

TAX INSIGHTS

By
 Tax Research Department

Direct Tax

01.08.2026

Whether a rectification order passed under Section 154 read with Section 143(3) of the Income-tax Act, 1961 is valid when:

- it is passed beyond the statutory limitation period prescribed under Section 154(7);
- no prior notice is served to the assessee as required under Section 154(3); and
- the order does not contain a Document Identification Number (DIN) as mandated by the CBDT Circular dated 14 August 2019.

Surajit Ghosh v. Income-tax Officer
 High Court of Calcutta (31 March 2026)

Facts of the Case

- The assessee's assessment was completed under Section 143(3) on 25 February 2015.
- Subsequently, the Assessing Officer passed a rectification order under Section 154 on 25 March 2022 seeking to amend the assessment.
- The assessee challenged the rectification order before the Calcutta High Court through a writ petition.
- The assessee contended that:
 - the rectification order was passed after expiry of the limitation period prescribed under Section 154(7);
 - no notice under Section 154(3) was served before passing the order;
 - the order did not bear a valid DIN as required by the CBDT Circular.
- The Revenue objected to the writ petition on the ground of delay in approaching the High Court.

- The Department failed to establish that a prior notice under Section 154(3) had been served upon the assessee before passing the rectification order.
- The impugned order also did not contain a DIN, contrary to the mandatory CBDT Circular dated 14 August 2019.
- Passing an order beyond the prescribed limitation amounted to a jurisdictional error.
- The Court accepted the assessee's explanation for delay in filing the writ petition, noting that it occurred due to the death of the earlier advocate.

Ratio Decidendi

A rectification order under Section 154 is invalid where it:

1. is passed beyond the limitation period prescribed under Section 154(7);
2. is passed without complying with the mandatory requirement of prior notice under Section 154(3); and
3. does not bear a valid DIN as required by the CBDT Circular, rendering the proceedings legally unsustainable.

Legal Provisions Involved

- Section 154(3) – Mandatory opportunity of hearing before rectification where the amendment is prejudicial to the assessee.
- Section 154(7) – Four-year limitation for passing rectification orders.
- Section 143(3) – Regular assessment.
- CBDT Circular dated 14 August 2019 – Mandatory quoting of Document Identification Number (DIN).

Outcome

- Writ Petition: Allowed.
- Rectification Order: Quashed.
- Recovery Proceedings: Set aside.

Key Takeaway

The judgment reiterates that Section 154 is a limited power of rectification subject to strict procedural safeguards. The Revenue must adhere to:

- the statutory limitation period,
- the mandatory requirement of granting prior notice where the rectification is prejudicial to the assessee, and
- CBDT's DIN requirements.

Failure to comply with these mandatory conditions renders the rectification order without jurisdiction and liable to be quashed.

Decision of the High Court

The Calcutta High Court allowed the writ petition and set aside the rectification order along with all consequential recovery proceedings.

Key Observations of the Court

- The assessment sought to be rectified was passed on 25 February 2015.
- Under Section 154(7), the rectification order could have been passed only up to 31 March 2019.
- Since the rectification order was passed on 25 March 2022, it was clearly barred by limitation.

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Goods & Services Tax

01.08.2026

Whether printing only the manufacturer's corporate name and address on packaging, as required under the Food Safety and Standards and Legal Metrology laws, constitutes the use of a "brand name" so as to deny GST exemption under Notification No. 02/2017-CT(R), and whether institutional supplies qualify as "pre-packaged and labelled" goods after the amendment made by Notification No. 7/2022-CT(R).

Asish Kumar Pati v. Non-Executive Director
 GSTAT, Maharashtra (22 July 2026)

Facts of the Case

- The respondent, Godrej Tyson Foods Ltd., was engaged in supplying fresh and frozen poultry products to institutional buyers operating quick service restaurants.
- During 1 April 2020 to 4 January 2021, the respondent supplied goods in packages bearing the brand logos "Godrej Tyson" and "Godrej Real Good", and paid GST at 5%.
- From 5 January 2021, the respondent removed all brand logos from the packaging but continued printing its corporate name and address as mandated under the Food Safety and Standards (Labelling and Display) Regulations, 2020 and the Legal Metrology Act, 2009.
- The respondent thereafter claimed exemption under Notification No. 02/2017-CT(R) on the ground that the goods were no longer branded.
- Following the amendment by Notification No. 7/2022-CT(R) with effect from 18 July 2022, the respondent continued claiming exemption, contending that supplies to institutional consumers were not "pre-packaged and labelled" goods intended for retail sale.
- The Department issued a Show Cause Notice denying the exemption and confirmed a GST demand of ₹2.27 crore, along with interest and penalty.
- The Commissioner (Appeals) set aside the demand.
- The Revenue filed appeals before the GST Appellate Tribunal.

Revenue's Contentions

- Retaining the company's name and overall packaging style continued to create a commercial association with the brand.
- Printing the supplier's name prominently amounted to branding rather than mere statutory compliance.
- Sales invoices also contained the brand name, demonstrating continued brand recognition.
- The respondent had not voluntarily foregone its actionable claim over the brand name, and therefore exemption was not available.
- Invocation of Section 74 was justified due to suppression of facts.

Assessee's Contentions

- The company name and address were printed solely to comply with statutory labelling requirements.
- Mandatory statutory declarations cannot be treated as use of a brand name.
- The exemption notification applies to the branding on the goods themselves and not to information appearing on invoices.
- Institutional supplies are excluded from the category of "pre-packaged and labelled" commodities meant for retail sale.
- The dispute involved interpretation of law and there was no suppression warranting action under Section 74.

Decision of the GST Appellate Tribunal

The GST Appellate Tribunal dismissed the Revenue's appeals and upheld the order of the Commissioner (Appeals), holding that the respondent was entitled to the GST exemption.

Key Findings of the Tribunal

- Printing the manufacturer's name and address pursuant to statutory obligations under the Food Safety and Standards Regulations and Legal Metrology laws does not amount to affixing a brand name.
- The respondent had discontinued the use of its registered brand logos from 5 January 2021, thereby satisfying the conditions for exemption.
- Mentioning the company name on invoices cannot convert otherwise unbranded goods into branded goods because the exemption relates to the goods and their packaging, not to invoices.
- Supplies made to institutional consumers are not "pre-packaged and labelled" commodities intended for retail sale under the Legal Metrology Rules.
- The Tribunal relied upon Supreme Court decisions in RDB Textiles Ltd., Tarai Foods Ltd., and the Madras High Court decision in Narasus Saarathy Enterprises (P.) Ltd., which consistently held that statutory declarations do not constitute branding.
- The decisions relied upon by the Revenue were distinguishable as they involved voluntary use of brand names to establish commercial identity.

TAX INSIGHTS

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Direct Tax

02.08.2026

Whether the exceptions introduced by the CBDT letter dated 20 August 2018 to the CBDT Circular dated 11 July 2018 regarding monetary limits for filing departmental appeals apply retrospectively to appeals under Section 260A that were already pending before the date of the modification.

Principal Commissioner of Income-tax v. Arvind Dwarkadas Purohit
High Court of Bombay (25.06.2026)

Facts of the Case

- The Revenue filed an appeal under Section 260A against the order of the Income Tax Appellate Tribunal (ITAT) dated 2 August 2018.
- The appeal involved a tax effect of ₹10.21 lakh, which was below the monetary limit prescribed under CBDT Circular No. 3/2018 dated 11 July 2018.
- The Revenue argued that although the tax effect was below the prescribed limit, the appeal was maintainable because it fell within the exceptions introduced by the CBDT letter dated 20 August 2018.
- The substantial questions of law related to the allowability of purchases allegedly made from non-existent vendors and the assessee's burden to prove the genuineness of such purchases.
- The primary issue before the High Court, however, was the applicability of the CBDT monetary-limit circulars and the subsequent exceptions.

Legal Provisions Involved

- Section 260A of the Income-tax Act, 1961 – Appeal to the High Court.
- Section 268A of the Income-tax Act, 1961 – Filing of appeals by the Income-tax Department based on CBDT monetary limits.
- CBDT Circular No. 3/2018 dated 11 July 2018.
- CBDT Letter dated 20 August 2018 modifying Circular No. 3/2018.
- CBDT Circular Nos. 5/2024 and 9/2024 (referred to by the Court for interpretation).

Revenue's Contentions

- Although the tax effect was only ₹10.21 lakh, the appeal was covered by the exceptions introduced through the CBDT letter dated 20 August 2018.
- Therefore, the appeal should not be dismissed merely because it fell below the prescribed monetary threshold.

Decision of the High Court

The Bombay High Court disposed of the Revenue's appeal, holding that the exceptions introduced by the CBDT letter dated 20 August 2018 cannot be applied retrospectively to appeals instituted before that date.

Key Findings of the Court

- The CBDT letter dated 20 August 2018 expressly stated that the modifications would come into effect from the date of its issuance.
- Consequently, the exceptions introduced by the letter cannot operate retrospectively.
- While enhanced monetary limits prescribed by CBDT circulars apply even to pending appeals, newly introduced exceptions operate only prospectively.
- Since the Revenue's appeal had been instituted before 20 August 2018 and the tax effect was below the prescribed monetary limit, the appeal was liable to be disposed of.

Ratio Decidendi

The enhanced monetary limits prescribed by CBDT circulars are applicable to pending departmental appeals. However, exceptions introduced subsequently to those circulars are prospective in operation and cannot be invoked to sustain appeals that were instituted before the date on which such exceptions came into force.

Final Outcome

- Revenue's Appeal: Disposed of.
- Question of Law: Left open for determination in an appropriate future case.
- Reason: Tax effect was below the prescribed monetary limit, and the later exceptions could not be applied retrospectively.

Key Takeaway

This judgment reiterates that CBDT monetary-limit circulars are binding on the Revenue and apply to pending appeals, thereby reducing unnecessary litigation. However, exceptions introduced through subsequent CBDT modifications take effect only prospectively and cannot revive or sustain departmental appeals filed before the date of such modifications. The decision provides clarity on the temporal application of CBDT litigation-management policies and reinforces certainty in the administration of tax appeals.

TAX INSIGHTS

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Goods & Services Tax

02.08.2026

Whether GST authorities can deny or recover transitional Input Tax Credit (ITC) carried forward through TRAN-1 by re-examining the admissibility of CENVAT/VAT credits under the erstwhile tax laws when no proceedings were initiated or pending under the pre-GST regime, and whether transition of Krishi Kalyan Cess (KKC) credit and imposition of penalty were legally sustainable.

Tata Unistore Ltd. v. Commissioner, CGST & Central Excise, Navi Mumbai Commissionerate Goods and Services Tax Appellate Tribunal (GSTAT), Thane Bench (31.07.2026)

Facts of the Case

- Tata Unistore Ltd., an e-commerce operator, had accumulated CENVAT credit, VAT ITC and Krishi Kalyan Cess (KKC) under the pre-GST regime.
- The company carried forward these credits into GST by filing Form GST TRAN-1 under Section 140 of the CGST Act.
- The credits included:
 - CENVAT credit under Sections 140(1) and 140(5),
 - VAT ITC on stock-in-trade under Section 140(6), and
 - Krishi Kalyan Cess (KKC).
- The Department issued a show cause notice under Section 74 alleging that:
 - the underlying credits were inadmissible,
 - supporting documents were not produced,
 - KKC was not eligible for transition.
- The adjudicating authority denied the entire transitional credit, demanded interest and imposed 100% penalty.
- The first appellate authority upheld the order.
- The appellant challenged the order before the GSTAT.

Tribunal's Decision

The GSTAT allowed the appeal and set aside the entire demand, interest and penalty.

Key Findings

1. GST authorities cannot reopen undisputed pre-GST credits
 - The CENVAT and VAT credits were duly reflected in pre-GST returns.
 - No proceedings questioning those credits had ever been initiated under the erstwhile laws.
 - GST authorities cannot invoke Section 74 merely to reassess admissibility of credits under repealed statutes.

Held: Recovery proceedings under GST for such credits were without jurisdiction.

2. Transitional provisions do not create fresh adjudication powers

The Tribunal held that:

- Sections 142 and 174 preserve proceedings under the old laws.
- They do not authorize GST officers to initiate fresh proceedings to determine whether pre-GST credits were admissible.
- If any credit was wrongly availed before GST, action had to be taken under the erstwhile enactments, not under the CGST Act.

3. Invoice-wise verification of closing balance is legally untenable

The Tribunal observed that:

- Transitional credit represents a closing balance, not individual invoices.
- Matching every invoice with the closing balance is practically impossible.
- Minor procedural defects such as:
 - address mismatch, absence of service description, production of corrected invoices at appellate stage, cannot defeat substantive entitlement.

4. Transition of Krishi Kalyan Cess (KKC) was valid

The Tribunal held:

- The appellant had transitioned KKC through TRAN-1 and later reversed it under protest.
- The Revenue relied on retrospective amendments and CBIC Circular.
- However:
 - the relevant statutory explanations were never operationalised through notification,
 - the Bombay High Court decision in Godrej & Boyce Mfg. Co. Ltd. remained binding,
 - mere pendency of an SLP without stay did not dilute the precedent.

Accordingly, transition of KKC credit was held valid.

5. VAT credit on stock-in-trade could not be denied

The Tribunal found that:

- The appellant furnished all required particulars.
- Revenue failed to identify any specific deficiency.
- Generic allegations of missing documents were insufficient.

Therefore, denial of VAT transitional credit was unsustainable.

6. Penalty under Section 74 was unjustified

The Tribunal observed that:

- The entire claim was voluntarily disclosed through TRAN-1.
- There was no fraud, suppression or wilful misstatement.
- Since the substantive demand itself failed, the 100% penalty automatically became unsustainable.

Final Decision

- Appeal allowed.
- Demand denying transitional ITC set aside.
- Recovery proceedings declared without jurisdiction.
- Transition of CENVAT credit, VAT ITC and KKC credit upheld.
- Interest and 100% penalty quashed.
- Consequential relief granted to the appellant.

TAX INSIGHTS

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Direct Tax

03.08.2026

Whether an application for condonation of delay in claiming an income-tax refund under Section 119(2)(b) can be rejected solely because it was filed beyond the six-year period prescribed in CBDT Circular No. 9/2015, despite the statutory power conferred under Section 119(2)(b).

Bhupathi Hotels Ltd. v. Centralized Processing Centre
 High Court of Andhra Pradesh (07.07.2026)

Facts of the Case

- The assessee-company filed its income-tax returns for:
 - AY 2013-14 on 27.09.2014, and
 - AY 2015-16 on 05.09.2016.
- Due to financial difficulties and the Managing Director's health issues, the assessee could not claim the refunds within the prescribed time.
- Consequently, on 08.02.2023, the assessee filed applications under Section 119(2)(b) seeking condonation of delay in claiming refunds.
- The competent authority rejected both applications solely on the ground that CBDT Circular No. 9/2015 dated 09.06.2015 prohibits entertaining refund condonation applications beyond six years from the relevant assessment year.
- The assessee challenged the rejection before the Andhra Pradesh High Court.

Decision of the High Court

The High Court allowed the writ petitions, set aside the rejection orders, and directed the authorities to reconsider the assessee's refund claims on merits.

Key Findings

1. Section 119(2)(b) confers wide discretionary power. The Court held that:

- Section 119(2)(b) is intended to provide relief in cases of genuine hardship.
- The provision empowers authorities to admit delayed claims for refund, exemption, deduction or other relief.
- The statute itself does not prescribe any specific limitation period for exercising this power.

2. Liberal interpretation should be adopted

The Court observed that:

- The legislative intent behind Section 119(2)(b) is to adopt a liberal and equitable approach.
- Authorities must examine the reasons for delay and decide applications on their merits rather than rejecting them mechanically.

3. CBDT Circular cannot override the Act

The Court held that:

- Although CBDT circulars are binding on departmental authorities, they cannot override or curtail the statutory powers granted by Parliament.
- The six-year restriction contained in CBDT Circular No. 9/2015 is inconsistent with the broader discretion available under Section 119(2)(b).

4. Mechanical rejection was unsustainable

The Court noted that:

- The authority failed to examine the genuine reasons cited by the assessee, namely financial hardship and the Managing Director's health issues.
- The applications were rejected solely because they exceeded six years, without considering the merits.

Such an approach was held to be legally unsustainable.

5. Reliance on judicial precedents

The Court followed earlier decisions, including:

- Shilparamam Arts, Crafts and Cultural Society v. Addl. CIT (Telangana High Court), and
- A Coordinate Bench decision of the Andhra Pradesh High Court,

which recognized the broad scope of Section 119(2)(b) and emphasized that genuine hardship should receive liberal consideration.

Final Decision

- The rejection orders dated 29.01.2024 were set aside.
- The respondent authority was directed to reconsider the assessee's applications for condonation and refund on merits, without rejecting them merely on the basis of the six-year period prescribed in CBDT Circular No. 9/2015.
- Fresh orders were directed to be passed within six weeks.

Ratio Decidendi

Section 119(2)(b) confers a statutory and discretionary power to condone delay in appropriate cases of genuine hardship. Such power cannot be curtailed by CBDT Circular No. 9/2015 prescribing a six-year limit. Authorities must examine each application on its merits instead of rejecting it solely on the ground of limitation contained in the circular.

TAX INSIGHTS

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Goods & Services Tax

03.08.2026

Whether mere uploading of a Show Cause Notice (SCN) and adjudication order on the GST Common Portal constitutes valid service for computing the limitation period for filing an appeal, particularly where the assessee claims illiteracy and lack of knowledge of the proceedings.

Amar Coop LC Society Ltd. v. State of Haryana
 High Court Punjab & Haryana (23.07.2026)

Facts of the Case

- The petitioner did not file any reply to the Show Cause Notice (SCN).
- Consequently, the GST authorities passed an ex parte Order-in-Original followed by a rectification order.
- Both the orders were served only by uploading them on the GST Common Portal.
- The petitioner filed an appeal, explaining that:
 - He was an illiterate person.
 - He had engaged a representative who failed to file a reply.
 - He had no knowledge that his case had been selected for scrutiny or that any tax demand had been raised.
- The Appellate Authority dismissed the appeal as time-barred.
- The petitioner challenged the dismissal before the High Court.

Decision of the High Court

The Punjab & Haryana High Court allowed the writ petition by following its earlier judgment in Luxmi Traders v. Union Territory of Chandigarh and held that:

- Mere uploading of notices or orders on the GST Common Portal does not constitute valid service in circumstances where the assessee had no effective knowledge of the proceedings.
- The retrospective amendment introduced by the Finance Act, 2022 did not alter this legal position.
- Since the petitioner specifically pleaded illiteracy and absence of actual knowledge, portal-only service could not trigger the limitation period.
- If the petitioner had already deposited the statutory pre-deposit, the appellate authority was directed to hear the appeal on merits.
- Any bank attachment pursuant to the impugned order was directed to be revoked, and recoveries would remain subject to the final outcome.

Key Observations of the Court

- Proceedings resulting in serious civil consequences require proper and effective service of notices and orders.
- The CGST Rules do not expressly recognize the GST Common Portal as the exclusive mode for serving SCNs and adjudication orders.
- Retrospective amendments empowering the Common Portal to perform GST functions do not automatically validate portal-only service for adjudication orders.
- Limitation for filing an appeal cannot begin merely because an order has been uploaded on the portal when the assessee had no real or effective notice.

Ratio Decidendi

Portal-only uploading of GST notices or adjudication orders does not amount to valid service for limitation purposes, particularly where the assessee establishes lack of knowledge due to illiteracy or similar circumstances. Effective service is essential before limitation can commence.

Final Outcome

- Writ Petition Allowed.
- Matter disposed of in terms of the earlier decision in Luxmi Traders.
- Appeal directed to be heard on merits (subject to statutory pre-deposit, if made).
- Recovery proceedings to remain subject to final adjudication, and any bank attachment was ordered to be revoked.

Significance of the Ruling

This judgment strengthens taxpayer safeguards by holding that procedural fairness cannot be sacrificed merely because documents are uploaded on the GST portal. Where taxpayers genuinely lack knowledge of proceedings—particularly due to illiteracy or similar circumstances—portal-only service is insufficient to trigger limitation or sustain ex parte adverse orders. It reinforces the principle that effective communication is a prerequisite for enforcing tax liabilities with serious civil consequences.

TAX INSIGHTS

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 Tax Research Department

Direct Tax

04.08.2026

Whether an assessment completed under section 143(3) can be reopened after four years under section 147 when the Assessing Officer has no new tangible material and seeks to revisit an issue that had already been examined during the original scrutiny assessment.

ECI Technology (P.) Ltd. v. ACIT
 High Court of Gujarat (14.07.2026)

Facts of the Case

- The assessee, engaged in manufacturing wire harnesses, discontinued its business in 2009 and decided to dispose of its assets.
- During A.Y. 2012-13, it sold land, building, plant and machinery, and furniture & fixtures for ₹7.30 crore.
- Initially, the assessee filed its return declaring capital gains. Subsequently, owing to the higher stamp duty valuation, it filed a revised return by applying section 50C, resulting in enhanced capital gains.
- The revised return was selected for scrutiny assessment under section 143(3).
- During scrutiny, the Assessing Officer specifically sought details regarding:
 - Computation of capital gains,
 - Sale of assets,
 - Set-off of capital losses,
 - Supporting documents including sale deed, valuation report, balance sheet, and computation statements.
- After examining all the details, the Assessing Officer accepted the revised return and completed the assessment.
- More than four years later, the Assessing Officer issued a notice under section 148, alleging that:
 - Plant and machinery and furniture had not actually been sold;
 - The assessee had wrongly claimed short-term capital loss set-off of approximately ₹3.95 crore, resulting in escapement of income.
- The assessee challenged the reopening by filing a writ petition.

Decision of the High Court

The Gujarat High Court allowed the writ petition and quashed the reassessment notice.

The Court held that:

- The issue relating to computation of capital gains and set-off of capital losses had been specifically examined during the original scrutiny assessment.
- The assessee had furnished all relevant documents, including: revised return, computation of capital gains, sale deed, balance sheet, stamp valuation records, GIDC circulars, detailed explanations.

- The Assessing Officer had accepted the claim after due verification.
- The reopening was based entirely on the same material that was already available during the original assessment.
- No fresh tangible material had emerged after completion of the assessment.
- There was no failure by the assessee to disclose fully and truly all material facts, which is a mandatory condition for reopening an assessment beyond four years.

Key Observations of the Court

- Reassessment beyond four years is permissible only when income has escaped assessment due to the assessee's failure to make a full and true disclosure of material facts.
- Once a specific issue has been examined during scrutiny and accepted, it cannot be reopened merely because the Assessing Officer subsequently forms a different view.
- Reopening based solely on reappraisal of the same material constitutes a mere change of opinion, which is impermissible under section 147.
- Absence of any fresh tangible material renders the reassessment notice without jurisdiction.

Ratio Decidendi

An assessment completed under section 143(3) cannot be reopened beyond four years unless:

- the Assessing Officer possesses new tangible material, and
- the escapement of income is attributable to the assessee's failure to disclose fully and truly all material facts.

Reopening based solely on reconsideration of material already examined amounts to a mere change of opinion and is invalid.

Final Outcome

- Writ Petition Allowed.
- Notice issued under section 148 for reopening the assessment was quashed and set aside.

Key Takeaway

This judgment reiterates the settled principle that reassessment is not a mechanism for reviewing completed scrutiny assessments. Once an issue has been thoroughly examined and accepted under section 143(3), the Assessing Officer cannot reopen the assessment after four years merely by reinterpreting the same facts. In the absence of fresh tangible material and any failure by the assessee to make full and true disclosure, such reassessment is nothing more than a change of opinion and is legally unsustainable.

TAX INSIGHTS

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Goods & Services Tax

04.08.2026

- Whether tax recovery under the Explanation to Section 75(12) of the CGST Act can be initiated solely on the basis of excess tax declared in GSTR-1 without first issuing an intimation in Form GST DRC-01B under Rule 88C and providing an opportunity of hearing.
- Whether Input Tax Credit (ITC) for FY 2018-19 could be denied as time-barred despite the retrospective insertion of Section 16(5), where the relevant GSTR-3B return was filed before 30 November 2021.

ITI Ltd. v. Union of India
 High Court of Gauhati (20.03.2026)

Facts of the Case

- The petitioner filed GSTR-1 for March 2019 containing clerical mistakes:
 - GST on four invoices was mistakenly reported at 18% instead of 12%.
 - A credit note was incorrectly reflected.
- However, the correct tax liability was disclosed in:
 - GSTR-3B, and GSTR-9.
- The department treated the higher liability shown in GSTR-1 as self-assessed tax under the Explanation to Section 75(12) and passed an order under Section 73 without first issuing Form GST DRC-01B or seeking an explanation.
- The department also denied ITC for FY 2018-19 on the ground that GSTR-3B for March 2019 had been filed after the time limit prescribed under Section 16(4).
- The petitioner challenged the order before the Gauhati High Court.

Decision of the High Court

The Gauhati High Court allowed the writ petition, set aside the order-in-original, and remanded the matter to the adjudicating authority.
 The Court held that:

- Rule 88C mandates issuance of Form GST DRC-01B and an opportunity to explain the mismatch before recovering tax as self-assessed tax under Section 75(12).
- Direct recovery merely because GSTR-1 reflected a higher liability is unsustainable when the mismatch arises from a bona fide clerical error.
- Genuine mistakes in GSTR-1 are capable of correction, and the taxpayer must be allowed to establish the correct tax liability.
- Tax can only be recovered at the statutory rate actually applicable to the supply.
- The denial of ITC for FY 2018-19 was also unsustainable because the retrospective insertion of Section 16(5) permits availment of ITC where the relevant Section 39 return was filed on or before 30 November 2021. Since the petitioner filed the March 2019 return on 13 March 2021, the ITC claim was valid.

Key Legal Principles

- Recovery of excess liability shown in GSTR-1 under the Explanation to Section 75(12) cannot be made without following the procedure prescribed under Rule 88C, including issuance of DRC-01B and granting an opportunity to explain the mismatch.
- Bona fide clerical errors in GST returns should not result in automatic tax recovery without affording the taxpayer an opportunity to rectify or explain the discrepancy.
- The retrospective benefit of Section 16(5) extends the time for claiming ITC for FYs 2017-18 to 2020-21 where the relevant return under Section 39 was filed up to 30 November 2021.

