

TAX INSIGHTS

By
 Tax Research Department

Direct Tax

01.07.2026

- **Section 54 Deduction: Whether the assessee could claim deduction under Section 54 for the first time before the Commissioner (Appeals)/Tribunal when no such claim was made either in the original return, revised return, or during the assessment proceedings.**
- **Section 50C Computation: Whether the Commissioner (Appeals) was justified in remanding the issue of computation of long-term capital gains under Section 50C to the Assessing Officer for verification when the Assessing Officer failed to furnish a remand report.**

Surbhi Khandelwal v. Deputy Commissioner of Income-tax
 ITAT (10.06.2026)

Facts

- The assessee, a salaried individual, was a 50% co-owner of a residential flat at Krishna Apra Sapphire, Indirapuram, Ghaziabad.
- The flat was purchased in 2010 for approximately ₹33.63 lakh plus stamp duty and sold in May 2017 for ₹38 lakh.
- In the return of income for AY 2018-19, the assessee declared long-term capital gains (LTCG) of about ₹1.08 lakh.
- During assessment, the Assessing Officer invoked Section 50C, adopting the stamp duty value (approximately ₹95.31 lakh) based on the circle rate and recomputed the LTCG at about ₹35.70 lakh, adding ₹17.85 lakh (50% share) to the assessee's income.
- The assessee did not claim deduction under Section 54 either in the return of income or during assessment.
- Before the Commissioner (Appeals), the assessee:
 - Filed additional evidence under Rule 46A;
 - Claimed Section 54 deduction for the first time, alleging inadvertent omission;
 - Challenged the computation of stamp duty value under Section 50C.
- The Commissioner (Appeals):
 - Rejected the Section 54 claim;
 - Remanded the Section 50C computation issue to the Assessing Officer for verification after repeated but unsuccessful attempts to obtain a remand report.

Decision of the ITAT

The Tribunal dismissed the assessee's appeal and upheld the order of the Commissioner (Appeals).

Observations of the Tribunal

The Tribunal made strong observations regarding the increasing tendency of Assessing Officers to ignore requests for remand reports from Commissioners (Appeals):

- Submission of a remand report is a statutory responsibility and not a matter of discretion.
- Failure to respond undermines appellate proceedings and adversely affects revenue administration.
- The Tribunal recommended that the CBDT investigate the recurring problem and establish an effective mechanism to ensure timely submission of remand reports.
- It also suggested identifying and taking appropriate action against delinquent officers to prevent recurrence.

Held

On Section 54:

- Deduction under Section 54 cannot be allowed where the assessee failed to claim it:
 - in the return of income;
 - through a revised return; or
 - during assessment proceedings.
- The Commissioner (Appeals) rightly rejected the fresh claim.

On Section 50C:

- The Commissioner (Appeals) rightly remanded the issue of stamp duty valuation and recomputation of capital gains to the Assessing Officer.
- No infirmity existed in the remand order.

Final Outcome

- Assessee's Appeal: Dismissed.
- Section 54 Claim: Rejected.
- Section 50C Issue: Remand to the Assessing Officer upheld.
- Order of Commissioner (Appeals): Confirmed.

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Goods & Services Tax

01.07.2026

Whether a GST assessment order uploaded on the GST portal but not signed by the Assessing Officer is legally valid, and whether such a defect can be cured by the provisions relating to service of notices and orders under the GST Act.

GSN Granites v. Assistant Commissioner (ST)
 High Court of Andhra Pradesh (15.06.2026)

Facts

- The petitioner challenged a summary assessment order dated 24.05.2025 on the ground that it did not bear the signature of the Assessing Officer.
- The Revenue raised a preliminary objection that:
 - the writ petition was filed with delay; and
 - the assessment order had been validly served by uploading it on the GST portal under Section 169(1)(d) of the CGST/APGST Act.
- The petitioner contended that:
 - there was no conventional service of the order;
 - the department relied solely on portal upload; and
 - an unsigned assessment order is void in law.

- To strike that balance, the Court imposed a condition requiring the petitioner to deposit 20% of the disputed tax before obtaining relief.

Held

- An assessment order without the signature of the Assessing Officer is invalid.
- Uploading such an unsigned order on the GST portal does not cure the defect.
- Sections 160 and 169 cannot validate an assessment order that lacks mandatory authentication.
- The assessment order was therefore liable to be quashed and the matter remanded for fresh adjudication after granting the petitioner an opportunity of hearing.

Decision of the High Court

The Andhra Pradesh High Court allowed the writ petition, set aside the unsigned assessment order, and remanded the matter to the Assessing Officer for fresh adjudication, subject to the petitioner depositing 20% of the disputed tax.

Court's Reasoning

- The Court relied on its earlier decisions in:
 - A.V. Bhanoji Row v. Assistant Commissioner (ST);
 - SRK Enterprises v. Assistant Commissioner (ST); and
 - SRS Traders v. Assistant Commissioner (ST).
- These decisions consistently held that:
 - an assessment order must bear the signature of the Assessing Officer; and
 - the absence of a signature is a fundamental defect rendering the order invalid.
- The saving provisions under Section 160 and the service provisions under Section 169 cannot cure the absence of a validly authenticated order.
- Even if the order is uploaded on the GST portal, portal-based service does not validate an order that lacks the mandatory signature.
- On the issue of delay, the Court acknowledged the practical difficulties taxpayers face in accessing portal communications and held that delayed writ petitions involving patently defective orders may be entertained to balance the interests of justice and revenue administration.

Final Outcome

- Writ Petition: Allowed.
- Assessment Order: Set aside.
- Matter: Remanded to the Assessing Officer for fresh assessment after providing due opportunity of hearing.
- Condition: The petitioner must deposit 20% of the disputed tax within six weeks.
- Any amount already recovered after the impugned assessment was directed to be adjusted against the 20% deposit.
- The period during which the writ petition remained pending was directed to be excluded for the purposes of limitation.

Key Takeaway

This judgment reiterates that authentication by the Assessing Officer's signature is an essential requirement for the validity of a GST assessment order. An unsigned order is a jurisdictional defect that cannot be cured merely by uploading it on the GST portal or by invoking the statutory provisions governing service of orders. While the High Court may entertain delayed challenges to such patently defective orders, it may impose equitable conditions—such as deposit of 20% of the disputed tax—before granting relief and remanding the matter for fresh adjudication.

TAX INSIGHTS

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 Tax Research Department

Direct Tax

02.07.2026

Whether an employer is obligated to grant tax relief under Section 89 while deducting TDS on VRS compensation, compensation for loss of salary, and wage arrears without the employee submitting Form 10E, and whether employees can claim a refund of excess TDS after filing their income tax returns.

Hosur Bata Employees Union v. Principal Chief Commissioner of Income-tax
 High Court of Madras (24.06.2026)

Facts of the Case

- The petitioner was an employees' union representing 61 employees of Bata.
- An industrial dispute regarding wage revision was settled through an agreement dated 10 January 2026.
- Under the settlement, each employee was entitled to:
 - ₹5 lakh as Voluntary Retirement Scheme (VRS) compensation.
 - ₹40.5 lakh as compensation for loss of future salary up to 31 December 2032.
 - ₹50,000 as arrears of wage revision.
- The VRS compensation and loss-of-salary compensation were payable in two instalments.
- The settlement expressly provided that:
 - Income tax would be governed by the Income-tax Act.
 - Employees could submit Form 10E for relief under Section 89.
 - The employer would deduct TDS as applicable.
- The employer deducted TDS on the payments by treating them as salary/profits in lieu of salary and remitted the tax to the Income Tax Department.
- The union challenged the deduction, arguing that the payments were either exempt or eligible for relief and that TDS had been deducted excessively.

Court's Findings

1. Nature of the Payments

The Court held that the payments made towards:

- VRS,
- compensation for loss of salary, and
- wage revision arrears,

were not required to be included in the employees' taxable income to the extent permitted under the statutory provisions, particularly Section 10(10C).

2. Employer's Responsibility

The Court held that:

- Section 89 relief is not automatic.
- Relief can be considered only when the employee furnishes the prescribed particulars through Form 10E.

- Section 192(2A) requires the employer to compute relief only after receiving such particulars.

Therefore, the employer did not violate the law by deducting TDS in the absence of Form 10E.

3. No Fault on Employer

The Court observed that although the employer may have known that employees could ultimately receive relief or exemption, it:

- was bound to comply with the statutory TDS provisions,
- could not voluntarily assume entitlement to relief, and
- therefore acted strictly in accordance with the Income-tax Act.

4. Refund Mechanism

Since TDS had already been deposited with the Income Tax Department, the employer could not refund it directly.

The proper remedy was for employees to:

- file their income tax returns,
- claim the applicable exemption and relief,
- have their returns processed under Section 143(1), and
- obtain refunds from the Income Tax Department.

Final Directions

The High Court directed that:

- The employees should file their income tax returns within 30 days.
- The Assessing Officer should process the returns under Section 143(1).
- Appropriate refunds of excess TDS should be issued within two months after processing.

Key Takeaways

- Section 89 relief is claim-based, not automatic.
- Submission of Form 10E is essential for obtaining Section 89 relief at the TDS stage.
- Employers are protected if they deduct TDS in accordance with Section 192 when Form 10E has not been furnished.
- Employees can recover excess TDS through the return filing and refund process.
- The decision reinforces the distinction between TDS obligations of the employer and the ultimate tax liability of the employee.

TAX INSIGHTS

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 Tax Research Department

Goods & Services Tax

02.07.2026

Whether waiver of interest and penalty under Section 128A of the CGST/TNGST Acts can be denied solely because the taxpayer mistakenly paid part of the tax under the wrong GST head (IGST instead of CGST/SGST), despite having discharged the entire tax liability within the prescribed time.

Ayiswarya Polymers v. Assistant Commissioner of GST and Central Excise
 High Court of Madras (25.06.2026)

Facts of the Case

- An Order-in-Original dated 30 December 2022 determined the tax liability of the petitioner under Section 73 of the CGST/TNGST Acts.
- The petitioner paid the entire tax demand through payments made on 27 March 2023 and 6 September 2024.
- While making payment, an amount of ₹3,69,334 was mistakenly deposited under the IGST head instead of the CGST and SGST heads.
- The petitioner had no IGST liability.
- The petitioner applied for waiver of interest and penalty under Section 128A, claiming that the entire tax liability had been paid within the statutory time.
- The GST authorities rejected the waiver application solely because part of the tax had been paid under the incorrect tax head.
- The petitioner challenged this rejection before the Madras High Court.

Court's Findings

1. Entire Tax Liability Was Discharged

The Court noted that it was undisputed that:

- the petitioner had paid the entire tax demand, and
- the payment was made within the time prescribed under Section 128A.

The only defect was that part of the payment had been credited under the IGST head instead of CGST/SGST.

2. Wrong Head Payment Was a Procedural Error

The Court accepted the petitioner's contention that:

- the incorrect payment under IGST was merely a clerical or procedural error, and
- there was no dispute that the petitioner had no IGST liability.

Thus, the mistake related to the classification of payment, not the discharge of the tax liability itself.

3. Doctrine of Substantial Compliance

The Court reiterated the principle that:

- exemption or waiver provisions must be strictly complied with in respect of substantive conditions, but
- procedural requirements may be satisfied through substantial compliance.

Since the substantive condition under Section 128A—payment of the entire tax liability within the stipulated time had been fulfilled, the petitioner had substantially complied with the statutory requirements.

4. Rejection Was Unsustainable

The Court held that:

- denying waiver solely because of payment under the wrong tax head defeated the purpose of Section 128A,
- the authorities ought to have considered the fact that the entire liability had already been discharged.

Accordingly, the rejection order could not be sustained.

Final Decision

The Madras High Court:

- set aside the order rejecting the waiver application;
- remanded the matter to the GST authority for fresh consideration;
- directed the authority to provide the petitioner a reasonable opportunity of hearing;
- permitted the petitioner to comply with the necessary procedural requirements to transfer or correct the payment under the appropriate tax heads; and
- directed that a fresh order be passed within three months.

Key Takeaways

- Payment under the wrong GST head does not automatically disentitle a taxpayer from relief under Section 128A.
- The critical requirement under Section 128A is timely payment of the entire tax liability.
- Courts distinguish between substantive conditions (which require strict compliance) and procedural requirements (where substantial compliance may suffice).
- Tax authorities should not reject waiver applications merely because of a clerical or accounting error in the tax head when there is no dispute regarding the actual discharge of tax.
- Taxpayers should, however, complete the procedural formalities necessary to rectify the incorrect tax head before the waiver application is reconsidered.

TAX INSIGHTS

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Direct Tax

03.07.2026

Whether registration granted under Section 12AB can be cancelled by invoking Section 13(1)(b) on the ground that the trust is established for the benefit of a particular community, when the trust was created prior to the commencement of the Income-tax Act, 1961.

Visa Dishawal Bania Caste Trust v. Commissioner of Income-tax (Exemptions)
 ITAT (17.06.2026)

Facts

- The assessee trust was established in 1910, much before the Income-tax Act, 1961.
- Its principal objects were:
 - Maintaining and repairing certain immovable properties.
 - Utilizing income from those properties for the social, religious and customary needs of a particular community.
- The trust obtained registration under Section 12A/12AB on 24 September 2021 for AYs 2022-23 to 2026-27.
- During scrutiny assessment, the Assessing Officer referred the matter to the Commissioner (Exemptions) for cancellation of registration.
- The Commissioner (Exemptions) cancelled the registration retrospectively, holding that:
 - the trust benefited only a particular community;
 - its objects were confined to maintenance of three properties; and
 - no charitable activities benefiting the public at large were demonstrated.

2. Reliance on Earlier Judicial Precedents: The Tribunal followed:

- Bai Navazbai Faramroze D. Mehta Charity Blocks v. CIT (Exemption) (Surat ITAT)
- CIT v. Arya Vysya Kalyana Nilaya Sangam (Andhra Pradesh High Court)
- CIT v. Maheshwari Agarwal Marwari Panchayat (Madhya Pradesh High Court)

These authorities consistently held that Section 13(1)(b) applies only to trusts established after the Income-tax Act, 1961 came into force.

3. Activities Still Require Examination: The Tribunal noted that:

- The Commissioner had largely based the cancellation on the community-benefit objection.
- However, an independent examination of the trust's actual charitable activities for AYs 2022-23 to 2026-27 was still necessary.
- Since registration had subsequently been granted for later assessment years, the matter required fresh consideration.

Accordingly, the case was remanded to the Commissioner (Exemptions) to examine the trust's activities on merits and pass a fresh order after providing an opportunity of hearing.

Arguments of the Assessee

The assessee contended that:

- Section 13(1)(b) applies only to trusts created after the commencement of the Income-tax Act, 1961.
- Since the trust was established in 1910, the provision was inapplicable.
- The Commissioner had also granted registration for the subsequent period (AYs 2027-28 to 2036-37), indicating acceptance of its charitable status.

Tribunal's Decision

The ITAT allowed the appeal and set aside the cancellation order.

1. Section 13(1)(b) not applicable to pre-1961 trusts:
 The Tribunal observed that Section 13(1)(b) expressly applies only to trusts or institutions "created or established after the commencement of this Act." Since the assessee trust was created in 1910, the statutory restriction did not apply. Accordingly, the Commissioner could not cancel registration merely because the trust served a particular religious community or caste.

