreement or rent payment amounts to a benami transaction.

Deputy Commissioner of Income-tax (BPU) v. Sara Company
APPELLATE TRIBUNAL SAFEMA , NEW DELHI(09.03.2026)

Held

- No - not a benami transaction
- Provisional attachment not sustainable

Legal Provision Involved

Section 2(9) of the Act defines benami transaction, requiring:

1. Property held in one person's name
2. Consideration paid by another person
3. Property held for benefit of that person

Facts

- Alleged benamidar carried on business from another's premises
- No lease agreement
- No rent payment proof
- Bank accounts/books maintained at same premises
- Property provisionally attached by Initiating Officer

Adjudicating Authority:

- Found no evidence of consideration
- Refused to confirm attachment

Tribunal's Reasoning

- No allegation or proof of consideration passing
- No evidence that property was held for beneficial owner's benefit
- Arrangement was only for smooth business / supply of goods

Key observation:

Mere use of premises (even rent-free) does not make a transaction benami

Key Defect in Department's Case

- Focused only on:
  - Use of premises
  - Lack of rent agreement
- Ignored:
  - Essential ingredient → consideration

Hence, basic requirement of benami not satisfied

Ratio Decidendi

In absence of proof of consideration flowing from the alleged beneficial owner, a transaction cannot be treated as benami even if premises are used without rent or agreement.

Practical Implications

Allowed:

- Shared office arrangements
- Supplier–buyer operational setups
- Informal business convenience arrangements

Not sufficient for benami:

- No rent agreement
- No rent payment
- Common place of business

Unless money trail & beneficial ownership are proven

One-Line Conclusion

"No consideration → No benami; rent-free business use is merely a commercial arrangement."

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TAX INSIGHTS

By

Tax Research Department

Goods & Services Tax

24.03.2026

Whether a writ petition under Article 226 can be maintained against rectification orders, when: Proper assessment procedure was followed, and Alternative statutory appeal remedy exists

Koperla Vijaya Bhaskar v. Deputy Assistant Commissioner, STII, Markapur
High Court of Andhra Pradesh (23.02.2026)

Held
- Writ petition dismissed
- Petitioner directed to avail statutory appeal remedy

Key Facts
- Inspection conducted - books of account not produced
- TDS credits found but not disclosed in returns
- Suppression of outward supplies detected
- Notices issued:
  - DRC-01A (pre-intimation)
  - DRC-01 (SCN)
- No reply filed by taxpayer

Assessment order passed (tax & interest & penalty)
Later:
- Petitioner filed returns & rectification applications (Sec 161)
- Rectification orders passed after hearing
- Petitioner filed writ instead of appeal

Legal Provisions
- Section 161 of CGST Act, 2017
- Section 107 of CGST Act, 2017
- Article 226 of Constitution of India

Court's Reasoning

1. Proper procedure followed
   - Notices issued
   - Opportunity given
   - Hearing provided in rectification
   - No procedural illegality
2. Petitioner's default
   - Did not produce books
   - Did not respond to notices
   - Did not challenge original assessment
   - Cannot later bypass procedure via writ
3. Rectification scope limited
   - Sec 161 applies only to errors apparent on record
   - Not meant for re-appreciation of facts
4. Alternative remedy exists
   - Appeal available under Sec 107
   - Principle applied: When effective alternative remedy exists, writ jurisdiction should not be invoked
5. Disputed facts involved
   - Suppression of turnover
   - TDS mismatch
   - Such factual issues cannot be examined in writ jurisdiction

Ratio Decidendi

Writ petition against GST orders is not maintainable where:
- Proper procedure is followed
- No illegality is shown
- Disputed facts exist
- Alternative appellate remedy is available

Practical Takeaways

What NOT to do
- Ignore notices (DRC-01A / SCN)
- Skip assessment stage
- Directly file writ against rectification

Correct approach
- Respond to notices
- Challenge assessment order (if aggrieved)
- Use appeal under Sec 107
- Use rectification only for apparent errors

One-Line Rule

"Writ is not a shortcut for appeal—especially when facts are disputed and procedure is properly followed."

Direct Tax

25.03.2026

Whether the capital loss of AY 2007–08 can be set off in AY 2016–17? Whether 50% deduction u/s 57(iv) is allowable on: Interest from enhanced compensation Even if claim made at assessment/appellate stage.