Relevant Provisions

- Section 75(12) – Recovery of self-assessed tax
- Explanation to Section 75(12) – Tax declared in GSTR-1 treated as self-assessed tax
- Sections 37 & 39 – Furnishing of outward supplies and returns
- Section 16(5) – Retrospective extension of ITC time limit
- Rule 59 – Furnishing details of outward supplies
- Rule 88C – Intimation of difference between GSTR-1 and GSTR-3B through Form GST DRC-01B
- Section 73 – Determination of tax not paid or short paid

Key Takeaway

The judgment reinforces that procedural safeguards cannot be bypassed while recovering tax under Section 75(12). Before treating excess tax declared in GSTR-1 as recoverable self-assessed tax, authorities must issue DRC-01B and provide the taxpayer an opportunity to explain genuine discrepancies. It also affirms that taxpayers are entitled to the retrospective benefit of Section 16(5) for ITC claims relating to FY 2018-19 where returns were filed on or before 30 November 2021.

TAX INSIGHTS

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Direct Tax

05.08.2026

Whether, for claiming exemption under Section 54GB of the Income-tax Act, 1961, the expression "company incorporated in India" can be interpreted to mean the date on which the company commenced business or obtained MSME registration, instead of its actual date of incorporation under the Companies Act.

Kamal Chand Jain v. Commissioner of Income-tax
 ITAT Hyderabad (15.07.2026)

Facts of the Case

- The assessee, an individual, earned long-term capital gains (LTCG) of ₹2.61 crore from the sale of a residential property.
- He invested the entire capital gain in the equity shares of M/s. Spads Polyplast Products Pvt. Ltd. and claimed exemption under Section 54GB.
- The investee company:
 - was incorporated on 27 March 2008 under the Companies Act;
 - remained dormant for several years;
 - commenced manufacturing/business activities only on 1 March 2017; and
 - obtained MSME registration effective from the same date.
- The Assessing Officer denied the exemption on the ground that the company was not an "eligible company" under Section 54GB(6), since it was incorporated long before the prescribed period.
- The CIT(A) upheld the assessment order.
- The assessee appealed before the ITAT.

Assessee's Contentions

The assessee argued that:

- Although the company was incorporated in 2008, it had not commenced any business until 1 March 2017.
- The company effectively became operational only after obtaining MSME registration.
- Therefore, the date of commencement of business/MSME registration should be treated as the effective date of incorporation for Section 54GB.
- Section 54GB is a beneficial provision intended to encourage investment in new manufacturing enterprises.
- Relying on Bajaj Tempo Ltd. v. CIT (1992), the assessee contended that the provision should receive a liberal interpretation.

Revenue's Contentions

The Revenue submitted that:

- Section 54GB(6) expressly requires the company to be "incorporated in India" during the specified period.
- Incorporation is a legal event governed exclusively by the Companies Act.
- Neither commencement of business nor MSME registration can substitute the statutory date of incorporation.
- Since the company was incorporated on 27 March 2008, it failed the basic eligibility condition.

Key Findings of the Tribunal

1. Incorporation means incorporation under the Companies Act;

The Tribunal held that:

- Section 54GB(6) specifically uses the expression "company incorporated in India."
- The statute does not refer to:
 - commencement of business, commencement of manufacturing, acquisition of plant and machinery, MSME registration, or any other operational milestone.

Hence, only the date of incorporation under the Companies Act is relevant.

2. Commencement of business is legally different from incorporation;

The Tribunal observed that:

- A company comes into legal existence immediately upon issuance of the certificate of incorporation.
- Remaining dormant or inactive does not alter its legal status.
- Commencement of business cannot replace the statutory incorporation date.

3. MSME registration cannot alter the incorporation date:

The MSME certificate merely records the date of commencement of business for MSME purposes. It does not: amend, override, or substitute

the company's incorporation date under the Companies Act.

4. Beneficial interpretation cannot override clear statutory language:

Although Section 54GB is an incentive provision intended to promote investment in new businesses, the Tribunal held that:

- legislative intent cannot override explicit statutory conditions;
- liberal interpretation applies only where the statutory language is ambiguous.

Since the wording of Section 54GB(6) is clear, the Tribunal refused to substitute "commencement of business" for "incorporation."

5. Strict interpretation of exemption provisions;

The Tribunal relied on the Constitution Bench decision in Commissioner of Customs (Import) v. Dilip Kumar & Company (2018) and reiterated that:

- exemption provisions must be construed strictly;
- the burden lies on the assessee to establish that all statutory conditions are fulfilled.

As the investee company failed the first eligibility condition itself, the exemption could not be granted.

Final Holding

The investment did not qualify for exemption under Section 54GB because the investee company:

- was incorporated on 27 March 2008, and
- was not incorporated within the statutory period prescribed under Section 54GB(6).

Accordingly, the denial of exemption of ₹2.61 crore was upheld.

TAX INSIGHTS

By

Tax Research Department

Goods & Services Tax

05.08.2026

Whether the 10% mandatory pre-deposit introduced by the substituted proviso to Section 107(6) of the CGST Act (effective from 1 October 2025) applies to appeals against penalty-only orders, where, the Show Cause Notice (SCN) was issued before 1 October 2025, but the Order-in-Original (OIO) imposing the penalty was passed after 1 October 2025.

Gaurav Jain v. Joint Commissioner (Appeals-II), CGST Delhi Zone
 High Court of Delhi (31.07.2026)

Facts of the Case

- The petitioners were issued a Show Cause Notice (SCN) dated 25 June 2025 proposing penalties under Section 122(1A) of the CGST Act.
- The SCN alleged that they were key persons in a bogus Input Tax Credit (ITC) network.
- The SCN proposed two quantified penalties aggregating to approximately ₹346.55 crore against each petitioner.
- After adjudication, the Order-in-Original dated 16 December 2025 imposed the proposed penalties.
- Importantly:
 - No tax demand was raised.
 - The order imposed only penalties.
- With effect from 1 October 2025, Section 107(6) was amended requiring a 10% pre-deposit of penalty before filing an appeal against penalty-only orders.
- The Appellate Authority refused to waive the pre-deposit, stating it had no statutory power to do so.
- The petitioners approached the Delhi High Court.

Statutory Background

Before 1 October 2025:

For appeals under Section 107:

- admitted tax, interest, penalty etc. had to be paid;
- 10% pre-deposit applied only to disputed tax;
- there was no percentage-based pre-deposit for appeals against penalty-only orders under Section 122(1A).

After 1 October 2025:

The substituted proviso to Section 107(6) provides:

No appeal against an order demanding penalty without tax demand shall be filed unless 10% of the penalty is deposited.

Petitioners' Contentions

The petitioners argued that:

- The right of appeal is a substantive vested right.
- That right crystallizes when the lis (legal dispute) commences.
- The lis commenced with the issuance of the SCN on 25 June 2025, before the amendment came into force.
- Therefore, their appellate rights are governed by the pre-amendment Section 107(6).
- The new requirement cannot retrospectively impose a heavier burden.
- Alternatively, they challenged the constitutional validity of the amendment and sought waiver of pre-deposit.

Revenue's Contentions

The Revenue contended that:

- An appeal arises only after an adverse order.
- Since the OIO was passed after 1 October 2025, the amended law should apply.

The words "No appeal shall be filed..."

show that the applicable law is the law in force on the date of filing the appeal.

- The earlier proviso stood substituted and therefore ceased to exist.

Key Findings of the Court

1. Right of appeal is a substantive vested right

The Court reiterated the settled principle that:

- the right of appeal is substantive;
- it vests when the lis commences, not when the appellate order becomes appealable.

2. Lis commenced on issuance of the SCN

The Court observed that:

- the SCN quantified the proposed penalties;
- it asserted legal liability;
- adjudicatory proceedings formally commenced on 25 June 2025.

Therefore, the appellate rights became attached to the proceedings on that date.

3. Amendment imposed a more onerous condition

Before the amendment:

- no percentage-based pre-deposit existed for penalty-only appeals.

After amendment:

- appellants must deposit 10% of the penalty before filing an appeal.

Thus, the amendment materially burdened the appellate remedy.

4. Amendment not retrospective

The Court found:

- no express provision making the amendment retrospective;
- no transitional clause indicating that pending proceedings would be governed by the amended provision;
- no necessary implication requiring retrospective application.

Accordingly, the amendment applies prospectively.

5. "No appeal shall be filed" is procedural

The Revenue argued that these words require application of the amended law to every appeal filed after 1 October 2025.

The Court rejected this argument.

It held that the phrase merely prescribes when compliance must occur.

It does not determine which version of the law governs the appeal.

6. Earlier law survives for pending proceedings

Although the old proviso stood substituted, the Court held that:

- the earlier provision continues to govern proceedings already initiated,
- only for preserving vested appellate rights.

7. Appellate Authority has no power to waive statutory pre-deposit

The Court agreed that:

- where the statute requires pre-deposit,
- the Appellate Authority has no inherent power to waive or reduce it.

However, since the amended provision itself did not apply, the question of waiver became irrelevant.

TAX INSIGHTS

By
 Tax Research Department

Direct Tax

06.08.2026

Whether cash payments of ₹10,90,100 towards credit card dues could be treated as unexplained money under section 69A of the Income-tax Act, 1961, when the assessee had explained that the payments were made out of cash withdrawals from his bank account and the underlying business income had already been offered to tax on a presumptive basis under section 44AD.

Sharwan Kumar Prajapat v. Income-tax Officer

ITAT Jaipur (21.07.2026)

Facts of the Case

- The assessee made cash payments of approximately ₹10.90 lakh towards credit card dues during AY 2023-24.
- He explained that the source of these payments was cash withdrawn from his bank account and furnished the bank statement in support.
- The assessee had made aggregate cash withdrawals of about ₹28.02 lakh from his SBI bank account.
- He further submitted that the withdrawals represented funds from his contract business, whose income had been declared on a presumptive basis under section 44AD.
- The assessee had returned income of ₹4,94,760, which was accepted by the Revenue.

Assessment by AO

The Assessing Officer was not satisfied with the explanation because the assessee had not furnished a date-wise correlation/reconciliation between the cash withdrawals and the credit card payments.

Consequently, the AO treated the entire ₹10,90,100 as unexplained money under section 69A and added it to the assessee's income.

CIT(A)'s Decision

The CIT(A) upheld the addition on the following grounds:

1. The assessee had not furnished a date-wise reconciliation of cash withdrawals with credit card payments.
2. Mere withdrawal of cash from a bank account did not establish its subsequent utilisation.
3. The assessee failed to furnish documentary evidence proving that he was actually carrying on contract business.
4. The CIT(A) rejected the assessee's argument that the addition resulted in double taxation, holding that the returned business income and section 69A addition were separately taxable.

ITAT's Decision

The Jaipur ITAT deleted the entire addition of ₹10,90,100 under section 69A and allowed the assessee's appeal.

The Tribunal gave the following key findings:

1. Bank withdrawals sufficiently explained the source

The bank statement showed frequent cash withdrawals and sufficient withdrawals to cover the credit card payments.

The Revenue had not established that the withdrawn cash was used for some other purpose. Therefore, the assessee's explanation regarding the source of the credit card payments was considered satisfactory.

2. Direct date-wise correlation was not mandatory

The Tribunal held that there was no need for a direct one-to-one correlation between each cash withdrawal and each credit card payment. Where sufficient cash withdrawals existed and there was no evidence that such cash had been utilised elsewhere, it could reasonably be presumed that the cash was retained as cash-in-hand and subsequently used for the credit card payments.

3. Revenue could not take a contradictory position regarding section 44AD

The assessee had declared business income under section 44AD and the same had been accepted by the Revenue. Having accepted the presumptive business income, the CIT(A) could not subsequently reject the assessee's explanation that the bank credits and subsequent cash withdrawals were connected with that business merely because separate documentary evidence of contract work was not produced.

4. Addition would result in double taxation

Since the business income had already been subjected to tax under section 44AD, taxing the subsequent withdrawal of that business income again as unexplained money under section 69A would effectively result in double taxation.

Final Decision

The ITAT held that the source of the ₹10,90,100 credit card payments stood sufficiently explained through the assessee's bank withdrawals. Accordingly, the addition under section 69A was deleted in full, and the assessee's appeal was allowed.

Key Takeaway

The ruling establishes that mere absence of a date-wise one-to-one correlation between bank withdrawals and subsequent cash expenditure does not automatically justify an addition under section 69A, particularly where sufficient withdrawals are available, no alternative utilisation of the cash is established by the Revenue, and the underlying business income has already been taxed under the presumptive taxation scheme of section 44AD.

TAX INSIGHTS

By

Tax Research Department

Goods & Services Tax

06.08.2026

Whether the entire GST registration of a registered person could be cancelled under Section 29 of the CGST/KGST Act merely because allegedly fabricated documents were used subsequently to obtain an amendment of the registration, when the original registration itself was not obtained through fraud or suppression of facts.

N. Suveendran v. State Tax Officer
 High Court of Kerala (06.07.2026)

Facts of the Case

- The third respondent was already holding a valid GST registration for his business.
- Subsequently, he applied for an amendment of his GST registration to include certain business premises.
- For obtaining the amendment, he relied upon permission letters purportedly issued by his father and brother.
- The State Tax Officer found the documents to be fraudulent, particularly because the documents carried a date after the death of the respondent's father.
- On this basis, the State Tax Officer cancelled the original GST registration itself under Section 29(2)(c) of the CGST Act.

Proceedings Before the Appellate Authority and Single Judge

The first appellate authority set aside the cancellation, holding that the State Tax Officer did not have the power to cancel the registration on the facts of the case.

The matter was thereafter considered by the High Court. The Single Judge took a balanced approach by:

- cancelling the amendments made to the GST registration on the basis of the disputed documents;
- keeping the original GST registration intact; and
- permitting the taxpayer to seek a fresh amendment in accordance with law.

The appellant challenged the Single Judge's decision, arguing that once the amendments had been obtained through fraudulent documents, the entire GST registration ought to have been cancelled.

High Court's Findings

1. Section 29 primarily concerns the validity of the registration itself

The Court observed that Section 29(2) permits cancellation where registration was obtained by fraud, wilful misstatement or suppression of facts, or where the registered person contravenes the Act or Rules. The Court distinguished fraud affecting the initial grant of registration from an alleged fraud committed later while seeking an amendment.

2. Alleged fraud occurred only at the amendment stage

In the present case, the alleged fabrication related only to documents submitted for amending the existing registration. There was no finding that the original GST registration itself had been obtained through fraud or suppression. Therefore, cancellation of the original registration was not warranted merely because the subsequent amendment was defective.

3. Amendment could be cancelled without cancelling the original registration

The Court approved the Single Judge's approach of cancelling the disputed amendments while allowing the original registration to continue. According to the Court, this constituted a "median course" that secured substantial justice between the parties.

4. Dispute related only to the business premises

The amendment concerned the premises of the business and did not affect the business activity itself. Since civil litigation concerning ownership/rights over the premises was pending, the taxpayer was permitted to seek a fresh amendment after obtaining valid supporting documents or appropriate orders from the competent civil court.

5. No prejudice caused by retaining the original registration

The Court noted that cancelling the entire GST registration would provide no meaningful benefit to the appellant and would essentially operate as a form of retribution. Retaining the original registration while cancelling the defective amendment did not prejudice the parties.

Decision

The Kerala High Court dismissed the appeal and upheld the Single Judge's order.

Thus:

- Cancellation of original GST registration: Not justified.
- Disputed amendment: Cancelled.
- Original GST registration: Continued.
- Fresh amendment: Permitted, subject to valid documents/orders and applicable law.

Key Takeaway

Fraud or irregularity committed at the amendment stage of a GST registration does not automatically justify cancellation of the original registration where the initial registration itself was validly obtained.

The appropriate action may be to cancel the tainted amendment while preserving the original registration, particularly where the amendment concerns only business premises and the underlying dispute is pending before a civil court.

Practical GST Implication

The ruling reinforces the principle of proportionality in cancellation of GST registration. Authorities should distinguish between:

fraud in obtaining the original registration and irregularity/fraud in a subsequent amendment.

Where the defect is confined to an amendment, cancellation of the entire GST registration may be excessive unless the statutory conditions for cancellation of the registration itself are independently satisfied.

TAX INSIGHTS

By
 Tax Research Department

Direct Tax

07.08.2026

Whether the delay in filing Form No. 10 by a charitable trust for accumulation of income under section 11(2) could be condoned under section 119(2)(b) where the delay occurred due to oversight and the first-time e-filing requirement, particularly when the accumulated funds had actually been invested in the prescribed modes under section 11(5).

Sadhu Vasvani Mission v. Commissioner of Income-tax (Exemption)
 High Court of Gujarat (16.07.2026)

Facts of the Case

- The assessee was a charitable trust formed more than 30 years ago and was engaged in running a school up to the Higher Secondary level.
- During FY 2015-16, relevant to AY 2016-17, the trust had total receipts of approximately ₹2.33 crore and applied approximately ₹1.49 crore towards charitable purposes.
- Since it could not apply 85% of its income, it decided to accumulate the surplus under section 11(2) for modernization and refurbishment of its school facilities.
- The accumulated surplus was invested in six term deposits, all falling within the prescribed modes under section 11(5).
- Form No. 10 was required to be furnished by the due date for filing the return. However, the trust inadvertently failed to file it because of an oversight and the fact that AY 2016-17 was the first year in which Form No. 10 was required to be filed electronically.
- During assessment proceedings, the Assessing Officer questioned the non-filing of Form No. 10 and ultimately disallowed the accumulation.
- The trust subsequently filed an application before the CIT (Exemptions) under section 119(2)(b) seeking condonation of the delay. It also electronically filed Form No. 10 and submitted details of the investments, term deposits and bank statements.
- The CIT (Exemptions), however, rejected the application for condonation of delay.

Assessee's Contention

The assessee argued that:

- The failure to file Form No. 10 within time was due to a reasonable and bona fide oversight.
- AY 2016-17 was the first year of mandatory e-filing of Form No. 10.
- The trust had actually invested the accumulated funds in the prescribed modes under section 11(5).
- Denial of condonation would result in genuine hardship, despite substantive compliance with the conditions for accumulation.

Revenue's Contention

The Revenue contended that the assessee had failed to file Form No. 10 within the prescribed time and that the requirements of section 119(2) were not sufficient to justify condonation because, according to the authority, no genuine hardship would arise if the benefit was denied.

CBDT Circular Considered

The High Court relied upon CBDT Circular No. 7/2018 dated 20 December 2018, which specifically dealt with belated filing of Forms 9A and 10 for AY 2016-17, being the first year of e-filing.

The Circular authorized Commissioners to admit belated Form No. 10 applications where:

1. The assessee was prevented by reasonable cause from filing the form within time; and
2. In the case of Form No. 10, the accumulated amount had been invested or deposited in the prescribed modes under section 11(5).

Decision of the High Court

The Gujarat High Court allowed the writ petition and held that the respondents ought to have considered the genuine hardship caused to the assessee, particularly because the surplus funds had already been invested in term deposits in accordance with section 11(5).

The Court:

- Quashed and set aside the CIT (Exemptions)'s order dated 17 September 2019.
- Directed the respondents to condone the delay in filing Form No. 10.
- Consequently enabled the assessee to claim the exemption under section 11.

Key Legal Principle

The Court emphasized that section 119(2)(b) is intended to enable substantial justice. The expression "genuine hardship" should be interpreted meaningfully and not mechanically.

Where:

- the delay is attributable to a bona fide and reasonable cause,
- the assessee has a genuine and otherwise meritorious claim,
- substantive statutory conditions have been complied with, and
- refusal to condone the delay would cause genuine hardship,

the authority should adopt a justice-oriented approach rather than reject the claim merely on technical grounds.

Practical Takeaway

For charitable trusts claiming accumulation under section 11(2), timely filing of Form No. 10 remains important. However, where a genuine and reasonable cause results in delay, section 119(2)(b) can provide relief. The fact that the accumulated funds were actually invested in the prescribed modes under section 11(5) was particularly significant in establishing the assessee's bona fides and genuine hardship in this case.

TAX INSIGHTS

By
 Tax Research Department

Goods & Services Tax

07.08.2026

Whether multiple Central/State GST authorities can simultaneously continue proceedings on the same subject matter, particularly after one authority has issued a show cause notice (SCN) concerning the alleged availment of fake ITC.

Vardhman Ispat Udhog v. Adjudicating Authority-cum-Deputy Commissioner, CGST Division, Dharamshala
 High Court of Himachal Pradesh (06.07.2026)

Facts of the Case

- The petitioner was subjected to inquiries by different GST authorities concerning alleged fake ITC availed from various firms.
- The DGGL, Jaipur Zonal Unit initially shared information concerning the petitioner with the CGST authorities at Shimla.
- The Assistant Commissioner (Anti-Evasion), CGST Shimla, subsequently sought verification of the petitioner's ITC, to which the petitioner furnished information.
- Thereafter, the Superintendent, CGST Range, Una, issued communications seeking recovery/deposit of alleged fake ITC relating to firms allegedly operated or managed through a cloud server. The petitioner responded to these communications.
- Subsequently, the Deputy Commissioner, CGST Division-Dharamshala issued an SCN dated 11 March 2025 on the same subject matter.
- The petitioner approached the High Court contending that the various communications amounted to parallel proceedings by different authorities concerning the same issue.

Petitioner's Contention

The petitioner contended that once an authority had issued an SCN and the petitioner had submitted a detailed response, the matter should be taken to its logical conclusion by that authority and no other authority should continue separate proceedings on the same subject matter.

Legal Position Considered by the Court

The High Court relied heavily on the Supreme Court's decision in 'Armour Security (India) Ltd.'.

The Supreme Court had clarified that:

- Section 6(2)(b) bars initiation of proceedings on the same subject matter by another GST administration.
- Intelligence-based enforcement action can initially be undertaken by either Central or State GST authorities.
- However, parallel proceedings should not be initiated once intelligence-based enforcement action has already been initiated by one administration.
- Mere summons, search, seizure or information-gathering activities do not themselves constitute formal adjudicatory proceedings.
- Issuance of an SCN constitutes formal commencement of adjudicatory proceedings.

- Where proceedings concern the same tax liability, deficiency or obligation arising from the same contravention, the bar against parallel proceedings applies.

What Happens When an SCN Has Already Been Issued?

The Supreme Court's guidelines, as applied by the High Court, provide that where an SCN has been issued in respect of a particular liability, the authority issuing that SCN gets precedence to continue and complete the proceedings.

Other authorities dealing with the same subject matter must forward their relevant material and information to the designated adjudicating authority rather than conduct parallel adjudication.

Decision of the High Court

The High Court held that the issue was already settled by the Supreme Court in *Armour Security (India) Ltd.*

Since the first SCN on the subject matter was issued on 11 March 2025 by the Deputy Commissioner, CGST Division-Dharamshala, that authority was entitled to continue and complete the adjudication.

Accordingly, the Court directed that:

1. The petitioner should file a detailed reply to the SCN dated 11 March 2025.
2. The authority issuing the SCN should proceed with the matter in accordance with law.
3. Other authorities must not continue parallel proceedings concerning the same subject matter.
4. Such authorities should forward any relevant information/material to the SCN-issuing authority.
5. The petitioner must be given prior intimation of such material so that it gets an effective opportunity to respond.
6. The competent authority was directed to pass an appropriate order expeditiously.

Ratio Decidendi

Once a show cause notice is issued by one GST authority on a particular subject matter, the authority issuing the SCN has precedence to adjudicate and conclude the proceedings. Other GST authorities cannot simultaneously pursue parallel adjudicatory proceedings on the same subject matter; instead, they must share relevant information with the designated authority.

TAX INSIGHTS

By
Tax Research Department

Direct Tax

08.08.2026

Whether the income of the estate of a deceased person, administered by a sole executor, can be taxed at the Maximum Marginal Rate (MMR) by treating the estate as an Artificial Juridical Person/AOP, or whether it should be taxed at the individual slab rates under section 168(1)(a). A related issue was whether the Assessing Officer could determine the applicable tax status without examining the deceased's will/testament to verify the number and nature of executors.

Estate of Late Rajen Krishnalal Shah v. Income-tax Officer
ITAT Mumbai (04.08.2026)

Facts of the Case

- Late Rajen Krishnalal Shah died on 24 November 2024.
- The assessee was the sole executor administering his estate.
- The executor filed the return of income for AY 2025-26 under section 139(4), computing the estate's income under section 168 and opting for the new tax regime under section 115BAC.
- The estate's income for the period from the date of death to 31 March 2025 was approximately ₹1.49 lakh.
- While processing the return under section 143(1), the CPC/AO treated the estate as an Artificial Juridical Person (AJP) and levied tax at the Maximum Marginal Rate, rather than applying individual slab rates.
- The assessee challenged this treatment before the CIT(A), but the appeal was dismissed.
- The assessee then approached the Mumbai ITAT.

Assessee's Main Contentions

The assessee argued that:

1. Section 168(1)(a) expressly provides that where there is only one executor, the income of the deceased's estate is taxable in the hands of the executor "as if the executor were an individual."
2. Therefore, the income should be subjected to the tax rates applicable to an individual, rather than MMR.
3. Section 167B, dealing with taxation of AOPs/BOIs, could not be mechanically applied to an estate governed by section 168.
4. The estate was not an AOP voluntarily constituted by the parties; it arose because of the death of the taxpayer and was being administered by the executor.
5. Existing Mumbai Tribunal decisions supported taxation at individual slab rates where there was a sole executor.

Relevant Legal Provision

Section 168 provides for taxation of income of the estate of a deceased person in the hands of the executor:

- Section 168(1)(a): Where there is only one executor, the income is chargeable as if the executor were an individual.
- Section 168(1)(b): Where there is more than one executor, the income is chargeable as if the executors were an AOP.

Thus, the number of executors is critical in determining the applicable tax treatment.

Tribunal's Analysis

The ITAT noted that the issue was covered by earlier Mumbai Tribunal decisions, including:

- Estate of Vasant Patki v. DCIT, dated 30 March 2026;
- Estate of Nalini Manilal v. ITO, [2025](Mumbai – Trib.);
- Estate of Late Harkishin Bhojraj Chanrai v. DCIT, dated 29 June 2022.

The Tribunal also relied on CIT v. G.B.J. Seth, [1982], where the High Court held that when there is only one executor, section 168(1)(a) requires assessment as if the executor were an individual.

However, the ITAT identified an important factual deficiency; the will/testament of Late Rajen Krishnalal Shah had not been examined either by the Assessing Officer or by the CIT(A).

The Tribunal considered verification of the will necessary because the applicability of section 168(1)(a) depends upon establishing that there was in fact only one executor and determining the relevant testamentary arrangement.

Decision

The ITAT allowed the appeal for statistical purposes/remanded the matter to the Assessing Officer.