Final Holding

- Section 13(1)(b) cannot be invoked against trusts established before the commencement of the Income-tax Act, 1961.
- Cancellation of registration based solely on the trust benefiting a particular community was unsustainable.
- The cancellation order was set aside.
- The matter was remanded to the Commissioner (Exemptions) to examine the genuineness and nature of the trust's activities independently.

Ratio Decidendi

The phrase "created or established after the commencement of this Act" in Section 13(1)(b) is decisive. Consequently, the denial of exemption under Sections 11 and 12 on the ground that a trust benefits a particular religious community or caste does not extend to trusts established before the Income-tax Act, 1961.

TAX INSIGHTS

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Goods & Services Tax

03.07.2026

Whether the GST Department can issue a single show cause notice (SCN) and pass a single Order-in-Original covering multiple financial years while determining tax demands under Section 74 of the CGST/TNGST Acts, particularly in cases involving allegations of fraud, wilful misstatement, or suppression of facts.

Sunil Kumar Reddy Dontireddy v. Superintendent of CGST
 High Court of Madras (08.06.2026)

Facts

- The petitioner was subjected to an audit under Section 65 of the CGST/TNGST Acts.
- Based on audit findings, the department issued show cause notices under Section 74 alleging wrongful availment of Input Tax Credit (ITC) and tax short payment involving fraud/suppression.
- Separate SCNs resulted in single Orders-in-Original, each covering several assessment years:
 - 2017-18 to 2021-22
 - 2017-18 to 2022-23
- The petitioner challenged the orders through writ petitions before the Madras High Court.

Petitioner's Contentions

The petitioner argued that:

- Section 74 was wrongly invoked: Mere wrongful availment of ITC or delayed payment of tax does not automatically establish fraud, wilful misstatement, or suppression.
- Reliance was placed on CBIC Instruction No. 05/2023-GST dated 13.12.2023, which states that Section 74 should be invoked only where there is material evidence of fraud or suppression.
- No evidence of fraud: No statement of the proprietor was recorded.
- No material existed to establish deliberate tax evasion.
- Some allegations were dropped: Out of five discrepancies, three were dropped.
- Tax relating to those issues had already been paid.
- Bunching of multiple years was impermissible: Separate assessment years require separate proceedings.
- Reliance was placed on the Madras High Court decision in Titan Company Ltd. v. Joint Commissioner of GST & Central Excise.

Revenue's Contentions

The department submitted that:

- GST is based on self-assessment and trust.
- If audit reveals suppression or ineligible ITC, proceedings under Section 74 are permissible.
- The audit revealed that:
 - suppliers had not paid tax or filed returns; and
 - despite this, the petitioner availed and utilized ITC.
- The SCNs specifically recorded reasons for invoking the extended limitation period under Section 74.

Decision

The Madras High Court dismissed the writ petitions, granting liberty to the petitioner to file statutory appeals.

1. Invocation of Section 74 upheld

The Court observed that:

- The Orders-in-Original contained detailed reasons explaining why Section 74 was invoked.
- The SCNs also specifically set out the basis for alleging fraud/suppression and invoking the extended period of limitation.
- A larger batch of cases decided by the Court on the same day had already upheld similar invocation of Section 74.

Accordingly, the challenge to the jurisdiction under Section 74 was rejected.

2. Clubbing multiple tax periods is legally permissible

The principal issue concerned the validity of issuing one composite SCN and one composite adjudication order covering several assessment years.

The Court held that this issue had already been settled by the Karnataka High Court in:

Chimney Hills Education Society v. Additional Commissioner of Central Tax (2024).

Following that decision, the Court held that:

- there is no legal prohibition against clubbing multiple tax periods in one proceeding under Section 74; and
- composite adjudication is permissible where the proceedings arise from a common audit and involve interconnected issues.

Accordingly, the objection regarding "bunching" of assessment years failed.

3. Proper remedy is statutory appeal

Since the petitioner challenged the merits of the adjudication, the Court held that:

- disputed factual issues should be examined by the appellate authority;
- writ jurisdiction should not ordinarily be exercised where an effective statutory appeal is available.

The petitioner was therefore granted 30 days to file an appeal before the appellate authority.

Final Holding

- Invocation of Section 74 was not invalid merely because the petitioner disputed the allegation of fraud.
- Composite show cause notices and Orders-in-Original covering multiple assessment years are legally permissible.
- The writ petitions were dismissed.
- The petitioner was granted liberty to pursue the statutory appellate remedy.

TAX INSIGHTS

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 Tax Research Department

Direct Tax

04.07.2026

Whether a reassessment notice issued under Section 148 is valid when the Assessing Officer (AO) relies solely on information from the Investigation Wing regarding alleged penny stock transactions, despite the assessee having fully disclosed the share transactions and resultant long-term capital gains (LTCG) in the original return, and the recorded reasons fail to establish a rational nexus between the information and the alleged escapement of income.

ACIT v. Shiv Kumar Gupta
 ITAT (26.05.2025)

Facts

- The assessee, an individual, filed his return of income for AY 2013-14.
- He disclosed:
 - all share purchase and sale transactions;
 - LTCG of ₹96.56 lakh; and
 - claimed exemption under Section 10(38).
- The shares were purchased and sold through a recognized stock exchange.
- Subsequently, the Investigation Wing informed the AO that certain 19 penny stock companies were allegedly used to generate bogus LTCG/STCL entries.
- Based on this information, the AO issued a notice under Section 148, stating that the assessee had sold shares worth approximately ₹1.01 crore in one such penny stock.
- Reassessment proceedings were completed, and the Commissioner (Appeals) upheld the reopening.
- The assessee challenged the validity of the reopening before the ITAT.

Assessee's Contentions

The assessee argued that:

1. All share transactions had been fully disclosed in the original return.
2. The LTCG had also been disclosed and exemption claimed under Section 10(38).
3. The reasons recorded merely reproduced the Investigation Wing's report without any independent application of mind.
4. The material supplied did not demonstrate any undisclosed income.
5. The AO failed to establish any live link between the investigation report and escapement of income.
6. The reopening was based on borrowed satisfaction and vague allegations.

Revenue's Contentions

The Revenue contended that:

- The Investigation Wing had provided credible information identifying the assessee as a beneficiary of penny stock transactions.
- The AO had followed the prescribed procedure before issuing notice under Section 148.
- Therefore, the reopening was legally valid.

Tribunal's Decision

The ITAT allowed the assessee's cross objection, quashed the notice under Section 148, and consequently quashed the reassessment.

1. Full disclosure was made in the original return

The Tribunal noted that:

- the assessee had disclosed all share transactions;
- the profit on sale of shares was disclosed;
- exemption under Section 10(38) was specifically claimed; and
- the transactions were executed through a recognized stock exchange.

Nothing in the recorded reasons suggested that these transactions had been concealed.

2. No rational nexus between material and escapement of income

The Tribunal observed that:

- the recorded reasons merely referred to the Investigation Wing's information regarding penny stocks;
- they did not explain how the disclosed transactions resulted in escapement of taxable income;
- no independent analysis was undertaken by the AO; and
- the reasons neither quantified the escaped income nor established a logical connection between the information received and the belief that income had escaped assessment.

Accordingly, the statutory requirement of a "reason to believe" was not satisfied.

3. Reliance on Supreme Court precedent

The Tribunal followed the Supreme Court decision in: ITO v. Lakhmani Mewal Das (1976) 103 ITR 437 (SC)

The Supreme Court had held that:

- there must be a live link or close nexus between the material before the AO and the formation of the belief that income has escaped assessment;
- vague, indefinite or remote material cannot justify reopening.

The Tribunal found the present case to be squarely covered by this principle.

Final Holding

- The recorded reasons failed to establish a live and rational nexus between the Investigation Wing's information and escapement of income.
- The notice issued under Section 148 was therefore invalid.
- Consequently:
 - the reassessment proceedings were quashed;
 - the assessee's cross objection was allowed; and
 - the Revenue's appeal became infructuous and was dismissed.

TAX INSIGHTS

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Tax Research Department

Goods & Services Tax

04.07.2026

Whether Section 16(3) of the CGST Act disallows the entire Input Tax Credit (ITC) on capital goods where a banking company, after opting for the 50% ITC scheme under Section 17(4), claims depreciation under the Income-tax Act on the remaining 50% of the GST component that had lapsed.

South Indian Bank Ltd. v. Additional Commissioner of
 Central Tax & Central Excise
 High Court of Kerala (18.02.2026)

Facts

- The petitioners were banking companies registered under the CGST Act.
- They exercised the option under Section 17(4), under which:
 - 50% of eligible ITC on capital goods was availed; and
 - the remaining 50% automatically lapsed.
- The unavailed 50% formed part of the cost of the capital assets and depreciation was claimed under the Income-tax Act.
- Following investigations by the DGGI, the department alleged that:
 - since depreciation had been claimed on the GST component, Section 16(3) prohibited ITC on the entire GST component.
- Show Cause Notices (SCNs) and an Order-in-Original (OIO) were issued denying ITC.

Petitioners' Contentions

The banking companies contended that:

1. Section 17(4) itself restricts them to 50% ITC.
2. The remaining 50% lapses by operation of law and cannot thereafter be claimed as ITC.
3. Since no ITC is claimed on the lapsed portion, claiming depreciation on that amount does not result in any double benefit.
4. Section 16(3) prohibits ITC only on the tax component on which depreciation is claimed, not on the entire GST component.

Revenue's Contentions

The department argued that:

- Section 16(3) bars ITC wherever depreciation is claimed on the tax component of capital goods.
- Since depreciation had been claimed on the GST element, the taxpayer became ineligible for ITC on the entire tax component.

Decision

The Kerala High Court allowed the writ petitions and held that the department's interpretation of Section 16(3) was erroneous.

1. Section 16(3) applies only to the tax component on which depreciation is claimed

The Court emphasized the words: "the said tax component" appearing in Section 16(3).

According to the Court, the statutory prohibition extends only to that portion of the tax component on which depreciation has actually been claimed, and not to any other portion.

2. Object of Section 16(3) is to prevent double benefit. The Court observed that the purpose of Section 16(3) is to prevent a taxpayer from simultaneously obtaining:

- Input Tax Credit under the CGST Act; and
- depreciation under the Income-tax Act, on the same tax component. Where no ITC has been claimed, there is no double benefit.

3. Effect of Section 17(4)

The Court explained the scheme applicable to banks:

- Banking companies may either: follow the apportionment mechanism under Section 17(2), or opt for the simplified scheme under Section 17(4).
- Under Section 17(4):
 - only 50% ITC is admissible; and
 - the remaining 50% lapses automatically.

Therefore, the unavailed portion ceases to be available as ITC.

4. Lapsed credit loses the character of input tax credit. The Court held that once the remaining 50% ITC lapses under Section 17(4):

- it no longer possesses the character of "input tax credit";
- consequently, Section 16(3) cannot operate on that lapsed amount.

Depreciation claimed on that portion merely reflects capitalization of cost and does not amount to a double tax benefit.

5. Harmonious interpretation of Sections 16(3), 17(2) and 17(4)

The Court interpreted the provisions together and observed:

- Under Section 17(2), ITC attributable to exempt supplies is anyway unavailable.
- Section 17(4) creates a statutory substitute by deeming only 50% of eligible ITC to be available.
- Treating the lapsed 50% differently from ITC attributable to exempt supplies would amount to an unreasonable classification.

Therefore, Section 16(3) cannot be interpreted to deny the admissible 50% ITC merely because depreciation is claimed on the lapsed portion.

Final Holding

The Kerala High Court held that:

- Section 16(3) bars ITC only in respect of the tax component on which depreciation is claimed.
- The 50% ITC validly availed under Section 17(4) cannot be denied merely because depreciation is claimed on the lapsed 50%.
- The lapsed portion no longer retains the character of ITC and therefore falls outside Section 16(3).
- The impugned SCNs and Order-in-Original were quashed to the extent they denied the admissible 50% ITC.

TAX INSIGHTS

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 Tax Research Department

Direct Tax

05.07.2026

- Whether, while computing deduction under Section 80HHC, 90% of the gross interest or only 90% of the net interest included in business profits should be excluded under Explanation (baa).
- Whether deduction allowed under Section 80-IB/80-IA should first be reduced from the profits or gross total income before computing deduction under Section 80HHC.

K.L.G. Knit Wear v. Assistant Commissioner of Income-tax
 High Court of Madras (02.06.2026)

Facts of the Case

- The assessee, a partnership firm engaged in the manufacture and export of hosiery garments, filed its return claiming deductions under Sections 80HHC and 80-IB.
- During scrutiny assessment:
 - The Assessing Officer (AO) treated interest earned on bank deposits as Income from Other Sources.
 - Consequently, the AO denied deduction under Section 80HHC on such interest.
 - The AO also disallowed simultaneous deductions under Sections 80-IB and 80HHC.
- The Commissioner (Appeals) partly allowed the assessee's appeal by permitting simultaneous deductions but upheld the treatment of interest income.
- The ITAT reversed the relief granted on the issue of simultaneous deductions.
- The assessee appealed before the Madras High Court.

Decision of the High Court

The High Court decided both issues in favour of the assessee.

A. Exclusion of Interest under Section 80HHC

The Court followed the Supreme Court decision in ACG Associated Capsules (P.) Ltd. v. CIT (2012) 343 ITR 89 (SC) and held that:

- Explanation (baa) requires exclusion of 90% of the net interest that has actually been included in business profits.
- It does not require exclusion of the gross interest receipts.
- Therefore, only the net interest remaining after deducting related expenditure is to be reduced while computing deduction under Section 80HHC.

B. Interaction between Sections 80-IA/80-IB and Section 80HHC

The Court relied upon the Supreme Court judgment in Shital Fibers Ltd. v. CIT (2025) and held that:

- Section 80-IA(9) does not require reduction of the deduction under Section 80-IA/80-IB from the gross total income before computing deduction under another provision.
- The provision merely prevents double deduction of the same profits under different provisions of Chapter VI-A.
- The computation of deductions under different provisions remains independent, subject to the restriction that the same profits cannot be deducted twice.

Final Outcome

- The order of the ITAT was set aside.
- The matter was remanded to the Assessing Officer for fresh computation.
- The AO was directed to recompute the deductions by applying:
 - ACG Associated Capsules (P.) Ltd. (SC) for exclusion of only 90% of net interest under Section 80HHC; and
 - Shital Fibers Ltd. (SC) regarding the operation of Section 80-IA(9).

Ratio Decidendi

1. Under Explanation (baa) to Section 80HHC, only 90% of the net interest included in business profits is to be excluded, and not 90% of the gross interest receipts.
2. Section 80-IA(9) is an anti-double deduction provision. It does not alter the computation of gross total income or require prior reduction of deduction under Section 80-IA/80-IB before computing deductions under other provisions of Chapter VI-A.

TAX INSIGHTS

By
 Tax Research Department

Goods & Services Tax

05.07.2026

Whether the High Court should entertain a writ petition challenging suspension and cancellation of GST registration when:

- the registration was cancelled following a complaint by the petitioner's spouse regarding his authority to operate the business from her property; and the CGST Act provides a statutory appellate remedy under Section 107.