Comunidade of Chicalim *v.* ACIT
ITAT PANAJI (17.03.2026)

Facts of the Case

- The assessee, a body of individuals (Comunidade), filed return for AY 2016–17.
- It reported:
  - Capital gains: ~₹1.66 crore
    - Set-off claimed:AY 2007–08 loss: ~₹1.40 crore
    - AY 2009–10 loss: ~₹9.06 lakh
- The Assessing Officer (AO) observed:
  - Loss of AY 2007–08 could be carried forward only up to AY 2015–16 (8 years).
  - Hence, set-off in AY 2016–17 is time-barred.
- Second issue:
  - Assessee earned interest on enhanced compensation (land acquisition)
  - Offered under "Income from other sources"
  - Claimed 50% deduction u/s 57(iv) via revised return during assessment
- AO:
  - Rejected deduction → revised return filed beyond time u/s 139(5)
- CIT(A):
  - Upheld:
    - Disallowance of AY 2007–08 loss
    - Denial of deduction u/s 57(iv)
  - Allowed relief for AY 2009–10 loss

Core Errors Identified

Error by Assessee (Issue 1)

- Attempted to carry forward capital loss beyond 8 years
- Argued delay due to pending compensation litigation

Tribunal:

- Law is strict and time-bound → no exception

Error by AO & CIT(A) (Issue 2)

- Denied deduction because:
  - Claim not made in valid revised return (procedural ground)
  - Mischaracterized receipt (not treating it properly as interest)

Tribunal:

- Ignored settled legal principle that:
  - Legitimate deduction cannot be denied due to technicalities

Relevant Legal Provisions

- Section 74 (Capital Loss)
  - Carry forward allowed for 8 AYs only
  - Applies strictly
- Section 56
  - Interest on compensation → taxable under "Income from other sources"
- Section 57(iv)
  - Flat 50% deduction on such interest income

Tribunal's Held Decision

Issue 1: Capital Loss Set-Off

- Loss of AY 2007–08:
  - Can be carried forward only up to AY 2015–16
- Set-off in AY 2016–17 → Not permissible
- Held: In favour of Revenue

Issue 2: Deduction u/s 57(iv)

- Tribunal held:
  - Interest on enhanced compensation:
    - Taxable under Section 56
    - Eligible for 50% deduction u/s 57(iv)
- Even if:
  - Claim made during assessment or appellate stage
  - Must be allowed if legally valid
- Relied on:
  - Puneet Singh v. CIT
- Held: In favour of Assessee

Final Outcome

Issue	Decision
Set-off of AY 2007–08 loss	Disallowed
Set-off of AY 2009–10 loss	Allowed
Deduction u/s 57(iv)	Allowed

- Appeal partly allowed

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TAX INSIGHTS

By

Tax Research Department

Goods & Services Tax

25.03.2026

Can a taxpayer avoid the mandatory pre-deposit (10%) for filing a GST appeal on the ground that: Tax was already paid during adjudication, and Only penalty/interest is disputed?

Orsu Yadaiah *v.* Goods and Services Tax Network (GSTN), New Delhi
HIGH COURT OF TELANGANA (02.02.2026)

Key Holding

The High Court of Telangana held:

- No waiver of mandatory pre-deposit is allowed under GST law.
- Disputes on tax/penalty must be argued before the Appellate Authority, not used to bypass pre-deposit.

Legal Position (Section 107, CGST Act)

- Filing an appeal requires mandatory pre-deposit:
  - Typically 10% of disputed tax/penalty
- This is a statutory condition, not discretionary

Facts of the Case

- Taxpayer paid tax dues during adjudication
- Later, penalty + interest (~₹15.11 lakh) imposed
- Taxpayer:
  - Claimed penalty unjustified
  - Requested GSTN to allow appeal without pre-deposit
- While corresponding with authorities, appeal deadline expired

Court's Observations

1. No authority (including GSTN) can waive pre-deposit
2. Payment of tax earlier does not eliminate requirement of pre-deposit
3. Whether penalty is valid:
   - A merits issue
   - Must be decided by Appellate Authority, not avoided

Important Principle

Pre-deposit is a condition to access appellate remedy — not dependent on merits of the case.

Relief Granted

Although strict on law, the Court gave limited relief:

- Allowed taxpayer to:
  - File appeal within 2 weeks
  - Submit delay condonation application
  - Make required pre-deposit
- Directed appellate authority to:
  - Consider delay sympathetically
  - Decide case on merits

Practical Takeaways

- Always comply with pre-deposit before filing GST appeal
- Don't rely on:
  - Prior tax payment
  - Pending representations
  - Merits of dispute
- Delay due to correspondence won't stop limitation clock
- Raise all arguments (penalty, interest, legality) only in appeal

Bottom Line

This judgment reinforces a strict procedural rule:

- You cannot skip pre-deposit—even if your case seems strong.
- Procedure first, merits later.