It directed the AO to:

- examine/verify the testament and will of the deceased;
- determine whether section 168(1)(a) is applicable; and
- assess the estate's income at the rates applicable to an individual, subject to such verification.

Therefore, the Tribunal did not permit the estate to be finally taxed at MMR merely by treating it as an AJP without examining the testamentary documents.

Key Principle

Where a deceased person's estate is administered by a sole executor, section 168(1)(a) requires the estate's income to be assessed as if the executor were an individual, and consequently individual tax rates/slab rates apply, subject to verification of the testamentary documents establishing the sole-executor status.

The AO cannot bypass the statutory mechanism under section 168 and automatically impose MMR merely because the estate is represented as an AJP.

One-Line Takeaway

A deceased's estate administered by a sole executor cannot be subjected to MMR merely by classifying it as an AJP; the AO must examine the will, and if section 168(1)(a) applies, the estate must be taxed at rates applicable to an individual.

TAX INSIGHTS

By
Tax Research Department

Goods & Services Tax

08.08.2026

Whether an appeal against an order granting/rejecting refund of accumulated CENVAT credit under section 142(3) of the CGST Act, where the refund has been adjudicated under section 11B of the erstwhile Central Excise Act, lies before GSTAT or CESTAT?

Asish Kumar Pati v. Kairav Chemofarbe Industries Ltd.
Goods and Service Tax Appellate Authority (GSTAT), Thane Bench (06.08.2026)

Facts of the Case

- The respondent had accumulated unutilised CENVAT credit under the erstwhile CENVAT Credit Rules, 2004.
- Following the introduction of GST, the respondent claimed cash refund of the accumulated credit.
- The refund claim was made under section 142(3) of the CGST Act, 2017.
- Section 142(3) provides for disposal of such transitional refund claims in accordance with the existing law, subject to the specified provisions of section 11B of the Central Excise Act.
- The adjudicating authority considered the refund under section 11B of the Central Excise Act, 1944.
- The first appellate authority also passed its order under the erstwhile Central Excise law.
- The Revenue filed an appeal before GSTAT, Thane.
- During hearing, the Bench questioned whether GSTAT was actually the proper appellate forum, since both lower authorities had passed orders under the Central Excise Act.

Revenue's Contention

The Revenue argued that:

- The refund claim arose under section 142(3) of the CGST Act.
- Therefore, the dispute was essentially a GST transitional-provision matter.
- Consequently, the appeal should be maintainable before GSTAT.

Respondent's Contention

The respondent argued that GSTAT lacked jurisdiction because:

1. The refund had actually been adjudicated under section 11B of the Central Excise Act.
2. Both the original and first appellate orders were passed under the erstwhile Central Excise Act.
3. The preamble of the impugned order itself directed the parties to approach CESTAT.
4. Therefore, the appropriate appellate forum was CESTAT and not GSTAT.

Tribunal's Analysis

A. Effect of Section 142(3):

The GSTAT examined section 142(3) of the CGST Act. The provision essentially states that a refund claim relating to CENVAT credit, duty, tax, interest or other amounts paid under the existing law is to be disposed of

in accordance with the provisions of the existing law. Importantly, section 142(3) specifically refers to section 11B(2) of the Central Excise Act, 1944.

Therefore, although the refund claim arose in the GST transition period and was governed procedurally by section 142(3), the substantive adjudication of the refund was under the erstwhile Central Excise law.

B. Jurisdiction follows the law under which the order was passed:

The Tribunal found that both:

- the Order-in-Original, and
- the first appellate order

were passed under section 11B of the Central Excise Act, 1944.

Consequently, the appellate remedy had to be determined with reference to the Central Excise appellate framework, rather than merely by reference to section 142(3) of the CGST Act.

C. Reliance on CESTAT Larger Bench:

The GSTAT relied upon the Larger Bench decision of CESTAT, Chennai, in: Bosch Electrical Drive India Pvt. Ltd. v. Commissioner of Central Tax, 2024 (390) E.L.T. 652 (Tri.-LB).

The CESTAT Larger Bench had held that appeals against refund/credit rejection orders passed under section 142(3) of the CGST Act, where the claim is disposed of under the existing Central Excise law, are maintainable before CESTAT.

The GSTAT followed this settled position.

Decision

The GSTAT held that it had no jurisdiction to entertain the Revenue's appeal.

Accordingly:

- The Revenue's appeal was dismissed as not maintainable before GSTAT.
- The Revenue was given liberty to approach the appropriate forum, i.e. CESTAT.
- The matter before the correct forum would be dealt with in accordance with law.

Ratio Decidendi

A refund claim under section 142(3) of the CGST Act does not, by itself, confer appellate jurisdiction on GSTAT where the refund order has been passed under the existing Central Excise law, particularly section 11B of the Central Excise Act.

Where both the adjudication and first appellate orders are passed under the Central Excise Act, the appropriate appellate forum is CESTAT.

TAX INSIGHTS

By
 Tax Research Department

Direct Tax

09.08.2026

- **Whether objections to a draft assessment order under section 144C must be filed before both the Dispute Resolution Panel (DRP) and the Assessing Officer (AO).**
- **Whether the assessee could challenge the final assessment order directly through a writ petition under Article 226 when a statutory appeal under section 246A was available.**

Siddhant Rastogi v. Union of India
 High Court of Allahabad (22.07.2026)

Facts of the Case

- The assessee was a professional seafarer who claimed to be a non-resident.
- For AY 2024-25, he filed his return claiming exemption in respect of remuneration received for services rendered outside India.
- His case was selected for faceless assessment.
- Notices under sections 143(2) and 142(1) were issued. The assessee claimed that he did not receive them because an incorrect email address had been inadvertently updated on the Income-tax portal.
- The assessee first became aware of the assessment proceedings when a draft assessment order dated 14 March 2026 was issued under section 144C(1).
- The draft order proposed total income of approximately ₹79.63 lakh.
- The assessee filed detailed objections on 27 March 2026 through the e-filing portal, but the objections were addressed only to the Assessing Officer.
- He did not file objections before the DRP.
- Subsequently, the AO passed the final assessment order under section 144C(3) read with section 143(3) on 21 May 2026 and issued a demand notice under section 156.
- The assessee approached the Allahabad High Court under Article 226, alleging, among other things, that:
 - his objections had not been considered;
 - the assessment order incorrectly recorded that no reply had been filed; and
 - he had not been given an adequate opportunity of hearing.

Assessee's Contentions

The assessee contended that:

- He had in fact submitted objections against the draft assessment order.
- The AO failed to consider those objections.
- The final assessment order incorrectly stated that no reply had been filed.
- He had not received the earlier statutory notices and therefore had not been able to participate effectively in the assessment proceedings.
- Consequently, the final assessment order was procedurally defective and liable to be quashed.

Revenue's Contentions

The Revenue argued that section 144C(2)(b) requires the assessee to file objections both before the DRP and before the AO.

Since the assessee admittedly filed objections only before the AO and did not approach the DRP:

- the DRP was never seized of the matter;
- the AO was entitled under section 144C(3) to complete

- the assessment on the basis of the draft assessment order; and
- the assessee could not claim that the statutory DRP procedure had been bypassed by the Department.

The Revenue also argued that the assessee had an alternative statutory remedy of appeal, and therefore the writ petition should not be entertained.

High Court's Analysis

A. Filing objections before both authorities is mandatory

The Court examined section 144C and particularly section 144C(2)(b).

The provision requires objections to the variations proposed in the draft assessment order to be filed before both: the Dispute Resolution Panel, and the Assessing Officer.

The Court placed significance on the use of the word "and", holding that compliance with both requirements is mandatory. Therefore, filing objections only before the AO does not satisfy the statutory requirement.

B. Role of the DRP

The Court explained that once objections are properly filed before the DRP:

- the DRP is required to examine the objections;
- it can call for reports and further material;
- it can direct further enquiry where necessary; and
- it can confirm, reduce or enhance the variations proposed in the draft order.

The AO is then bound to pass the final assessment order in conformity with the DRP's directions.

However, where the assessee does not file objections before the DRP, the statutory mechanism does not get activated.

Consequently, section 144C(3) permits the AO to complete the assessment on the basis of the draft assessment order.

C. The assessee's admission was decisive

The Court noted that the assessee himself admitted that:

- he had filed objections before the AO; but
- no objections had been filed before the DRP.

Therefore, the basic statutory condition for invoking the DRP mechanism under section 144C had not been fulfilled.

Held

The Allahabad High Court dismissed the writ petition. It held that:

1. Section 144C(2)(b) requires objections to be filed before both the DRP and the AO.
2. Filing objections only before the AO does not constitute compliance with section 144C(2)(b).
3. In the absence of objections before the DRP, the AO was entitled under section 144C(3) to complete the assessment on the basis of the draft assessment order.
4. The assessee had an alternative statutory remedy of appeal under section 246A.
5. Therefore, the High Court would not exercise its writ jurisdiction under Article 226.
6. The Court expressly clarified that it had not adjudicated the merits of the assessee's tax claims, leaving him free to raise all available grounds before the appellate authority.

TAX INSIGHTS

By
 Tax Research Department

Goods & Services Tax

09.08.2026

Whether a show-cause notice and subsequent demand order issued under section 74 of the GST law in the name of a person who had already died could be legally sustained, particularly where the taxpayer's GST registration had already been cancelled with nil demand.

Shahedabegum Irshadahmed Chaudhary v. State of Gujarat
 High Court of Gujarat (28.07.2026)

Facts of the Case

- Late Irshadahmed Chaudhary was the proprietor of Ideal Steel Corporation, engaged in the business of trading metal scrap.
- The proprietorship was registered under GST.
- He died on 29 July 2020 after prolonged illness.
- The business was not continued after his death.
- The GST registration was subsequently cancelled by the department on 3 March 2021 for continuous non-filing of GST returns.
- At the time of cancellation, the department had recorded nil demand.
- The deceased's wife, the petitioner, was a housewife and claimed that she had no connection with or access to the deceased's business records.
- Despite the taxpayer's death in 2020, the department subsequently initiated proceedings relating to FY 2018-19:
 - Pre-show-cause intimation under section 74(5) dated 24 June 2025;
 - Show-cause notice under section 74(1) dated 26 June 2025, proposing tax liability of approximately ₹21.49 lakh, besides interest and penalty;
 - Demand order under section 74 dated 4 December 2025 confirming the proposed demand.
- All these proceedings were issued in the name of the deceased proprietor.
- Since the deceased obviously could not respond, no reply was filed and the demand was confirmed.
- The petitioner subsequently came to know about the proceedings when a departmental officer contacted her in May 2026.
- She immediately submitted an affidavit informing the department of her husband's death and produced the death certificate.
- She then approached the Gujarat High Court challenging the notice and demand order.

Petitioner's Contentions

The petitioner argued that:

1. The deceased proprietor had died nearly five years before the impugned SCN and demand order were issued.
2. Section 74 permits proceedings against the "person chargeable with tax".
3. The notice and order could not validly be issued against a person who was already dead.

Revenue's Position

The department's counsel was unable to dispute the factual position that:

- the taxpayer had died on 29 July 2020; and
- both the SCN dated 26 June 2025 and demand order dated 4 December 2025 had been issued in the name of the deceased.

The department therefore did not contest the fundamental defect identified by the Court.

High Court's Analysis

A. Proceedings were admittedly against a dead person
 The Court found it undisputed that the SCN and subsequent order were issued against Late Irshadahmed Chaudhary, despite his having died in 2020.

The Court therefore held that the proceedings could not be sustained in their existing form.

B. Petitioner was not connected with the business

The Court took note of the fact that the petitioner was:

- the deceased's wife;
- a housewife; and
- not connected with her husband's business.

This was relevant to the Court's consideration of the circumstances in which the proceedings had been initiated.

C. GST registration had already been cancelled with nil demand

The Court also noted that the GSTIN had been cancelled by the department in March 2021 and nil demand had been assessed at the time of cancellation.

Although this did not by itself determine whether historical tax liability could subsequently be investigated, it formed part of the factual background demonstrating that the later proceedings had been initiated after the taxpayer's death and after cancellation of the registration.

D. Department's lack of knowledge of death

The Court observed that the department appeared to have issued the proceedings because it was unaware of the taxpayer's death.

However, the department's lack of knowledge did not cure the fundamental defect that the SCN and order were issued against a person who was no longer alive.

Held

The Gujarat High Court allowed the petition and:

- quashed the SCN dated 26 June 2025 issued under section 74; and
- quashed the demand order dated 4 December 2025.

However, the Court expressly granted the department liberty to initiate proper proceedings in accordance with law against the petitioner, if there was an outstanding demand legally recoverable from her.

Thus, the Court did not hold that the underlying tax liability, if any, was permanently extinguished. It only invalidated the proceedings that had been initiated against the deceased taxpayer.

TAX INSIGHTS

By
 Tax Research Department

Direct Tax

10.08.2026

Whether capital gains tax is chargeable to the owner of an immovable property when the property is sold by a bank through distress/auction to recover a loan, and the entire sale consideration is appropriated towards the loan, leaving the owner with no money.

Giju Purapadathil Mathai v. Commissioner of Income-tax
 High Court of Kerala (09.07.2026)

Material Facts

- The assessee was the owner of an immovable property.
- He had equitable-mortgaged the property under Section 58(f) of the Transfer of Property Act, 1882, as security for loan facilities obtained by a third party from South Indian Bank.
- The borrower defaulted on the loan.
- Consequently, the bank exercised its rights over the mortgaged property and sold it through distress/auction.
- The entire sale consideration was appropriated towards the outstanding loan, and the assessee received no amount whatsoever.
- The Assessing Officer nevertheless computed capital gains on the sale of the property.
- The CIT(A) and thereafter the ITAT, Kochi Bench, upheld the assessment.
- The assessee challenged the ITAT's decision before the Kerala High Court.

Assessee's Argument

The assessee contended that there could be no taxable capital gain because:

1. He did not voluntarily sell the property.
2. The sale was conducted by the bank for recovery of another person's debt.
3. He received no part of the sale consideration.
4. Therefore, there was no actual monetary benefit or gain accruing to him.

Revenue's Argument

The Revenue relied principally on the Supreme Court decision in CIT v. Attili N. Rao, [2001](SC).

The Revenue argued that the relevant consideration is the price realised from the sale of the assessee's property, and not merely the amount ultimately received by the assessee after discharge of secured liabilities.

Precedent Relied Upon

CIT v. Attili N. Rao, [2001](SC)

The Supreme Court held, in substance, that where the State auctions an assessee's property to recover its dues, the capital gain is attributable to the immovable property belonging to the assessee, notwithstanding that the sale proceeds are first appropriated towards the State's dues.

Decision of the High Court

The Kerala High Court dismissed the appeal and upheld the capital-gains assessment.

The Court held that:

- The property unquestionably belonged to the assessee.
- By creating the mortgage, the assessee had voluntarily placed the equity of redemption of the property at the bank's disposal in the event of default.
- A distress/auction sale by a bank or other authority does not change the character of the transaction for capital-gains purposes.
- The fact that the assessee received no money personally does not by itself eliminate capital-gains liability.
- What matters is whether there was a gain in the value of the property, determined in accordance with the statutory capital-gains computation mechanism.
- The Court specifically relied upon the Supreme Court's ruling in Attili N. Rao, which establishes that where an assessee's property is auctioned for recovery of dues, capital gain is computed with reference to the full price realised, subject to legally admissible deductions, rather than merely the net amount handed over to the owner.

Key Principle

Capital gains tax is attracted by the transfer/sale of the assessee's property and the resulting gain in its value; it is not dependent upon the assessee actually receiving the sale proceeds in cash.

Thus, appropriation of the entire sale consideration towards a secured debt does not, by itself, extinguish the owner's capital-gains liability.

Ratio Decidendi

The source or manner of sale—voluntary sale by the owner or forced/distress sale by a mortgagee—is immaterial for determining capital gains. If the assessee remains the owner of the property and its sale results in a taxable capital gain, the gain is taxable in his hands even where the sale consideration is entirely appropriated towards discharge of a secured liability.

TAX INSIGHTS

By
 Tax Research Department

Goods & Services Tax

10.08.2026

Whether the High Court should entertain a writ petition under Article 226 challenging an Order-in-Appeal concerning recovery of GST refund under the retrospectively amended Rule 89(5), on the ground that an appeal before the GST Appellate Tribunal (GSTAT) would be futile because departmental circulars were allegedly contrary to the assessee's interpretation.

Paradeep Phosphates Ltd. v. Union of India
 High Court of Orissa (02.07.2026)

Facts

- The petitioner, Paradeep Phosphates Ltd., is engaged in manufacturing fertilizers.
- It discharged GST at 5% on outward supplies of fertilizers.
- Since GST on its inputs/input services was higher than the GST on its outward supplies, it accumulated unutilised ITC under the inverted duty structure.
- For the period July 2017 to June 2018, it claimed refund of the accumulated ITC under Section 54(3) of the CGST/OGST Acts read with Rule 89(5).
- The Assistant Commissioner initially sanctioned the refund.
- Subsequently, Rule 89(5) was retrospectively amended with effect from 1 July 2017 by Notification No. 21/2018-CT read with Notification No. 26/2018-CT.
- The constitutional validity of the amendment was upheld by the Supreme Court in Union of India v. VKC Footsteps India (P.) Ltd.
- The department thereafter issued a notice and passed an Order-in-Original dated 8 November 2019, seeking recovery of the refund.
- The petitioner challenged that order. Pursuant to earlier proceedings, the matter ultimately reached the appellate authority.
- The Additional Commissioner, GST (Appeals), Bhubaneswar, by Order-in-Appeal dated 27 November 2024, granted partial relief but sustained recovery of approximately ₹11.77 crore.
- Instead of approaching GSTAT, the petitioner filed the present writ petition before the High Court.

Decision of the High Court

The writ petition was dismissed. However, the Court granted the petitioner liberty to pursue the statutory appeal before GSTAT within the applicable prescribed timeline.

Importantly, the High Court did not decide the merits of:

- whether the 2022 amendment to Rule 89(5) is clarificatory;

- whether it has retrospective operation;
- whether Circular No. 181/13/2022-GST is legally sustainable; or
- whether the recovery of the refund was ultimately correct.

Court's Reasoning

A. Departmental circulars do not bind the Tribunal on questions of law:

The Court relied heavily on the Supreme Court's decision in CCE, Bolpur v. Ratan Melting & Wire Industries.

The principle is that departmental circulars represent the executive's understanding of the statute. They may bind departmental authorities in appropriate circumstances, but they cannot override the statute or a binding judicial interpretation.

Therefore, the petitioner's apprehension that GSTAT would simply follow the departmental circular was held to be misconceived.

B. GSTAT can independently decide questions of law:

The Court specifically held that GSTAT is competent to examine:

- disputed facts arising from the Order-in-Appeal;
- questions of law;
- applicability of amended Rule 89(5);
- the effect of the relevant notifications; and
- the relevance/legal effect of the departmental circulars.

Consequently, the existence of the circular did not make the statutory appeal ineffective or futile.

C. Writ jurisdiction should ordinarily not be exercised where an effective statutory remedy exists:

The Court applied the principles laid down by the Supreme Court in:

- CIT v. Chhabil Dass Agarwal, and
- Southern Electricity Supply Co. of Orissa Ltd. v. Sri Seetaram Rice Mill.

The basic rule is that where legislation provides an effective appellate mechanism, the High Court ordinarily should not exercise its discretionary writ jurisdiction merely because the assessee prefers to approach the High Court directly.

TAX INSIGHTS

By
Tax Research Department

Direct Tax

11.08.2026

The Supreme Court considered whether the High Court's findings in favour of an insurance company on several income-tax issues required interference. The issues included applicability of section 14A, TDS on reinsurance payments and survey fees, taxation of investment profits, MAT applicability, TDS on insurance commission, and the depreciation rate applicable to UPS.

Principal Commissioner of Income-tax v. Cholamandalam MS General Insurance Company Ltd.
 Supreme Court of India (27.07.2026)

Key Facts

- The assessee was an insurance company engaged in insurance/reinsurance business.
- Various disputes arose during different assessment years, including AYs 2005-06 to 2014-15.
- The Assessing Officer made several adjustments/disallowances, which were subsequently challenged by the assessee.
- The High Court decided the disputed issues in favour of the assessee.
- The Revenue approached the Supreme Court through Special Leave Petition (SLP) under Article 136 of the Constitution.

Issues & Decisions

Issue	Finding
Section 14A – Insurance business	Section 14A had no application because profits of insurance business are computed under the specific methodology prescribed by section 44 read with Rule 5 of the First Schedule, rather than under sections 28 to 43B.
TDS on reinsurance premium paid to non-residents	No TDS liability where the non-resident reinsurers did not have a business connection/PE in India and brokers merely acted as independent facilitators. Consequently, section 40(a)(i) disallowance was not sustainable.
Profit on sale of investments	The High Court's finding that profit on sale of investments by the insurance company was not taxable in India was allowed to stand.
MAT under section 115JB	Section 115JB was held inapplicable to insurance companies for the relevant assessment years.
TDS on commission	The insurance company was not liable to deduct TDS on commission paid to other insurance companies for receipt of reinsurance premium, following the applicable judicial precedent.
Survey fees paid to non-residents	No TDS was required where the entire services of the non-resident surveyors were rendered outside India.
Depreciation on UPS	Depreciation at 60% on UPS was allowable, rather than 15% as claimed by the Assessing Officer.

Specific Issue – Depreciation on UPS

The assessee claimed 60% depreciation on UPS under section 32. The Assessing Officer restricted depreciation to 15%, treating UPS as ordinary plant and machinery. The High Court relied upon the decision in T.V. Sundaram Iyengar & Sons Ltd. v. CIT [2023](Madras) and held that UPS was eligible for depreciation at 60%. The Revenue challenged the High Court's decision before the Supreme Court.

Supreme Court's Decision

The Supreme Court dismissed the SLP, observing that it was not inclined to interfere with the impugned High Court order in exercise of its jurisdiction under Article 136. Thus, the High Court's findings in favour of the assessee remained undisturbed, including the finding that UPS is eligible for depreciation at 60%.

Final Outcome

SLP dismissed – in favour of the assessee.

The Supreme Court's order effectively upheld the High Court's decision on all the disputed issues, including 60% depreciation on UPS, non-applicability of section 14A in the prescribed insurance-business computation, and the various TDS and MAT issues.

TAX INSIGHTS

By

Tax Research Department

Goods & Services Tax

11.08.2026

Whether an assessment and tax demand under Section 74 of the CGST Act could be sustained when the assessment of the taxpayer's zero-rated supplies was based solely on Rule 96(10) of the CGST Rules, which had already been declared ultra vires Section 16 of the IGST Act by the Kerala High Court.

Ranjith Lal S. v. Assistant Commissioner, Central Tax & Central Excise
 High Court of Kerala (30 July 2026)

Facts of the Case

- The petitioner challenged:
 - Order-in-Original (Ext.P1); and
 - Summary of the order issued under Section 74 of the CGST Act (Ext.P2).
- The assessment and consequent tax demand related to the petitioner's zero-rated supplies.
- The petitioner contended that the entire assessment had been finalized by relying upon Rule 96(10) of the CGST Rules.
- Rule 96(10) had previously been declared ultra vires Section 16 of the IGST Act by the Kerala High Court in *Sance Laboratories (P.) Ltd. v. Union of India* [2024](Kerala).
- Therefore, the petitioner argued that an assessment founded solely upon an invalid rule could not legally survive.

- The Kerala High Court had already declared Rule 96(10) ultra vires Section 16 of the IGST Act in the *Sance Laboratories* case.
- The legal position declared in *Sance Laboratories* was applicable to the petitioner's case.
- Since the very basis on which the assessment was made had been held legally invalid, the assessment could not be sustained.

Decision

The Kerala High Court allowed the writ petition and quashed both:

- Ext.P1 – Order-in-Original, and
- Ext.P2 – Summary of the order issued under Section 74 of the CGST Act.

The decision was in favour of the assessee/petitioner.

Relevant Legal Provisions

- Section 16, IGST Act, 2017 – Zero-rated supply.
- Section 74, CGST Act, 2017 – Determination of tax not paid/short paid or ITC wrongly availed/utilised by reason of fraud, wilful misstatement or suppression of facts.
- Rule 96(10), CGST Rules, 2017 – Restriction relating to refund of integrated tax paid on exports.
- Sance Laboratories (P.) Ltd. v. Union of India* – Rule 96(10) declared ultra vires Section 16 of the IGST Act.

Key Legal Principle

An assessment cannot survive when it is founded solely on a statutory rule that has already been declared ultra vires the parent Act.

In this case, once Rule 96(10) was held to be ultra vires Section 16 of the IGST Act, an assessment of zero-rated supplies based exclusively on that rule lost its legal foundation.

Important Takeaway for Taxpayers

Where a GST demand or assessment is entirely dependent upon a provision that has subsequently been declared ultra vires, the taxpayer can challenge the demand on the ground that the underlying legal basis itself is invalid.

Findings of the High Court

The Court examined the impugned assessment and found that:

- The assessment had been finalized specifically on the basis of Rule 96(10) of the CGST Rules.

Result: In favour of the assessee – assessment and consequential Section 74 summary quashed.

TAX INSIGHTS

By
Tax Research Department

Direct Tax

12.08.2026

Whether the Assessing Officer could initiate reassessment proceedings under the new regime of Sections 148/148A, in 2024, when the limitation period available under the pre-1 April 2021 regime had already expired on 31 March 2022.

Geeco Enercon (P.) Ltd. v. Deputy Commissioner of Income-tax
Madras High Court (20 July 2026)

Facts of the Case

- The dispute related to AY 2015-16.
- The Assessing Officer had originally issued a notice under Section 148 on 4 February 2021, under the old reassessment regime.
- This proceeding culminated in a reassessment order dated 25 March 2022 under Sections 143(3) read with 147, as applicable before 1 April 2021.
- Subsequently, the AO initiated a fresh reassessment proceeding under the new regime.
- A notice under Section 148A(b) was issued on 23 August 2024.
- Thereafter, an order under Section 148A(d) was passed on 31 August 2024, followed by a consequential notice under Section 148 on the same date.
- The assessee challenged the fresh proceedings before the Madras High Court, contending that they were barred by limitation.

Since the limitation under the old regime had expired on 31 March 2022, the Revenue could not subsequently invoke the new Sections 148A and 148 in August 2024 merely because the new regime otherwise provided a longer period in certain cases.

Therefore:

- The fresh Section 148A(b) notice dated 23.08.2024 was barred by limitation.
- The subsequent Section 148A(d) order dated 31.08.2024 had no valid jurisdictional foundation.
- The consequential Section 148 notice dated 31.08.2024 was also invalid.