Mahadevappa v. Principal Chief Commissioner of Central Tax
 High Court of Karnataka (15.06.2026)

Facts of the Case

- The petitioner and Respondent No. 5 were husband and wife.
- The wife owned the property where a hotel business was being run.
- According to the petitioner:
 - the property was purchased in the wife's name though he financed it;
 - the wife executed a registered General Power of Attorney (GPA) in his favour;
 - she also gave a consent letter permitting GST registration in his name.
- Based on these documents, GST registration was granted in the petitioner's name.
- After matrimonial disputes arose, the wife complained to GST authorities alleging that the consent was forged and sought cancellation of the GST registration.
- GST authorities:
 - issued a show cause notice,
 - suspended the registration,
 - considered the petitioner's reply,
 - cancelled the registration.
- The petitioner filed:
 - an application seeking revocation of cancellation; and
 - a writ petition before the High Court challenging the suspension and cancellation.

Petitioner's Contentions

The petitioner argued that:

- no effective personal hearing was granted before cancellation;
- after filing the revocation application under Section 30, he was entitled to another hearing;
- since the revocation application had not yet been decided, the appellate remedy was ineffective;
- the registered GPA coupled with the consent letter authorized him to obtain GST registration.

Revenue's Contentions

The department contended that:

- a show cause notice had already been issued;
- the petitioner had submitted a reply before cancellation;
- cancellation had already been ordered;
- Section 107 provides an appeal against any decision or order under the GST Act;
- therefore, the writ petition was not maintainable.

Wife's Contentions

The wife submitted that:

- the consent relied upon by the petitioner was forged;
- criminal proceedings had been initiated regarding the alleged forgery;
- the petitioner had obtained interim relief by suppressing material facts.

Decision of the High Court

The Karnataka High Court disposed of the writ petition and granted liberty to the petitioner to file a statutory appeal under Section 107 of the CGST Act.

Key Findings

- GST authorities must adjudicate registration issues:
 The Court held that the existence of a matrimonial or property dispute does not relieve GST authorities of their statutory duty to determine whether registration should continue or be cancelled under the GST law.
- Statutory appeal is the proper remedy:
 Section 107 permits any person aggrieved by any decision or order passed under the GST Act to file an appeal.
 Since the petitioner's registration had already been cancelled by a formal order, the statutory appellate remedy was fully available.
- Writ jurisdiction should not be invoked:
 The Court held that Article 226 jurisdiction should ordinarily not be exercised when an effective statutory appeal exists.
 The pendency of the petitioner's revocation application under Section 30 did not eliminate or postpone his right to file an appeal.
- Merits left open:
 The Court did not decide:
 - validity of the GPA,
 - authenticity of the consent letter,
 - allegations of forgery, or
 - legality of the cancellation.
 All these issues were left open for determination by the appellate authority.

Final Holding

- Writ petition disposed of.
- Liberty granted to file an appeal under Section 107 of the CGST Act.
- All substantive issues were left open for adjudication in the statutory appellate proceedings.

TAX INSIGHTS

By
 Tax Research Department

Direct Tax

16.07.2026

Whether a resident individual opting for the new tax regime under Section 115BAC(1A) and having short-term capital gains (STCG) taxable under Section 111A is entitled to claim rebate under Section 87A for AY 2024-25, and whether the restriction introduced by the Finance Act, 2025 applies retrospectively.

Jayshreeben Rajeshbhai Thakor v. Income-tax Officer
 ITAT (22.06.2026)

Facts of the Case

- The assessee, a resident individual, filed her return for AY 2024-25 declaring a total income of ₹4.41 lakh, comprising:
 - Business/profession income,
 - Income from other sources, and
 - Short-term capital gains (STCG) of ₹2.33 lakh on listed equity shares taxable under Section 111A.
- The assessee opted for the new tax regime under Section 115BAC and claimed rebate under Section 87A.
- While processing the return under Section 143(1), the CPC denied the rebate on the ground that rebate under Section 87A was not available against tax computed at the special rate under Section 111A.
- The CIT(A) upheld the CPC's action by relying on the Explanatory Memorandum to the Finance Bill, 2025.
- The assessee appealed before the ITAT.
- It cannot be applied retrospectively to deny a benefit available under the unamended law for AY 2024-25.
- 4. Explanatory Memorandum cannot override the statute
 - The Tribunal held that the Explanatory Memorandum is only an aid to interpretation and cannot override the clear language of the statute.
 - Where the statutory provisions contain no restriction, the memorandum cannot be used to curtail an existing benefit.
- 5. CPC's system-generated denial not conclusive
 - The Tribunal observed that an automated denial by the CPC cannot override statutory rights.
 - Tax liability must be determined in accordance with the law and not merely on the basis of system programming.
- 6. Earlier Tribunal decision followed
 - The Tribunal followed the coordinate bench decision in Jayshreeben Jayantibhai Palsana v. ITO (2025), which had decided the identical issue in favour of the assessee.

Key Findings

1. No statutory bar under the law applicable for AY 2024-25
 - Section 87A, as applicable for AY 2024-25, did not expressly prohibit rebate against tax payable on STCG under Section 111A.
 - Therefore, rebate could not be denied merely because part of the income was taxable at a special rate.
2. Legislative intent inferred from Section 112A
 - The Tribunal observed that Section 112A(6) specifically restricts rebate under Section 87A in respect of long-term capital gains.
 - The absence of a similar restriction in Section 111A indicated that the Legislature intentionally did not deny rebate for STCG taxable under that provision.
3. Finance Act, 2025 amendment is prospective
 - The amendment introduced by the Finance Act, 2025, effective from 1 April 2026 (AY 2026-27), restricting rebate under Section 87A, is prospective.

Decision of the Tribunal

The ITAT allowed the appeal and directed the Assessing Officer/CPC to grant the rebate under Section 87A and recompute the tax liability.

Key Takeaways

- For AY 2024-25, rebate under Section 87A is available even against tax on STCG under Section 111A, provided the prescribed income threshold is satisfied.
- The Finance Act, 2025 amendment restricting the rebate is prospective and applies only from AY 2026-27.
- An explanatory memorandum cannot curtail a statutory benefit where the legislation itself contains no such restriction.
- CPC's automated processing cannot override the substantive provisions of the Income-tax Act.
- The decision reinforces the principle that beneficial provisions should be interpreted in favour of the taxpayer unless expressly restricted by law.

TAX INSIGHTS

By
 Tax Research Department

Goods & Services Tax

16.07.2026

Whether an adjudication order passed under Section 73(9) of the CGST Act, digitally signed within the prescribed limitation period but uploaded and served on the GST portal after expiry of the limitation period, is invalid and time-barred.

M.M. Motors v. Senior Joint Commissioner of Revenue
 High Court of Calcutta (13.07.2026)

Facts of the Case

- The dispute related to the tax period April 2018 to March 2019.
- A show cause notice under Section 73(1) was issued on 20.12.2023.
- Pursuant to Notifications issued under Section 168A, the time limit for passing an order under Section 73(9) stood extended up to 30.04.2024.
- The Proper Officer digitally signed the adjudication order on 30.04.2024, i.e., within the extended limitation period.
- However, the summary of the order in Form GST DRC-07 was uploaded on the GST portal on 01.05.2024.
- The assessee filed a statutory appeal, which partly modified the demand, but subsequently challenged the adjudication order through a writ petition contending that it was barred by limitation because it was served after the limitation period.
- Delay in service does not render an otherwise valid order time-barred.
- 5. Income-tax precedents distinguished
 - The Court distinguished decisions rendered under the Income-tax Act, 1961, observing that the statutory scheme under the CGST Act is materially different.
 - The legislature has consciously used the expressions "issue" and "service" separately under Sections 73 and 169.

Decision of the High Court

The Calcutta High Court dismissed the writ petition and upheld the validity of the adjudication order.

Statutory Provisions Involved

- Section 73 – Determination of tax not involving fraud.
- Section 168A – Extension of time limits.
- Section 169 – Service of notices and orders.
- Rule 142(5) & (6) of the CGST Rules, 2017 – Upload of summary in Form GST DRC-07.
- Rule 26 – Authentication through digital signature.

Key Takeaways

Key Findings

1. Limitation applies to issuance, not service
 - The Court held that Section 73(10) prescribes the limitation only for issuing/passing the adjudication order.
 - The Act does not require the order to be served within the limitation period.
2. Passing and service are distinct legal acts
 - The Court distinguished between:
 - Passing/Issuing an order (completion of adjudicatory function); and
 - Serving the order (communication to the taxpayer under Section 169).
 - These are separate statutory requirements having different legal consequences.
3. Digital signing within limitation is sufficient
 - Since the Proper Officer digitally signed the adjudication order on 30.04.2024, the order was validly issued within the prescribed limitation.
 - Uploading the order in Form GST DRC-07 on the following day did not invalidate the order.
4. Service affects enforceability, not validity
 - The Court observed that an adjudication order becomes enforceable only upon service, but its validity depends on whether it was issued within the statutory limitation period.
 - The decision clarifies that GST proceedings are governed by a statutory framework distinct from the Income-tax Act, and precedents under the latter cannot be applied mechanically to GST adjudication.

TAX INSIGHTS

By
 Tax Research Department

Direct Tax

17.07.2026

Whether a property purchased by a father in the names of his two non-earning sons could subsequently be claimed as a benami property or HUF/coparcenary property by another son, despite the bar under the Prohibition of Benami Property Transactions Act, 1988.

Dr. Brij Bhushan v. Satya Bhushan Verma
 High Court of Allahabad(18.05.2026)

Facts of the Case

- In 1977, the father purchased a residential property through a registered sale deed in the names of two of his sons, who were students and had no independent source of income.
 - The father claimed that he had paid the entire purchase consideration from his own agricultural income and freedom fighter's pension and intended the purchase for the benefit of those two sons.
 - Another son was permitted to occupy a portion of the house after his transfer to Lucknow as a licensee.
 - After the licence was revoked, the father and one of the recorded owners filed a suit seeking possession and mandatory injunction.
 - The defendant contended that:
 - he had actually financed the purchase; or
 - alternatively, the property had been acquired from joint Hindu family funds, making it HUF property; and
 - the sale deed in favour of his brothers was merely benami.
 - The Trial Court and First Appellate Court rejected these contentions and decreed possession in favour of the plaintiffs.
 - The defendant preferred a second appeal before the High Court.
2. Purchase treated as a gift
 - The Court held that where a father purchases property from his own funds in the names of his non-earning sons for their benefit, the transaction is, in substance, a gift and not a benami transaction.
 - The property therefore became the self-acquired property of the named purchasers.
 3. No evidence of HUF property
 - There was no evidence that:
 - the purchase money came from joint family funds; or
 - the father intended to throw the property into the common hotchpotch of the HUF.
 - Hence, the property could not be treated as coparcenary property.
 4. Defendant was only a licensee
 - The evidence established that the defendant was allowed to occupy the property merely as a licensee.
 - After revocation of the licence, he had no legal right to continue in possession.

Key Takeaways

- A father's purchase of property in the names of his children from his own funds is ordinarily treated as a gift, not a benami transaction.
- Mere contribution allegations without documentary evidence cannot establish benami ownership.
- Property does not become HUF property merely because the purchaser is the family head; there must be proof that HUF funds were used and that the property was intended for the benefit of the coparcenary.
- Section 4 of the Prohibition of Benami Property Transactions Act, 1988 bars both suits and defences claiming benami ownership in proceedings initiated after the Act came into force.
- Mutation entries in municipal records do not confer title and cannot override a registered sale deed.

Decision of the High Court

The Allahabad High Court dismissed the second appeal and upheld the concurrent findings of the Trial Court and First Appellate Court.

Key Findings

1. Benami defence barred

- Although the property was purchased before the Benami Act, the suit was instituted after the Act had come into force.
- Consequently, Section 4 of the Prohibition of Benami Property Transactions Act, 1988 barred the defendant from raising a defence that he was the real owner.
- The defendant failed to establish that his case fell within the statutory exceptions then available under Section 4(3).

TAX INSIGHTS

By
 Tax Research Department

Goods & Services Tax

17.07.2026

Whether a show cause notice (SCN) uploaded on the GST portal under the "Additional Notices" tab instead of the prescribed "Notices and Orders" tab constitutes valid service under Section 169 of the CGST/HPGST Act, and whether an ex parte adjudication order and consequential recovery proceedings based on such service are legally sustainable.

Alder Crafts v. State of Himachal Pradesh
 High Court of Himachal Pradesh (02.07.2026)

Facts of the Case

- The department issued a Show Cause Notice (SCN) dated 25.09.2023 under the GST law.
- Instead of uploading the SCN under the "Notices and Orders" tab on the GST portal, it was uploaded under "Additional Notices."
- As the petitioner was unaware of the notice, no reply was filed.
- The adjudicating authority passed an ex parte order dated 29.12.2023.
- Based on the adjudication order, a recovery notice dated 11.08.2025 was issued.
- The petitioner challenged the SCN, adjudication order, and recovery notice before the High Court, alleging violation of Section 169 of the CGST Act and the principles of natural justice.

Key Findings

1. Uploading under the wrong portal tab is not valid service
 - The Court noted that it was undisputed that the SCN had been uploaded under "Additional Notices" instead of "Notices and Orders."
 - Such uploading did not constitute proper service as contemplated under Section 169 of the CGST Act.
2. Violation of principles of natural justice
 - Since the petitioner was not properly served with the SCN, it was deprived of the opportunity to file a reply and be heard.
 - Consequently, the ex parte adjudication order violated the principles of natural justice.
3. Consequential proceedings cannot survive
 - As the foundational SCN itself was not validly served, the adjudication order and the recovery notice issued pursuant thereto were held to be unsustainable.
4. Fresh proceedings permitted
 - The Court granted liberty to the department to issue a fresh show cause notice in accordance with law.
 - It further directed that the question of limitation would not prevent the issuance of such fresh notice, as it was being issued in substitution of the earlier defective notice.

Decision of the High Court

The Himachal Pradesh High Court allowed the writ petition and quashed the SCN, ex parte adjudication order, and recovery notice.

Ratio Decidendi

A show cause notice uploaded on the GST portal under an incorrect tab, namely "Additional Notices" instead of "Notices and Orders," does not constitute valid service under Section 169 of the CGST Act. Any ex parte adjudication order and recovery proceedings founded on such defective service are liable to be quashed for violation of the principles of natural justice.

Statutory Provisions Involved

- Section 169 – Service of notice and other communications.
- Section 75 – General provisions relating to determination of tax.
- Section 79 – Recovery of tax.
- Corresponding provisions of the Himachal Pradesh GST Act, 2017.

Key Takeaways

- Proper service of an SCN under Section 169 is mandatory before initiating adjudication proceedings.
- Uploading a notice under an incorrect tab on the GST portal does not amount to valid service.
- An ex parte order passed without effective service violates the principles of natural justice and is liable to be set aside.
- Recovery proceedings based on an invalid adjudication order cannot be sustained.
- Courts may permit the tax authorities to issue a fresh SCN without being barred by limitation where the earlier proceedings fail solely due to defective service.