TAX INSIGHTS

By

Tax Research Department

Direct Tax

26.03.2026

Can the Assessing Officer (AO) reject a DCF valuation for share premium under Section 56(2)(viib) and substitute it with NAV without strong evidence?

Asirvad Micro Finance Ltd. v. DCIT
ITAT CHENNAI (10.03.2026)

Tribunal's Key Ruling

The ITAT held NO - the AO cannot reject DCF valuation arbitrarily.

Once the assessee chooses a valid method under Rule 11UA (DCF or NAV), the AO:

- Must accept it, unless
- He proves "perversity" (serious flaws or manipulation) with cogent evidence

Important Legal Principles Established

1. Section 56(2)(viib)
   - Its purpose is to prevent unaccounted money being routed via share premium
   - Not meant to question genuine commercial valuations
2. AO cannot change valuation method at will
   - Assessee has the option to choose:
     - DCF (future projections-based), OR
     - NAV (asset-based)
   - AO cannot substitute NAV for DCF just because:
     - He disagrees, or
     - Projections are based on management inputs
   - Only allowed if clear defects or manipulation are proven
3. No addition without evidence of unaccounted money
   - Tribunal stressed:
     - No evidence of bogus transaction
     - No proof of cash infusion
   - Therefore, Section 56(2)(viib) cannot be invoked
4. DCF projections cannot be rejected casually
   - AO failed because:
     - Didn't show projections were wrong
     - Compared EBIT vs PBT incorrectly
     - Ignored that actual profits exceeded projections
5. Timing of valuation report is NOT fatal
   - Even if valuation report is obtained after share issue, it remains valid
   - As long as valuation is properly substantiated
6. Regulatory approval strengthens genuineness
   - Transaction was approved by RBI
   - This supported:
     - Commercial legitimacy
     - Arm's-length nature

Final Outcome

- Addition of ~₹27.5 crore under Section 56(2)(viib) deleted
- Appeal allowed in favour of assessee

Practical Takeaways

- You can safely use DCF valuation if:
  - Supported by a professional /merchant banker
  - Backed by reasonable projections
- Keep documentation ready to justify assumptions

Bottom Line

This ruling reinforces a consistent judicial view:

- Valuation is not a matter of AO's opinion — it must be challenged with evidence, not suspicion.

TAX INSIGHTS

By

Tax Research Department

Goods & Services Tax

26.03.2026

Whether the assessee can bypass the statutory appellate remedy and directly approach the High Court (via writ) when: Key evidence (like FASTag data) is inaccessible, and there are disputes over factual matters (e.g., cross-examination of supplier)

Roshan Sharma v. Deputy Commissioner of Revenue, State Tax
SUPREME COURT OF INDIA (09.03.2026)

Supreme Court's Decision

The Supreme Court upheld the High Court's direction:
- The assessee must file a statutory appeal before the appellate authority
- Writ jurisdiction is not appropriate in such fact-heavy disputes

Key Observations

1. Appellate authority is the proper forum
   - The Court emphasized that:
     - Appellate authority can examine facts in detail
     - It can:
       - Call for records
       - Access FASTag portal
       - Evaluate evidence properly
   - Hence, fact adjudication = appellate authority's domain
2. FASTag data issue to be examined in appeal
   - Assessee argued:
     - FASTag data would prove movement of goods
     - But it was inaccessible and department didn't cooperate

   Court said:
   - Raise this before appellate authority
   - Authority can:
     - Direct access
     - Verify its evidentiary value
3. Cross-examination concerns also factual
   - Issue:
     - Supplier's statements allegedly ignored

   Court held:
   - Such matters require:
     - Evidence appreciation
     - Detailed scrutiny
   - Again, best handled in appeal, not writ
4. Writ vs Appeal principle reinforced
   - High Courts should not entertain writs when:
     - Effective alternate remedy exists
     - Dispute involves facts, evidence, verification
5. Relief granted by Supreme Court
   - Gave assessee:
     - 6 weeks to file appeal
   - Directed:
     - Appeal to be decided on merits independently
     - No prejudice from earlier High Court observations

Legal Context

- Relevant provisions:
  - Section 74 (demand & fraud cases)
  - Section 107 (appeals)
  - Section 129 (detention of goods)
  - Article 136 (SLP jurisdiction)

Practical Takeaways

- Don't rush to writ petitions when:
  - Evidence is disputed
  - Documents need verification
- Always consider statutory appeal first
- Use appellate stage to:
  - Demand access to digital evidence (FASTag, portals, logs)

Bottom Line

Writ courts handle legality - appellate authorities handle facts.