Decision

The Madras High Court allowed the writ petition and:

1. Quashed the order under Section 148A(d) dated 31 August 2024; and
2. Quashed the consequential notice under Section 148 dated 31 August 2024.

The Court held both to be without jurisdiction.

Key Legal Principle

The new reassessment regime cannot be used to revive proceedings where the limitation period under the old regime had already expired before 1 April 2021/thereafter.

The first proviso to Section 149 preserves the limitation position under the old regime. Thus, merely because the amended law permits reassessment for a longer period in appropriate cases, it does not give the Assessing Officer power to reopen an assessment where the old limitation period had already run out.

Important Takeaway

This judgment reinforces the principle that reassessment proceedings must satisfy the limitation provisions applicable to the case. The Revenue cannot rely on the extended limitation under the new regime to resurrect a reassessment that had already become time-barred under the old regime.

Result: In favour of the assessee – Section 148A(d) order and consequential Section 148 notice quashed as time-barred and without jurisdiction.

Relevant Limitation Position (For AY 2015-16):

Regime	Limitation
Old regime – 4 years	Expired on 31.03.2020
Old regime – extended 6 years	Expired on 31.03.2022
New regime – 3 years	Expired on 31.03.2019
New regime – 10 years	Would expire on 31.03.2026, subject to the statutory conditions and first proviso to Section 149

The crucial point was that the old six-year limitation had already expired on 31 March 2022.

Findings of the High Court

The High Court examined the first proviso to Section 149, as amended with effect from 1 April 2021.

The Court held that the new reassessment regime does not revive a reassessment right that had already become time-barred under the old regime.

TAX INSIGHTS

By
 Tax Research Department

Goods & Services Tax

12.08.2026

- Whether a consolidated Demand-cum-Show Cause Notice (SCN) covering multiple financial years could be issued under Sections 73/74 of the CGST Act.
- Whether the High Court should entertain a writ petition at the SCN stage where the assessee had not submitted a reply and disputed whether proceedings should have been initiated under Section 73 or Section 74.

Gias Uddin Ahmed v. Union of India
 High Court of Gauhati (3 August 2026)

Facts of the Case

- The DGGL, Guwahati Zonal Unit, issued a consolidated Demand-cum-SCN dated 17 April 2024 covering four financial years.
- The petitioners challenged the SCN principally on the ground that a single consolidated notice for multiple years was impermissible.
- They also contended that the alleged liability, at best, fell under Section 73 and not Section 74, and therefore the proceedings were allegedly barred by limitation.
- The SCN provided 30 days to submit a reply, but the petitioners did not file any reply.
- Instead, they approached the High Court through a writ petition on 9 May 2025, almost one year after issuance of the SCN.
- No adjudication order had yet been passed by the Proper Officer.

Issue 1 – Validity of Consolidated SCN

The petitioners argued that the Proper Officer could not issue one SCN covering four financial years. The High Court rejected this contention by relying on its earlier decision in *Tata Projects Ltd. v. Union of India* [2026] (Gauhati).

In *Tata Projects*, the Court had already held that:

- There is no bar on issuing a consolidated SCN for different financial years under Section 73(1) or Section 74(1).
- A consolidated adjudication order for different financial years is also permissible under Sections 73(9) and 74(9).

Therefore, the challenge to the SCN merely on the ground that it covered multiple financial years was untenable.

Issue 2 – Section 73 vs. Section 74

The petitioners also argued that the case should have been initiated under Section 73 rather than Section 74. The Court observed that the distinction between the two provisions depends upon the factual foundation:

- Section 73 applies where tax has not been paid/short paid, tax has been erroneously refunded, or ITC has been wrongly availed/utilised, without the fraud-based circumstances contemplated under Section 74.
- Section 74 applies where the non-payment, short payment, erroneous refund or wrongful ITC is by reason of fraud, wilful misstatement or suppression of facts to evade tax.

Whether fraud, wilful misstatement or suppression actually existed was a question of fact. Such factual determination could not ordinarily be undertaken by the High Court in writ jurisdiction at the SCN stage.

High Court's View

The Court noted that the petitioners:

- had not replied to the SCN;
- had not allowed the Proper Officer to adjudicate the matter; and
- approached the High Court nearly one year after the SCN.

The Court held that the proper course was to participate in the statutory adjudication proceedings and raise all their factual and legal objections before the Proper Officer. Thereafter, statutory appellate remedies under Sections 107 and 112 would also be available.

Decision

The High Court did not entertain the writ petition as a challenge to the validity of the consolidated SCN.

However, instead of leaving the petitioners without a remedy, the Court granted them an opportunity to submit their reply.

The Court directed that:

1. The petitioners would get 30 days from the date of the judgment to file their reply to the SCN.
2. They could raise all contentions taken in the writ petition except the objection regarding the permissibility of a consolidated SCN, since that issue had already been settled by *Tata Projects*.
3. The period from 18 April 2024 until the date of the judgment would be excluded while computing the limitation period available to the Revenue for adjudication.
4. The writ petition was disposed of without costs.

TAX INSIGHTS

By
 Tax Research Department

Direct Tax

13.08.2026

- Whether enhanced compensation received on compulsory acquisition of rural agricultural land was taxable as capital gains under section 45(5) of the Income-tax Act, 1961, when the land was situated more than 8 km from the municipal limits.
- Whether interest awarded under section 28 of the Land Acquisition Act, 1894 could be taxed separately as "Income from Other Sources" when the underlying compensation itself was not taxable.

Akhilesh Bansal v. ITO, Ward 1(1)
 ITAT Delhi (27 July 2026)

Material Facts

- The assessee had purchased agricultural land in **2007** at Village Badha, Tehsil Manesar, District Gurugram.
- The land was subsequently compulsorily acquired by HUDA.
- During AY 2018-19, the assessee received:
 - **Enhanced compensation:** ₹2,15,77,773
 - **Interest under section 28 of the Land Acquisition Act:** ₹2,23,78,473
- The assessee claimed that the land was **rural agricultural land** and therefore fell outside the definition of "capital asset" under **section 2(14)(iii)**.
- Consequently, the assessee contended that the enhanced compensation could not be taxed under **section 45(5)**.
- The assessee also contended that the section 28 interest formed an integral part of the compensation and therefore could not be separately taxed.

Evidence produced by the assessee

The assessee relied on Registered sale deed; Jamabandi; Khasra Girdawari; Mutation records;

- Other revenue records showing continued agricultural use; and
- A **Tehsildar's certificate**, supported by a technical survey of Vision Engineering Consultants, confirming that the land was **9.1 km aerial distance from Gurugram municipal limits**.

Stand of the Assessing Officer

The AO rejected the assessee's claim and proceeded on the basis that:

- Since the land had been acquired by HUDA for **urban development**, it should be regarded as urban land/capital asset.
- The enhanced compensation was therefore taxable under **section 45(5)**.
- The interest received under section 28 of the Land Acquisition Act was taxable under the head **"Income from Other Sources."**

The CIT(A) upheld the AO's action, although it allowed the statutory deduction under **section 57(iv)** in respect of the interest.

Tribunal's Decision

Issue 1 – Whether the land was a "capital asset"

Held: No.

The ITAT accepted the assessee's documentary evidence and held that the land was rural agricultural land situated beyond the prescribed distance from the municipal limits.

The Tribunal particularly relied upon:

- Revenue records consistently describing the land as agricultural;
- Evidence showing agricultural operations continued until acquisition; and
- The Tehsildar's official certificate, based on an expert technical survey, certifying an aerial distance of **9.1 km** from the Gurugram municipal limits.

The Revenue had **not produced any contrary measurement or technical evidence** to disprove the certificate.

The Tribunal therefore held that the official certificate could not be rejected merely on assumptions or conjectures.

Important finding

The fact that the land was acquired by HUDA did not automatically convert it into urban land.

The Tribunal observed, in substance, that the character of the land has to be determined with reference to **section 2(14)(iii)** and not by the identity of the acquiring authority.

HUDA may acquire both rural and urban land, and its acquisition of the land does not alter the character of the land existing on the date of acquisition.

Issue 2 – Taxability of Section 28 Interest

Held: Not separately taxable.

The assessee had received approximately **₹2.24 crore** as interest under section 28 of the Land Acquisition Act. The Tribunal followed the judicial principle that interest awarded under **section 28** is not an independent receipt in the ordinary sense. It constitutes an **accretion to the compensation** and forms an integral part of the enhanced compensation.

Final Decision

The ITAT **allowed the assessee's appeal in full**.

It directed deletion of:

- **₹2,15,77,773** – enhanced compensation; and
- **₹2,23,78,473** – interest under section 28 of the Land Acquisition Act.

Thus, the Tribunal held that **neither the enhanced compensation nor the section 28 interest was chargeable to tax** on the facts of the case.

TAX INSIGHTS

By

Tax Research Department

Goods & Services Tax

13.08.2026

After Rule 96(10) of the CGST Rules was omitted with effect from 8 October 2024, would the omission benefit taxpayers whose IGST refund proceedings were already pending on that date?

Did the GST Council's recommendation that Rule 96(10) be omitted prospectively require the rule-making authority to give the omission only prospective effect?

Goodluck India Ltd. v. Union of India
 Supreme Court of India (6 August 2026)

Facts of the Case

- The assessee had claims for **refund of IGST paid on exported goods/services**.
- Their refund proceedings were pending when Rule 96(10) was omitted on **8 October 2024**.
- The assessee contended that, once Rule 96(10) was omitted, the restriction contained in that provision could no longer be applied to their pending proceedings.
- The Revenue/Union of India argued that the omission was intended to operate **prospectively**, relying particularly on the recommendation of the GST Council.
- The High Court had held that the omission of Rule 96(10) applied to **all proceedings pending as on 8 October 2024**.
- The Union of India challenged that view before the Supreme Court.

Revenue's Main Argument

- The Union of India relied upon the recommendation of the **GST Council**.
- The Council had recommended that Rule 96(10) be omitted **with prospective effect**.
- Therefore, according to the Revenue, the existing restrictions should continue to apply to proceedings relating to the period when Rule 96(10) was in force, including pending proceedings.

Assessee's Main Argument

The assessee argued that:

1. Rule 96(10) had been **completely omitted**;
2. The notification contained **no saving clause**;
3. There was no statutory provision providing for continuation of proceedings under the omitted rule; and
4. Therefore, the omitted restriction could not continue to govern pending refund proceedings.

They relied heavily upon the Supreme Court's Constitution Bench decision in:

Kolhapur Canesugar Works Ltd. v. Union of India, (2000).

Supreme Court's Decision

Omission without saving clause applies to pending proceedings:

- The Supreme Court relied on the principle laid down in **Kolhapur Canesugar Works Ltd.**
- The Court explained that when a rule is omitted, the omission effectively removes the rule from the statute book.
- For proceedings under the omitted rule to continue, there must be either: an express **saving provision**, or
- some statutory mechanism/legal fiction permitting continuation of those proceedings. In the present case, **neither existed**.
- Therefore, Rule 96(10), having been omitted without a saving clause, could not continue to govern pending refund proceedings.

GST Council Recommendation Was Not Binding:

- This was one of the most important aspects of the judgment.
- The GST Council had recommended that the omission should operate **prospectively**.
- However, the Supreme Court noted that the recommendation was **advisory** and did not bind the rule-making authority.
- The Court specifically noted the concession of the Additional Solicitor General that the GST Council's recommendation was not mandatory.

Therefore:

- **A GST Council recommendation for prospective operation cannot, by itself, create a saving provision or preserve an omitted rule for pending proceedings.**
- The actual legal effect has to be determined from the **notification/rule as enacted**, not merely from the Council's recommendation.

Final Holding

The Supreme Court effectively held:

The omission of Rule 96(10) of the CGST Rules with effect from 8 October 2024 applies to pending IGST refund proceedings as well, because the omission notification contained no saving clause. The GST Council's recommendation that the omission operate prospectively was only advisory and could not override the legal effect of the notification.

TAX INSIGHTS

By
Tax Research Department

Direct Tax

14.08.2026

Whether the Assessing Officer ("AO") can raise an additional tax and interest demand through the computation sheet and notice of demand under section 156, when the assessment order under section 143(3) expressly accepts the returned income and records that no addition or variation has been made?

A related issue was whether interest under sections 234A, 234B and 234C could be demanded through the computation sheet/section 156 notice when the assessment order itself did not specifically levy such interest.

Sudha Gopalakrishnan v. Deputy Commissioner of Income Tax
ITAT Bangalore (30 July 2026)

Material Facts

- The assessee originally filed her return for AY 2018-19 declaring income of approximately **₹139.81 crore**.
- A revised return was subsequently filed declaring income of approximately **₹145.30 crore**.
- As per the revised return, the entire tax liability was substantially discharged through advance tax, TDS and self-assessment tax.
- The return was processed under **section 143(1)**. The CPC accepted the returned income but determined a small additional demand of **₹43,880**, relating to interest under sections 234B and 234C. The assessee paid this amount.
- The case was thereafter selected for scrutiny, principally concerning deductions under Chapter VI-A.
- The AO completed the scrutiny assessment under **section 143(3) read with sections 143(3A) and 143(3B)**.
- Importantly, the assessment order **accepted the income returned by the assessee and made no addition or variation**.

Assessee's Contentions

The assessee argued that:

1. The assessment order had accepted the returned income without any variation.
2. The additional tax, surcharge and cess in the computation sheet were not supported by any finding in the assessment order.
3. Interest under section 234A was wrongly charged because the original return had allegedly been filed within the prescribed due date.
4. Additional interest under section 234B was also incorrectly computed.
5. A computation sheet and notice of demand are merely **consequential documents** and cannot independently create a fresh tax liability.
6. Therefore, the additional demand should be deleted.

Revenue's Argument

The Department argued that the computation sheet was issued along with the assessment order and formed an integral part of the assessment proceedings. According to the Department, the AO had correctly computed the tax payable in the computation sheet.

Decision of ITAT

The ITAT **allowed the assessee's appeal** and directed the AO to **delete the demand of ₹24,90,252** raised through the computation sheet and notice under section 156.

The Tribunal's reasoning can be distilled into the following principles:

A. Assessment order is the foundational document

The Tribunal held that the assessment order is the document which determines the assessee's tax liability. Here, the AO had expressly accepted the returned income and stated that **no addition was made to the returned income**.

Therefore, there was no finding in the assessment order from which the additional demand could flow.

B. Computation sheet cannot create a new tax liability

The computation sheet is essentially an **intermediary/consequential document**.

It may quantify a liability arising from the assessment order, but it cannot independently:

- make a new addition;
- make a new disallowance;
- introduce a new adjustment; or
- create an additional tax liability.

The Tribunal therefore held that the computation sheet must **strictly follow and flow from the assessment order**.

C. Section 156 notice cannot independently create liability

The Tribunal placed particular emphasis on the words in section 156:

"in consequence of any order passed under this Act"

According to the Tribunal, these words establish that the demand notice is **consequential in nature**. It cannot itself create a liability which does not arise from the underlying assessment order.

Thus, where the assessment order contains no addition, adjustment or other finding giving rise to the demand, a section 156 notice cannot independently create such demand.

D. Interest also cannot simply be introduced through demand notice

The Tribunal went further and held that interest under sections 234A, 234B and 234C also cannot be levied merely through the demand notice where the assessment order is silent regarding such levy.

TAX INSIGHTS

By

Tax Research Department

Goods & Services Tax

14.08.2026

Whether the respondent-developer had received any additional ITC benefit on introduction of GST which was required to be passed on to the homebuyer by way of commensurate reduction in price under section 171 of the CGST Act?

DG Anti-Profitteering, Director General of Anti-Profitteering, DGAP v. Amal Realtors (P.) Ltd.
Goods and Services Tax Appellate Authority (GSTAT), New Delhi (11 August 2026)

Facts of the Case

- The complaint concerned purchase of Flat No. MV 06041 in the project "Madhu Vasant CHS Ltd." developed by Amal Realtors (P.) Ltd.
- The applicant alleged that the developer had failed to pass on the benefit of ITC after GST came into force from **1 July 2017**, thereby violating section 171.
- The Standing Committee on Anti-Profitteering referred the matter to the **DGAP** for investigation.
- The project consisted of **36 residential units**, having total saleable area of approximately **26,714 sq. ft.**
- Out of the 36 units:
 - 21 flats** were allotted free of cost to existing society members;
 - 10 flats** were booked under the 5% GST scheme without ITC; and
 - only **5 flats** remained relevant for the anti-profitteering investigation.

Thus, the investigation was confined to the five examinable units.

DGAP's Investigation

The DGAP compared the credit available to the developer before and after GST by examining the **ITC-to-purchase ratio**.

The relevant figures were:

Particulars	Pre-GST	Post-GST
Purchase value of goods/services	₹58,82,754	₹6,92,35,705
Credit availed	₹4,86,064	₹54,53,421
ITC/Credit-to-purchase ratio	8.26%	7.87%

The ratio therefore **fell by 0.39 percentage points** after introduction of GST.

The DGAP also examined ITC of approximately **₹1.23 crore** availed during the post-GST period and accepted reversal of approximately **₹68.92 lakh**, after verification from the relevant records.

DGAP's conclusion

Since the ITC-to-purchase ratio declined from **8.26% to 7.87%**, there was **no additional ITC benefit** accruing to the developer on account of GST.

Consequently, there was no additional ITC benefit which could be required to be passed on under section 171.

GSTAT's Findings

A. Section 171 has two components

GSTAT observed that section 171(1) covers two distinct situations:

- benefit arising from **reduction in the rate of tax**; and
- benefit arising from **ITC**.

The present proceedings were concerned with the alleged benefit of **additional ITC following introduction of GST**.

Therefore, the fundamental question was whether any additional ITC had actually accrued to the developer.

B. No additional ITC benefit accrued

GSTAT accepted the DGAP's calculation that:

Pre-GST ITC ratio = 8.26%

Post-GST ITC ratio = 7.87%

Since the ratio **decreased rather than increased**, GSTAT held that there was **no additional ITC benefit** arising from the transition to GST.

Therefore, the basic condition for applying the ITC-related anti-profitteering provision under section 171 was absent.

C. CA-certified project data was acceptable

GSTAT rejected the objection regarding reliance on CA-certified figures.

The developer had multiple projects and its statutory returns and financial statements contained consolidated figures. Since project-wise bifurcation of all such statutory records was not feasible, the DGAP had relied upon **duly Chartered Accountant-certified data relating to the project**.

The Tribunal found this approach justified.

D. Transitional VAT benefit was not available to the applicant

GSTAT also accepted the developer's explanation concerning the ₹4.52 lakh transitional VAT credit.

The benefit had been passed on to **eligible purchasers** in accordance with the applicable Maharashtra Trade Circular.

However, in the applicant's case:

- the agreement was executed and registered **post-GST**;
- VAT was collected only on the pre-GST advance of ₹52,416;
- that VAT was deposited with the VAT Department; and
- no corresponding transitional VAT credit accrued in relation to the applicant's transaction**.

Therefore, there was no VAT/ITC benefit attributable to the applicant that could be passed on to him.

Decision

GSTAT accepted the DGAP's report dated **29 January 2025**.

It held that:

- there was **no additional ITC benefit** to the developer after implementation of GST;
- the ITC-to-purchase ratio had actually declined from **8.26% to 7.87%**;
- the developer's reliance on CA-certified project-wise data was justified;
- the transitional VAT credit had been passed on to eligible purchasers;
- the applicant, whose agreement was executed post-GST, had **no corresponding VAT credit benefit** attributable to his transaction; and
- consequently, **no profiteering was established** against the developer.

The proceedings were accordingly **disposed of/closed in favour of the respondent-developer**.

TAX INSIGHTS

By
 Tax Research Department

Direct Tax

15.08.2026

Whether an assessment completed under section 143(3) could be reopened under section 148, several years later, merely on the basis of an Investigation Wing report, when:

- the assessee had already disclosed the relevant transaction during the original scrutiny;
- the transaction had been examined in the original assessment;
- there was no failure to disclose fully and truly all material facts; and
- the Investigation Wing information did not constitute any new tangible material demonstrating escapement of income.

Hiramoti Texchem (P.) Ltd. v. Income-tax Officer
 High Court of Gujarat (27 July 2026)

Key Facts

- The assessee filed its return for AY 2012-13 on **28 September 2012**, declaring income of approximately **₹20.15 lakh**.
- The return was selected for scrutiny and an assessment under **section 143(3)** was completed on **9 December 2014**, accepting the same income.
- During the relevant year, the assessee had regular business dealings with **Manibhadra Textile Company**, from which it purchased cotton.
- The assessee had made payments of approximately **₹95.26 lakh** to Manibhadra Textile Company.
- The relevant invoices and transactions had been disclosed and were available during the original scrutiny assessment.
- Subsequently, the Assessing Officer issued a **section 148 notice dated 28 March 2019**.
- The reopening was based on information from the **ADIT (Investigation)** concerning Manibhadra Textile Company's bank account.
- According to the Investigation Wing, Manibhadra Textile Company had received credits from three concerns, including the assessee, after which its proprietor allegedly withdrew the funds through self-cheques/cash.
- The AO treated the assessee's payment of ₹95.26 lakh as a high-value transaction allegedly not commensurate with its returned income.

Assessee's Argument

The assessee contended that:

1. The AO had merely relied upon **borrowed satisfaction** from the Investigation Wing.
2. There was **no independent application of mind** by the AO.
3. The entire transaction with Manibhadra Textile Company had already been disclosed during scrutiny.
4. There was **no new tangible material** that was unavailable to the AO at the time of the original assessment.
5. There was no failure on the assessee's part to make a full and true disclosure of material facts.
6. The subsequent cash withdrawal by the supplier's proprietor could not, by itself, establish that the assessee's genuine purchase/payment was unexplained.

Revenue's Argument

The Revenue argued that:

- Manibhadra Textile Company allegedly lacked the financial capacity to receive such substantial amounts.
- The funds were subsequently withdrawn in cash/self-cheques.
- The Investigation Wing's information constituted relevant material for reopening.
- The correctness and sufficiency of the information could be examined during the reassessment proceedings rather than at the stage of issuing the notice.

High Court's Decision

- The **Gujarat High Court** quashed the **section 148 notice**.
- The Court found that the assessee had **fully disclosed the relevant business transactions** with Manibhadra Textile Company during the original scrutiny assessment. The payments were supported by invoices and arose from the assessee's regular cotton-purchase transactions.
- The Court held that the Investigation Wing report did **not disclose any new tangible material** showing that income had escaped assessment. The mere fact that the supplier subsequently withdrew money in cash was not sufficient to implicate the assessee in reassessment proceedings.

Final Outcome

The Gujarat High Court:

- allowed the assessee's writ petition;
- quashed and set aside the notice under section 148 dated 28 March 2019; and
- held the reopening to be based on a change of opinion/fishing and roving inquiry, unsupported by new tangible material.

One-line takeaway

A completed scrutiny assessment cannot be reopened merely because the Investigation Wing subsequently raises suspicion about a transaction that was already fully disclosed and available before the AO; without fresh tangible material or failure of disclosure, such reopening amounts to a change of opinion.

TAX INSIGHTS

By

Tax Research Department

Goods & Services Tax

15.08.2026

Whether input tax credit (ITC) for February and March 2020 could be denied under section 16(4) merely because the returns were allegedly filed beyond the original time limit, when the returns were in fact filed within the extended statutory cut-off prescribed under section 16(5).

Rakesh Krishnan v. Deputy State Tax Officer
 High Court Kerala (6 August 2026)

Facts

- The petitioner was a registered taxpayer under the CGST and SGST Acts.
- He claimed ITC for February 2020 and March 2020.
- The returns were filed on:
 - February 2020: 6 November 2020
 - March 2020: 14 November 2020
- An order-in-original under section 73 of the SGST Act denied the ITC.
- The reason given was that the petitioner had not furnished the returns within the limitation period prescribed under section 16(4).
- The petitioner relied on section 16(5), which provided an extended cut-off date of 30 November 2021 for the relevant period.
- Since both returns had actually been filed well before 30 November 2021, the petitioner challenged the denial before the High Court.

Petitioner's Contention

- The petitioner argued that the ITC could not be rejected merely by applying section 16(4), because section 16(5) specifically provided an extended time limit for the relevant tax periods.
- The returns having been filed on 6 November 2020 and 14 November 2020, respectively, were clearly within the statutory cut-off of 30 November 2021.

Revenue's Position

The impugned order had proceeded on the basis that the ITC claim was barred by the limitation prescribed under section 16(4).

High Court's Findings

The Kerala High Court examined the record and found that:

- The petitioner had filed the February 2020 return on 6 November 2020.

- The March 2020 return was filed on 14 November 2020.
- Both dates were before the 30 November 2021 cut-off under section 16(5).

Therefore, the Court found merit in the petitioner's contention that the benefit of section 16(5) was available.

Decision

The High Court:

1. Quashed the order-in-original (Ext.P2);
2. Directed the competent officer to reconsider the matter;
3. Directed that the petitioner be granted the benefit of section 16(5); and
4. Clarified that ITC would be granted if the petitioner was otherwise eligible.

Legal Principle

The important principle emerging from the decision is:

- Where a taxpayer's returns for the relevant period were filed within the extended statutory cut-off prescribed under section 16(5), ITC cannot be denied merely by invoking the time limitation under section 16(4).
- However, the judgment does not mean that ITC is automatically allowable merely because the return was filed within the extended period. The Court expressly left it open to the department to verify whether the taxpayer was otherwise eligible for ITC.

One-line takeaway

For February and March 2020 ITC, where returns were filed before 30 November 2021, denial solely on the basis of section 16(4) limitation is unsustainable; the claim must instead be considered under section 16(5), subject to fulfilment of other ITC conditions.

TAX INSIGHTS

By
 Tax Research Department

Direct Tax

16.08.2026

Whether consideration received by an employee on repurchase of vested but unexercised stock options, where no shares were ever allotted, is taxable:

- as a salary/perquisite under section 17(2)(vi) of the Income-tax Act, 1961; or
- as long-term capital gains (LTCG) arising from transfer of a capital asset.

Pramod Kumar Jain v. DCIT
 ITAT Bangalore (30 July 2026)

Key Facts

- The assessee was an employee of Flipkart Internet Pvt. Ltd. (FIPL), an Indian group company.
- He was granted 40,536 stock options by Flipkart Pvt. Ltd., Singapore (FKS), under the Flipkart Stock Option Plan, 2012.
- Of these, 2,653 vested options were repurchased by FKS during FY 2019–20.
- The assessee received ₹2,33,80,616 as consideration for the repurchase.
- Importantly:
 - the options were never exercised;
 - consequently, no shares were allotted to the assessee; and
 - the shares of FKS were not listed on a recognised stock exchange.
- The assessee reported the receipt as long-term capital gains, whereas the employer had treated it as a perquisite in Form 16 and deducted TDS under section 192.