TAX INSIGHTS

By
Tax Research Department

Direct Tax

18.07.2026

Whether the High Court can direct the Commissioner of Income-tax (Appeals) [CIT(A)] to dispose of an appeal within a fixed time where the CIT(A) failed to comply with the ITAT's direction to pass a speaking order for over 17 months.

Janhavi Promoters (P.) Ltd. v. Deputy Commissioner of Income-tax
Calcutta High Court (18.06.2026)

Facts of the Case

- The assessee's appeal for AY 2015-16 was pending before the CIT(A).
 - The Income Tax Appellate Tribunal (ITAT), by its order dated 21 January 2025, restored the matter to the CIT(A) with a specific direction to pass a speaking order.
 - Despite the Tribunal's directions, the CIT(A) failed to dispose of the appeal for more than 17 months.
 - The assessee filed an application on 30 April 2025 seeking early disposal, but no action was taken.
 - Aggrieved by the continued inaction, the assessee approached the Calcutta High Court through a writ petition seeking expeditious disposal of the appeal.
 - Before the High Court, the Revenue did not dispute the factual position and did not object to the prayer for early disposal.
 - Communicate the order to the assessee within one week thereafter.
- The Court clarified that it had not examined the merits of the tax dispute.

Key Legal Principle

A statutory appellate authority is bound to comply with directions issued by the ITAT. Unexplained and prolonged non-compliance with such directions justifies the High Court's intervention under its writ jurisdiction to ensure timely adjudication and uphold the principles of natural justice and speedy justice.

Practical Significance

- Reinforces that CIT(A) must faithfully implement ITAT remand directions without undue delay.
- Confirms that taxpayers are entitled to seek writ relief where administrative inaction frustrates the appellate process.
- Highlights that High Courts may issue time-bound directions for disposal of pending appeals to protect the taxpayer's right to effective and expeditious justice.

Decision of the High Court

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

- The CIT(A)'s failure to comply with the ITAT's specific direction constituted non-compliance with a binding judicial order.
- Administrative delay cannot deprive an assessee of an effective appellate remedy.
- Prolonged pendency of the appeal violates the principles of natural justice and the right to speedy justice under Article 14 of the Constitution.
- Since the Revenue had no objection to the relief sought, there was no impediment to issuing a time-bound direction.

Accordingly, the Court directed the concerned CIT(A) to:

- Dispose of the assessee's application for early hearing and the appeal within six weeks by passing a reasoned and speaking order after providing an opportunity of hearing.

Key Takeaway

The Calcutta High Court held that a 17-month failure by the CIT(A) to comply with the ITAT's direction to pass a speaking order amounted to non-compliance with a binding judicial order. To safeguard the assessee's right to speedy justice, the Court directed the CIT(A) to dispose of the appeal by a reasoned order within six weeks after granting an opportunity of hearing.

TAX INSIGHTS

By
 Tax Research Department

Goods & Services Tax

18.07.2026

Whether GST is leviable on regulatory fees collected by the Central Electricity Regulatory Commission (CERC) and Delhi Electricity Regulatory Commission (DERC) for discharging their statutory regulatory functions, and whether the Supreme Court should review its earlier order dismissing the Revenue's Special Leave Petition.

Additional Director, Directorate General of CGST Intelligence (DGCI) v. Central Electricity Regulatory Commission
 Supreme Court of India (10.03.2026)

Facts of the Case

- The Directorate General of GST Intelligence (DGCI) issued show cause notices to the Central Electricity Regulatory Commission (CERC) and the Delhi Electricity Regulatory Commission (DERC) demanding CGST and IGST on fees collected while performing their statutory regulatory functions.
- The Revenue contended that although transmission and distribution of electricity are exempt from GST, the Commissions' activities constituted support services to electricity utilities and were therefore taxable.
- CERC and DERC challenged the notices before the High Court, arguing that:
 - They are statutory regulatory bodies exercising quasi-judicial powers and possess the trappings of a Tribunal.
 - Their functions are performed under the Electricity Act in discharge of statutory duties and are not in the course or furtherance of business.
- The High Court accepted the contention, holding that tariff regulation, licensing and regulation of electricity are statutory functions and cannot be regarded as business activities. Accordingly, the show cause notices were quashed.
- The Revenue's Special Leave Petition (SLP) against the High Court's decision was dismissed by the Supreme Court on 21 July 2025.
- Thereafter, the Revenue filed a review petition, along with an application seeking condonation of 167 days' delay.

Decision of the Supreme Court

The Supreme Court dismissed the review petition and held that:

- The application seeking condonation of 167 days' delay in filing the review petition was liable to be rejected.
- Even on merits, no ground existed to review the earlier order dismissing the SLP.

- Consequently, the review petition was dismissed both on the ground of delay and on merits, thereby allowing the High Court's judgment to attain finality.

Key Legal Principle

Statutory regulatory functions performed by Electricity Regulatory Commissions—such as tariff determination, regulation of inter-State transmission of electricity and grant of licences—are not activities undertaken in the course or furtherance of business. Accordingly, regulatory fees collected for performing such statutory functions do not constitute taxable supplies under the GST law.

Practical Significance

- Confirms that Electricity Regulatory Commissions are not engaged in business while discharging statutory regulatory and quasi-judicial functions.
- Reinforces that regulatory fees collected in exercise of statutory powers are not liable to GST merely because they are collected from regulated entities.
- Affirms the High Court's ruling quashing GST show cause notices issued on such regulatory fees.
- Highlights that review jurisdiction cannot be invoked in the absence of an apparent error, particularly where the petition is also barred by substantial delay.

Key Takeaway

The Supreme Court dismissed the Revenue's review petition, affirming that Electricity Regulatory Commissions perform statutory regulatory and quasi-judicial functions rather than business activities. Consequently, GST cannot be levied on regulatory fees collected in discharge of such functions, and the show cause notices seeking to tax those fees remain unsustainable.

TAX INSIGHTS

By
 Tax Research Department

Direct Tax

19.07.2026

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

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

Background

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

Arguments by the Assessee

The assessee contended that:

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

Arguments by the Revenue

The Department argued that:

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

Findings of the High Court

1. Validity of Service of Notice

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

Key Observations

The Court observed that:

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

The Court specifically held that:

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

Conclusion on Service

The Court held that:

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

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

2. Violation of Natural Justice

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

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

The Court emphasized that:

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

Decision of the High Court

The Court partly allowed the writ petition.

The Court:

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

The Court further directed that:

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

TAX INSIGHTS

By
 Tax Research Department

Goods & Services Tax

19.07.2026

AAR Holds Rail Transportation of Empty Containers Falls Under 'Transport of Goods by Rail' (5% GST)

Hasti Petro Chemical & Shipping Ltd.,
 AAR - GUJARAT(24 November 2025)

Facts of the Case

- The applicant holds a Container Train Operator (CTO) licence.
- It transports:
 - Loaded containers by rail, and
 - Empty containers by rail for repositioning/logistics.
- GST was being charged at 12% on transportation of both loaded and empty containers under Entry 9(iv).
- Customers disputed the rate for empty containers, claiming it should be 5% under Entry 9(i).
- The applicant sought an advance ruling on:
 - Correct GST rate on transportation of empty containers by rail
 - Implications of charging 5% instead of 12%
 - Applicability of Entry 9(i)
- In case of empty containers, the container itself is the goods, not a medium for carrying goods.
- Therefore, Entry 9(iv) is not attracted.
- Entry 9(i) Is the Correct Classification
 - Entry 9(i) is a general entry covering:
 - "Transport of goods by rail (other than services specified at item (iv))"
 - Since empty containers are goods and are not covered by Entry 9(iv), they fall squarely under Entry 9(i).
 - The residual Entry 9(vii) is also not applicable, as it excludes rail transport.

Issues Before the AAR

- Whether empty containers qualify as "goods".
- Whether transportation of empty containers by rail falls under:
 - Entry 9(iv) – transport of goods in containers, or
 - Entry 9(i) – general transport of goods by rail.
- Applicable GST rate and ITC conditions.

Findings & Reasoning of AAR

a. Empty Containers Are "Goods"

- Under Section 2(52) of CGST Act, "goods" includes all movable property (excluding money & securities).
- Empty containers are movable and hence qualify as goods.
- This is reinforced by:
 - Service Tax Circular No. 96/07/2007-ST
 - Definition of "goods" under Sale of Goods Act, 1930.

b. Entry 9(iv) Applies Only When Goods Are Transported in Containers

- Entry 9(iv) applies only if:
 - Goods are transported inside containers, and
 - Service is provided by a person other than Indian Railways.

d. Applicable GST Rate & ITC Condition

- GST rate under Entry 9(i): 5% (2.5% CGST + 2.5% SGST).
- Mandatory condition:
 - ITC on goods or services used in supplying the service must NOT be availed.
- There is no alternative higher rate option with ITC under Entry 9(i).

Final Ruling

Question

Correct GST rate on transport of empty containers by rail: 5% under Entry 9(i)
 Applicability of Entry 9(iv): Not applicable
 ITC availability: ITC must be mandatorily forgone
 Residual entry 9(vii): Not applicable

Ruling

Legal Principle

Transportation of empty containers by rail constitutes transport of goods by rail and falls under Entry 9(i) of Notification 11/2017-CT(R).

Entry 9(iv) applies only where goods are transported inside containers.

Practical Impact

- Container train operators can charge GST @ 5% on transport of empty containers.
- ITC reversal / non-availment is compulsory.
- Provides industry clarity where divergent GST rates were being charged.

TAX INSIGHTS

By
Tax Research Department

Direct Tax

20.07.2026

Whether TDS credit relating to a property sale can be allowed in the year of transfer even though the purchaser deposited/ reported the TDS in the subsequent year.

Abdul Rahman Asad v. DCIT
ITAT DELHI (12-11-2025)

Held:

Yes. TDS credit must be allowed in the year in which the income is assessable (i.e., year of transfer), provided Form 71 is duly filed.

Core Principle Established

TDS credit is linked to the year of income assessability, not the year of TDS deposit.

- Section 199(3) + Rule 37BA(3)(i): TDS credit shall be given for the assessment year in which the corresponding income is assessable.
- Section 155(20) + Rule 134: If TDS is deposited or reported in a later year, assessee can claim the credit for the correct year by filing Form 71 within 2 years.
- Therefore, even if TDS appears in Form 26AS of a later AY, credit must go to the year where the capital gain is taxable.

Facts in Brief

- The assessee, a non-resident, sold an immovable property on 15.09.2021 (PY 2021-22 → AY 2022-23).
- TDS of ₹20.99 lakh was deducted at the time of sale, but the buyer deposited and reported it only in AY 2023-24.
- Assessee declared capital gain and claimed the TDS in AY 2022-23.
- CPC allowed only ₹60,872 (other TDS), disallowed ₹20.99 lakh since not reflected in Form 26AS of AY 2022-23.
- CIT(A) confirmed denial.

Assessee's Key Argument

- Income from sale is taxable in AY 2022-23 under section 45(1) (year of transfer).
- TDS credit must also be given in the same year (s.199 + Rule 37BA).
- Form 71 was filed in time, enabling correction under s.155(20).
- Delay by purchaser cannot deny assessee's lawful credit.

ITAT's Findings

- Assessee sold property and offered capital gains in AY 2022-23 correctly.
- TDS was indeed deducted on sale consideration but deposited by buyer in AY 2023-24.
- Assessee filed Form 71 through ITBA within time limit; hence the AO must apply the "matching principle":
 - Match TDS credit to the year of income.
- Lower authorities erred in insisting that income should be shifted to AY 2023-24 merely because TDS was deposited in that year.
- Income is taxed in year of transfer; TDS credit must follow the income, not the 26AS year.

Decision

- ✓ AO directed to allow TDS credit of ₹20.99 lakh in AY 2022-23
- ✓ Based on valid Form 71 filed
- ✓ Appeal allowed

Legal Significance

- Reinforces that Form 26AS mismatch cannot override statutory mandate of section 199 and Rule 37BA.
- Protects taxpayers where buyers delay TDS deposit—particularly important for NRIs selling property.
- Clarifies that section 155(20) + Form 71 creates a statutory remedy; AO cannot deny credit when procedure is followed.

TAX INSIGHTS

By
Tax Research Department

Goods & Services Tax

20.07.2026

Whether services provided by an Indian subsidiary to its US parent company amounted to:

- “intermediary services” under section 2(13) of the IGST Act (taxable in India), or
- “export of services” / zero-rated supply under sections 2(6) and 16 of the IGST Act, entitling the assessee to refund of unutilised ITC.

Infodesk India (P.) Ltd. v. Union of India
 Gujarat HC(27-11-2025)

Held
 Services rendered by an Indian subsidiary to its foreign parent on a principal-to-principal basis, on its own account, are not intermediary services. Such services qualify as “export of services” and are zero-rated, making refund of unutilised ITC allowable.

Key Legal Reasoning

1. Nature of Services – “On Own Account”
 - The assessee:
 - Managed IT infrastructure, editorial services, customer support, software consultancy, advisory services.
 - Performed services independently through its own employees using tools like JIRA tickets.
 - It was not merely arranging or facilitating services between the parent and customers.

Hence, exclusion clause in section 2(13) applied: “does not include a person who supplies services on his own account”

2. Bipartite Arrangement – No “Three Parties”
 - Service agreement was only between Indian subsidiary and US parent.
 - Intermediary services require three parties (supplier–intermediary–recipient).
 - No separate supply between parent and its customers was facilitated by the assessee.

3. Commercial Substance of Agreement

Key contractual features relied upon by the Court:

- Cost plus 8% markup → assessee earned profit
- Assessee bore:
 - Salaries, infrastructure costs, taxes
- No reimbursement beyond agreed service fee
- Independent dispute resolution clause (arbitration in India)

Demonstrates principal-to-principal relationship, not agency.

4. Export of Services Conditions Satisfied (Section 2(6))

- Supplier located in India
- Recipient located outside India
- Place of supply outside India
- Consideration received in foreign exchange
- Parties not “merely establishments of same person”

5. CBIC Circulars & Precedents Applied

Relied upon

- Circular No. 159/15/2021-GST (20-09-2021) – clarification on intermediary services
- HC decisions:
 - Genpact India (P&H HC)
 - OHMI Industries (Delhi HC)
 - Ernst & Young Ltd. (Delhi HC)
 - Chromotolab (Gujarat HC)

Final Outcome

- Orders rejecting refund: Quashed
- Services held to be export of services
- Authorities directed to:
 - Process refund of unutilised ITC
 - Complete exercise within 12 weeks

Practical Takeaways

Indian captive service units / subsidiaries are not intermediaries merely because they serve a foreign parent

Cost-plus markup models ≠ intermediary

Key tests to avoid “intermediary” tag:

- Services performed on own account
- Independent pricing / profit element
- No authority to conclude contracts with third parties
- No mere facilitation or arranging role

Strong authority for:

- IT / software development
- Back-office, KPO, BPO
- Advisory & support services to foreign group entities

Key Note

Infodesk India (P.) Ltd. v. UOI [2025]-Services by Indian subsidiary to foreign parent on principal-to-principal basis are exports, not intermediary services; refund of unutilised ITC allowable.