This ruling reinforces a consistent judicial approach:
- If your case depends on evidence, verification, or missing data,
- Go through the appeal route, not writ jurisdiction.

Direct Tax

27.03.2026

Whether ground floor & first floor of same property "one residential house". Whether reconstruction cost after purchase qualifies for Section 54 exemption?

Smt. Payal Bansal v. ITO
ITAT DELHI (13.03.2026)

Tribunal's Key Rulings

1. Multiple floors = One residential house
   - ITAT held:
     - Ground & first floor of same building
     - Constitute ONE residential house

Therefore:

- Full exemption under Section 54 allowed
- AO's view (treating them as 2 houses) rejected

2. Reconstruction cost is eligible
   - Assessee:
     - Purchased property
     - Demolished it
     - Reconstructed a new house

ITAT held:

- Construction cost is part of investment
- Eligible for Section 54 deduction

Legal Basis Relied Upon

The ITAT followed key precedents:

- CIT v. Gita Duggal (affirmed by SC)
- Pr. CIT v. Lata Goel

Principle from these cases:

"A residential house" ≠ one single unit

It means one property used as a residence, even if:

- Multiple floors
- Independent units
- Separate entrances

Key Reasoning by ITAT

Functional test (not structural test)

- What matters:
  - Property is one building
  - Used (or capable of being used) as one residence

What does NOT matter:

- Separate floors
- Independent entries
- Technical division into units

Investment includes improvement/construction

- Section 54 covers:
  - Purchase
  - Construction
- So:
  - Demolition & reconstruction valid investment

Final Outcome

- Full Section 54 exemption allowed on:
  - Ground floor
  - First floor
  - Construction cost
- Appeal allowed in favour of assessee

Practical Takeaways

You can claim full Section 54 exemption if:

- Buying multiple floors in same building
- Even if registered separately
- As long as it's effectively one residential house

For redevelopment cases:

- Buying old property & rebuilding
- Entire cost (purchase & construction) can qualify

Watch-outs:

- Property should not be:
  - Geographically separate
  - Completely unrelated units
- Must show:
  - Functional unity / single residential use

Bottom Line

Section 54 focuses on "residential use", not "number of units".

This ruling strengthens a taxpayer-friendly principle:

- Vertical division (floors) ≠ multiple houses
- Rebuilding is part of investment, not a disqualification

TAX INSIGHTS

By

Tax Research Department

Goods & Services Tax

27.03.2026

Can the same officer:

- **Authorize a search/inspection, and**
- **Later act as the Appellate Authority deciding the appeal arising from that action?**

Ramjilal Mohanlal v. Union of India
HIGH COURT OF RAJASTHAN(29.01.2026)

High Court's Decision

No — this violates principles of natural justice
The Court held:

- Such dual role creates a reasonable apprehension of bias
- Therefore, the appellate order is vitiated (invalid)

Key Legal Principle

Nemo judex in causa sua (Latin maxim meaning: "No one should be a judge in their own cause")
Applied strictly by the Court:

- Even possibility of bias is enough
- Actual bias need NOT be proven

What Happened in This Case

- Additional Commissioner:
  - Authorized search & inspection (Section 67)
  - Later acted as Appellate Authority (Section 107)
- This overlap was undisputed by the department

Court's Reasoning

- Officer had already:
  - Formed a prima facie view during search authorization
- Then:
  - Sat in judgment over same proceedings

This creates:

- Institutional bias
- Lack of impartial adjudication

Final Outcome

- Appellate order quashed
- Matter remanded

Direction:

- Appeal to be heard afresh
- By a different competent appellate authority
- Without prejudice from earlier findings
- Important: Limited Scope of Judgment
- Court did NOT examine merits
- Relief granted only on procedural/jurisdictional ground

Practical Takeaways

- Always check:
  - Whether same officer is performing multiple conflicting roles

If yes:

- Strong ground to challenge order on natural justice

Bottom Line

- Justice must not only be done — it must also be seen to be done.
- Even a reasonable apprehension of bias is enough to invalidate proceedings.

Direct Tax

28.03.2026

Whether CSR donations (disallowed under Section 37(1)) can still qualify for deduction under Section 80G.

Deputy Commissioner of Income-tax vs. Amneal Pharmaceuticals (P.) Ltd.
ITAT AHMEDABAD(12.03.2026)

Core Legal Question

Can a company claim Section 80G deduction for donations made as part of CSR obligations, even though such CSR expenditure is disallowed as business expense under Section 37(1)?

ITAT's Key Ruling

YES — deduction under Section 80G is allowed, subject to conditions.