Stand of the Revenue

The Assessing Officer treated the ₹2.34 crore receipt as salary/perquisite under section 17(2)(vi) on the basis that:

- the options had been granted in connection with the assessee's employment;
- Form 16 showed the amount as a perquisite;
- TDS had been deducted under section 192; and
- the repurchase offer itself indicated that the amount would be taxable under the head "Salaries."

The CIT(A) upheld the AO's position.

Assessee's Argument

The assessee contended that:

- section 17(2)(vi) applies when a specified security is allotted/transferred pursuant to exercise of the option;
- here, the options were never exercised and no shares were allotted;
- a vested option represents a right to subscribe to shares, which itself constitutes a capital asset;
- repurchase of that right amounts to a transfer of a capital asset under section 2(47); and
- therefore, the resulting gain is taxable under section 45 as capital gains.

ITAT's Decision

The ITAT allowed the assessee's appeal on the principal issue and held that the receipt was taxable as LTCG, not salary.

A. Unexercised option is not a "specified security" for section 17(2)(vi)

The Tribunal analysed the mechanism of ESOPs in five stages:

Grant → Vesting → Exercise → Allotment of shares → Sale of shares

In this case, only the first two stages occurred.

The Tribunal held that section 17(2)(vi) operates when the employee exercises the option and the specified security comes into existence. The valuation mechanism in Explanation (c) itself refers to the FMV on the date on which the option is exercised.

Therefore, where the option is merely vested but never exercised, there is no specified security whose value can be brought to tax as a perquisite.

B. The vested option is itself a capital asset

The Tribunal relied particularly on the Karnataka High Court decision in *Chittharanjan A. Dasannacharya v. CIT* and the Supreme Court's decision in *Dhun Dadabhoy Kapadia v. CIT*.

It held that a stock option represents a right to subscribe to the underlying shares at a future date, and that right constitutes a capital asset under section 2(14).

C. Repurchase constitutes "transfer"

Since the vested option was a capital asset, its repurchase by FKS amounted to a transfer within the meaning of section 2(47).

Consequently, the consideration received on repurchase gave rise to capital gains chargeable under section 45.

The Tribunal therefore accepted the assessee's treatment of the receipt as long-term capital gains.

Final Outcome

The ITAT:

- held that the repurchase consideration was taxable as LTCG and not salary/perquisite;
- treated the vested, unexercised stock option as a capital asset;
- held that its repurchase constituted a transfer under section 2(47);
- held that Form 16/TDS did not determine the ultimate taxability;
- left the reassessment-validity ground open because relief had already been granted on merits;
- treated section 234B interest as consequential; and
- considered the penalty ground premature.

Result: Appeal allowed.

TAX INSIGHTS

By
 Tax Research Department

Goods & Services Tax

16.08.2026

Whether a provisional attachment of a bank account under section 83 of the CGST Act, 2017 can continue beyond one year from the date of the attachment order, and whether the bank must de-freeze the account once that period expires in the absence of a fresh valid attachment order.

Zubair Enterprises v. Commissioner, CGST & Central Excise
 Delhi High Court (7 August 2026)

Facts

- The petitioner's bank accounts had been provisionally attached under section 83 of the CGST Act.
- The attachment order was issued on 9 March 2021.
- By the time the matter came before the Delhi High Court, more than one year had elapsed from the date of the attachment.
- The petitioner sought de-freezing of the attached bank accounts.
- The Revenue did not dispute that the one-year period under section 83(2) had expired.

Statutory Provision

Section 83(2) of the CGST Act, 2017 provides, in substance, that a provisional attachment made under section 83 ceases to have effect after one year from the date of the order.

Thus, the statute itself places a maximum one-year limit on the continuance of a provisional attachment.

Decision of the Delhi High Court

The High Court held that:

A provisional attachment under section 83 automatically ceases by operation of law on expiry of one year from the date of its issuance.

Therefore, once the one-year period expires, the bank account must be de-frozen, unless there is a fresh and valid order of provisional attachment issued in accordance with law.

The Court consequently directed Jammu & Kashmir Bank to de-freeze the petitioner's two attached accounts.

Important General Directions

The Court went beyond granting relief to the individual petitioner because it noticed that a large number of writ petitions were being filed seeking de-freezing of bank accounts after the expiry of the one-year period.

It issued the following directions:

A. Direction to GST authorities

Whenever a provisional attachment order is passed under section 83 the competent authority must expressly record that:

- the attachment can operate for a maximum of one year; and
- it will automatically cease after one year unless a fresh valid attachment order is passed according to law.

B. Direction to banks and financial institutions

Banks and financial institutions must:

- monitor the expiry of the one-year period; and
- forthwith de-freeze the attached account after one year,

unless a fresh, legally valid attachment order has been served on them.

C. Direction to RBI

The Court directed the Reserve Bank of India to issue an appropriate circular to scheduled banks and financial institutions so that the statutory requirement is implemented uniformly.

Key Legal Principle

The judgment establishes a clear rule:

Section 83 attachment → maximum 1 year → automatic cessation → bank must de-freeze → unless fresh valid attachment order exists.

The continued freezing of a bank account cannot be justified merely because the original attachment order remains on the bank's records after the statutory one-year period.

Bottom Line

The Delhi High Court has reaffirmed that the one-year period under section 83(2) of the CGST Act is an absolute statutory outer limit for a provisional attachment. Once one year expires, the attachment automatically lapses and the bank must de-freeze the account unless a fresh, legally valid attachment order has been issued and served.

The judgment is particularly significant because the Court issued system-wide directions to GST authorities, banks, financial institutions and the RBI to ensure that expired GST attachments do not continue to freeze taxpayers' accounts unnecessarily.

TAX INSIGHTS

By
 Tax Research Department

Direct Tax

17.08.2026

Whether a reassessment under sections 147/148 could be challenged as invalid for alleged non-issuance/non-service of notice under section 143(2), particularly where the assessee filed its return in response to section 148 beyond the time allowed in the notice and participated in the reassessment proceedings.

Nisha Projects (P.) Ltd. v. DCIT
ITAT Kolkata (13 July 2026)

Material Facts

- The assessee originally filed its return for AY 2016-17 on 13 September 2016, declaring a loss of ₹29,177.
- The assessment was subsequently reopened under section 147.
- A notice under section 148 dated 29 March 2021 was issued and served on the assessee.
- The notice specifically required the assessee to file the return within 30 days.
- The assessee, however, filed its return in response to section 148 only on 6 August 2021, well beyond the prescribed period.
- The Tribunal noted that the assessee did not seek extension of time from the Assessing Officer.
- During reassessment, the AO examined a loan of ₹84 lakh received from Babylon Trading and Investment Pvt. Ltd.
- The AO was not satisfied regarding the genuineness of the transaction and treated the ₹84 lakh as unexplained cash credit under section 68.
- The assessment was completed under sections 147 read with 144 and 144B, determining total income at ₹84 lakh.
- The CIT(A) upheld the assessment.

Assessee's Arguments before ITAT

The assessee raised an additional legal ground contending that:

1. No notice under section 143(2) had been served, and therefore the reassessment was void.
2. The AO had failed to pass a separate speaking order disposing of the objections to reopening, contrary to the Supreme Court's decision in *GKN Driveshafts (India) Ltd. v. ITO*.
3. Reliance was placed principally on *ACIT v. Hotel Blue Moon*, where the Supreme Court had emphasized the requirement of section 143(2) notice in the context considered in that case.
4. The assessee subsequently filed an affidavit stating that no section 143(2) notice was available on its income-tax portal.

Revenue's Arguments

The Revenue pointed out that:

- The assessment order itself recorded that a section 143(2) notice had been issued.
- There was apparently a typographical error in the year mentioned in the assessment order.
- Other statutory notices, including section 142(1) notices, had also been issued.
- The assessee had participated in the reassessment proceedings and furnished details/documents.
- More importantly, in its own statement of facts filed before the CIT(A), the assessee had itself stated that notices under sections 143(2) and 142(1) had been issued.
- Therefore, the subsequent affidavit denying receipt/service was inconsistent with the assessee's earlier stand.
- Section 292BB was also relied upon by the Revenue.

Tribunal's Decision

The ITAT dismissed the assessee's appeal.

A. Return filed beyond time under section 148

- The Tribunal first noted that the section 148 notice allowed 30 days for filing the return.
- The assessee filed the return only on 6 August 2021, beyond the permitted period, without seeking additional time.
- The Tribunal therefore treated the return as an invalid return for the purposes discussed in the order.
- This fact was important to the Tribunal's treatment of the assessee's reliance on authorities concerning section 143(2).

B. Section 143(2) objection rejected

The Tribunal rejected the assessee's challenge based on non-service/non-issuance of section 143(2) notice.

The important reasoning was:

- The assessee had itself stated before the CIT(A) that section 143(2) and 142(1) notices were issued.
- The assessment order also recorded issuance of the section 143(2) notice.

TAX INSIGHTS

By
Tax Research Department

Direct Tax

17.08.2026

- The assessee had actively participated in the reassessment proceedings.
- Its subsequent affidavit denying receipt of the notice was inconsistent with its earlier statement.
- The Tribunal also invoked section 292BB.

Most significantly, the Tribunal held that proceedings under sections 147/148 constitute a separate statutory code for reassessing escaped income, and on the facts of this case it held that issuance of a section 143(2) notice was not mandatory merely because reassessment proceedings were undertaken under sections 147/148. Thus, the assessee could not invalidate the reassessment on this ground.

C. Hotel Blue Moon distinguished

The assessee relied upon ACIT v. Hotel Blue Moon [2010]

The ITAT held that this decision did not apply to the present facts, because Hotel Blue Moon concerned the specific statutory framework under section 158BC(1) (a), which contained a specific provision regarding the notice.

Therefore, the Tribunal did not consider the Supreme Court decision to establish the proposition advanced by the assessee in the present section 147/148 proceedings.

D. GKN Driveshafts objection rejected

The assessee also relied on GKN Driveshafts (India) Ltd. v. ITO [2003](SC) concerning disposal of objections against reopening.

The ITAT distinguished that authority on the facts, particularly because the assessee had not filed the return within the 30-day period stipulated in the section 148 notice.

Accordingly, the Tribunal rejected the challenge based on alleged non-disposal of objections.

E. Section 292BB

The Tribunal accepted the Revenue's reliance on section 292BB, particularly in light of the assessee's participation in the assessment proceedings.

The Tribunal also found it significant that the assessee had earlier admitted issuance of the relevant notices in its statement of facts.

Final Holding

The ITAT held that the assessee's objections regarding:

- alleged non-issuance/non-service of **section 143(2) notice**, and
- alleged failure to dispose of objections to reopening,

did not invalidate the reassessment.

The appeal was consequently **dismissed.**

Importantly, the assessee **did not argue the merits of the ₹84 lakh addition under section 68** before the Tribunal. Therefore, the Tribunal's order principally dealt with the **jurisdictional/procedural challenges**, rather than determining the substantive genuineness of the loan.

TAX INSIGHTS

By
Tax Research Department

Goods & Services Tax

17.08.2026

Can a show-cause notice under section 74 of the CGST/SGST Act be sustained when the notice does not disclose the basic jurisdictional ingredients—fraud, wilful misstatement, or suppression of material facts with intent to evade tax?

S.S. Infrazone (P.) Ltd. v. State of U.P.
High Court of Allahabad (7 August 2026)

Facts of the Case

- The State tax authorities issued a show-cause notice dated 30 April 2026 to the petitioner under section 74 of the CGST/SGST Act for the tax period 2020-21.
- Section 74 is the provision applicable where tax has not been paid/has been short-paid, or ITC has been wrongly availed/utilised, by reason of fraud, wilful misstatement or suppression of facts with intent to evade tax.
- The petitioner challenged the SCN directly before the High Court under Article 226 of the Constitution.
- The principal contention was that the SCN did not set out the statutory ingredients necessary to invoke section 74.
- In particular, the notice did not disclose the alleged:
 - fraud;
 - wilful misstatement; or
 - suppression of material facts with intent to evade tax.

Petitioner's Contention

The petitioner argued that the defect was not merely procedural.

Its case was that the omission of the section 74 ingredients went to the very jurisdiction of the officer to invoke the extended/fraud-based provision.

The petitioner relied upon the Allahabad High Court's earlier decision in:

HCL Infotech Ltd. v. Commissioner, Commercial Tax, [2024].

Revenue's Position

The State authorities defended the proceedings. However, after examining the SCN, the Court found that the notice itself did not contain the necessary allegations establishing the statutory foundation for invoking section 74.

High Court's Findings

The Court's reasoning was concise but significant.

A. Section 74 has specific jurisdictional ingredients

The Court examined the impugned SCN and found that it did not contain the ingredients required under section 74 concerning:

- fraud;
- wilful misstatement; or
- suppression of material facts with intent to evade tax.

Thus, the notice failed to establish the statutory basis on which the authorities were invoking section 74.

B. The defect was jurisdictional

The Court accepted the petitioner's submission that the SCN lacked the necessary statutory foundation.

In other words, this was not simply a case of an inadequately reasoned notice. The absence of the essential section 74 ingredients meant that the authority had not properly disclosed the circumstances permitting it to exercise the special power under section 74.

C. SCN quashed

Because the jurisdictional preconditions were not disclosed, the Court held that continuation of the proceedings pursuant to the SCN was unsustainable.

The SCN was therefore quashed and set aside.

Important Qualification-Liberty to Issue Fresh SCN

- The Court did not permanently prohibit the Revenue from taking action.
- It expressly granted the authorities liberty to issue a fresh show-cause notice in accordance with law.
- Therefore, the judgment does not mean that the tax demand itself has been adjudicated in favour of the taxpayer on merits.

Rather:

- The particular section 74 SCN was invalid because it failed to disclose the jurisdictional ingredients necessary for invoking section 74.
- If the authorities have legally sustainable grounds, they may issue a fresh SCN satisfying the statutory requirements.

TAX INSIGHTS

By
 Tax Research Department

Direct Tax

18.08.2026

Whether proceedings under section 153C can be initiated against an “other person” when the Assessing Officer of the searched person records the requisite satisfaction note more than four years after the search and long after completion of the searched person's assessment.

Bhartiben Dharmeshbhai Gathani v. Deputy Commissioner of Income-tax
 High Court of Gujarat (27 July 2026)

Facts of the Case

- A search under section 132 was conducted on 15 October 2019 in the case of Suresh R. Thakkar, a third party.
- The search concerned land in which the petitioner had an interest.
- The assessment of the searched person was completed in August 2021.
- However, the Assessing Officer of the searched person recorded the satisfaction note only on 27 January 2025.
- Thereafter, the AO having jurisdiction over the petitioner recorded his satisfaction on 26 March 2025.
- A notice under section 153C was issued to the petitioner on 31 March 2025 for AY 2017-18.
- Subsequently:
 - order under section 153C was passed on 26 March 2026; and
 - demand notice was also issued on 26 March 2026.
- The assessee approached the Gujarat High Court under Article 226, challenging the validity of the section 153C proceedings.

Petitioner's Main Contention

- The petitioner argued that the proceedings were invalid because the satisfaction required for invoking section 153C was recorded after an inordinate and legally impermissible delay.
- The petitioner relied heavily on the Gujarat High Court's earlier decision in:
- **Parag Rameshbhai Gathani v. ITO, International Taxation, [2025].**
- That case involved the same search action and the same land, and concerned another co-owner.

Revenue's Defence

- The Revenue argued that the reassessment should not be quashed merely because of the delay in recording satisfaction.
- It contended that the proceedings were based on incriminating material discovered during the search conducted on 15 October 2019.
- Therefore, according to the Revenue, the substantive basis for section 153C proceedings existed and the proceedings should be allowed to continue.
- The High Court, however, found that the timing of the satisfaction note was a jurisdictional requirement that could not be overlooked.

Legal Framework-Satisfaction under Section 153C

- The Court relied on the Supreme Court's decision in **CIT v. Calcutta Knitweaves**, which laid down the principles regarding recording of satisfaction under section 158BD.

The satisfaction note can be recorded at any of three stages:

1. At the time of or along with initiation of proceedings against the searched person;
 2. During the assessment proceedings of the searched person; or
 3. Immediately after completion of the assessment proceedings of the searched person.
- These principles were subsequently applied to section 153C, which deals with assessment of a person other than the person searched.

CBDT Circular No. 24/2015

- The Court also referred to CBDT Circular No. 24/2015 dated 31 December 2015, which specifically accepted that the Calcutta Knitweaves principles apply to section 153C proceedings.
- The Circular also directed that pending litigation concerning satisfaction under sections 158BD/153C should be withdrawn/not pressed where the Supreme Court's guidelines were not followed.

Supreme Court Development

- An important aspect of the decision is that the Gujarat High Court's judgment in **Parag Rameshbhai Gathani** had been challenged before the Supreme Court.
- The High Court noted that the Supreme Court dismissed the Revenue's SLP on 2 April 2026.
- Accordingly, the Gujarat High Court considered its earlier reasoning to remain applicable and adopted it in the present case.

Final Decision

The Gujarat High Court allowed the writ petition. It held that the delayed recording of the satisfaction note rendered the initiation of section 153C proceedings unsustainable.

Consequently, the Court:

- quashed the section 153C notice dated 31 March 2025;
- quashed the assessment order dated 26 March 2026; and
- quashed the demand notice dated 26 March 2026.

The connected civil application became infructuous.

TAX INSIGHTS

By

Tax Research Department

Goods & Services Tax

18.08.2026

Whether the Proper Officer could determine the taxpayer's tax liability under section 73(9) before expiry of the statutory due date for filing the annual return for the relevant financial year.

Azad Enterprises v. State of Bihar
 High Court of Patna (6 August 2026)

Material Facts

- The petitioner regularly filed its monthly and quarterly GST returns.
- The proceedings related to FY 2022-23.
- The due date for filing the annual return under section 44 was 31 December 2023.
- However, the Proper Officer passed an order under section 73(9) on 25 November 2023, determining tax liability against the petitioner.
- Thus, the order was passed more than one month before the annual-return due date.
- The petitioner ultimately filed its annual return on 20 January 2024, after the statutory due date, potentially attracting the applicable late fee.
- Subsequently, the authorities issued a notice dated 28 March 2025 for attachment of the petitioner's bank account.
- The petitioner challenged both the determination order and consequential bank attachment proceedings before the High Court.

Petitioner's Argument

The petitioner contended that:

- The annual return for FY 2022-23 could be filed up to 31 December 2023.
- The Proper Officer nevertheless determined the tax liability on 25 November 2023.
- Therefore, the assessment/determination was made prematurely, before expiry of the statutory period available for filing the annual return.
- The subsequent bank-account attachment based on that order was also liable to be set aside.

The petitioner acknowledged that its annual return was actually filed on 20 January 2024, but argued that this did not cure the fundamental defect in the earlier order.

Revenue's Position

The State's counsel effectively conceded the factual position.

The Revenue accepted that:

the assessment/determination order had indeed been passed before the due date for filing the annual return. Thus, there was no dispute regarding the critical chronology.

High Court's Reasoning

The Court's reasoning was straightforward.

A. Annual-return due date had not expired

For FY 2022-23, the annual return due date was 31 December 2023.

But the Proper Officer determined the tax liability on 25 November 2023.

Therefore, at the time of the order, the statutory period for filing the annual return was still running.

B. Proper Officer lacked authority at that stage

The Court expressly held that:

The Proper Officer had no authority to assess the tax liability under section 73(9) before expiry of the due date for filing the return for FY 2022-23.

Thus, the problem was not merely a procedural irregularity or technical defect. The determination itself was premature and without authority.

Effect of the Invalid Order

The High Court consequently:

- set aside the order dated 25 November 2023 determining the tax liability;
- remanded the matter to the Proper Officer;
- directed the authorities to initiate fresh proceedings for FY 2022-23;
- required the fresh proceedings to be conducted after proper notice and opportunity of hearing; and
- directed completion of the exercise within three months, in accordance with law.

The Court also directed the petitioner to appear before the Proper Officer within two weeks, without waiting for a fresh notice.

Bank Account Attachment

The petitioner had also challenged the subsequent bank-account attachment notice dated 28 March 2025.

Since the underlying tax determination order itself was set aside, the consequential recovery action could not stand on that invalid foundation.

The practical effect of the judgment is therefore to require the Revenue to proceed afresh rather than rely upon the prematurely passed order.

Ratio Decidendi

The legal principle emerging from the judgment can be stated as:

Where the statutory due date for filing the annual return for a financial year has not expired, the Proper Officer cannot prematurely determine the taxpayer's tax liability under section 73(9). An order determining such liability before expiry of the annual-return filing period is without authority and liable to be set aside.

TAX INSIGHTS

By
Tax Research Department

Direct Tax

19.08.2026

Whether interest on borrowed funds incurred after completion of a real-estate project, in respect of unsold flats held as stock-in-trade, is required to be capitalised and allowed only when the flats are sold, or whether such interest is revenue expenditure deductible in the year in which the TDS-related conditions under section 40(a)(ia) are fulfilled.

ACIT v. Giraffe Developers (P.) Ltd.
ITAT (20 July 2026)

Key Facts

- The assessee was engaged in real-estate construction and development.
- The project was completed in FY 2010-11, and the Occupation Certificate was obtained on 23 December 2010.
- The flats remaining unsold thereafter were treated as finished goods/stock-in-trade.
- During the relevant year, the assessee incurred interest of approximately ₹19.41 crore on borrowed funds.
- Due to non-compliance with TDS provisions, the assessee suo motu disallowed approximately ₹18.54 crore under section 40(a)(ia).
- The assessee subsequently claimed deduction of approximately ₹13.88 crore, representing interest disallowed in an earlier year under section 40(a)(ia), since the applicable TDS had been deducted and deposited during the relevant year.

Assessing Officer's View

The AO held that the interest related to unsold completed flats and therefore formed part of the cost of inventory.

Accordingly, the AO took the view that:

- interest attributable to unsold flats could not be allowed as revenue expenditure immediately;
- the deduction should be available only in the year in which the respective flats were sold; and
- the assessee's claim of ₹13.88 crore, despite fulfilment of the TDS conditions, was therefore not allowable in the relevant year.

CIT(A)'s Decision

The CIT(A) deleted the addition of ₹13.88 crore.

The CIT(A) observed that:

- the project had already been completed in FY 2010-11;
- the Occupation Certificate had been obtained on 23 December 2010;
- after completion, unsold flats constituted finished goods/stock-in-trade;
- capitalization of borrowing costs consequently came to an end; and

- interest incurred after completion was revenue expenditure.

Since the assessee had also fulfilled the TDS-payment requirement under the proviso to section 40(a)(ia), the deduction was allowable in the year under consideration.

Tribunal's Findings

The ITAT upheld the CIT(A)'s order.

The Tribunal made an important distinction between:

Borrowing cost during construction:

Interest incurred until completion of the project may be capitalised as part of the construction cost.

Interest after completion:

Once the project is completed and the units become finished stock-in-trade, further interest is not incurred to bring the asset into existence. It is instead a recurring cost of financing the business and is revenue expenditure.

The Tribunal specifically held that merely because certain flats remain unsold, the post-completion interest does not become part of the acquisition or construction cost of those flats.

Section 40(a)(ia) Aspect

The Tribunal further held that the proviso to section 40(a)(ia) contemplates deduction of expenditure in the year in which the requisite TDS is subsequently deducted and paid.

Therefore, once the statutory TDS conditions were satisfied, there was no legal basis to postpone the deduction until the eventual sale of the flats.

Final Decision

The Mumbai ITAT dismissed the Revenue's appeal and affirmed the CIT(A)'s order.

Thus, the assessee was entitled to claim the ₹13.88 crore interest expenditure in the relevant year because:

1. the real-estate project had already been completed;
2. the Occupation Certificate had been obtained;
3. unsold flats were finished stock-in-trade;
4. capitalization of borrowing costs had ceased after completion;
5. post-completion interest was revenue expenditure; and
6. the assessee had fulfilled the TDS conditions prescribed under section 40(a)(ia).

TAX INSIGHTS

By

Tax Research Department

Goods & Services Tax

19.08.2026

Whether the High Court, in exercise of its writ jurisdiction, could condone a delay beyond the statutory condonable period under Section 107(4) of the CGST/KGST Act and restore the statutory appeal for adjudication on merits, considering the assessee's explanation for the delay and the substantive factual issues involved in the challenge to the tax levy.

Atharv Enterprises v. Joint Commissioner of Commercial Taxes (Appeal)
 High Court of Karnataka (6 August 2026)

Facts of the Case

- An order-in-original dated 15.10.2025 was passed against the petitioner under Section 73(9) read with Rule 142(5) of the CGST/KGST Acts.
- The petitioner filed an appeal under Section 107 on 27.03.2026.
- A pre-deposit of ₹39,972 was also made.
- Since the appeal was filed belatedly, the petitioner simultaneously filed an application seeking condonation of delay.
- The Appellate Authority dismissed the appeal on 04.07.2026, holding that the delay exceeded the permissible period for condonation.

Extent of Delay

The original order was dated 15.10.2025, whereas the appeal was filed on 27.03.2026, resulting in a delay of 163 days.

Under Section 107:

- Appeal is required to be filed within 3 months from communication of the order.
- Under Section 107(4), the Appellate Authority can condone delay by a further one month, if sufficient cause is shown.
- In the present case, the appeal was filed 43 days beyond the maximum condonable period.

Assessee's Explanation for Delay

The petitioner explained that the delay occurred due to:

1. Pendency of rectification proceedings, and
2. The petitioner's personal exigency arising from her son's marriage.

The Revenue opposed the writ petition, particularly pointing out that the petitioner had not produced documents evidencing the alleged rectification proceedings.

Decision of the High Court

The Karnataka High Court condoned the delay and restored the appeal.

The Court noted that although there were no documents produced regarding the rectification proceedings, that was not the only reason given for the delay.

More importantly, the Court considered that:

- the petitioner was contesting the levy of tax;
- several factual aspects were sought to be raised in support of the challenge; and
- a similar approach had been adopted by the Court in *Simplex Infrastructures Ltd. v. Joint Commissioner, W.A. No. 942 of 2021*, decided on 3 December 2021.