TAX INSIGHTS

By
 Tax Research Department

Direct Tax

21.07.2026

Whether a notice under section 148, issued after three years but within five years under section 149(1)(b), becomes invalid merely because the escaped income finally determined in reassessment is less than ₹50 lakh, although the information available at the time of reopening suggested escapement of ₹50 lakh or more.

Jitendra Shankarlal Mistri v. Income-tax Officer
 High Court of Gujarat (29.06.2026)

Facts

- The assessee filed the original return declaring income of approximately ₹4.99 lakh.
- A search under section 132 was conducted on the Khavda Group, where incriminating material allegedly connected the assessee with cash financing transactions.
- The seized records showed:
 - Cash receipts of approximately ₹59.07 lakh.
 - Cash payments of approximately ₹55.51 lakh.
 - Aggregate transactions exceeding ₹1.14 crore.
- Based on this information, the Assessing Officer issued a section 148 notice on 30 March 2025, which was beyond three years but within five years from the relevant assessment year.
- After reassessment under sections 143(3) read with 147 and 144A, total income was assessed at approximately ₹60.49 lakh, and penalty proceedings were initiated.

Assessee's Contentions

The assessee argued that:

- The extended limitation under section 149(1)(b) was wrongly invoked.
- There was no escaped income represented by assets, expenditure or entries exceeding ₹50 lakh.
- The Assessing Officer had merely aggregated debit and credit entries to cross the statutory threshold.
- The peak balance was only about ₹11.40 lakh, and therefore the jurisdiction assumed under section 149(1)(b) was invalid.
- Consequently, the reassessment order should be quashed.

Revenue's Contentions

The Revenue submitted that:

- Section 149(1)(b) requires only information suggesting that escaped income amounts to or is likely to amount to ₹50 lakh or more.
- Once reassessment has been completed, the assessee should challenge the assessment by filing a statutory appeal before the Commissioner of Income-tax (Appeals).
- A writ petition was not maintainable because an effective alternative remedy existed.

Decision

The Gujarat High Court dismissed the writ petitions and upheld the reassessment proceedings.

Court's Reasoning

The Court held that:

- Validity of reopening is judged at the time of issuing the notice. Section 149(1)(b) uses the expression "amounts to or is likely to amount to ₹50 lakh or more."
- Therefore, the Assessing Officer needs only credible information indicating that the escaped income is likely to cross the threshold.
- Actual escaped income is determined only after reassessment. The final figure may ultimately be higher or lower than ₹50 lakh.
- A lower final determination does not retrospectively invalidate the notice issued under section 148.
- Reassessment is based on information, not final quantification. The jurisdiction to reopen depends upon the information available when the notice is issued.
- Challenge to reassessment should be through the appellate mechanism. Once reassessment has culminated in an assessment order, the proper remedy is an appeal before the CIT(A).
- Writ jurisdiction is exceptional. Relying on CIT v. Chhabil Dass Agarwal (SC), the Court reiterated that writ petitions should not ordinarily be entertained where an effective statutory appellate remedy exists unless exceptional circumstances (such as lack of jurisdiction, violation of natural justice, or action contrary to law) are established.

Ratio Decidendi

A notice under section 148, issued after three years but within five years under section 149(1)(b), is valid if, at the time of issuance, the available information indicates that the escaped income amounts to or is likely to amount to ₹50 lakh or more. The notice does not become invalid merely because the reassessment ultimately determines escaped income below that threshold.

TAX INSIGHTS

By
 Tax Research Department

Goods & Services Tax

21.07.2026

Whether a registered person whose GST registration was cancelled and subsequently revoked can claim Input Tax Credit (ITC) under section 16(6) of the CGST Act even though the entitlement to such ITC had already become time-barred under section 16(4) on the date of cancellation.

Venus Infra Projects v. Assistant Commissioner of State Tax
 High Court of Madras (09.07.2026)

Facts

- The petitioner was a registered GST taxpayer whose registration was cancelled by an order dated 28 March 2022.
- Subsequently, the cancellation was revoked.
- The petitioner sought to claim ITC in returns filed after revocation, relying on section 16(6).
- The department rejected the claim on the ground that the ITC had already become time-barred under section 16(4) as on the date of cancellation.
- The petitioner challenged the rejection by filing a writ petition before the Madras High Court.

Petitioner's Contentions

The petitioner argued that:

- Section 16(6) grants a special benefit where registration is restored after cancellation.
- Once cancellation is revoked, pending returns can be filed within 30 days from the date of revocation, and ITC should consequently be available.
- The extended time provided under section 16(6) overrides the limitation under section 16(4).

Revenue's Contentions

The department contended that:

- Sections 16(4), 16(5), and 16(6) must be read together.
- Section 16(6) expressly incorporates the condition contained in section 16(4).
- Only those taxpayers whose ITC had not already become time-barred on the date of cancellation can claim the benefit after revocation.
- Since the petitioner's ITC entitlement had already lapsed under section 16(4), section 16(6) could not revive it.

Ratio Decidendi

Section 16(6) merely preserves an existing entitlement to ITC where registration is subsequently restored. It does not revive ITC that had already become time-barred under section 16(4) on the date of cancellation of registration.

Decision

The Madras High Court dismissed the writ petition and upheld the department's order denying ITC.

Court's Reasoning

The Court held that:

- Section 16(6) is conditional, not independent. It specifically refers to section 16(4) and makes it a precondition that ITC should not have been restricted under section 16(4) on the date of cancellation.
- Purpose of section 16(6). The provision is intended to protect taxpayers who already possessed a valid ITC entitlement when registration was cancelled.
- Since such taxpayers cannot file returns during the period of cancellation, the law excludes that period and grants an additional 30 days from the date of revocation to file returns and claim ITC.
- Section 16(6) does not revive a lapsed right. If the taxpayer had already lost the right to avail ITC because of the limitation under section 16(4) before cancellation, section 16(6) does not create a fresh entitlement.
- Application to the present case. On the date of cancellation, the petitioner's claim was already barred by section 16(4).
- Therefore, the petitioner could not invoke section 16(6) after revocation.

Key Legal Principle

The benefit under section 16(6) is available only if the taxpayer was otherwise eligible to avail ITC under section 16(4) on the date the registration was cancelled. Revocation of cancellation extends the time for filing returns but does not resurrect an ITC claim that had already lapsed by limitation.

Practical Takeaways

- Revocation of GST registration does not automatically restore all ITC claims.
- Section 16(6) protects only those ITC claims that were still valid on the date of cancellation.
- The period between cancellation and revocation is effectively excluded for eligible taxpayers, and an additional 30 days from the revocation order is provided to file pending returns and claim ITC.
- If the ITC had already become time-barred under section 16(4) before cancellation, revocation cannot revive the claim.

TAX INSIGHTS

By
Tax Research Department

Direct Tax

22.07.2026

Whether proceedings under section 153C are valid when the Assessing Officer records one consolidated satisfaction note covering multiple assessment years, instead of recording a separate satisfaction note for each assessment year.

Shiv Kumar Gupta (HUF) v. Deputy Commissioner of Income-tax / ACIT
 ITAT Lucknow (20.07.2026)

Facts

- A search under section 132 was conducted.
- Based on material allegedly belonging to the assessee (an HUF and an individual), the Assessing Officer initiated proceedings under section 153C for Assessment Years 2015-16 to 2020-21.
- The Assessing Officer passed assessment orders making additions under section 69A for:
 - Unsecured loans,
 - Unexplained bank deposits, and
 - Unexplained business receipts.
- The Commissioner (Appeals) upheld the assessments.
- The assessee appealed before the ITAT.

Assessee's Contentions

The assessee contended that:

1. Jurisdiction under section 153C was invalid because the Assessing Officer recorded one common satisfaction note for all six assessment years instead of separate satisfaction notes.
2. No incriminating material relating to the additions was found during the search.
3. The bank statements relied upon were already disclosed and reflected in the regular books and returns and therefore could not be treated as incriminating material.
4. Since the assessments were completed (unabated), no additions could be made without incriminating material, relying on:
 - Pr. CIT v. Abhisar Buildwell (P.) Ltd. (SC)
 - Dy. CIT v. U.K. Paints (Overseas) Ltd. (SC)

Revenue's Contentions

The Revenue argued that:

- The additions were based on bank statements seized during the search.
- Therefore, there was incriminating material justifying action under section 153C.
- The assessments and appellate orders should be sustained.

Decision

The ITAT allowed all the appeals and annulled the assessments made under section 153C.

Court's Reasoning

The Tribunal held that:

1. Separate satisfaction note is mandatory for each assessment year
 - It was undisputed that the Assessing Officer had prepared one consolidated satisfaction note for all six assessment years.
 - Following the decisions in Dy. CIT v. Sunil Kumar Sharma (Karnataka High Court), affirmed by the Supreme Court, the Tribunal held that:
 - Satisfaction under section 153C must be year-specific.
 - A common or consolidated satisfaction note covering multiple assessment years does not satisfy the statutory requirement.
2. Jurisdiction itself became invalid
 Since the statutory requirement of recording separate satisfaction for each assessment year was not complied with:
 - The assumption of jurisdiction under section 153C was invalid.
 - Consequently, the entire assessment proceedings stood vitiated.
3. Other issues became academic
 As the assessments were annulled on the jurisdictional issue, the Tribunal did not examine:
 - Whether any incriminating material existed,
 - The legality of additions under section 69A,
 - Protective versus substantive additions,
 - Validity of approval under section 153D, or
 - Other grounds raised by the assessee.

Ratio Decidendi

For invoking jurisdiction under section 153C, the Assessing Officer must record a separate satisfaction note for each assessment year. Recording a single consolidated satisfaction note for multiple years is contrary to law and renders the entire proceedings under section 153C invalid.

Key Legal Principle

The satisfaction required under section 153C is assessment year-specific. Since jurisdiction under section 153C depends upon valid recording of satisfaction, a consolidated note cannot confer jurisdiction for multiple years.

TAX INSIGHTS

By
 Tax Research Department

Goods & Services Tax

22.07.2026

Whether GST is leviable on affiliation fees paid by colleges to a university, or whether grant of affiliation is a statutory/regulatory function that does not constitute a taxable supply and is, in any event, exempt under Entry 66 of Notification No. 12/2017-Central Tax (Rate).

Surendera Group of Institutions v. Union of India
 High Court of Rajasthan (10.07.2026)

Facts

- The petitioner-college was affiliated with Bikaner Technical University (BTU).
- It had already paid affiliation fees for the academic sessions 2018–19 to 2022–23.
- BTU subsequently issued a demand letter dated 6 September 2025 requiring payment of GST on the affiliation fees.
- The petitioner challenged the GST demand by filing a writ petition against the University and the GST authorities.

Petitioner's Contentions

The petitioner contended that:

- Grant of affiliation by a university is a statutory and regulatory function, not a commercial activity.
- Affiliation fees are not consideration for a taxable supply under the CGST Act.
- Even assuming affiliation amounts to a service, it is exempt under Entry 66 of Notification No. 12/2017-CT (Rate).
- Therefore, the GST demand was illegal and liable to be quashed.

Revenue's Position

The parties did not dispute that the issue had already been decided by the Rajasthan High Court in Rajasthan Technical University v. Union of India, where the levy of GST on affiliation fees had been held to be unsustainable.

Relief Granted

The Court directed that:

- The GST demand raised by BTU be set aside.
- Any GST already collected on affiliation fees be refunded within four months.
- If the refund is not made within four months, the GST authorities shall pay interest at 7% per annum from the date of payment until the date of refund.

Decision

The Rajasthan High Court allowed the writ petition, set aside the GST demand, and directed the GST authorities to refund any GST collected on affiliation fees.

Court's Reasoning

The Court followed its earlier Division Bench decision in Rajasthan Technical University v. Union of India and held that:

1. Affiliation is a statutory and regulatory function
 - Universities grant affiliation pursuant to statutory provisions governing higher education.
 - Such activity is performed in discharge of statutory duties and does not amount to a "supply" under the CGST Act.
2. Affiliation fees are not consideration for a taxable supply
 - The affiliation fee is charged to regulate academic standards and institutional recognition.
 - It is not consideration for any commercial or taxable activity.
3. Affiliation services are exempt under Entry 66
 - Even if affiliation were regarded as a service, it falls within the exemption under Entry 66 of Notification No. 12/2017-CT (Rate) relating to educational services.
 - Universities perform functions comparable to educational boards, including conducting examinations and maintaining academic standards.
4. Equal treatment of universities and educational boards
 - The Court observed that educational boards and universities perform similar educational and regulatory functions.
 - Denying universities the same exemption available to educational boards would be arbitrary and discriminatory.

Ratio Decidendi

Grant of affiliation by a university is a statutory and regulatory function, not a taxable supply under the CGST Act. Affiliation fees are not consideration for a taxable activity and, in any event, are exempt under Entry 66 of Notification No. 12/2017-CT (Rate). Accordingly, GST cannot be levied on such fees.

TAX INSIGHTS

By
 Tax Research Department

Direct Tax

23.07.2026

Whether an application in Form No. 10AB seeking regular registration under section 12AB can be rejected solely because the trust selected the wrong clause of section 12A(1)(ac) in the electronic form, despite the nature and purpose of the application being clear.

Lodha Park Jain Sangh v. Income-tax Officer (Exemptions)
 ITAT Mumbai (30.06.2026)

Facts

- The assessee, a religious trust, had been granted provisional registration in Form No. 10AC, valid for three years (AY 2025-26 to AY 2027-28).
- It filed Form No. 10AB on 30 September 2025 seeking regular registration under section 12AB.
- During scrutiny, the CIT (Exemptions) called for documents under Rule 17A, which the trust duly furnished along with additional details and proof of expenditure.
- The CIT(E) noticed that, instead of selecting section 12A(1)(ac)(iii) (applicable to conversion of provisional registration into regular registration), the trust had selected section 12A(1)(ac)(ii).
- Holding the application to be not maintainable, the CIT(E) rejected it without examining the trust's objects or genuineness of activities.
- The trust appealed to the ITAT.

Assessee's Contentions

The trust contended that:

- The incorrect clause selection was an inadvertent technical error.
- The substance of the application was always clear the trust was seeking regular registration after obtaining provisional registration.
- It had complied with all documentary requirements under Rule 17A.
- No adverse findings were recorded regarding its objects or genuineness.
- It was never given an opportunity to correct the section code before rejection.
- A procedural defect should not defeat a substantive statutory right.

Revenue's Contentions

The Revenue submitted that:

- The application had indeed been filed under the wrong statutory clause.
- However, the Departmental Representative did not oppose restoration of the matter to the CIT(E) for fresh consideration.

Decision

The ITAT allowed the appeal for statistical purposes, set aside the order of the CIT(E), and remanded the matter for fresh adjudication.

Tribunal's Reasoning

1. Wrong clause selection was only a procedural defect
 The Tribunal held that:

- The trust's identity and purpose were never in doubt.
- The CIT(E) was fully aware from the records that the trust possessed provisional registration and was seeking regular registration.
- Selecting the wrong clause in the electronic form did not affect:
 - the identity of the applicant,
 - the nature of the relief sought, or
 - the jurisdiction of the CIT(E).