Reasoning Explained

1. Different Sections, Different Purposes
    - Section 37(1) governs business expenditure Explanation 2: CSR expenses not allowed as business deduction
    - Section 80G governs charitable donations (Chapter VI-A)Separate and independent deduction provision
- Conclusion: Disallowance under one section ≠ automatic disallowance under another.

2. CSR ≠ Disqualified Donation
- Even if CSR is mandatory under Section 135 of the Companies Act, 2013,
- It does not lose its character as a "donation" under Section 80G.

3. No Restriction in Law
- Section 80G does NOT prohibit CSR donations, except specific exclusions like:
    - Swachh Bharat Kosh
    - Clean Ganga Fund (in certain cases)

4. Conditions for 80G Deduction

Deduction is allowed if:
- Donee is approved under Section 80G(5)
- Donation is made through proper channels (e.g., banking)
- Not falling under excluded categories

What the AO argued (Rejected)

- CSR is mandatory → not voluntary → not a "donation"
- Allowing 80G → indirect allowance of disallowed expense
- ITAT rejected both arguments.

Final Outcome

- Disallowance under Section 37(1): Valid
- Denial of Section 80G deduction: Invalid
- Assessee allowed 80G deduction (50%)

Key Principle

"CSR expenditure disallowed under Section 37(1) can still qualify for deduction under Section 80G, if statutory conditions are satisfied."

Supporting Precedents

The ITAT followed consistent rulings like:
- Vimal Coal (P.) Ltd.
- Gujarat State Financial Services Ltd.
- Adani Logistics Ltd.

(All Ahmedabad ITAT rulings with same view)

Practical Takeaway

For companies:
- Always disallow CSR under Section 37(1)
- Then separately claim Section 80G, if eligible

TAX INSIGHTS

By

Tax Research Department

Goods & Services Tax

28.03.2026

Can the High Court set aside a GST demand order and allow fresh adjudication even when appeal time limit has expired, subject to conditions?

Tvl. Sri Ram Hydraulics vs. State Tax Officer
HIGH COURT OF MADRAS(03.02.2026)

Key Facts Simplified

- Demand raised: ₹16.60 lakh (ITC mismatch: GSTR-2A vs GSTR-3B)
- Section involved: Section 73 (CGST Act)
- Assessee:
  - Filed reply but no personal hearing requested
  - Admitted discrepancy
  - Offered partial payment (~₹2.63 lakh)
- No appeal filed within time limit
- Writ filed after limitation expired

Court's Decision

Order quashed and matter remanded, BUT with condition:

- Assessee must deposit 50% of disputed tax within 30 days

Court's Reasoning

1. Limitation expired — but writ still maintainable
   - Normally, remedy is appeal under Section 107
   - However, HC can intervene in exceptional circumstances
2. Defective / weak defense earlier
   - Reply filed, but:
     - No proper arguments
     - No personal hearing sought
   - Court felt case wasn't properly presented
3. Assessee showed bona fide conduct
   - Admitted discrepancy
   - Already made partial reversal/payment
   - Willing to pay further amount
   - This weighed in favour of relief
4. Consistent judicial approach
   - Courts have allowed remand in similar cases
   - Condition: deposit 25%–100% depending on delay

Final Directions

- Order under Section 73 → Set aside
- Case → Remanded for fresh adjudication
- Condition → 50% pre-deposit within 30 days
- Bank attachment → Lifted after deposit
- Fresh order → within 3 months

Key Legal Principle

Even after expiry of appeal limitation, High Court can grant relief and remand the case if:

- Assessee shows bona fide intent
- Earlier defense was inadequate
- Subject to reasonable pre-deposit condition

Practical Takeaways

- Always:
  - File proper reply (DRC-06)
  - Request personal hearing
- If missed appeal deadline:
  - Writ may still work—but costly (pre-deposit required)

Direct Tax

29.03.2026

Does land lose its agricultural character (and become a "capital asset" under Section 2(14)) just because the buyer later converts it for industrial use?

ACIT vs. Ahmed Mahomed Pandor
ITAT AHMEDABAD(09.03.2026)

ITAT's Key Ruling

NO — it remains agricultural land

- Therefore, NOT a capital asset
- Hence, NO capital gains tax (LTCG)

Key Facts

- Assessee sold land, did not declare capital gains
- Claimed: land is agricultural (Sec 2(14))
- AO said:
  - Land near municipality
  - Sold for industrial use
  - Treated as capital asset added ₹8.76 crore LTCG
- CIT(A) found:
  - Land was agricultural in revenue records
  - Located beyond prescribed municipal limits
  - Conversion to industrial use happened 5–6 years later by buyer