Final Directions

The High Court:

- Partly allowed the writ petition.
- Condoned the delay in filing the statutory appeal.
- Restored the appeal to the file of the Joint Commissioner.
- Directed the petitioner to appear before the Appellate Authority on 07.09.2026 at 3:00 p.m.
- Directed the Appellate Authority to decide the appeal on merits after providing an adequate opportunity of hearing.
- Kept all contentions on merits open.

Legal Principle

The judgment demonstrates that, in exceptional factual circumstances, the High Court may exercise its writ jurisdiction to intervene even where the statutory appeal has been filed beyond the condonable period under Section 107.

The Court considered the substantive challenge to the tax levy and the factual circumstances of the case, rather than allowing the matter to be rejected solely on limitation.

Key Takeaway

A delay beyond the statutory condonable period under Section 107 is not necessarily an absolute bar to judicial intervention. Where the assessee is genuinely contesting the tax levy and the case involves substantial factual issues, the High Court may, in appropriate circumstances, condone the delay in writ jurisdiction and restore the appeal for decision on merits.

Outcome: In favour of assessee – appeal restored and matter remanded for adjudication on merits.

TAX INSIGHTS

By
 Tax Research Department

Direct Tax

20.08.2026

Whether reassessment proceedings under Section 147 could be initiated when the same bank account, bank statements, credits and related financial information had already been examined by the Assessing Officer during the original scrutiny assessment under Section 143(3), and there was no new tangible material suggesting escapement of income.

Mahendra Gumanmalji Lodha v. Assistant Commissioner of Income-tax
 High Court of Gujarat | 31 July 2026

Key Facts

- The assessee's return for A.Y. 2012-13 was subjected to scrutiny under Section 143(3).
- The original assessment was completed on 5 February 2015, after the Assessing Officer examined the relevant material, including the assessee's bank account and bank statements.
- Income was assessed at approximately ₹4.64 crore.
- Subsequently, the Assessing Officer issued a notice dated 28 March 2019 under Section 147, requiring the assessee to explain:
 - Aggregate bank credits of approximately ₹108.06 crore, and
 - Sales/gross receipts of approximately ₹2.72 crore.
- Based on information from the Investigation Wing, the Revenue proposed that approximately ₹107.63 crore be treated as unexplained income.
- The assessee challenged the reopening, contending that the very same bank account and relevant financial details had already been examined and accepted during the original scrutiny assessment.
- Importantly, the Revenue did not establish that the Investigation Wing had relied upon any new tangible material that was unavailable to the Assessing Officer during the original assessment.
- The information provided sufficient reason to believe that taxable income had escaped assessment.
- Therefore, reopening under Section 147 was justified.

Decision of the High Court

The Gujarat High Court quashed the reassessment notice.

The Court observed that:

- The original assessment under Section 143(3) had been completed after considering the relevant material, including the bank account in question.
- The bank statements had already been furnished and examined during the original scrutiny proceedings.
- The Revenue had not shown that the Investigation Wing's information was based on any new tangible material that was not available to the original Assessing Officer.
- Reopening the assessment on the same set of facts and material amounted to nothing more than a change of opinion.

Accordingly, the notice dated 28 March 2019 issued under Section 147 was quashed and set aside, and the writ petition was allowed.

Assessee's Contention

The assessee argued that:

1. The bank account and relevant transactions had already been disclosed during the original scrutiny.
2. The Assessing Officer had examined the relevant material before completing the assessment under Section 143(3).
3. There was no fresh tangible material demonstrating escapement of income.
4. Reopening the assessment merely on the basis of a different view of the same material amounted to a change of opinion, which is not permissible.

Revenue's Contention

The Revenue contended that:

- New information had been received from the Investigation Wing.

Key Legal Principle

Reassessment cannot be used as a mechanism to review an assessment already completed after scrutiny. Where the Assessing Officer had examined the relevant material during the original assessment and the Revenue does not bring any new tangible material indicating escapement of income, reopening based on the same material constitutes a change of opinion and is liable to be quashed.

Significance

The ruling reinforces the principle that Section 147 does not confer a power of review upon the Assessing Officer. Information received from the Investigation Wing by itself cannot automatically justify reopening where the underlying material was already before and considered by the Assessing Officer in the original scrutiny assessment.

TAX INSIGHTS

By
Tax Research Department

Goods & Services Tax

20.08.2026

Whether an adjudicating authority can pass an order under Section 73 of the CGST/UPGST Acts confirming a tax demand and imposing a penalty beyond the amount proposed in the show-cause notice (SCN), in violation of the mandatory restriction under Section 75(7).

Svas Lifesciences (P.) Ltd. v. State of U.P.
High Court of Allahabad | 17 August 2026

Key Facts

- The petitioner was subjected to proceedings for FY 2020-21 under Section 73 of the CGST/UPGST Acts.
- A show-cause notice dated 8 November 2024 proposed a tax demand of ₹39,557,159.
- The SCN did not propose any penalty.
- Subsequently, the adjudicating authority passed an order dated 13 February 2025 confirming:
 - Tax demand of ₹39,557,159, as proposed in the SCN; and
 - Penalty of ₹40,000, which had not been proposed in the SCN.
- The petitioner challenged the adjudication order before the Allahabad High Court, primarily on the ground that it violated the mandatory provisions of Section 75(7).

Petitioner's Contention

The petitioner contended that:

1. The adjudicating authority could not confirm a demand exceeding the amount proposed in the SCN.
2. Since no penalty was proposed in the SCN, imposition of penalty in the adjudication order was beyond the scope of the proceedings.
3. Such an order was contrary to the statutory mandate under Section 75(7) and therefore without jurisdiction.

Revenue's Position

- The matter was defended by the UPGST authorities. However, the High Court found the statutory violation apparent from the record itself.

Findings of the High Court

- The Court held that Section 75(7) is mandatory.
- The SCN had proposed only a tax demand of ₹39,557,159, whereas the adjudication order additionally imposed a ₹40,000 penalty.

- The Court emphasized that once the legislature has prohibited an adjudicating authority from confirming a demand in excess of the amount proposed in the SCN, the authority cannot legally travel beyond that proposal.
- Thus, the adjudication order suffered from a fundamental jurisdictional illegality.

Decision

The Allahabad High Court:

- Set aside the adjudication order dated 13 February 2025.
- Held that the order was without jurisdiction to the extent it confirmed a demand beyond the SCN proposal.
- Remitted the matter to the adjudicating authority for passing a fresh order.
- Directed that the petitioner be given due opportunity of hearing.
- Directed that the fresh order preferably be passed within three months.

Key Legal Principle

Under Section 75(7) of the CGST/UPGST Acts, the adjudicating authority cannot confirm a demand exceeding the amount specified in the show-cause notice. Where the SCN does not propose a particular component of demand, such as penalty, and the adjudication order subsequently imposes it, the order violates the statutory mandate and may be treated as without jurisdiction.

Practical Significance

This judgment reinforces the importance of the SCN as the foundation of GST adjudication. The adjudicating authority cannot introduce a new demand or liability at the adjudication stage without it having been properly proposed in the SCN.

TAX INSIGHTS

By
Tax Research Department

Direct Tax

21.08.2026

- Whether interest earned on unutilised funds parked in bank fixed deposits by an SEZ developer was eligible for deduction under Section 80-IAB of the Income-tax Act, 1961.
- Whether disallowance under Section 14A read with Rule 8D could exceed the amount of exempt income earned by the assessee.

Principal Commissioner of Income-tax-1 v. Mundra Port and Special Economic Zone Ltd.
High Court of Gujarat | 3 August 2026

Facts of the Case

- The assessee, Mundra Port and Special Economic Zone Ltd., was engaged in the development and operation of ports, Special Economic Zones and related infrastructure.
- For A.Y. 2008-09, the assessee filed its return declaring total income of approximately ₹23.21 crore.
- The assessment was completed under Section 143(3), determining total income at approximately ₹45.85 crore.
- The dispute included the treatment of interest earned on unutilised funds kept in fixed deposits with banks and its eligibility for deduction under Section 80-IAB.
- The assessee also faced a Section 14A read with Rule 8D disallowance in relation to exempt income.
- The CIT(A) granted partial relief. The ITAT subsequently dismissed the Revenue's appeal and partly allowed the assessee's cross-objection.

Issue 1: Interest on Fixed Deposits – Deduction under Section 80-IAB

Revenue's Stand

The Revenue challenged the Tribunal's finding that interest income earned from fixed deposits of unutilised funds qualified for deduction under Section 80-IAB. The Revenue relied upon the settled principle laid down in CIT v. Nirma Ltd., contending that the character of interest income had to be examined for determining its eligibility for deduction.

Assessee's Position

The assessee contended that the funds were parked in fixed deposits for business purposes, including because of requirements imposed by financial institutions. Therefore, the interest could not be regarded as independent income from other sources but was connected with the assessee's business activities.

High Court's Decision

- The High Court upheld the assessee's position.
- It relied upon the settled legal position that interest earned on fixed deposits placed for business purposes constitutes business income and cannot merely be treated as income from other sources.
- Accordingly, the Court answered the first question in favour of the assessee and against the Revenue, thereby affirming the eligibility of such interest income for deduction under Section 80-IAB.

Issue 2: Section 14A Disallowance Cannot Exceed Exempt Income

Facts

The assessee had earned exempt income of ₹55,604. However, the Assessing Officer computed a much higher disallowance under Section 14A read with Rule 8D.

The Tribunal restricted the disallowance to the amount of exempt income earned by the assessee.

High Court's Decision

- The Gujarat High Court upheld the restriction.
- The Court followed its earlier decision in CIT v. Vision Finstock Ltd., where it had held that a disallowance under Section 14A read with Rule 8D cannot exceed the amount of exempt income actually earned.
- The Court also noted the similar principle adopted in CIT v. Corrotech Energy Pvt. Ltd.
- Thus, where the assessee earned exempt income of ₹55,604, the Section 14A disallowance could not exceed ₹55,604. The excess disallowance was therefore unsustainable.

Final Decision

The Gujarat High Court decided both substantial questions in favour of the assessee and against the Revenue.

- Interest on business-related fixed deposits: Eligible for deduction under Section 80-IAB.
- Section 14A disallowance: Cannot exceed the amount of exempt income.
- The Revenue's tax appeal was accordingly disposed of.
- The assessee's cross-objection concerning share issue expenses became unnecessary to decide after the principal issue was decided in the assessee's favour.

Key Takeaway

Interest earned by an SEZ developer on funds temporarily parked in fixed deposits for business purposes can qualify for deduction under Section 80-IAB when it has a business nexus. Further, a Section 14A disallowance cannot exceed the exempt income actually earned by the assessee.

TAX INSIGHTS

By
 Tax Research Department

Goods & Services Tax

21.08.2026

- Whether commission received from foreign universities for facilitating student admissions qualifies as export of services and whether accumulated ITC can be refunded.
- Whether fees charged from students in India for consultancy and support services are liable to GST.
- Whether GST is payable where such student services are provided free of charge under promotional schemes.

Eduguide Overseas Studies (P.) Ltd., In re
 AAR – Maharashtra (30 December 2025)

Facts of the Case

- The applicant, Eduguide Overseas Studies (P.) Ltd., is an Indian private limited company engaged in providing consultancy and support relating to education and overseas courses.
- It had agreements with foreign universities under which it helped in attracting prospective students and facilitating admissions.
- For every successful admission, the foreign universities paid the applicant commission in foreign currency.
- Separately, the applicant provided services directly to students in India, including assistance with applications, education loans, visas and e-ticketing, for which it charged fees.
- At times, as part of promotional offers, the applicant provided such services to students without charging any fee.

Issue 1: Commission from Foreign Universities – Export of Services

Applicant's Contention

The applicant argued that its services to foreign universities satisfied all five conditions prescribed under Section 2(6) of the IGST Act for export of services:

- supplier located in India;
- recipient located outside India;
- place of supply outside India;
- consideration received in convertible foreign exchange/INR wherever permitted; and
- supplier and recipient not being establishments of distinct persons.

The principal controversy was whether the applicant was acting as an "intermediary".

Revenue/Jurisdictional Officer's View

The jurisdictional officer argued that the applicant appeared to be acting as an agent/intermediary because it facilitated admissions between foreign universities and students.

If treated as an intermediary, Section 13(8)(b) of the IGST Act would apply, under which the place of supply was the location of the supplier. Since the applicant was located in India, the service would not qualify as export of services.

AAR's Analysis

The AAR examined the definition of intermediary under Section 2(13) of the IGST Act.

It identified three important characteristics:

1. There must generally be three parties.
2. The intermediary must arrange or facilitate the main supply between the other parties.
3. A person providing services on its own account and on a principal-to-principal basis is not an intermediary.

The AAR found that:

- The applicant had a contractual relationship with the foreign universities.
- It did not have any contractual agreement with the students in relation to the university's service.
- The applicant was providing advertising and marketing services to the foreign universities.
- The ultimate decision regarding admission remained with the foreign university.
- The applicant merely forwarded details of interested students.
- Therefore, it was providing services to the foreign universities on its own account and on a principal-to-principal basis rather than facilitating a supply between two other persons.

The AAR also relied upon decisions including Ernst & Young Ltd., KC Overseas Education (P.) Ltd., and Oceanic Consultant Pvt. Ltd., which supported the position that such services need not constitute intermediary services merely because Indian students benefit from the activity.

TAX INSIGHTS

By

Tax Research Department

Goods & Services Tax

21.08.2026

Decision on Issue 1

- The AAR held that the services supplied to foreign universities were not intermediary services.
- Consequently, the place of supply was outside India under the general rule in Section 13(2), and the conditions of Section 2(6) were satisfied.

Therefore:

- Services provided to foreign universities qualified as "export of services" and were eligible for refund of accumulated ITC, subject to verification and due process.

Issue 2: Fees Charged from Students in India

The applicant also provided consultancy and support services directly to students in India and charged fees for those services.

The AAR held that these activities constituted a supply of services under Section 7 of the CGST Act because:

- consideration was received from students;
- the services were provided in the course or furtherance of business; and
- the applicant was providing consultancy/support services directly to the students.

The applicant's argument that these were merely ancillary services did not provide an exemption from GST.

The AAR further held that these services could not be treated as part of a composite supply, because the recipients were different:

- marketing services → foreign universities;
- consultancy/support services → students.

Therefore, the two supplies could not be combined as one composite supply.

Decision on Issue 2

Fees collected from students for consultancy/support services are taxable supplies and GST is payable on such services.

Issue 3: Free Services to Students under Promotional Schemes

Where the applicant provided services to students without charging any fee under promotional offers, the AAR examined whether such transactions would nevertheless constitute a supply.

The AAR noted that consideration is one of the primary requirements for a transaction to qualify as a supply under Section 7.

Since:

- no consideration was received from the students; and
- the transactions did not fall within Schedule I,

the free services did not qualify as "supply".

Decision on Issue 3

No GST is payable on consultancy/support services provided free of charge to students under promotional schemes, provided the transaction does not fall within Schedule I.

Key Takeaway

- The important principle emerging from the ruling is that an education consultant providing marketing/admission-related services to foreign universities on a principal-to-principal basis is not necessarily an "intermediary." Where the contractual relationship and consideration are directly between the consultant and the foreign university, and the consultant supplies the service on its own account, the transaction can qualify as export of services, making the supplier eligible for zero-rated treatment and ITC refund, subject to statutory verification.
- At the same time, separate consultancy services supplied directly to Indian students for consideration constitute taxable supplies, and cannot be clubbed with the export service merely by describing them as ancillary.

TAX INSIGHTS

By
 Tax Research Department

Direct Tax

22.08.2026

Whether prosecution under section 276C(2) could be sustained merely because there was a delay in payment of admitted tax liability, where the assessee had faced genuine financial difficulties, maintained correspondence with the Department, made substantial part-payments and ultimately discharged the entire tax liability along with interest.

Dinar Tarcar Resources (India) (P.) Ltd. v. Income-tax Department
 Bombay High Court (28 July 2026)

Facts of the Case

- The assessee-company was engaged in trading and export of iron ore.
- For A.Y. 2012-13, it filed its return declaring income of approximately ₹4.77 crore, which was accepted by the Department.
- Subsequently, the Department raised a demand for payment of tax.
- The assessee explained that its mining operations had been suspended in Goa, resulting in severe financial difficulties and inability to immediately discharge the tax liability.
- Despite the financial constraints, the assessee made a part payment of ₹30 lakh and continued communicating with the Department seeking time for payment.
- The assessee also informed the Department that it intended to sell assets and use the proceeds to discharge the tax liability.
- The PCIT issued a notice proposing prosecution under section 276C(2). The assessee submitted objections explaining its genuine financial difficulties.
- The PCIT nevertheless granted sanction under section 279(1) for prosecution.
- Criminal proceedings were initiated before the Chief Judicial Magistrate.
- Meanwhile, the assessee continued making payments. The outstanding liability was completely discharged by 20 March 2017, including applicable interest.
- Thereafter, the Department passed an order under section 154, recording that the assessee's net payable amount was NIL.

Department's Contention

The Department argued that:

- The assessee had failed to pay the admitted tax liability within the prescribed time.
- The subsequent payment of tax and interest did not automatically wipe out the offence.
- The alleged financial difficulty was not sufficient to negate the alleged wilful attempt to evade tax.
- The prosecution was therefore validly initiated after obtaining the requisite sanction.

Assessee's Contention

The assessee contended that:

- There was no intention to evade tax.
- The delay resulted from genuine financial difficulties caused by suspension of mining operations.

- It had consistently communicated with the Department and requested time for payment.
- It had made substantial payments even before prosecution was initiated.
- The entire liability, including interest, was ultimately paid and the Department recorded NIL outstanding dues.
- Mere delay or inability to pay cannot amount to a "wilful attempt" under section 276C(2) in the absence of mens rea.

Court's Interpretation of Section 276C(2)

The High Court emphasised that section 276C(2) does not merely require a default or delay in payment. It requires a "wilful attempt" to evade payment of tax, penalty or interest.

The Court held that:

- "Wilful" denotes an act done consciously and deliberately.
- It introduces a mental element/mens rea.
- A genuine inability to pay, accidental or unintentional conduct, or mere delay does not by itself constitute a wilful attempt.
- Since section 276C(2) is a penal provision, the complaint must specifically establish the ingredients of the offence and cannot rely merely on vague allegations.

Held

The Bombay High Court allowed the assessee's writ petition and quashed the criminal proceedings.

The Court observed that the assessee:

- had continuously sought time from the Department;
- had made periodic payments;
- had paid interest on the delayed payment;
- had ultimately discharged the entire liability; and
- had no specific allegation in the complaint establishing a deliberate or conscious attempt to evade tax.

Consequently, the Court held that the ingredients of section 276C(2) were not satisfied and that the CJM had issued process mechanically without properly considering the relevant facts. The impugned order dated 7 November 2025 and the pending criminal case were therefore quashed and set aside.

TAX INSIGHTS

By
Tax Research Department

Goods & Services Tax

22.08.2026

Whether mere uploading of a Show Cause Notice (SCN) and Order-in-Original on the GST common portal under “View Additional Notices and Orders” constitutes valid service under Section 169 read with Section 146 of the CGST Act, 2017, particularly where the assessee neither acknowledged the notice nor filed a reply.

Quattro Well (P.) Ltd. v. State of Haryana
High Court of Punjab & Haryana | 10 August 2026

Facts of the Case

- The petitioner challenged the SCN and Order-in-Original on the ground that they had been served only by uploading them on the GST common portal.
- The petitioner had not acknowledged receipt of the SCN and had not filed a response.
- Consequently, an ex parte adjudication order was passed.
- The Revenue relied upon Section 115 of the Finance Act, 2022, which retrospectively amended the relevant notification relating to functions performed through the common portal.
- The High Court considered whether this retrospective amendment changed the legal position regarding service of SCN and orders through portal uploading.

Held

The High Court ruled in favour of the assessee and followed its earlier decisions in *Luxmi Traders v. UT Chandigarh* and *Amar Coop LC Society Ltd. v. State of Haryana*.

The Court held that:

1. Mere uploading of an SCN on the GST portal does not, by itself, constitute sufficient service, unless its receipt is acknowledged or the assessee files a reply.
2. Where an SCN was uploaded only on the portal, no reply was filed, and an ex parte order was passed, the proceedings must be restored to the stage of issuance of the SCN. The assessee must then be given an opportunity to file its reply and be heard.
3. Where an Order-in-Original was served only by portal uploading after the assessee had contested the proceedings, the limitation period for filing an appeal would not commence merely from such uploading.

4. The Court rejected the Revenue's argument that the retrospective amendment introduced by the Finance Act, 2022 validated such service. The GST Rules did not specifically authorise the common portal to substitute formal service of SCN/orders merely by uploading them.
5. The Court emphasised that a method of service resulting in serious civil consequences for an assessee cannot be accepted when the assessee has not actually received or acknowledged the SCN/order.

Final Outcome

The writ petition was disposed of in terms of the principles laid down in *Luxmi Traders and Amar Coop LC Society Ltd.* The matter was therefore restored in accordance with those directions. Where applicable, recovery/attachment was also made subject to the final adjudication.

Key Legal Principle

Mere uploading of an SCN or adjudication order on the GST common portal, without acknowledgement or response, does not necessarily amount to valid service. Consequently, an ex parte GST order based solely on such portal uploading can be set aside and the proceedings restored to the SCN stage, ensuring a proper opportunity of hearing.

Practical Significance

This judgment is important for GST litigation because it protects the principles of natural justice where taxpayers genuinely did not receive or acknowledge an SCN. It also clarifies that appeal limitation cannot automatically be reckoned from the date on which an order was merely uploaded on the portal in the circumstances recognised by the Court.

TAX INSIGHTS

By
Tax Research Department

Direct Tax

23.08.2026

Whether cash of ₹8,87,400 found during a search and attributed to the assessee's mother and minor children could be treated as unexplained money under section 69A, despite the assessee explaining it as: lifetime household savings/'stridhan' of the mother and customary cash gifts received by the minor children and alternatively, whether the cash could be explained by telescoping against cash of ₹20,60,970 recognised as available to the family in an earlier assessment year

Pawan Onkardas Chandak v. ACIT
ITAT Mumbai (20 July 2026)

Facts of the Case

- A search under section 132 was conducted at the assessee's residential and business premises.
- Cash of ₹19,14,500 was found, of which ₹16,64,500 was seized.
- The assessee explained the cash as belonging to six family members:

Family member	Cash explained
Assessee	₹1,78,200
Wife	₹43,500
Father	₹8,05,400
Mother	₹4,80,600
Minor daughter	₹2,25,300
Minor son	₹1,81,500
Total	₹19,14,500

The mother's cash was explained as her lifetime savings, while the children's cash was stated to represent customary gifts received from relatives on various occasions.

Assessment by AO

The Assessing Officer rejected the explanation and treated the entire seized cash of ₹16,64,500 as unexplained money under section 69A.

The AO primarily relied upon the absence of:

- regular books of account;
- documentary evidence regarding gifts received by the minor children;
- evidence establishing the mother's independent source of savings; and
- supporting evidence for the father's agricultural income.

Accordingly, the entire seized cash was added under section 69A.

Decision of CIT(A)

The CIT(A) partly accepted the assessee's explanation.

The following amounts were accepted:

- Assessee – ₹1,78,200
- Wife – ₹43,500
- Father – ₹8,05,400

Thus, addition of ₹7,77,100 was deleted.

However, the CIT(A) sustained:

- Mother's cash – ₹4,80,600
- Minor children's cash – ₹4,06,800

Total addition sustained: ₹8,87,400.

Arguments before ITAT

The assessee contended that the CIT(A) had adopted an excessively technical approach.

Regarding mother:

-She was a senior citizen and could reasonably have accumulated savings over several decades from household allowances, pin money, gifts and 'stridhan'.

Regarding minor children:

-Cash gifts received from relatives on occasions such as birthdays, festivals and family functions are customary and need not necessarily be supported by formal records.

Alternative argument – Telescoping:

-The assessee pointed out that in AY 2019-20, cash of ₹20,60,970 arising from agricultural land sale proceeds had been accepted by the CIT(A) as available cash and the corresponding section 69A addition had been deleted. Thus, this earlier available cash could explain the cash found during the subsequent search.

Decision of ITAT

The ITAT allowed the assessee's appeal and directed deletion of the remaining addition of ₹8,87,400.

The Tribunal gave two important reasons:

A. Human probabilities and social realities

The Tribunal relied upon the Supreme Court decisions in:
• CIT v. Durga Prasad More (SC); and Sumati Dayal v. CIT (SC).

-It held that tax authorities cannot evaluate transactions in isolation from human behaviour and prevailing social circumstances.

-The fact that the mother and minor children did not file returns or maintain independent commercial accounts was not, by itself, sufficient to reject their explanation.

-Lifetime household savings of a senior citizen and customary gifts to minor children were considered plausible explanations.

B. Doctrine of Telescoping

-The Tribunal found the alternative argument even more significant.

-The CIT(A), in the earlier year, had already recognised ₹20,60,970 as cash forming part of agricultural land sale proceeds and had deleted the section 69A addition.

-Since the Revenue had not established that this cash had subsequently been spent or invested elsewhere, the Tribunal held that the previously recognised cash remained available to explain the cash found during the search.

Since:

-Cash previously recognised as available = ₹20,60,970

-Cash found during search = ₹19,14,500

-the entire cash found was covered by the earlier available cash.

-Accordingly, the principle of telescoping applied.

TAX INSIGHTS

By
 Tax Research Department

Goods & Services Tax

23.08.2026

Whether penalty under Section 129 can be imposed merely because an e-way bill was not generated when goods were transported as an internal stock transfer between two premises of the same registered person/GSTIN, where there was no supply and consequently no tax liability.

M.S. Steels v. Commissioner of Kerala State GST
 GSTAT, Trivandrum (14 August 2026)

Facts of the Case

- The assessee, M.S. Steels, was a partnership firm engaged in trading of steel goods.
- It transported TMT bars from one of its own premises to another godown.
- Both locations belonged to the assessee and operated under the same GSTIN.
- The goods were transported under a delivery challan as an internal stock movement.
- During transit, the vehicle was intercepted because no e-way bill was available.
- The goods were detained under Section 129.
- A penalty of ₹1,34,640 was imposed: CGST: ₹67,320, SGST: ₹67,320
- No tax demand was raised.
- The assessee paid the penalty to obtain release of the goods and thereafter challenged the order.

Stand of the Assessee

The assessee argued that:

- The movement was merely an internal stock transfer between its own premises.
- There was no sale or outward taxable supply.
- Both premises were under the same GSTIN.
- There was no consideration involved.
- Therefore, the movement did not constitute a "supply" under Section 7.
- If there was no supply, there could be no tax payable under Section 9.
- Since Section 129 computes penalty with reference to "tax payable on such goods", no penalty under Section 129 could arise where there was no tax liability.