2. No substantive defect existed

The Tribunal noted that:

- The rejection was not based on:
 - the trust's objects,
 - genuineness of activities,
 - compliance with Rule 17A, or
 - any statutory disqualification.
- The only ground for rejection was the incorrect statutory code selected in Form 10AB.

3. No opportunity was given to cure the defect

The notice issued by the CIT(E):

- sought only supporting documents;
- did not inform the trust that the wrong statutory clause had been selected; and
- did not provide an opportunity to rectify that defect.

This violated the principles of fair procedure.

4. CBDT Circular reflects legislative intent

Although CBDT Circular No. 7/2024 technically applied to transitional cases, the Tribunal observed that its underlying principle was equally relevant.

The Circular recognizes that:

- selecting the wrong section code in Form 10AB is a procedural and curable defect, and
- such technical mistakes should not permanently defeat an otherwise valid application.

5. Procedural law should advance substantive justice

The Tribunal emphasized that:

Procedural requirements are intended to facilitate adjudication of substantive rights and should not defeat those rights merely because of a curable technical lapse.

TAX INSIGHTS

By
Tax Research Department

Goods & Services Tax

23.07.2026

Whether a bona fide purchaser can be denied Input Tax Credit (ITC) under the CGST/Assam GST Acts solely because the selling dealer failed to file GST returns or deposit the tax with the Government, despite the purchaser possessing valid tax invoices and having paid GST to the supplier.

Advance Engineering Farms and Equipments v. State of Assam
High Court of Gauhati (16.07.2026)

Facts

- The petitioner, a registered GST dealer, purchased generators during FY 2017–18 from a registered supplier (Respondent No. 4).
- The purchase value was ₹9,44,000, on which CGST of ₹72,000 and SGST of ₹72,000 were charged through a valid tax invoice.
- The petitioner paid the full invoice value, including GST, to the supplier.
- During departmental scrutiny, a show cause notice alleged excess ITC and proposed tax, interest, and penalty.
- Although most issues were rectified in the petitioner's favour, the department continued to deny ITC relating to purchases from Respondent No. 4 because the supplier had not filed GST returns or paid the collected tax.
- Consequently, a rectification order dated 10 April 2024 raised a demand against the petitioner.

Legal Issue

Can the tax department recover tax from the purchasing dealer by denying ITC when:

- the purchaser acted bona fide,
- purchased from a registered supplier,
- possessed a valid tax invoice, and
- paid GST to the supplier,

merely because the supplier defaulted in filing returns or depositing tax?

Petitioner's Contentions

- The petitioner had fulfilled all statutory obligations under Section 16 by:
 - purchasing goods from a registered supplier,
 - obtaining valid tax invoices,
 - receiving the goods, and
 - paying GST to the supplier.
- The purchaser cannot be penalized for the supplier's default.
- Recovery, if any, should be made from the defaulting supplier.

Department's Stand

- Since the supplier failed to file GST returns, the ITC claimed by the petitioner was inadmissible.
- Therefore, the petitioner was liable to reverse the ITC along with consequential demand.

Court's Decision

The Gauhati High Court allowed the writ petition and set aside the demand.

The Court held that:

- A bona fide purchaser cannot be denied ITC merely because the supplier failed to file returns or deposit GST.
- Once the purchaser has paid GST to a registered supplier and possesses a valid tax invoice, the purchaser cannot be made liable for the supplier's subsequent default.
- The proper remedy for the department is to initiate recovery proceedings against the defaulting supplier, not against the purchasing dealer.
- Treating the petitioner's ITC as "excess ITC" solely on account of the seller's default was contrary to law.

Reasoning of the Court

The Court relied heavily on:

- National Plasto Moulding v. State of Assam, where the Gauhati High Court had read down Sections 16(2)(c) and 16(2)(d) of the Assam GST Act to protect bona fide purchasers.
- On Quest Merchandising India (P.) Ltd. v. Government of NCT of Delhi, which held that ITC cannot be denied to a genuine purchaser because of the selling dealer's default, unless there is evidence of collusion or fraud.

The Court noted that:

- The supplier admitted receiving the GST collected from the petitioner.
- The only default was the supplier's failure to file returns.
- There was no allegation of fraud, collusion, or fake invoicing against the petitioner.

Final Directions

The Court:

- Quashed the rectification order dated 10 April 2024.
- Set aside the demand of:
 - ₹1,60,506 (CGST), and
 - ₹1,60,506 (SGST).
- Clarified that the tax department remains free to initiate recovery proceedings against the defaulting supplier under the CGST and Assam GST Acts.

TAX INSIGHTS

By
 Tax Research Department

Direct Tax

24.07.2026

- **Whether an assessment order passed under the faceless assessment scheme (section 144B) can be revised by the Principal Commissioner under section 263?**
- **Whether the Assessing Officer's failure to examine the assessee's claim for bad debt deduction under section 36(1)(vii) rendered the assessment order erroneous and prejudicial to the interests of the Revenue?**

Shriram Finance Ltd. v. Principal Commissioner of Income-tax
ITAT Chennai (20.05.2026)

Facts of the Case

- The assessee, Shriram Finance Ltd., an NBFC, filed its return of income for AY 2022-23.
- The case was selected for scrutiny under CASS.
- Assessment was completed under section 143(3) read with section 144B (Faceless Assessment), accepting the returned income.
- Subsequently, the Principal Commissioner (PCIT) examined the assessment records and found that:
 - In AY 2021-22, the assessee had claimed deduction for provision for doubtful debts under section 36(1)(vii).
 - In AY 2022-23, it claimed deduction for bad debts under section 36(1)(vii).
 - While allowing the bad debt deduction, the Assessing Officer failed to reduce the opening credit balance of the provision for doubtful debts as required by the first proviso to section 36(1)(vii).
 - No enquiry or verification had been conducted on this issue.
- Invoking section 263, the PCIT held the assessment order to be erroneous and prejudicial to the interests of the Revenue and directed the Assessing Officer to recompute the income.

The assessee appealed before the ITAT.

Assessee's Arguments

The assessee contended that:

- A faceless assessment order passed under section 144B is not revisable under section 263.
- A faceless assessment is made through multiple units (Assessment Unit, Verification Unit, Technical Unit and Review Unit), and therefore cannot be treated as an ordinary assessment order of an Assessing Officer.
- Since the assessment is supervised by the National Faceless Assessment Centre under the Principal Chief Commissioner, the Principal Commissioner cannot revise such an order.
- The computation error had already been corrected in the subsequent assessment year, making the issue revenue-neutral.

Revenue's Arguments

The Revenue argued that:

- An order passed under section 144B is still an order passed by the Assessing Officer in exercise of statutory powers.
- Explanation 1 to section 263 expressly covers such orders.
- The Assessing Officer never examined the allowability of the deduction.
- Mere acceptance of a claim without enquiry amounts to an erroneous order attracting section 263.

Tribunal's Decision

The ITAT dismissed the assessee's appeal and upheld the revision under section 263.

Key Findings of the Tribunal

1. Faceless assessment orders are revisable under section 263

The Tribunal held that:

- An assessment under section 144B is still an assessment order passed in the exercise of the powers and functions of the Assessing Officer.
- Such an order falls within Explanation 1(A)(ii) to section 263.
- Therefore, a faceless assessment is amenable to revision under section 263.

2. NFAC supervision does not bar revision

The Tribunal rejected the argument that:

- Since the assessment is carried out under the supervision of the Principal Chief Commissioner of the Faceless Assessment Unit, the Principal Commissioner lacks jurisdiction.

It observed that:

- Section 144B nowhere provides that the assessment order is passed by the Principal Chief Commissioner.
- The order continues to remain an order of the Assessing Officer.
- Hence, the Principal Commissioner has full jurisdiction to invoke section 263.

3. No enquiry was conducted by the Assessing Officer

The Tribunal examined:

- Notices issued under section 142(1),
- Replies filed by the assessee,
- Assessment records.

It found that:

- No query whatsoever was raised regarding the deduction under section 36(1)(vii).
- The assessee itself admitted that the issue had not been examined.

Accordingly, the assessment suffered from lack of enquiry.

4. Lack of enquiry makes an order erroneous

The Tribunal reiterated that:

- Where the Assessing Officer accepts a claim without conducting any enquiry, there is no "view" taken by the Assessing Officer.
- A view can exist only after examination and application of mind.
- Therefore, an assessment completed without enquiry is both:
 - erroneous; and
 - prejudicial to the interests of the Revenue.

5. Subsequent correction does not cure the error

The assessee argued that the excess deduction had been voluntarily offered to tax in AY 2023-24.

The Tribunal rejected this contention by holding that:

- Income must be assessed in the correct assessment year.
- The Assessing Officer was duty-bound to assess the correct income in AY 2022-23 itself.
- Subsequent rectification cannot validate an erroneous assessment for the earlier year.

TAX INSIGHTS

By
 Tax Research Department

Goods & Services Tax

24.07.2026

Whether late fee for non-filing of the GST annual return can be challenged on the ground that the department failed to issue a notice in Form GSTR-3A under section 46 or failed to follow the Standard Operating Procedure (SOP) prescribed in Circular No. 129/19-GST?

Tvl. New Shivsakthi Traders v. Assistant Commissioner (ST)
High Court of Madras (8 July 2026)

Facts of the Case

- The appellant, Tvl. New Shivsakthi Traders, was a registered person under the Tamil Nadu GST Act.
- It failed to file its annual return for FY 2021–22 within the prescribed time.
- The department initiated proceedings and imposed late fee under section 47(2) of the CGST/TNGST Acts.
- The assessee challenged the levy through a writ petition, contending that:
 - no notice in Form GSTR-3A under section 46 read with Rule 68 had been issued; and
 - the department had not followed the procedure prescribed in CBIC Circular No. 129/19-GST dated 24 December 2019, which envisages reminder emails/messages before initiating action.
- The Single Judge dismissed the writ petition.
- The assessee filed a writ appeal before the Division Bench.

Assessee's Contentions

The appellant argued that:

- The statutory procedure had not been followed because no notice in Form GSTR-3A was issued.
- The department also failed to comply with the SOP contained in Circular No. 129/19-GST, which requires reminder communications to be sent to defaulting taxpayers.
- Consequently, the levy of late fee was invalid.

Revenue's Contentions

The Revenue submitted that:

- Filing GST returns within the prescribed due date is a statutory obligation of every registered person.
- The SOP merely provides administrative reminders and does not have statutory force.
- The taxpayer had been served with a notice dated 6 December 2024 but still failed to file the return.
- The assessment order was appealable under section 107, and the writ petition itself was not the proper remedy.

Decision of the High Court

The Division Bench dismissed the writ appeal and upheld the levy of late fee.

However, it granted the assessee 30 days' liberty to file a statutory appeal under section 107 against the assessment order.

Key Findings of the Court

1. Filing returns within time is a statutory obligation
 The Court held that:

- The GST law casts a mandatory obligation on every registered person to furnish returns within the prescribed time.
- Failure to comply automatically attracts the statutory consequences under the Act.

2. Late fee arises from the statute

The Court observed that:

- Section 47 imposes late fee whenever the return required under section 44 is not furnished by the due date.
- The liability arises because of the default itself, not because of issuance of any notice.

3. Non-issuance of Form GSTR-3A is not a defence

The Court rejected the appellant's contention that:

- absence of a notice under section 46 read with Rule 68 invalidated the levy.

It held that:

- the statutory obligation to file returns exists independently of the issuance of GSTR-3A;
- failure by the department to issue such notice does not extinguish or postpone the taxpayer's obligation.

4. SOP Circular has no overriding statutory force

The Court held that:

- the reminder emails/messages contemplated under Circular No. 129/19-GST are merely facilitative measures.
- They are intended to remind taxpayers of compliance obligations.
- Non-compliance with the SOP cannot override or dilute the statutory provisions of the GST Acts.

5. Alternative statutory remedy available

While dismissing the writ appeal, the Court permitted the assessee to avail the statutory appellate remedy by filing an appeal under section 107 within 30 days.

Ratio Decidendi

The statutory obligation to file GST returns within the prescribed time exists independently of any notice issued by the department. Consequently, failure to issue a notice in Form GSTR-3A or failure to follow the administrative SOP under Circular No. 129/19-GST does not invalidate the levy of late fee under section 47 for delayed or non-filing of annual returns.

TAX INSIGHTS

By
Tax Research Department

Direct Tax

25.07.2026

Whether the Assessing Officer was justified in making an addition on account of 'finished goods written off' when the assessee had changed its method of valuation of closing stock and passed neutralizing accounting entries that had no impact on the overall profit.

Principal Commissioner of Income-tax v. Maneesh Pharmaceuticals (P.) Ltd.
HIGH COURT OF BOMBAY (10.07.2026)

Facts of the Case

- The assessee changed its method of valuation of closing stock during AY 2010-11.
- To align the opening stock with the revised valuation method, it computed an adjustment of ₹37.41 crore.
- The adjustment was:
 - Reduced from current year's consumption, thereby increasing profit; and
 - Simultaneously debited to the Profit & Loss Account as an exceptional item titled 'finished goods written off', thereby neutralizing the effect.
- The accounting treatment was disclosed in the auditors' notes to accounts.
- The Assessing Officer treated the debit as an excess expenditure and added back ₹37.41 crore to the assessee's income.
- The CIT(A) deleted the addition, and the Income Tax Appellate Tribunal upheld the deletion.

Revenue's Contention

- The assessee had claimed excess expenditure by debiting ₹37.41 crore as 'finished goods written off', thereby reducing taxable income.
- The addition made by the Assessing Officer was therefore justified.

Assessee's Contention

- The entries were merely accounting adjustments necessitated by the change in the method of stock valuation.
- The corresponding credit and debit entries completely neutralized each other.
- There was no impact on profits and no manipulation of the opening stock.

Decision of the High Court

The Bombay High Court dismissed the Revenue's appeal and upheld the Tribunal's order.

The Court held that:

- The accounting entries were passed solely to give effect to the change in the valuation method.
- The adjustment had no effect on the profit or taxable income.
- The assessee had not manipulated or tinkered with the opening stock.
- Both the CIT(A) and the Tribunal had correctly appreciated the accounting treatment and factual position.
- No substantial question of law arose for consideration.

Key Legal Principle

A change in the method of stock valuation accompanied by corresponding neutralizing accounting entries cannot give rise to a taxable addition where:

- the accounting treatment is bona fide,
- it is fully disclosed,
- there is no impact on profits, and
- there is no manipulation of the opening stock.

Outcome

- Appeal dismissed.
- Addition of ₹37.41 crore deleted.
- Decision in favour of the assessee.

Key Takeaway

A bona fide change in the method of stock valuation that is implemented through corresponding accounting entries with no net effect on profits cannot be treated as an excess claim of expenditure merely because an exceptional item has been debited to the Profit & Loss Account. The substance of the accounting treatment, rather than its form, determines its taxability.

TAX INSIGHTS

By
Tax Research Department

Goods & Services Tax

25.07.2026

- Whether a taxpayer who withdraws a writ petition can be permitted to file a statutory appeal under section 107 of the CGST Act by excluding the period spent in pursuing the writ petition.
- Whether a taxpayer is entitled to a refund of tax recovered during the statutory appeal period when the writ petition itself was filed beyond the prescribed three-month limitation period.