Tribunal Decision

- Revenue's appeal dismissed
- Assessee's claim accepted
- No capital gains tax

Key Legal Principles

1. Nature of land is judged at the time of sale
   - What happens after sale is irrelevant
2. Subsequent conversion ≠ change in character
   - Buyer converting land later, does NOT affect seller's taxability
3. Conditions for agricultural land (outside capital asset scope)

Land is NOT a capital asset if:

- It is agricultural in nature
- Situated beyond prescribed municipal limits
- Not converted to non-agricultural use before sale

4. Intention of buyer is irrelevant
   - Even if sold for industrial purpose, still agricultural if facts support

Important Precedent Followed

- Gujarat High Court in CIT v. Rajshibhai Meramanbhai Odedra
- Sale to non-agriculturist does not change nature of land

Key Principle

"Agricultural land does not become a capital asset merely because the purchaser later converts it to non-agricultural use."

Practical Takeaways

- Maintain:
  - Land revenue records
  - Proof of agricultural use
  - Distance from municipality

Quick Comparison

Factor	Relevant?
Agricultural use at sale	Yes
Distance from municipality	Yes
Buyer's intention	No
Post-sale conversion	No

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TAX INSIGHTS
By
Tax Research Department

Goods & Services Tax

29.03.2026

Can the High Court restore GST registration through a writ petition when the taxpayer misses the statutory deadline for revocation?

Prabhath General Trades (P.) Ltd. vs. Commissioner, SGST Department
HIGH COURT OF KERALA(23.01.2026)

Key Facts

- GST registration cancelled due to:
  - Non-filing of returns (> 6 months)
  - No reply to SCN / no personal hearing
- After cancellation:
  - Returns filed
  - Tax paid
  - But revocation application not filed within time
- Assessee approached HC directly for restoration

Court's Decision

- Writ petition dismissed
- Registration NOT restored

Legal Reasoning

1. Strict statutory timeline under GST law

Under Section 30 & Rule 23:

- Initial time limit → 90 days
- Extension allowed → +180 days
- Maximum total = 270 days

2. Time limit is mandatory (not procedural)

- Assessee filed returns & request after 270 days
- No valid revocation application within time
- Hence, right to revocation lost

3. Writ cannot override statute

- High Court cannot:
  - Extend statutory limitation
  - Grant relief contrary to law
- Writ jurisdiction not a substitute for statutory compliance

Key Legal Principle

"Revocation of GST registration must be sought within the statutory time limit (max 270 days); delay beyond this cannot be cured through writ jurisdiction."

Practical Takeaways

- Always act within 90 days (preferably)
- Use extension window (up to 270 days) if needed
- Filing returns later does not revive rights automatically

Quick Summary

Aspect	Position
Cancellation reason	Non-filing of returns
Revocation time limit	90 + 180 = 270 days
Filed within time?	No
HC relief granted?	No
Outcome	Writ dismissed

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29.03.2026

Important GST compliances

There are certain Procedural compliances which needs to be complied with by our practcing and working CMAs in respect of GST on are before 31st March 2026. Which are as follows

Form/ Compliances	Particulars	Due Date
RFD 11 / LUT filing	Exporters exporting goods without payment of IGST shall file their RFD 11 on GST portal before 31st March 2026 for FY 2026-27	31st March 2026
New Composition RTPs	Any normal registered taxpayers willing to opt for Composition for FY 2026-27 shallapply in CMP-02 before 31.3.2026	31st March 2026
QRMP scheme	Any RTP having aggregate TO on single pan upto 5 Crores may opt for Qarterly Returns Monthly Payment scheeme before 30.4.2026. It reduces the Compliance burden of small RTPs	30th April 2026
Resetting of Invoice Series	RTPs needs to reset their Invoice series for Tax Invoice, Dr/Cr notes and Bill of supplies and self invoices. The series must be alphanumeric and special character not more than 16 digits	31st March 2026
E-Invoicing	RTPs having Aggregate TO above 5 crores (in any FY since 2017-18) under same PAN shall get registered themselves on IRP(invoice registration portal)	-
GTA changeover	GTA willing to Opt for Forward Charge mechanism shall file Annexure - V and GTA willing to revert back to Reverse Charge mechanism shall file Annexure - VI on or before 31st March 2026	31st March 2026
Job work related Goods and Capital goods return back	Raw materials not returned within One year and Capital goods not returned in 3 years is treated as Taxable Outward supply. Hence RTPs having Aggregate TO above 5 Cr shall file ITC 04 for period 1.9.2025 to 31.3. 226 on or before 25.4.2026	25th April 2026
HSN / SAC code	RTPs having Aggregate TO over 5 Cr shall mention HSN/SAC codes in 6 digits on all transactions and in 8 digits for Export n Imports and specified materials. The HSN/SAC on Tax invoice shall match with whatever entered in Table 12 of GSTR 1	-

TAX INSIGHTS

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Tax Research Department

Direct Tax

30.03.2026

Whether a notice under Section 148 is validly issued within limitation (Section 149) when: it is signed and handed over for dispatch on time, but actually booked/sent by the postal department later.