Revenue's Arguments

The Revenue contended that:

- Rule 138 requires an e-way bill even for movement of goods for reasons other than supply.
- Section 129 is a self-contained provision dealing with detention and release of goods in transit.
- The expression "tax payable" in Section 129 was merely a mechanism for calculating the penalty and did not require an actual taxable supply.
- Since TMT bars are taxable goods, penalty could be calculated by applying the applicable GST rate.
- The absence of an e-way bill constituted a serious contravention

Findings of GSTAT

The Tribunal rejected the Revenue's interpretation.

A. Stock transfer was not a "supply"

The Tribunal examined Section 7 and observed that a supply under Section 7(1)(a) involves transactions such as sale, transfer, barter, exchange, etc., made for consideration.

In the present case:

- there was only one person/entity, i.e. the appellant;
- goods moved between its own premises;
- there was no consideration; and
- there was no transaction with another person.

Therefore, the movement did not constitute a supply.

B. No supply means no tax payable

The Tribunal reasoned that:

No supply → No intra-State supply → Section 9 not attracted → No tax payable.

Since Section 129(1) determines penalty with reference to tax payable on the goods, the absence of any tax liability meant that the statutory basis for the Section 129 penalty itself was absent.

E-way Bill Lapse Does Not Make Transaction Non-Genuine

The Tribunal specifically noted that the authorities had not alleged or established fraud, wilful misstatement, suppression or intention to evade tax.

The only defect was the absence of the e-way bill.

The Tribunal held that merely because an e-way bill was not generated, the transaction could not automatically be treated as non-genuine.

Important Finding Regarding Rule 138

The Tribunal clarified an important distinction:

Although Rule 138(1)(ii) requires an e-way bill for movement of goods for reasons other than supply, failure to generate such e-way bill does not automatically justify a penalty under Section 129.

The Tribunal followed the reasoning in Goverdhan Oil Mill, holding that where the movement is a non-taxable stock transfer, Section 129(3) penalty is not sustainable.

According to the Tribunal, the appropriate statutory consequence for the document-related lapse would be under the specific provision of Section 122(1)(xiv) rather than imposing a tax-linked Section 129 penalty.

Final Decision

The GSTAT allowed the assessee's appeal and set aside the order imposing the Section 129 penalty of ₹1,34,640.

TAX INSIGHTS

By

Tax Research Department

Direct Tax

24.08.2026

- Whether TDS under section 194-I was required on lease rent paid to NOIDA, GNIDA and YEIDA?
- Whether interest under section 201(1A) could be charged beyond the date on which the deductee filed its return?
- Whether TDS under section 194A was required on interest paid to NOIDA?
- Whether section 40(a)(ia) disallowance could be made on interest which was capitalised to work-in-progress and was not debited to the Profit & Loss Account?

Unitech Acacia Projects (P.) Ltd. v. ACIT
 ITAT Delhi (5 August 2026)

Issue I – TDS on Lease Rent Paid to NOIDA/ GNIDA/ YEIDA

Facts: The assessee was a special purpose vehicle (SPV) engaged in real-estate development. It had acquired land from NOIDA, GNIDA and YEIDA under long-term lease arrangements. Apart from a one-time premium, the assessee was required to pay annual lease rent at 1% of the one-time premium.

For example, in AY 2008-09, the assessee acquired two plots from NOIDA for aggregate one-time premium of approximately ₹881.48 crore and paid annual lease rent of approximately ₹8.81 crore.

The assessee did not deduct TDS under section 194-I, principally on the understanding that the income of NOIDA was not taxable and that NOIDA had advised the assessee accordingly.

AO's View

The Assessing Officer treated the assessee as being in default for failure to deduct tax at source under section 194-I on the lease rent and levied consequential interest under section 201(1A).

CIT(A)'s Decision

The CIT(A):

- upheld the applicability of section 194-I to the lease rent paid to NOIDA/GNIDA/YEIDA; but
- directed the AO to recalculate interest under section 201(1A) only up to the date on which the deductee filed its return.

ITAT Decision

The Tribunal upheld the finding that the assessee was liable to deduct TDS under section 194-I.

However, it agreed with the CIT(A)'s approach regarding the period of interest.

The AO was directed to calculate interest under section 201(1A) from the date on which TDS was deductible up to the date of filing of the return by the deductee, NOIDA.

Issue II – Interest Paid to NOIDA

Facts: For AY 2011-12, the assessee had paid interest to NOIDA without deducting TDS under section 194A.

The CIT(A) held that the assessee was not liable to deduct TDS on such interest, relying upon section 194A(3)(iii)(f) read with Notification No. 3489 dated 20 October 1970.

Revenue's Argument:

The Revenue challenged the CIT(A)'s decision. It relied upon the decision of the Allahabad High Court in New Okhla Industrial Development Authority v. Chief CIT and the Supreme Court decision in Adityapur Industrial Area Development Authority v. Union of India.

The Revenue contended that NOIDA was not entitled to the relevant exemption.

Assessee's Argument

The assessee accepted that section 10(20A) was not applicable, but contended that the case was covered by the specific TDS exemption under section 194A(3)(iii)(f) read with the 1970 Notification.

It also relied upon the Supreme Court decision in CIT (TDS) v. Canara Bank.

ITAT Decision

The Tribunal dismissed the Revenue's challenge.

It held that the Revenue's reliance on section 10(20A) was misplaced because section 10(20A) was not applicable to the assessee's case.

Therefore, the Revenue's grounds challenging the CIT(A)'s finding were held to be untenable.

Issue III – Section 40(a)(ia) on Interest Capitalised to WIP

Facts: For AY 2015-16, the assessee was engaged in real-estate development and followed the Percentage of Completion Method (POCM).

During the year, it paid interest of approximately ₹17.04 crore to Unitech Ltd.

The assessee had not deposited TDS on the interest within the prescribed time.

However:

- ₹6.57 crore of interest was charged to the Profit & Loss Account; and
- the remaining interest was capitalised to work-in-progress/inventory.

The assessee had itself disallowed 30% of the interest debited to the P&L account under section 40(a)(ia).

AO's Action

The AO made a much larger disallowance of approximately ₹5.11 crore under section 40(a)(ia) on the ground of non/late deduction of TDS.

The assessee challenged the disallowance because part of the interest had never been claimed as an expenditure in the P&L account, having instead been capitalised to WIP.

Tribunal's Reasoning

The Tribunal relied upon:

- Saat Rasta Properties Pvt. Ltd. – ITAT Mumbai, and
- DCIT v. Saltee Properties Pvt. Ltd. – ITAT Kolkata.

The underlying principle was that section 40(a)(ia) operates as a mechanism for disallowing an expenditure claimed by the assessee where the applicable TDS provisions have not been complied with.

If an amount is not debited to the P&L account and is instead capitalised to WIP, it has not been claimed as a revenue expenditure for the year. Therefore, section 40(a)(ia) cannot be invoked to disallow that amount.

ITAT Decision

The Tribunal held that no disallowance under section 40(a)(ia) could be made in respect of interest capitalised to WIP.

The assessee's appeal was therefore allowed on this issue.

TAX INSIGHTS

By

Tax Research Department

Goods & Services Tax

24.08.2026

Whether a show-cause notice served solely by uploading it on the GST portal is valid when the assessee's GST registration had already been cancelled, and whether an adjudication order passed without providing an opportunity of personal hearing can survive ?

Winstrol Petrochemicals (P.) Ltd. v. Commissioner, State GST
High Court of Uttarakhand (11 August 2026)

Facts of the Case

- The petitioner, Winstrol Petrochemicals (P.) Ltd., was proceeded against under Section 73 in respect of FY 2017-18.
- The GST registration of the petitioner had been cancelled with effect from 1 January 2019.
- The department subsequently initiated proceedings and issued a show-cause notice.
- The notice was served only by uploading it on the GST portal.
- No other mode of service was adopted.
- An adjudication order dated 29 December 2023 was passed under Section 73(9), creating the following liability:

Particulars	Amount
Tax	₹61,09,556.00
Interest	₹67,84,620.08
Penalty	₹6,29,623.60

The petitioner challenged the order principally on the ground of invalid service and violation of natural justice.

Assessee's Contention

- The assessee argued that once its GST registration had been cancelled, it could not reasonably be expected to continuously monitor the GST portal.
- Therefore, after cancellation of registration, the department should have served the notice through an alternative statutory mode, such as registered/speed post, courier, email, etc., instead of relying exclusively on portal uploading.
- The assessee also relied on *Nulife Medical Store v. Commissioner, State GST*, where the Uttarakhand High Court had held that a person whose registration had been cancelled could not be expected to keep checking the GST portal.

Revenue's Stand

The Revenue did not dispute that the show-cause notice had apparently been served only by uploading it on the GST portal and had not been served through any other mode.

Consequently, the Revenue could not establish effective service of the notice in accordance with Section 169.

Findings of the High Court

A. Section 169 provides multiple modes of service

The Court referred to Section 169 of the CGST Act, which provides several modes for service, including:

- direct tender of the notice;
- registered post/speed post/courier;
- communication through email;
- making the notice available on the common portal; and
- affixation/publication where other modes are not practicable.

The Court emphasised that portal uploading is one permissible mode, but it is not the exclusive mode of service.

The department has a duty to ensure that the notice is effectively communicated to the assessee.

B. No obligation on cancelled taxpayer to monitor portal

- Since the petitioner's registration had already been cancelled, the Court held that the petitioner was not obliged to keep monitoring the GST portal.
- Requiring a non-registered person to regularly monitor the portal would effectively impose an obligation which the law does not contemplate.
- Therefore, portal-only service was held invalid.

C. Violation of Section 75(4)

- The Court further considered the requirement of personal hearing under Section 75(4).
- Where an adverse decision is contemplated, the assessee must be given an opportunity of hearing.
- The Court treated this requirement as an embodiment of the principle of audi alteram partem, i.e. the right to be heard before an adverse order is passed.
- Failure to provide such opportunity rendered the adjudication proceedings vulnerable.

Decision of the High Court

The High Court quashed the adjudication order dated 29 December 2023.

However, the Court granted liberty to the Revenue to:

1. issue a fresh show-cause notice in accordance with law;
2. properly serve the notice on the assessee; and
3. thereafter adjudicate the matter afresh.

The Court specifically directed that the petitioner be granted an opportunity of personal hearing under Section 75(4), if desired by the petitioner.

TAX INSIGHTS

By
Tax Research Department

Direct Tax

25.08.2026

Whether alleged “on-money” payments for purchase of shops, recorded in a seized Excel sheet, could be taxed as unexplained investment under section 69 in the hands of the assessee when several shops were legally owned by other identifiable persons.

Deputy Commissioner of Income-tax v. Naresh Harkaram Choudhary
ITAT Mumbai | 29 July 2026

Facts of the Case

- The assessee was an individual engaged in the business of trading in mobile phones and accessories and was associated with the trade name “Bhajwad”.
- A coordinated search under section 132 was conducted in the Rubberwala group and connected persons, including the assessee.
- During the search at the residence of an Executive Assistant associated with the builder of Platinum Mall, a pen drive containing an Excel file titled “consolidated 1 2 3 balance” was seized.
- The Master Sheet contained details such as:
 - Shop number;
 - Agreement holder;
 - Agreement value;
 - Alleged cash/on-money component; and
 - Total consideration.
- Twenty-four shops were tagged with the description “Naresh Bhajwad”.
- The alleged cash component recorded against these shops aggregated to approximately ₹4.70 crore, while a separate schedule of cash payments aggregated to approximately ₹6.06 crore.
- Merely introducing or facilitating purchasers did not establish that the assessee had funded their purchases.
- There was no independent evidence establishing that the assessee was the actual source of funds for the shops owned by other persons.

Decision on Section 69 – On-Money

The Tribunal drew an important distinction between relevance of evidence and attribution of investment.

Excel sheet was relevant evidence:

The Tribunal did not completely disregard the seized Excel sheet merely because it was seized from another person's premises.

The sheet, along with the statements, was relevant material and could be examined because:

- The assessee himself was subjected to the coordinated search;
- The material was specifically confronted to him;
- Statements concerning the transactions were recorded; and
- An opportunity for cross-examination was provided, although the assessee did not avail himself of it.

But the Excel sheet did not establish that the assessee funded every shop

The Tribunal noted that the Excel sheet used “Naresh Bhajwad” as a common identification/group description, while separately mentioning the person in whose name the agreement for each shop was executed.

Therefore, the expression “Naresh Bhajwad” could establish that the assessee was connected with the bookings or had negotiated/facilitated them, but it did not by itself prove that he was the beneficial owner or source of funds for every shop.

Revenue's Case

The Assessing Officer relied upon:

- The seized Excel sheet;
- Statements of persons associated with the builder;
- Statements of certain purchasers;
- The assessee's search statement; and
- The alleged method of collection of cash.

The AO concluded that the assessee had made unaccounted cash payments towards the shops and made additions under section 69:

Assessment	Year Addition
AY 2018-19	₹1.19 crore
AY 2019-20	₹3.96 crore
AY 2021-22	₹31.34 lakh

Assessee's Defence

The assessee argued that:

- “Naresh Bhajwad” was merely a group/reference name used by the builder.
- The Excel sheet itself separately identified the actual agreement holders.
- Only certain shops were owned by the assessee/family members.
- Other shops stood in the names of independently identifiable purchasers.

When Could On-Money Be Taxed in Assessee's Hands?

The Tribunal laid down the following distinction:

On-money can be assessed in assessee's hands where:

- The shop was actually owned by the assessee; or
- Independent evidence established that, despite the shop being registered in another person's name, the assessee was the actual source of the cash funds.

On-money cannot automatically be assessed in assessee's hands where:

- The shop was owned by another identifiable person;
- The assessee merely introduced/facilitated the purchaser;
- The assessee's trade name was used as a reference for a group of bookings; or
- The purchaser's denial of having paid cash was the only basis for shifting the investment to the assessee.

The Tribunal specifically observed that the identity of the real investor cannot be determined merely through a process of elimination.

TAX INSIGHTS

By
Tax Research Department

Goods & Services Tax

25.08.2026

Whether the GST authorities can pass a single composite assessment/adjudication order under section 74 covering multiple financial years/tax periods, or whether a separate adjudication order is required for each tax period.

Jubilant Avenues (P.) Ltd. v. Superintendent of Central Tax
High Court of Andhra Pradesh | 5 August 2026

Facts of the Case

- Jubilant Avenues (P.) Ltd., a registered person under the GST law, was subjected to proceedings under section 74 of the CGST Act, relating to allegations involving fraud/suppression etc.
- The Department passed a single composite assessment order dated 30 December 2025 covering:
 - FY 2019-20, and
 - FY 2020-21.
- Thus, instead of passing separate adjudication orders for the respective tax periods/financial years, the authorities dealt with both periods through one common order.
- The assessee challenged the composite order before the Andhra Pradesh High Court, contending that such a combined adjudication was not permissible under the GST framework.
- The assessee relied upon the earlier decision of the coordinate Bench in S J Constructions v. Assistant Commissioner (Andhra Pradesh).

Assessee's Contention

The assessee contended that:

- Each tax period constitutes a distinct period for GST assessment/adjudication.
- A single composite order covering multiple financial years was contrary to the scheme of the CGST/APGST Acts.
- Separate adjudication is necessary for each relevant tax period.
- A common order could adversely affect the taxpayer's statutory rights, including:
 - Right to appeal;
 - Computation of limitation;
 - Availability of statutory benefits/concessions applicable to a particular period; and
 - Proper determination of tax, interest and penalty for each period.

Department's Stand

The Department's Standing Counsel did not dispute either the factual position or the legal proposition that the impugned order was a composite order covering multiple tax periods.

Accordingly, there was no substantial dispute before the High Court regarding the fact that one order had been passed for FY 2019-20 and FY 2020-21.

High Court's Decision

- The High Court accepted the assessee's contention.
- The Court relied upon its earlier decision in S J Constructions, where it had held that a single show-cause notice or composite assessment order cannot ordinarily be issued for more than one tax period/financial year.
- The Court noted that permitting a common order for multiple periods could adversely affect various statutory rights of the registered person, particularly the right to appeal and benefits available under the GST legislation.

Therefore, the Court held:

- Distinct tax periods require separate adjudication under section 74.
- Since the Department had passed a single composite order covering FY 2019-20 and FY 2020-21, the order was held to be unsustainable in law.

Treatment of Limitation

An important relief was granted to the Department regarding limitation.

The High Court directed that:

1. The period from the date of the impugned order until the date of receipt of the High Court's order shall be excluded while computing the limitation period.
2. Thus, although the original composite order was set aside, the Department was not deprived of the opportunity to undertake fresh adjudication merely because of the time consumed in the litigation.

Final Directions

The High Court:

1. Set aside the composite assessment order dated 30.12.2025.
2. Granted liberty to the Department to:
 - Issue separate orders for each assessment year/tax period; and
 - Proceed with adjudication in accordance with law.
3. Directed that the assessee be given due opportunity of hearing.
4. Excluded the period from the date of the impugned order until receipt of the High Court's order for the purpose of limitation.
5. Disposed of the writ petition without costs.

TAX INSIGHTS

By
 Tax Research Department

Direct Tax

26.08.2026

Whether the cancellation of the assessee-society's registration under section 12AB was justified on the ground that:

- it had undertaken construction and sale/allotment of residential flats through a private builder;
- such activity was allegedly beyond its charitable objects and was not genuine; and
- the project land had been provisionally attached by the Enforcement Directorate under the PMLA, allegedly indicating violation of other laws.

Vocational Education Foundation v. CIT (Exemption)
 ITAT Delhi (5 August 2026)

Facts of the Case

- The assessee was a society registered since 1989 and was engaged primarily in educational activities through an engineering and management institution.
- It held registration under section 12A and had regularly enjoyed exemption under section 11 in earlier years.
- In 2004, GNIDA allotted land to the society under a group-housing scheme for providing residential accommodation to its staff/employees.
- Since the society lacked technical expertise and resources for construction, it entered into a turnkey agreement with a private builder.
- The builder was responsible for construction, approvals, marketing, allotment, collection of sale consideration and other project-related activities.
- The society was entitled essentially to recover its land acquisition cost and statutory charges and was not entitled to the builder's profits.
- The project subsequently became subject to ED/PMLA proceedings against the builder and its promoter in connection with the alleged "Bike Bot Scam".
- The assessee itself was not alleged to have committed any money-laundering activity.
- During assessment proceedings for AY 2023-24, the Assessing Officer reported alleged specified violations under section 12AB(4) to the CIT(E).
- The CIT(E) cancelled the society's registration, principally alleging that the housing project was beyond its objects, was not genuine and involved violation of other laws.

Allegations of CIT(E)

The CIT(E) essentially relied on three alleged specified violations:

1. Activities not genuine – the society had provided its valuable land to a private builder for construction and sale of flats.
2. Activities beyond the objects/conditions of registration – construction and sale of flats were allegedly commercial activities and not charitable activities.
3. Violation of other laws – the project land was subject to provisional attachment by the Enforcement Directorate under the PMLA.

Assessee's Contention

The assessee submitted that:

- its primary charitable activity of imparting education had never been disputed;
- the housing project was specifically within the scope of its memorandum of objects;

- GNIDA had allotted the land specifically for housing for employees/members;
- the society itself did not undertake construction or commercial exploitation;
- the builder was responsible for construction and sale under the turnkey arrangement;
- the society was entitled only to recover its land cost and statutory charges;
- no profits from the project were claimed as exempt under sections 11 and 12;
- the ED proceedings were against the builder and its promoter, not against the society; and
- there was no evidence that any outsider or ineligible person was allotted a flat or that project funds had been diverted to the society.

Tribunal's Findings

The ITAT examined the GNIDA lease deed and the agreement with the builder and found that the housing activity was within the society's objects.

Importantly, the Tribunal noted that:

- GNIDA's allotment itself contemplated development of residential accommodation for the institution's employees/members.
- The lease deed imposed restrictions concerning eligible allottees.
- There was no evidence or inquiry by the AO establishing that flats had been allotted to persons outside the eligible category.
- The builder was responsible for construction and related activities.
- The society did not receive the builder's profits; it was entitled to recover its land cost and statutory expenses.
- The society was essentially functioning as a facilitator/trustee between the builder and eligible allottees.
- Although the ED had initiated proceedings against the builder, there was no material establishing wrongdoing by the assessee-society itself.

The Tribunal particularly criticized the cancellation for being based largely on inferences and assumptions, without proper verification of the lease deed, builder agreement, list of allottees and actual flow of funds.

Decision

The ITAT allowed the appeal of the assessee and quashed the order cancelling its registration under section 12AB.

The Tribunal held that no specified violation under section 12AB(4) was established and that the cancellation of registration was unjustified.

TAX INSIGHTS

By
Tax Research Department

Goods & Services Tax

26.08.2026

Whether an adjudication order under Section 73 could be sustained when:

- the taxpayer's GST registration had already been cancelled;
- the show-cause notice was served only through the GST portal after cancellation of registration; and
- the taxpayer was not granted a personal hearing, despite Section 75(4) mandating such hearing where an adverse decision is contemplated.

Gajendra Singh Cont. v. Assistant Commissioner
High Court of Uttarakhand (11 August 2026)

Facts of the Case

- The petitioner's GST registration was cancelled on 20.02.2020.
- Subsequently, the Department issued a show-cause notice dated 25.04.2024 under Section 73.
- An adjudication order was thereafter passed on 28.08.2024.
- The petitioner contended that, since his GST registration had already been cancelled, he was not expected to continuously monitor the GST portal.
- According to the petitioner, the notice should have been served through one of the other modes prescribed under Section 169.
- The petitioner further contended that no personal hearing was granted before passing the adverse adjudication order.
- The Revenue did not dispute these factual submissions.

Petitioner's Contention

The petitioner relied upon the decision of the Allahabad High Court in *Ahs Steels v. Commissioner of State Taxes* and submitted that:

- Section 169 provides multiple modes of service of notices;
- merely uploading a notice on the GST portal cannot always constitute effective service, particularly where the taxpayer's registration has already been cancelled;
- a person whose registration stands cancelled cannot be expected to monitor the GST portal in the same manner as an active registered taxpayer; and
- Section 75(4) expressly requires an opportunity of personal hearing where an adverse decision is contemplated.

Revenue's Stand

The Revenue did not dispute the petitioner's submissions and accepted that the case was covered by the earlier decisions relied upon by the petitioner.

High Court's Findings

The High Court followed:

- *Ahs Steels v. Commissioner of State Taxes*, (Allahabad); and
- *Jaipal Singh v. Commissioner, State GST Commissionerate* (Uttarakhand).

The Court accepted the principle that Section 169 does not make service through the GST portal the exclusive mode of service.

Where registration has already been cancelled, merely uploading a notice on the portal may not amount to effective service if the taxpayer is no longer under an obligation to monitor the portal.

The Court also emphasized the statutory requirement under Section 75(4). Where an adverse decision is contemplated, the taxpayer must be afforded an opportunity of personal hearing.

Thus, failure to provide such hearing constituted a violation of the principles of natural justice – *audi alteram partem*.

Decision

The High Court:

- quashed the adjudication order dated 28.08.2024;
- permitted the petitioner to file a reply to the SCN dated 25.04.2024 within two weeks;
- directed the Department to pass a fresh order in accordance with law; and
- specifically directed that the petitioner be provided personal hearing under Section 75(4).

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TAX INSIGHTS

By

Tax Research Department

Direct Tax

27.08.2026

Whether the addition of ₹30 lakh as capital gains under section 69 was justified when the assessee claimed that:

- the properties were rural agricultural land and therefore not a “capital asset” under section 2(14);
- the sale consideration was not fully received because the purchasers' cheques were dishonoured; and
- civil/legal proceedings had been initiated against the purchasers.

Dharmeshkumar Parsottambhai Ukani v. ACIT, Central
ITAT Surat (27 July 2026)

Facts of the Case

- The assessee filed his return for AY 2011-12 declaring income of about ₹4.91 lakh.
- The Assessing Officer received information that the assessee, along with three co-owners, had sold immovable properties for ₹80 lakh each.
- The AO observed that the corresponding capital gains had not been disclosed and reopened the assessment under section 147.
- The assessee subsequently contended that:
 - the land was agricultural land situated outside the relevant municipal limits;
 - it was beyond the prescribed 8-km distance from the municipal limits applicable during the relevant year;
 - only part of the sale consideration had actually been received;
 - several cheques issued by purchasers were dishonoured; and
 - legal proceedings had been initiated against the purchasers, including proceedings for cancellation of the sale.
- The assessee produced before the Tribunal various documents, including sale deeds, dishonoured-cheque evidence, legal notices, proof of litigation, municipal-limit notifications and Google Maps showing the distance of the land from municipal limits.

Assessment and CIT(A)'s Decision

The AO worked out the capital gain and made an addition of ₹30 lakh under section 69.

The CIT(A) confirmed the addition, primarily observing that the assessee had failed to furnish adequate evidence substantiating his claims relating to the property transactions.

Assessee's Arguments Before ITAT

The assessee argued, inter alia, that:

- the land was rural agricultural land and hence outside the definition of “capital asset” under section 2(14);
- Bhatpore was included within Surat Municipal Corporation only in 2020, whereas the relevant sale took place in 2010;
- even otherwise, the land was allegedly situated more than 8 km from the municipal limits;
- the sale consideration was not fully realized due to dishonoured cheques;
- civil proceedings and legal notices supported the assessee's contention;
- the AO had not properly examined these documentary evidences; and
- section 69 was itself questionable because the matter concerned alleged capital gains rather than unexplained investment.

ITAT's Decision

The ITAT did not finally decide whether the land was a capital asset or whether the capital-gain addition was taxable.

Considering the additional submissions and documentary evidence produced by the assessee, the Tribunal held that, in the interest of justice, the matter should be reconsidered by the AO.

The case was therefore restored to the file of the Assessing Officer with directions to:

- re-examine the issue in light of the assessee's submissions and documents;
- provide the assessee a reasonable opportunity of being heard; and
- determine the correct taxable income after considering all necessary evidence.

The assessee was also directed to cooperate with the set-aside proceedings and furnish all necessary documents/evidence.

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TAX INSIGHTS

By

Tax Research Department

Goods & Services Tax

27.08.2026

- Whether the assessee's application for revision of KVAT returns could be rejected merely because the statutory audit under section 42 of the Kerala VAT Act, 2003 had not been conducted, particularly when the assessee had sought revision before initiation of proceedings on the same issue.
- A consequential issue was whether GST demand/orders based on the alleged non-return of jewellery sent outside Kerala could survive when the underlying KVAT returns were permitted to be revised.