Rajnish Kumar v. Commissioner of CGST and Central Excise
HIGH COURT OF PATNA (16.07.2026)

Facts of the Case

- The petitioner challenged:
 - the show cause notice issued under section 74 of the CGST Act,
 - the adjudication order,
 - and the recovery of tax made from the Electronic Credit Ledger.
- During the hearing, the petitioner sought permission to withdraw the writ petition with liberty to file a statutory appeal under section 107 of the CGST Act.
- The petitioner submitted that although the writ petition was filed after the expiry of the normal three-month appeal period, it was within the additional one-month condonable period available under section 107(4).
- The petitioner also sought a direction for refund of the amount recovered, contending that recovery had been made during the statutory appeal period.
- The Revenue argued that one issue had already been adjudicated by the High Court in an earlier order and had attained finality.

Revenue's Contention

- The issue already decided by the High Court could not be reopened before the Appellate Authority.
- The petitioner was not entitled to refund because the writ petition was not instituted within the statutory three-month period prescribed for filing an appeal.

Assessee's Contention

- The petitioner requested liberty to file a statutory appeal with condonation of delay.
- The period spent in prosecuting the writ petition should be excluded while computing limitation.
- Since recovery had been effected during the appeal period, the recovered amount should be refunded.

Outcome

- Liberty granted to file a statutory appeal under section 107.
- Period spent in the writ proceedings excluded for computation of limitation.
- Previously decided issue barred from reconsideration.
- Refund of recovered amount denied.

Decision of the High Court

The Patna High Court partly allowed the petition. The Court held that:

- The petitioner was permitted to withdraw the writ petition and file a statutory appeal under section 107.
- The period during which the writ petition remained pending (from 27.01.2026 till the date of the order) should be excluded while computing limitation, including the additional one-month condonable period.
- However, the issue already decided by the High Court could not be re-agitated before the Appellate Authority.
- The request for refund of the recovered amount was rejected because the writ petition had not been validly instituted within the statutory three-month appeal period. Registration of the writ petition after removal of defects could not cure the limitation defect.

Key Legal Principles

- A taxpayer who has bona fide pursued a writ remedy may be granted liberty to file a statutory appeal, with exclusion of the period spent before the High Court while computing limitation.
- Issues already adjudicated by the High Court attain finality and cannot be reopened before the Appellate Authority.
- A taxpayer cannot claim refund of tax recovered during the appeal period if the writ petition itself was filed beyond the statutory limitation period. Filing defects and subsequent registration of the writ petition do not extend or save limitation.

Key Takeaway

The judgment reiterates that while courts may protect a taxpayer who has diligently pursued an incorrect remedy by excluding the time spent in writ proceedings for the purpose of limitation, such equitable relief does not revive a claim for refund where the taxpayer failed to approach the Court within the statutory appeal period. Further, issues already adjudicated by the High Court cannot be reopened before the appellate authority.

TAX INSIGHTS

By
 Tax Research Department

Direct Tax

26.07.2026

- **Whether expenditure can be disallowed under section 40(a)(ia) where the assessee has deducted TDS under section 194C instead of section 194I, despite deducting the appropriate tax.**
- **Whether disallowance made under section 14A read with Rule 8D can be added back while computing book profit under section 115JB (MAT).**

Principal Commissioner of Income-tax v. Jindal Saw Ltd.
 High Court of Delhi (08.07.2026)

Facts of the Case

- The assessee deducted Tax Deducted at Source (TDS) under section 194C on certain payments.
- The Assessing Officer (AO) held that TDS ought to have been deducted under section 194I and consequently:
 - treated the assessee as being in default under sections 201(1) and 201(1A); and
 - disallowed the related expenditure under section 40(a)(ia).
- Subsequently, the Income Tax Appellate Tribunal (ITAT) set aside the order passed under sections 201(1) and 201(1A), holding that the assessee could not be treated as an assessee in default.
- The AO had also made a disallowance under section 14A read with Rule 8D and added the same while computing book profit under section 115JB.
- The ITAT deleted both additions, following earlier judicial precedents.
- The Revenue appealed before the Delhi High Court.
- It held that Explanation 1(f) to section 115JB does not permit adding back the disallowance computed under section 14A read with Rule 8D while determining book profit for MAT purposes.
- Therefore, the addition made by the AO while computing MAT was rightly deleted.

Key Legal Principles

- Deduction of TDS under an incorrect but applicable provision does not attract disallowance under section 40(a)(ia), provided appropriate tax has actually been deducted.
- An assessee cannot be treated as an assessee in default merely because the TDS provision applied by the assessee differs from the provision considered appropriate by the Revenue, when tax has otherwise been correctly deducted.
- Disallowance under section 14A read with Rule 8D cannot be added back while computing book profit under section 115JB.

Decision of the High Court

The Delhi High Court dismissed the Revenue's appeal and held that:

1. No disallowance under section 40(a)(ia) for deduction under a different applicable TDS provision
 - Where appropriate tax has been deducted, merely because it was deducted under a different but relevant TDS provision, the assessee cannot be treated as an assessee in default.
 - Consequently, section 40(a)(ia) cannot be invoked to disallow the expenditure.
 - Since the Tribunal had already set aside the order passed under sections 201(1) and 201(1A), there remained no basis for making the disallowance under section 40(a)(ia).
2. Section 14A disallowance cannot be added to book profit under section 115JB
 - The Court followed its earlier decision in Pr. CIT v. Bhushan Steel Ltd.

Court's Ruling

- Revenue's appeal dismissed.
- Deletion of the disallowance under section 40(a)(ia) upheld.
- Deletion of the MAT adjustment under section 115JB based on section 14A also upheld.

Key Takeaway

This judgment reinforces that section 40(a)(ia) is intended to address failure to deduct tax, not technical disputes regarding the precise TDS provision under which tax is deducted. Where tax has been duly deducted, albeit under a different applicable section, the assessee cannot be treated as in default nor can the corresponding expenditure be disallowed. The ruling also reiterates that section 14A disallowance has no role in computing book profits under section 115JB, in line with the Delhi High Court's settled jurisprudence.

TAX INSIGHTS

By
Tax Research Department

Goods & Services Tax

26.07.2026

Whether a GST demand and consequential recovery proceedings are legally sustainable when the proper officer initiates scrutiny proceedings without issuing the mandatory notice in Form GST ASMT-10 under Section 61 of the CGST/SGST Act read with Rule 99 of the CGST/SGST Rules, thereby denying the assessee an opportunity to explain the discrepancies.

Ramhari and Brothers v. Joint Commissioner (State Tax)
High Court of Rajasthan (16.07.2026)

Facts of the Case

- The petitioner was a sole proprietorship engaged in the business of trading oil and was registered under the Rajasthan GST Act.
- The GST Department scrutinized the petitioner's return for FY 2020-21 and alleged:
 - mismatch between turnover reported in the audited financial statements and GSTR-9C; and
 - excess/incorrect claim of Input Tax Credit (ITC).
- An adjudication order dated 22.02.2025 confirmed a GST demand comprising tax, interest and penalty.
- The petitioner became aware of the proceedings only after its bank account was debited pursuant to recovery proceedings.
- It contended that:
 - no notice in Form GST ASMT-10 was ever issued or served;
 - no opportunity of hearing was provided;
 - neither the show cause notice nor the adjudication order was properly communicated.
- The Revenue admitted before the High Court that no notice in Form GST ASMT-10 had been issued.

Arguments

Petitioner

- Issuance of Form GST ASMT-10 is mandatory before initiating further proceedings under Section 61.
- Absence of the prescribed notice violated the statutory procedure and principles of natural justice.
- Recovery proceedings were illegal as the adjudication order had never been properly served.
- The adjudication order was non-speaking and passed without granting an effective opportunity of hearing.

Revenue

- The petitioner had an alternative statutory remedy.
- It was contended that sufficient opportunity had been provided before passing the order.

Decision of the High Court

The Rajasthan High Court allowed the writ petition and quashed the adjudication order.

The Court held that:

- Issuance of Form GST ASMT-10 is a mandatory requirement under Section 61 read with Rule 99 before proceeding with scrutiny-based assessments.
- The legislative purpose of ASMT-10 is:
 - to inform the registered person of discrepancies;
 - to provide an opportunity to explain or rectify them; and
 - to avoid unnecessary litigation.
- Since the Revenue itself admitted that no ASMT-10 notice had been issued, the entire proceedings stood vitiated.
- Consequently, the adjudication order and consequential recovery could not be sustained.

The Court, however, granted liberty to the Department to initiate fresh proceedings in accordance with law after following the prescribed statutory procedure.

Key Legal Principles

- Notice in Form GST ASMT-10 is mandatory for scrutiny proceedings under Section 61 of the CGST/SGST Act.
- Failure to issue the prescribed notice constitutes a violation of statutory procedure and principles of natural justice.
- Proceedings initiated without complying with the mandatory requirements of Section 61 and Rule 99 are liable to be quashed.
- Recovery proceedings based on such invalid adjudication orders are also unsustainable.

Final Outcome

- Writ petition allowed.
- GST demand, adjudication order and consequential recovery proceedings quashed.
- Revenue granted liberty to initiate fresh proceedings after issuing the mandatory ASMT-10 notice and following due process of law.

TAX INSIGHTS

By
 Tax Research Department

Direct Tax

27.07.2026

Whether reassessment proceedings initiated beyond three years from the end of the relevant assessment year are valid when the mandatory approval under section 151 is granted by the Principal Commissioner of Income-tax (PCIT) instead of the Principal Chief Commissioner/Principal Director General (or equivalent competent authority).

Principal Commissioner of Income-tax v. Wudstay Travels (P.) Ltd.
 High Court of Delhi (10.07.2026)

Facts of the Case

- The Assessing Officer (AO) initiated reassessment proceedings for Assessment Year (AY) 2017-18 beyond three years from the end of the relevant assessment year.
- The reassessment proceedings were initiated after issuing notice under section 148A(b) and passing an order under section 148A(d) under the new reassessment regime.
- Before issuing the reassessment notice, approval was obtained from the Principal Commissioner of Income-tax (PCIT) under section 151.
- The assessee challenged the reassessment on the ground that, since the proceedings were initiated beyond three years, the approval should have been granted by the Principal Chief Commissioner/Principal Director General (or equivalent authority) as prescribed under section 151.
- The Income Tax Appellate Tribunal (ITAT) accepted the assessee's contention, relying on the Delhi High Court's earlier decision in Communist Party of India (Marxist) v. Income-tax Department, and quashed the reassessment.
- Aggrieved by the Tribunal's decision, the Revenue appealed before the Delhi High Court.

Decision of the High Court

The Delhi High Court dismissed the Revenue's appeal and upheld the Tribunal's order.

The Court held that:

- Where reassessment is initiated after the expiry of three years from the end of the relevant assessment year, section 151 mandates approval from the Principal Chief Commissioner, Principal Director General, Chief Commissioner or Director General (as applicable).
- Approval granted merely by the Principal Commissioner (PCIT) is without jurisdiction and does not satisfy the statutory requirement.
- Since the mandatory approval was obtained from an incompetent authority, the reassessment proceedings were legally unsustainable.

- The Tribunal had correctly followed the binding precedent laid down by the Delhi High Court in Communist Party of India (Marxist) v. Income-tax Department, and there was no error warranting interference.

Key Legal Principles

- Approval under section 151 is jurisdictional in nature and must be obtained from the authority specifically prescribed by the statute.
- For reassessment proceedings initiated beyond three years, approval by the Principal Chief Commissioner/Principal Director General (or equivalent authority) is mandatory.
- Approval granted by a lower authority such as the Principal Commissioner cannot cure the jurisdictional defect.
- Failure to obtain sanction from the competent authority renders the reassessment proceedings void and unenforceable.

Court's Ruling

- Revenue's appeal dismissed.
- Order of the ITAT quashing the reassessment proceedings affirmed.
- Reassessment proceedings initiated on the basis of approval granted by the Principal Commissioner held to be invalid in law.

Key Takeaway

This judgment reiterates that the approval mechanism under section 151 is a mandatory jurisdictional safeguard in reassessment proceedings. Where reassessment is initiated after three years from the end of the relevant assessment year, sanction must be obtained from the Principal Chief Commissioner (or equivalent authority). Approval by the Principal Commissioner is incompetent and vitiates the entire reassessment proceedings, irrespective of the merits of the case.

TAX INSIGHTS

By
 Tax Research Department

Goods & Services Tax

27.07.2026

Whether the GST Department can deny refund of unutilized Input Tax Credit (ITC) for a particular period by classifying the assessee as an 'intermediary', despite treating the assessee as an exporter of services and granting refunds for identical services during the periods immediately before and after, without establishing any material difference in the nature of services.

Cvent India (P.) Ltd. v. Assistant Commissioner of CGST
High Court of Punjab & Haryana (21.07.2026)

Facts of the Case

- The petitioner was engaged in providing Information Technology (IT) and IT-enabled business support services to its overseas parent company in the USA.
- It filed a refund claim of unutilized ITC for the period January 2019 to March 2019, treating its supplies as zero-rated export of services under the IGST Act.
- The adjudicating authority rejected the refund claim by holding that the petitioner was an 'intermediary' under section 2(13) of the IGST Act, and therefore its services did not qualify as export of services.
- The appellate authority upheld the rejection.
- The petitioner pointed out that for the same nature of services, the Department had:
 - granted refund for June 2018 to December 2018;
 - granted refund for April 2019 to December 2019; and
 - granted refund for January 2020 to March 2020,
 - by consistently treating it as an exporter of services.
- The Department failed to demonstrate that the services rendered during the disputed period were different from those provided in the other periods.

Decision of the High Court

The Punjab & Haryana High Court allowed the writ petition and set aside the appellate order.

The Court held that:

- Once the Department had consistently treated the petitioner as an exporter of services and granted refunds for identical services in the preceding and succeeding periods, it could not adopt a contrary stand for the intervening period without any material evidence showing a change in the nature of services.
- There was no evidence to establish that the services rendered during January 2019 to March 2019 were different so as to classify the petitioner as an intermediary.

- Such inconsistent treatment was arbitrary, discriminatory, and violative of the principle of consistency.
- The Court relied on its earlier decision in *Corning Technologies India (P.) Ltd. v. Commissioner of Central GST*, where a similar issue had been decided in favour of the taxpayer.

Key Legal Principles

- The principle of consistency applies to GST refund matters.
- Where the Department has accepted a taxpayer as an exporter of services for identical transactions in other periods, it cannot deny the same treatment for one isolated period without establishing a material change in facts.
- Classification as an intermediary must be supported by clear evidence demonstrating that the nature of services falls within the statutory definition.
- Arbitrary departure from an earlier accepted position without justification is legally unsustainable.

Court's Ruling

- Writ petition allowed.
- Appellate order rejecting the refund set aside.
- The Department was directed to release the refund of unutilized ITC along with applicable interest within four weeks from the date of uploading of the judgment.

Key Takeaway

This judgment reinforces that tax authorities must maintain consistency in the classification of services across different tax periods. Where identical services have been consistently recognized as exports of services, the Department cannot reclassify the taxpayer as an intermediary for a single intervening period without cogent evidence of any change in the nature of services. Such arbitrary deviation violates the principles of fairness, consistency, and administrative certainty, rendering the denial of refund legally unsustainable.