Perin Exim LLP v. Income-tax Office
HIGH COURT OF GUJARAT (23.02.2026)

Key Facts

- Notice u/s 148 dated 30-06-2025
- Handed over for dispatch to postal department the same day
- Postal booking happened later on 05-07-2025
- Assessee argued: notice is time-barred (beyond limitation)
- Notice also returned with remark "no such person"

Court's Ruling

The Gujarat High Court held:

- Notice is validly issued within limitation
- Date of dispatch = date of issue
- Actual service is NOT required for validity of issue

Legal Principle Applied

Relied on Supreme Court ruling:
R.K. Upadhyaya v. Shanabhai P. Patel
Principle:

- "Issue" of notice ≠ "Service" of notice
- Jurisdiction arises when notice is issued within time
- Service is required only before completing assessment—not for initiating it

Court's Reasoning

- Postal seal proved handover/dispatch on 30-06-2025
- Delay in booking by postal department not attributable to AO
- Once notice leaves department control → issuance complete
- Hence, limitation under Section 149 satisfied

Key Takeaways

1. Meaning of "Issue"
   - Issue = when notice is dispatched/handed over for sending
   - Not when it is:
     - delivered
     - served
     - received
2. Limitation under Section 149
   - Relevant date = date of dispatch, not delivery
3. Service vs Issue

Aspect	Requirement
Issue of notice	Must be within limitation
Service of notice	Required before assessment order

Practical Implication

- Assessees cannot challenge reopening merely because:
  - notice reached late, or
  - was returned undelivered
- As long as dispatch is within time → reassessment valid

Goods & Services Tax

30.03.2026

Whether GST authorities can:

- **continue recovery proceedings, and**
- **retain amounts debited from the electronic cash ledger,**

even after the assessee has made the mandatory pre-deposit for Tribunal appeal (Section 112).

Spandan Electrical v. State of West Bengal
HIGH COURT OF CALCUTTA(17.02.2026)

Key Facts

- Adjudication order - confirmed in first appeal (Section 107)
- Assessee filed Tribunal appeal (Section 112)
- Deposited 10% of disputed tax (mandatory pre-deposit)
- Despite this, department recovered additional amounts
- Electronic cash ledger balance was reduced

Court's Ruling

The Calcutta High Court held:
Recovery beyond prescribed pre-deposit is not permissible

- Excess recovery must be refunded
- Electronic cash ledger must be restored
- Recovery of balance demand is deemed stayed

Legal Framework

Relevant Sections:

- Section 107(6) → Pre-deposit for first appeal
- Section 112(8) → Pre-deposit for Tribunal appeal (10%)
- Section 112(9) → Automatic stay of recovery after pre-deposit
- Section 79 → Recovery provisions

Key Legal Principle

"Deemed Stay after Pre-deposit"
Once the assessee deposits required amounts:

- Recovery of remaining demand automatically stays
- No separate stay order required

Court's Reasoning

- If pre-deposit u/s 112(8) is made → Section 112(9) triggers
- This creates a statutory bar on further recovery
- Authorities must respect this mandate
- Any recovery beyond:
  - First appeal pre-deposit &
  - Tribunal pre-deposit
- is illegal and refundable

Relief Granted

- Assessee to file representation
- If pre-deposit verified:
  - Refund excess recovery
  - Restore electronic cash ledger
- Department to decide within 2 weeks

Key Takeaways

1. Maximum Recovery Limit

Stage	Pre-deposit
First Appeal (Sec 107)	10%
Tribunal (Sec 112)	10%
Total Cap	20% of disputed tax

- Recovery beyond this is illegal

2. Automatic Stay
   - Triggered by payment of pre-deposit
   - No need to apply separately
3. Electronic Cash Ledger Protection
   - Wrongful debit, must be restored/refunded

Practical Impact

- Strong precedent for taxpayers facing coercive recovery
- Ensures:
  - protection of working capital
  - discipline in GST recovery actions

TAX INSIGHTS

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Direct Tax

31.03.2026

Whether such transactions qualify as "benami transactions" under Section 2(9)(A) of the Prohibition of Benami Property Transactions Act, 1988?