Bhima Enterprises v. Deputy Commissioner-1
High Court to Kerala (15 July 2026)

Facts of the Case

- The assessee, Bhima Enterprises, was engaged in the business of trading in gold jewellery and was registered under KVAT/CST as well as GST.
- While filing KVAT returns for April to June 2017, the assessee inadvertently omitted certain inward and outward stock-transfer transactions.
- The assessee subsequently applied for permission to revise the returns.
- The application was rejected by the department primarily on the ground that the assessee's books had not been audited as required under section 42 of the KVAT Act.
- Separately, GST proceedings were initiated alleging that the assessee had transferred gold jewellery outside Kerala but had failed to establish that the goods were subsequently brought back into Kerala.
- Based on this allegation, adverse inference was drawn against the assessee and GST orders were passed.

Assessee's Contention

The assessee contended that:

- The omission of stock-transfer transactions in the returns was inadvertent.
- The request for revision had been made before the relevant assessment proceedings were initiated.
- The absence of an audit could not, by itself, justify rejection of the revision application.
- Once the returns were revised, the factual basis of the subsequent GST proceedings would also require reconsideration.

High Court's Observations

The Court noted that section 42 permits revision of returns based on an audit report, subject to the prescribed conditions and time limits.

- However, the present application was made independently of an audit. The Court therefore examined whether such revision could be rejected merely because an audit had not been conducted.
- The Court relied upon the earlier decision in Commercial Tax Officer-I v. C.R. Varghese, where it had been held that where a request for revision is made before initiation of assessment or penalty proceedings, the request ought to be accepted.
- The Court also observed that the Revenue should not approach tax administration merely as a mechanism for revenue collection and referred to the department's duty to "rise above a mediocre mindset" and act appropriately in accordance with law.

Decision on KVAT Proceedings

The Kerala High Court held that the assessee's request for revision ought to have been accepted.

Accordingly:

- The order rejecting the revision application was set aside.
- The assessee's application for revision of returns was directed to be considered and disposed of.
- The pre-assessment notice under section 25(1) was directed to be kept on hold until the revision application was dealt with.

Decision on GST Demand

The GST proceedings were directly connected with the stock-transfer transactions covered by the proposed revised returns.

The GST authorities had proceeded on the basis that certain gold jewellery sent outside Kerala had not been received back.

Since the High Court directed that the KVAT returns be revised and reconsidered, it held that the consequential GST orders also required reconsideration.

Therefore, the Court:

- set aside the GST orders challenged by the assessee; and
- permitted the Revenue to initiate/proceed under the GST law depending upon the outcome of the revised returns.

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TAX INSIGHTS

By

Tax Research Department

Direct Tax

28.08.2026

Whether the assessee could be treated as an assessee-in-default for non-deduction of TDS on annual lease rent paid to GNoida, when GNoida itself had insisted that no TDS be deducted and the assessee was similarly situated to the assessee covered by an earlier Delhi High Court ruling.

CIT (TDS)-2 v. Sikka Infrastructure (P.) Ltd.
Delhi High Court (4 August 2026)

Facts of the Case

- The assessee paid annual lease rent to Greater Noida Industrial Development Authority (GNoida) during AY 2012-13.
- The assessee did not deduct TDS from the lease rent.
- The Department initiated proceedings alleging default in TDS deduction.
- The assessee relied upon the Delhi High Court's earlier decision in Rajesh Projects (India) (P.) Ltd. v. CIT (TDS).
- In that case, the Court had held that GNoida was not "Government" for purposes of the relevant TDS provision and, therefore, 1% TDS was applicable on annual lease rent.
- However, the Court had simultaneously directed that no adverse action should be taken against assessee who had not deducted TDS because GNoida itself had insisted upon non-deduction.
- The CIT(A) decided in favour of the assessee, and the ITAT upheld the decision.
- The Revenue challenged the ITAT's order before the Delhi High Court.

Assessee's Contention

The assessee contended that:

- The period involved was squarely covered by the Rajesh Projects judgment.
- GNoida had represented that no TDS was required to be deducted from lease rent paid to it.
- Although the assessee was not one of the original petitioners in Rajesh Projects, the High Court had directed the Department to hear all similarly situated assessee.
- The assessee should therefore receive the same benefit.

Revenue's Contention

The Department argued that:

- The assessee was not a party to the Rajesh Projects proceedings.
- The assessee had not independently established that GNoida had specifically instructed it not to deduct TDS.
- Therefore, the benefit of the earlier judgment should not automatically extend to the assessee.

Decision of the High Court

The Delhi High Court dismissed the Revenue's appeal and upheld the orders in favour of the assessee.

The Court noted that:

- In Rajesh Projects, it had held that GNoida does not fall within the expression "Government", and consequently 1% TDS was legally deductible from annual lease rent.
- At the same time, the Court had recognised that assessee had failed to deduct TDS because of GNoida's insistence and had directed that no adverse action be taken against such assessee.
- AY 2012-13 in the present case fell within the period covered by Rajesh Projects.
- Though the assessee was not an original petitioner, the earlier judgment specifically directed the Assessing Officer to hear similarly situated assessee.
- The Court found it difficult to accept that GNoida would have adopted one position for the original petitioners while taking a different position with respect to other similarly placed persons.

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TAX INSIGHTS

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Tax Research Department

Goods & Services Tax

28.08.2026

Whether the GST authorities can issue one composite show-cause notice/assessment order covering multiple tax periods/financial years, or whether separate proceedings must be undertaken for each relevant tax period.

Bindu Recepties (P.) Ltd. v. Union of India
High Court of Andhra Pradesh (4 August 2026)

Facts of the Case

- The assessee was a GST-registered manufacturer and supplier of bakery and confectionery products.
- The GST authority passed an Order-in-Original dated 30.03.2026.
- The order covered multiple tax periods, namely 2019-20, 2020-21 and 2021-22, effectively clubbing the periods from 2019 to 2022 into a single adjudication.
- The assessee challenged the composite order before the Andhra Pradesh High Court.
- The assessee relied upon the earlier decision of the same Court in S J Constructions v. Assistant Commissioner.
- The Revenue opposed the writ petition primarily on the ground that the assessee had an alternative statutory remedy of appeal.

Assessee's Contention

The assessee argued that the composite assessment order covering different financial years was legally unsustainable, particularly in view of the Andhra Pradesh High Court's earlier ruling in S J Constructions.

Revenue's Contention

The Revenue contended that:

- The assessee should have availed the statutory appellate remedy instead of directly approaching the High Court.
- However, the Revenue did not dispute the applicability of the decision in S J Constructions.

Decision of the High Court

- The Andhra Pradesh High Court allowed the writ petition and set aside the composite assessment order.
- The Court held that a single composite assessment order covering multiple tax periods/financial years is impermissible.

The Court relied upon its earlier decision in S J Constructions, wherein it was held that:

- A single show-cause notice or composite assessment order cannot cover more than one tax period where the assessment is taken up before the due date for filing the annual return.
- Similarly, after the due date for annual return has arrived, proceedings cannot be clubbed for more than one financial year.

Reasoning of the Court

The Court followed the principle that permitting composite orders for multiple years could adversely affect various statutory rights of the taxpayer, including:

- The right to claim applicable benefits under the GST law;
- The taxpayer's right of appeal against an assessment order;
- Proper determination of tax liability for each individual tax period.

Therefore, the statutory scheme requires the authorities to maintain the distinction between different tax periods/financial years.

Final Directions

The High Court:

1. Set aside the composite Order-in-Original covering 2019 to 2022.
2. Granted liberty to the Revenue to:
 - issue separate notices for the relevant tax periods; and
 - conduct fresh proceedings in accordance with law.
3. Directed that the assessee must be given a proper opportunity of being heard.
4. Ordered that the period from the date of the impugned order until receipt of the High Court's order would be excluded while computing the limitation period.

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TAX INSIGHTS

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Tax Research Department

Direct Tax

29.08.2026

Whether the disallowance under section 40(a)(i) of the Income-tax Act, 1961 could be made in respect of purchases from the India Branch/PE of a foreign company where tax was not deducted under section 195, but the recipient had filed its return of income, accounted for the payment in its taxable income and had no tax payable due to a business loss.

Cyberstar Infocom LLP vs. Income-tax Officer
Income Tax Appellate Tribunal (5 August 2026)

Facts:

Cyberstar Infocom LLP, engaged in the business of trading networking cables and equipment, made purchases amounting to **₹14.99 crore** from the India Branch Office of Panduit International Cooperation, a US company. The India Branch constituted a Permanent Establishment (PE) of the foreign company in India.

The Assessing Officer observed that the assessee had not deducted tax at source under section 195 on the payments made to the foreign company's Indian PE. Accordingly, the AO disallowed **₹14,99,56,916 under section 40(a)(i)**.

The CIT(A) upheld the disallowance, following which the assessee approached the ITAT.

Assessee's Contentions

The assessee contended that it was entitled to the benefit of the **second proviso to section 40(a)(i)**. The recipient had:

- filed its return of income for A.Y. 2014-15;
- taken the relevant payments into account while computing its income; and
- furnished the requisite accountant's certificate in **Annexure A to Form 26A**.

The assessee also relied on the order passed under section 201(1A), pursuant to which only interest had been levied, the tax authorities having accepted that the recipient had filed its return and discharged its tax liability.

Revenue's Contentions

The Revenue argued that the benefit of the second proviso was unavailable because:

1. the assessee had not furnished the complete Form 26A; and
2. the recipient had filed a **NIL return** and had not actually paid any tax for the relevant year.

According to the Revenue, the conditions prescribed under the first proviso to section 201(1) were therefore not fulfilled.

Tribunal's Findings

The Tribunal held that the **second proviso to section 40(a)(i) is retrospective in operation**.

Although the proviso was inserted by the Finance (No. 2) Act, 2019 with effect from 1 April 2020, the Tribunal noted that a similar proviso had earlier been introduced in section 40(a)(ia) and had been held to be **declaratory and curative** in nature.

Following the decision of the Mumbai Tribunal in *Celltick Mobile Media (India) (P.) Ltd. v. Dy. CIT*, the Tribunal held that the amendment to section 40(a)(i) operates retrospectively from **1 April 2015**.

The Tribunal then examined whether the assessee satisfied the conditions of the first proviso to section 201(1).

It found that the recipient had duly filed its return, had taken the payments into account and had furnished the accountant's certificate through Annexure A to Form 26A. The Tribunal further observed that the relevant information was already available with the Department and that the absence of the complete Form 26A was, in the peculiar circumstances, only a **technical defect**.

NIL Return and "Tax Due"

The Tribunal rejected the Revenue's contention that the recipient's NIL return prevented the assessee from claiming the benefit of section 201(1).

The recipient had declared a **current-year loss of ₹2.18 crore**. Consequently, there was no tax payable after taking the relevant receipt into account.

The Tribunal held that the expression **"paid the tax due"** in the first proviso to section 201(1) cannot be interpreted to mean that the payee must compulsorily pay tax even where no tax is legally payable.

Such an interpretation would be contrary to **Article 265 of the Constitution**, which prohibits levy or collection of tax except by authority of law. It would also undermine the statutory provisions relating to business losses and their set-off/carry-forward.

Accordingly, the recipient's NIL tax liability did not, by itself, prevent satisfaction of the statutory condition.

Decision

The Tribunal concluded that **all conditions of the first proviso to section 201(1) were satisfied**. Therefore, the assessee could not be regarded as an **"assessee in default"**.

Consequently, the assessee was entitled to the immunity provided by the **second proviso to section 40(a)(i)**.

The disallowance of **₹14,99,56,916 under section 40(a)(i) was deleted** and the assessee's appeal was allowed.

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TAX INSIGHTS

By

Tax Research Department

Goods & Services Tax

29.08.2026

Whether an adjudicating authority can, while passing an order under Section 73 of the CGST/UPGST Act, 2017, confirm a demand in excess of the amount proposed in the show-cause notice (SCN), including imposing a penalty that was not proposed in the SCN, in view of the mandatory restriction contained in Section 75(7).

Svas Lifesciences (P.) Ltd. v. State of U.P.
Allahabad High Court, 17 August 2026

Facts of the Case

- The dispute related to **FY 2020-21**.
- The GST authorities issued a **show-cause notice dated 8 November 2024** proposing confirmation of a tax demand of **₹39,557.159**.
- The SCN did **not propose any separate penalty**.
- Subsequently, the adjudicating authority passed an order dated **13 February 2025** under Section 73.
- Through the adjudication order:
 - Tax demand of **₹39,557.159** was confirmed; and
 - An additional **penalty of ₹40,000** was imposed.
- Thus, although the tax amount confirmed was the same as the amount proposed in the SCN, the adjudication order imposed an additional monetary liability by way of penalty which had **not been proposed in the SCN**.
- The assessee challenged the order before the High Court, principally on the ground that it violated the statutory limitation under **Section 75(7)**.

- Since the legislature had expressly prohibited confirmation of a demand in excess of the amount proposed in the SCN, the adjudicating authority lacked jurisdiction to impose such an additional demand.
- The impugned order was therefore without jurisdiction and suffered from a fundamental illegality apparent from the record.

Final Order

The High Court:

- **Set aside** the adjudication order dated **13 February 2025**.
- **Remitted the matter** to the adjudicating authority for passing a fresh order.
- Directed that the fresh order be passed **after giving due opportunity of hearing to the assessee**.
- Expected the fresh proceedings to be completed, preferably, **within three months**.
- The assessee undertook not to seek undue or prolonged adjournments.

Relevant Legal Provision — Section 75(7)

Section 75(7) places a restriction on the adjudicating authority while passing an order pursuant to a notice.

In substance, the authority **cannot confirm a demand on grounds or for an amount greater than what was specified in the notice**.

Therefore, the adjudication must remain within the confines of the SCN. The assessee cannot be subjected to a liability that goes beyond the proposal contained in the notice without following the statutory process.

Decision of the High Court

The High Court **allowed the assessee's challenge** and held that the adjudication order suffered from a **fundamental jurisdictional illegality**.

The Court observed that:

1. **Section 75(7) is mandatory**, not merely directory.
2. The SCN proposed only a tax demand of **₹39,557.159**.
3. The adjudicating authority nevertheless imposed an additional **₹40,000 penalty**, which was not proposed in the SCN.

Legal Principle

An adjudicating authority under Section 73 cannot travel beyond the demand proposed in the SCN. Section 75(7) is mandatory, and any confirmation of tax, penalty, or other demand beyond the proposal in the SCN is without jurisdiction and fundamentally illegal.

Key Takeaway for GST Proceedings

This judgment reinforces the important principle of **"SCN is the foundation of adjudication."** The adjudicating authority cannot introduce a new or additional monetary liability at the adjudication stage which was not contemplated in the SCN.

Accordingly, where an SCN proposes only a particular tax demand and the final order imposes an **additional penalty or otherwise enhances the demand beyond the notice**, the assessee can challenge the order on the ground of **breach of Section 75(7)** and lack of jurisdiction.

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TAX INSIGHTS

By

Tax Research Department

Direct Tax

30.08.2026

Whether an assessee's statutory right to a personal hearing through video conferencing under section 144B can be denied merely because the assessee did not request the hearing by clicking the prescribed "Seek Video Conferencing" button, despite expressly requesting a video-conference hearing in its written reply to the show-cause notice.

Process Sensing Technologies PST (P.) Ltd. v. Assessment Unit (Faceless), Income-tax Department
High Court of Madras (4 August 2026)

Material Facts

- The assessee, Process Sensing Technologies PST (P.) Ltd., was subjected to faceless assessment proceedings.
- A show-cause notice was issued to the assessee.
- The assessee submitted its reply dated 9 February 2026 to the show-cause notice.
- In that reply, the assessee expressly requested a personal hearing through video conference.
- The assessment order itself acknowledged that the assessee's reply had been received.
- However, the faceless assessment unit finalised the assessment without granting the requested video-conference hearing.
- The Department argued before the High Court that the show-cause notice specifically instructed the assessee to seek video conferencing by clicking the "Seek Video Conference" button available against the notice.
- Since the assessee had not used that particular mechanism, the Department contended that no enforceable right to a video hearing arose.

Assessee's Contention

The assessee contended that:

- It had made an express and unambiguous request for a personal hearing through video conference in its written reply.
- The Department was aware of that request, as the reply was admittedly received and considered.
- Failure to click a particular portal button should not defeat a statutory right expressly conferred by section 144B.
- The assessment order, having been passed without providing the requested hearing, was therefore liable to be quashed.

Revenue's Contention

- The Revenue relied upon the procedural mechanism specified in the show-cause notice.
- Its position was essentially that the assessee was required to request video conferencing by clicking the designated "Seek Video Conference" button. Since the assessee did not follow that particular procedure, the non-grant of video hearing was sought to be justified.

Held

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

- Under section 144B, when a request for personal hearing is received, the relevant faceless unit is required to provide a personal hearing through video conference.
- The Court found that the assessee's reply contained an express request for video-conference hearing and that the assessment order itself recorded receipt of that reply.

Therefore:

- The request was effectively communicated to the Department.
- The assessee's statutory right could not be defeated on the technical ground that the request was not made by clicking the specified portal button.
- Once a valid request for personal hearing was made, the faceless assessment unit was required to provide the hearing before finalising the assessment.

Final Directions

The High Court:

1. Set aside the impugned assessment order dated 16 March 2026.
2. Remanded the matter to the Assessing/Faceless Unit.
3. Directed the Department to reconsider the matter from the video-conferencing stage.
4. Directed that the assessee be provided a hearing through video conference.
5. Directed that a fresh assessment order be issued within four months from the date of receipt of a copy of the High Court's order.
6. Disposed of the writ petition without costs and closed the connected miscellaneous petitions.

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TAX INSIGHTS

By

Tax Research Department

Goods & Services Tax

30.08.2026

Whether a real-estate developer, which became entitled to additional Input Tax Credit (ITC) after implementation of GST, could be regarded as having passed on the benefit of such ITC by providing additional structural works and fittings to homebuyers instead of reducing the prices payable by them.

A connected issue was whether the developer was liable to pay the unpassed ITC benefit along with GST and interest, and whether penalty under section 171(3A) was leviable.

DG Anti-Profitteering, Director General of Anti-Profitteering, DGAP v. MM Construction Goods and Services Tax Appellate Tribunal (GSTAT), Principal Bench, New Delhi (28 July 2026)

Facts of the Case

- The complainant, Mr. Pradyot Kumar Ghosh, purchased Flat No. 04 in the respondent's residential project at Lake Gardens, Kolkata.
- He filed a complaint under Rule 128 of the CGST Rules, 2017, alleging that the respondent had failed to pass on the benefit of additional ITC arising after the introduction of GST on 1 July 2017.
- The complaint was referred by the Standing Committee on Anti-Profitteering to the DGAP for investigation.
- The original DGAP report was subsequently required to be re-investigated in light of the Delhi High Court's judgment in Reckitt Benckiser India (P.) Ltd. v. Union of India.
- The DGAP investigated the period 1 July 2017 to 2 January 2020, the latter being the date on which the Occupancy Certificate was received.
- The DGAP found that:
 - Before GST, the respondent was not entitled to CENVAT/VAT credit in respect of the project.
 - After GST came into force, the respondent became entitled to ITC on GST paid on inputs and input services.
 - Thus, the post-GST ITC represented an additional benefit.
- The DGAP calculated the additional ITC benefit and profiteering at ₹7,31,160.

DGAP's computation

Particular	Amount
Pre-GST ITC/CENVAT/VAT credit	Nil
Post-GST ITC actually availed	₹10,83,190
Total saleable area	8,154 sq. ft.
Sold area	5,504 sq. ft.
Profiteering per sq. ft.	₹132.84
Profiteered amount	₹7,31,160
GST @ 12%	₹87,739
Total amount to be passed on	₹8,18,899

Defence of the Respondent

The respondent did not dispute the availability or computation of additional ITC. Instead, it argued that it had already passed on the benefit to the homebuyers by carrying out additional structural works, upgrades and fittings without charging extra consideration.

The respondent contended that:

- The value of these additional works was ₹10,14,826, exceeding the alleged profiteering amount.
- Therefore, there was no unjust enrichment.
- Section 171 should not be interpreted as prescribing an exclusive mechanism for passing on the benefit.
- Additional construction works could constitute an economically equivalent benefit.
- The Delhi High Court decision in Reckitt Benckiser concerned FMCG products and should not automatically be applied to a real-estate project.
- In some FMCG cases, additional quantity/grammage had allegedly been accepted as a mode of passing on benefits.

The respondent consequently claimed that nothing further was payable to the homebuyers.

Final Order

The GSTAT directed the respondent to:

- Pass on ₹7,31,160 as the profiteered/additional ITC amount.
- Pay ₹87,739 towards GST @ 12%.
- Pass on a total amount of ₹8,18,899 to eligible homebuyers.
- Pay interest at 18% per annum from the date of collection of the higher amount until actual payment.
- No penalty under section 171(3A) was imposed.

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TAX INSIGHTS

By

Tax Research Department

Direct Tax

31.08.2026

Whether cash deposits of ₹45.98 lakh during demonetisation could be treated as unexplained money under section 69A when the assessee claimed that the deposits came from existing cash-in-hand and business receipts and supported the explanation with cash books.

Munijhar v. Income-tax Officer
ITAT, Delhi (5 August 2026)

Facts

- The assessee filed his return declaring business income under the presumptive taxation scheme of section 44AD.
- During the demonetisation period, he deposited approximately ₹45.98 lakh in his savings bank account.
- The Assessing Officer asked the assessee to explain the source.
- The assessee stated that the deposits represented:
 - existing cash-in-hand; and
 - business receipts from activities such as horticulture-related job work, filling agricultural land and supply of mitti.
- The AO rejected the explanation and treated the entire ₹45.98 lakh as unexplained money under section 69A, also attracting section 115BBE.
- The CIT(A) upheld the addition.

Assessee's explanation before ITAT

- The assessee produced cash books/cash movement statements for AYs 2015-16, 2016-17 and 2017-18.
- These records showed a closing cash balance of approximately: ₹82,92,351 as on 31 March 2016.
- Thus, the assessee argued that the demonetisation deposit of ₹45.98 lakh was adequately supported by the cash available with him.

Tribunal's finding

- The ITAT accepted the assessee's explanation.
- The Tribunal noted that the assessee had filed returns in ITR-4 under section 44AD and, until AY 2016-17, there was no requirement to furnish the same detailed financial information that would ordinarily appear in a full balance sheet/cash statement.

- Therefore, the AO could not simply draw an adverse inference because earlier presumptive returns did not separately reflect the cash balance in the manner expected by the AO.
- The Tribunal also rejected the AO's suspicion arising from the assessee having revised the AY 2016-17 return, because the assessee had adequately explained that the revision was made to include agricultural income after the original return was treated as defective.

Key finding

- The Tribunal held that the tax authorities had essentially doubted the cash deposits on the basis of suspicion arising from the manner in which the assessee had reported his income and assets, rather than demonstrating that the cash books were false or fabricated.
- Since the assessee had opted for presumptive taxation and was not legally required to furnish the particular details at the time of filing the original returns, the subsequent cash books and financial statements could not be rejected merely on that basis.

Decision

Addition of ₹45.98 lakh under section 69A deleted.

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TAX INSIGHTS

By

Tax Research Department

Goods & Services Tax

31.08.2026

Whether the High Court, while exercising judicial review under Article 226, should interfere with the rejection of a catering tender bid where:

- there was an alleged ambiguity regarding whether the quoted base price was inclusive or exclusive of GST;
- the petitioner sought to modify his offer after rejection of his bid; and
- the petitioner alleged delay in the tender process and outstanding dues from an earlier contract.

Bhartiya Caterers and Enterprises v. State Bank of India
Chhattisgarh HC (14 August 2026)

Facts of the Case

- The respondent invited tenders for supplying breakfast, lunch and dinner to trainees of Bhartiya State Bank Gramin Swarojgaar Prashikshan Sansthaan, District Raigarh.
- The base price prescribed was ₹140 per person per day.
- Both the petitioner and respondent No. 2 quoted ₹140.01.
- The petitioner claimed that the tender conditions were unclear as to whether GST was included in the base price. Based on his understanding, he stated that GST would be borne by the respondent.
- The petitioner's bid was rejected and respondent No. 2's bid was accepted.
- After rejection, the petitioner submitted a representation offering to supply food at the earlier rate of ₹109 per plate and requested consideration of his case.
- The petitioner also claimed ₹11,28,236 as outstanding dues under the earlier catering contract.
- He further alleged that the tender process suffered from an unexplained delay and that no specific time limit had been prescribed for completion of the tender process.

Petitioner's Arguments

The petitioner contended that:

1. The GST treatment in the tender was ambiguous.
2. His bid should not have been rejected merely because of his understanding regarding GST.
3. He was experienced and had successfully performed the earlier catering contract.
4. His subsequent offer to supply at ₹109 per plate should have been considered.
5. The respondent had failed to clear his earlier contractual dues.
6. The delay between publication of the tender and opening of bids indicated arbitrariness.

Court's Findings

GST ambiguity: The petitioner had participated in the tender without seeking clarification regarding GST. Therefore, after rejection of his bid, he could not seek to modify his bid or reopen the tender on the ground that he had misunderstood the GST treatment.

Post-bid offer: The subsequent offer to supply at ₹109 per plate did not create any enforceable right. Once the tender process had concluded and the bid was rejected the petitioner could not compel the authority to reopen the process.

Alleged discrimination: There was no material showing that the petitioner had been treated differently from respondent No. 2 or that the tendering authority had adopted different standards in evaluating the bids.

Earlier outstanding dues: The alleged ₹11,28,236 dues related to the earlier contract. Such a claim did not invalidate the fresh tender or give the petitioner a right to obtain the new contract. He remained free to pursue an independent remedy for recovery of the dues.

Delay in tender: The alleged delay between publication and opening of the tender did not, by itself, establish arbitrariness or mala fide, particularly when there was no evidence that the delay was intended to favour respondent No. 2 or caused prejudice to the petitioner.

Past contract: The fact that the petitioner had previously supplied catering services did not confer a vested right to continue with the contract or to receive the fresh tender.

Decision

- The High Court dismissed the writ petition.
- It held that the petitioner failed to establish that the tendering authority's decision was arbitrary, irrational, mala fide, discriminatory or contrary to the tender conditions. Therefore, no interference under Article 226 was warranted.
- However, the Court clarified that dismissal of the writ petition would not prevent the petitioner from independently pursuing recovery of his alleged outstanding contractual dues before the competent authority/forum.