Initiating Officer (BPU) v. Narendra Lamba

SAFEMA Appellate Tribunal, New Delhi (19.03.2026)

Core Facts

- Trusts (VVKI & VVMVP) funded purchase of agricultural land.
- Land was registered in the name of Narendra Lamba (SL).
- Purpose: bypass restriction under Karnataka Land Reforms Act (trusts couldn't buy agri land).
- MoUs showed:
  - SL would buy → convert → transfer land to trusts.
- Trusts had possession and benefit of land.

Tribunal's Core Findings

1. Benami exists even if benamidar doesn't retain property
   - Condition satisfied:Consideration → paid by trusts
   - Title → in SL's name
   - Benefit → for trusts

Tribunal clarified:

- Law does NOT require continuous holding by benamidar
- Property can even be held/used by beneficial owner (trust)
- Therefore → still benami

2. Section 53A (part performance) protection NOT applicable

- Explanation to Section 2(9) applies only when:
  - Two parties: buyer & seller

Here:

- There were 3 parties:
  - Seller
  - SL (name lender)
  - Trusts (real funder & beneficiary)
- Hence → not excluded from benami

3. Fiduciary capacity exception rejected

- Section 2(9)(A)(ii) applies only if:
  - Person acts purely in fiduciary capacity

Tribunal held:

- SL:
  - Entered MoUs
  - Played structured role
  - Not merely a trustee/agent
- Therefore:
- Not "pure fiduciary"
- Exception not available

4. Motive irrelevant for deciding benami nature

- Argument: transaction was to bypass land law → now repealed

Tribunal held:

- Motive ≠ relevant for deciding benami
- Only relevant for prosecution under Section 53

Benami determination depends ONLY on:

- Section 2(9)(A) conditions

5. Later amendment of Karnataka Land Reforms Act irrelevant

- Even though restriction (Section 79B) was removed retrospectively:

Tribunal held:

- That does NOT change:
  - Who paid consideration
  - Who benefited
- Hence → transaction still benami

Legal Principle

A transaction is benami if:

1. Property is in one person's name, AND
2. Consideration is paid by another, AND
3. Property is for benefit of the payer

EVEN IF:

- Property is later transferred
- Beneficial owner is in possession
- Motive disappears later

Practical Takeaways

Key ratios:

- "Holding" does not require benamidar's continued possession
- Three-party arrangements = strong indicator of benami
- Fiduciary exception is narrow
- Motive is irrelevant for classification
- Subsequent law changes don't cure benami nature

Final Outcome

- Tribunal allowed Revenue's appeal
- Set aside Adjudicating Authority order
- Held transactions = BENAMI

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Goods & Services Tax

31.03.2026

Whether GST proceedings are valid when: Assessee already updated address, but department continued serving notices at old address?

Sachde Roadlines v. Union of India
Gujarat High Court(26.02.2026)

Key Facts

- Petitioner updated address in 2017
- New address reflected in GST Registration (REG-06)
- Despite this:
  - SCN (Show Cause Notice) sent to old address
  - Order-in-original → old address
  - Appellate order → again old address
- Petitioner never received notices
- Appeal raised non-service, but ignored

Legal Question

Does service at an incorrect (old) address invalidate GST proceedings?

High Court's Ruling

1. Service at wrong address = violation of natural justice
   - Authorities had updated address on record
   - Still used old address

   Court held:
   - This denied opportunity of hearing
   - Violates principles of natural justice
2. Section 169 (GST service provisions) not complied with
   - Under GST law:
     - Notices must be served at registered/known address

   Here:
   - Correct address available in REG-06
   - Yet ignored
   - Hence invalid service
3. Entire proceedings vitiated

Because:
- SCN not served properly
- Orders passed without participation

Result:
- SCN + Order-in-original + Appellate order → all invalid

Final Outcome

- All proceedings quashed
- Matter remanded for fresh adjudication
- To be completed within 12 weeks

Key Legal Principles

1. Proper service is mandatory
   - Not a technicality
   - Goes to root of jurisdiction
2. Updated address must be used
   - If department has knowledge, it must use it
   - Ignoring it = procedural illegality
3. Natural justice > procedural shortcuts
   - No notice = no hearing
   - No hearing = order invalid

Practical Takeaways

✓ Strong defence for taxpayers:
- "Notice not served at correct address"
- Can invalidate entire proceedings

✓ Department's duty:
- Verify latest GST records (REG-06) before issuing notices

✓ Appellate authority obligation:
- Must address procedural defects
- Cannot ignore non-service plea

One-Line Ratio

Service of GST notices at an old address, despite updated records, violates natural justice and renders the entire proceedings void.