TAX INSIGHTS

By
 Tax Research Department

Direct Tax

28.07.2026

- Whether a political party that issued bogus donation receipts and returned the donated amounts to contributors could be taxed only on the commission earned instead of the entire donations.
- Whether a political party is entitled to exemption under section 13A when it fails to submit the mandatory report to the Election Commission of India as required under the second proviso to section 13A.

Public Political Party v. Deputy Commissioner of Income-tax
 High Court of Delhi (13.07.2026)

Facts of the Case

- The assessee, a political party, received amounts shown as donations and issued donation receipts to various persons.
- The Assessing Officer (AO) found that the donations were not genuine, as the amounts received were allegedly returned to the donors after issuing donation receipts, thereby enabling them to claim deductions under sections 80GGB and 80GGC.
- The AO treated the entire donation receipts as unexplained cash credits under section 68.
- The Commissioner (Appeals) upheld the AO's action.
- The Income Tax Appellate Tribunal (ITAT) held that the donations had been returned to the donors and that only 6% of the total donations, representing the commission earned for facilitating the bogus transactions, should be taxed under section 56, instead of taxing the entire donations under section 68.
- The assessee further claimed exemption under section 13A, contending that once the section 68 addition was deleted, its income should be exempt.
- The AO and CIT(A) found that the assessee had either failed to file or improperly filed the mandatory report with the Election Commission as required under the second proviso to section 13A.
- The assessee could not claim exemption under section 13A merely because the section 68 addition was modified.
- Compliance with the second proviso to section 13A is a mandatory condition for claiming exemption.
- As the political party had either failed to submit or had improperly submitted the prescribed report to the Election Commission, it lost its eligibility to claim exemption under section 13A.

Ratio Decidendi

- A political party engaged in issuing bogus donation receipts cannot claim exemption under section 13A merely because the addition under section 68 is altered.
- Failure to comply with the mandatory reporting requirement under the second proviso to section 13A results in the loss of exemption under section 13A.
- Findings of fact recorded by the Tribunal regarding bogus transactions are not open to interference by the High Court under section 260A unless shown to be perverse.

Key Takeaways

- Compliance with the reporting requirements under section 13A is mandatory and is a prerequisite for claiming exemption by political parties.
- Where a political party acts merely as a conduit for issuing fake donation receipts and returns the funds to donors, the commission earned from such activity can be taxed as income.
- The High Court will ordinarily not disturb factual findings recorded by the Tribunal in an appeal under section 260A.
- Political parties cannot seek tax exemption when they violate statutory compliance requirements or maintain accounts that do not present a true and correct picture of their activities.

Decision of the High Court

The Delhi High Court dismissed the appeals and upheld the Tribunal's order.

The Court held that:

- The Tribunal's finding that the assessee had issued bogus donation receipts and returned the money to the donors was a finding of fact, which could not be interfered with in an appeal under section 260A.
- Since the assessee merely facilitated bogus donation transactions, the Tribunal was justified in taxing 6% of the total donations as commission income under section 56, instead of taxing the entire amount under section 68.

TAX INSIGHTS

By

Tax Research Department

Goods & Services Tax

28.07.2026

Whether ITC claimed by a registered purchaser could be reversed merely because the supplier's GST registration was subsequently cancelled and the supplier was treated as non-existent, without considering the documents furnished by the purchaser and without providing a reasonable opportunity to substantiate the ITC claim.

Clear Secured Service (P.) Ltd. v. Assistant Commissioner (ST)
 High Court of Madras (01.07.2026)

Facts of the Case

- The petitioner, a registered purchaser, had availed ITC on purchases made from Jay Steels.
- The department issued an intimation and subsequently a show-cause notice proposing reversal of ITC under section 73 of the CGST/TNGST Acts.
- The petitioner furnished several documents in support of the purchases, including:
 - Bank statements/proof of payment;
 - Tax invoices; E-way bills; Ledger extracts;
 - GSTR-2A and GSTR-2B records.
- The SCN also called upon the petitioner to produce original invoices, e-way bills, purchase register, lorry receipts and proof of payment.
- However, the adjudicating authority confirmed the ITC reversal primarily on the ground that the supplier's registration had subsequently been cancelled and the supplier was categorised as non-existent.
- The petitioner challenged the order before the Madras High Court, contending that the documents submitted by it had not been properly considered and that it had not been given an adequate opportunity to establish the genuineness of the transactions.

Arguments of the Department

The Revenue contended that merely making payments through banking channels was not sufficient to establish genuine purchases. According to the department, the petitioner had not produced adequate evidence demonstrating the actual movement of goods, particularly in the context of alleged bill-trading activities.

Findings of the High Court

The High Court made the following important observations:

Burden of proving ITC claim lies on the claimant:

- The Court acknowledged that the burden of establishing entitlement to ITC rests on the person claiming the credit. Therefore, the department was justified in asking the petitioner to produce evidence establishing the genuineness of the supplies.

Documents furnished by assessee had to be considered:

- The petitioner had already produced bank statements, invoices, e-way bills, ledger extracts and GSTR-2A/2B records. These documents were relevant to determining whether the purchases were genuine and therefore could not simply be disregarded.

Opportunity to furnish additional evidence was necessary:

- If the documents submitted were considered insufficient, the authority ought to have informed the petitioner about the deficiencies and provided a reasonable opportunity to furnish further supporting evidence.

Supplier's cancellation alone was insufficient:

- The ITC could not be reversed solely because the supplier's registration was subsequently cancelled and the supplier was declared non-existent. The authority was required to examine the evidence produced by the purchaser regarding the actual transactions.

Violation of natural justice:

- Failure to properly consider the documents and denying an adequate opportunity to substantiate the ITC claim amounted to a breach of principles of natural justice.

Section 73 and Section 74 could not be interchanged:

- The SCN was expressly issued under section 73, whereas the final order was passed under section 74. The Court considered this discrepancy significant and held that such an approach vitiated the adjudication.

Decision of the High Court

The Madras High Court set aside the impugned order and remanded the matter to the adjudicating authority for fresh consideration.

The authority was directed to:

- reconsider the ITC claim;
- duly examine the documents already furnished by the petitioner;
- provide a reasonable opportunity to produce additional evidence, if required; and
- pass a fresh order within three months from receipt of the High Court's order.

TAX INSIGHTS

By
Tax Research Department

Direct Tax

29.07.2026

Whether a reassessment order, though dated within the statutory limitation period, is valid when it is digitally signed after the expiry of the limitation period prescribed under section 153 of the Income-tax Act, 1961.

Milind Dashrath Pawar v. National Faceless Assessment Centre (NFAC), Delhi
High Court of Bombay (26.07.2026)

Facts of the Case

- The Assessing Officer issued a notice under section 148 on 17 July 2019 reopening the assessment for AY 2014-15.
- During reassessment proceedings, a reference was made to the Valuation Officer under section 142A.
- The Valuation Officer's report was received by the Assessing Officer on 25 February 2022.
- The reassessment order bore the date 13 April 2022, but it was digitally signed and served only on 26 May 2022.
- The assessee challenged the reassessment order contending that it became operative only upon digital signing, which occurred after the limitation period had expired.

Contentions

Assessee

- The reassessment order comes into existence only upon digital signing.
- After excluding the period attributable to the valuation reference and applying the statutory extension, the limitation expired before 26 May 2022.
- Therefore, the reassessment order and all consequential proceedings were time-barred.

Revenue

- The order was dated 13 April 2022 and was assigned a Document Identification Number (DIN) within the limitation period.
- Hence, the assessment should be treated as having been completed within time.

Decision of the High Court

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

- An assessment order becomes legally effective only when it is digitally signed, not when it is merely prepared or bears an earlier date.
- Since the order was digitally signed on 26 May 2022, after expiry of the limitation period, it was barred by limitation.
- Consequently, the reassessment order and all consequential proceedings, including the demand notice and penalty proceedings, were quashed.

Key Legal Principles

- The date of digital signing is the operative date for determining whether an assessment order has been passed within the limitation period.
- Merely preparing an order or assigning a DIN before the limitation expires does not amount to valid completion of assessment.
- An order acquires legal validity only after it is duly authenticated by digital signature.

Outcome

In favour of the Assessee.

The reassessment order dated 13 April 2022 (digitally signed on 26 May 2022) and all consequential proceedings were quashed as being time-barred.

Key Takeaway

For electronic assessments, the date of digital authentication is decisive for computing limitation under section 153. An assessment order digitally signed after the statutory deadline is invalid, even if it bears an earlier date or DIN. This ruling reinforces strict adherence to statutory limitation and procedural validity in faceless assessments.

TAX INSIGHTS

By
 Tax Research Department

Goods & Services Tax

29.07.2026

Whether detention of goods and imposition of penalty under Section 129 of the CGST/SGST Act, 2017 is sustainable where the discrepancy in the e-way bill details mentioned in the tax invoices is merely a clerical or human error, without any intention to evade tax or derive undue benefit.

Kamlesh Kumar v. State Tax Officer
 High Court of Uttarakhand (15.07.2026)

Facts of the Case

- The petitioner's vehicle carrying aluminium roofing sheets (HSN 7606) was intercepted during transit.
- The driver produced two tax invoices along with the corresponding e-way bills.
- The department noticed that the invoices mentioned the e-way bill references as "32" and "33" instead of the complete invoice references "32/(23-24)" and "33/(23-24)".
- Treating this discrepancy as a violation, the department initiated proceedings under Section 129 and imposed a penalty of approximately ₹10.67 lakh.
- The petitioner explained that the discrepancy was a clerical/human error, and all the goods transported matched the particulars contained in the e-way bills.

Contentions

Petitioner

- The discrepancy was only a typographical/human error.
- The goods, invoices and e-way bills corresponded with each other.
- There was no intention to evade tax or obtain any wrongful benefit.
- As per CBIC Circular No. 64/38/2018-GST dated 14 September 2018, only a nominal penalty under Section 125 is leviable for such minor errors.
- Relied on the Uttarakhand High Court decision in Sonal Automation Industries v. State of Uttarakhand, which held that Section 129 should not be invoked for insignificant clerical mistakes.

Department

- There was a mismatch between the invoice particulars and the e-way bill references.
- Accordingly, proceedings under Section 129 were initiated.
- However, the department admitted that the goods were exactly as declared in the accompanying documents.

Decision

In favour of the Assessee.

The High Court set aside the detention and penalty under Section 129 and ordered refund of the deposited amount after deduction of the nominal penalty prescribed under the CBIC Circular.

Decision of the High Court

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

- The discrepancy was merely a human or clerical error.
- The Revenue failed to establish that the petitioner had obtained any benefit or attempted to evade tax.
- The department itself admitted that the goods transported matched the declarations made in the invoices and e-way bills.
- Therefore, invocation of Section 129 was unjustified.

The Court:

- Quashed the penalty order passed under Section 129.
- Directed the department to refund the amount deposited, after deducting the nominal penalty prescribed under Clause 5 of CBIC Circular No. 64/38/2018-GST dated 14 September 2018.

Key Legal Principles

- Section 129 cannot be invoked for minor clerical or typographical mistakes when there is no evidence of tax evasion.
- Authorities must distinguish between technical procedural lapses and intentional violations.
- CBIC Circular No. 64/38/2018-GST protects taxpayers from harsh penal consequences arising out of inadvertent errors in documents.
- Where the goods and accompanying documents are otherwise genuine and consistent, only the nominal penalty under Section 125 may be attracted.

Key Takeaway

A clerical error in an e-way bill or invoice, by itself, does not justify detention of goods or imposition of penalty under Section 129. Unless the Revenue establishes an intention to evade tax or obtain an undue benefit, such technical discrepancies should be dealt with under the CBIC Circular by imposing only a nominal penalty, thereby preventing disproportionate action for procedural mistakes.

TAX INSIGHTS

By
 Tax Research Department

Direct Tax

30.07.2026

Whether advances received for procuring land on behalf of clients can be taxed as "Income from Other Sources" under section 56(2)(ix) merely because they remained outstanding for several years and no refund was sought, despite being reflected as liabilities in the books of account.

Principal Commissioner of Income-tax v. Ravi Shankar Shetty
 High Court of Karnataka (08.07.2026)

Facts of the Case

- The assessee was engaged in the business of land procurement and real estate.
- Under an agreement dated 10 February 2006, the assessee received advances aggregating approximately ₹21.89 crore from Metro Corp and Metro Corp Infrastructure Ltd. for procuring land at Doddaballapur and Chikkaballapur.
- These advances continued to remain outstanding as on 31 March 2015 and were shown as liabilities in the assessee's books.
- The Assessing Officer (AO) held that since no refund had been claimed for nearly eight years, the advances had effectively been forfeited and added ₹21.11 crore as income under section 56(2)(ix).
- The CIT(A) upheld the addition.
- The ITAT deleted the addition, holding that the conditions of section 56(2)(ix) were not satisfied.
- The Revenue appealed before the Karnataka High Court.

Contentions

Revenue

- The advances had remained outstanding for almost eight years without any refund claim.
- This amounted to virtual forfeiture.
- Therefore, the advances became taxable under section 56(2)(ix).
- The assessee had utilized the funds for acquiring assets in its own name.

Assessee

- The advances were received for identifying, procuring and facilitating acquisition of land on behalf of the companies.
- The transaction did not involve transfer of any capital asset belonging to the assessee.
- The advances were consistently shown as liabilities in the books and were confirmed by the two companies.
- There was neither any forfeiture nor cessation of liability.

Decision of the High Court

The Karnataka High Court dismissed the Revenue's appeal and upheld the Tribunal's order.

The Court held that:

- Section 56(2)(ix) applies only where:
 - a. An advance is received during negotiations for transfer of a capital asset; and
 - b. The advance is forfeited because the transfer does not materialise.
- Both conditions are mandatory since the legislature has consciously used the conjunction "and".
- The advances in the present case were received for carrying out the assessee's business activity of land procurement, not for transfer of any capital asset owned by the assessee.
- The proposed lands constituted stock-in-trade, which is specifically excluded from the definition of capital asset under section 2(14).
- The advances continued to be reflected as liabilities in the books and were acknowledged by the companies.
- Mere passage of time or failure to demand repayment does not amount to forfeiture in law.

Accordingly, the advances were not taxable under section 56(2)(ix).

Final Decision

In favour of the Assessee.

The High Court affirmed the ITAT's order deleting the addition of approximately ₹21.11 crore under section 56(2)(ix) and held that the advances received for land procurement were not chargeable to tax as "Income from Other Sources."

TAX INSIGHTS

By
Tax Research Department

Goods & Services Tax

30.07.2026

Whether a GST registration can be cancelled solely on the ground that the registered person has been filing NIL returns for several months, when such a ground is not prescribed under Section 29(2) of the CGST Act, 2017.

Snowline Travel Ventures LLP v. Commissioner, State Goods and Services Tax
High Court of Uttarakhand (23 July 2026)

Facts of the Case

- The petitioner, Snowline Travel Ventures LLP, was a registered person under the GST law.
- The Proper Officer issued a show-cause notice (SCN) proposing cancellation of its GST registration.
- The only reason cited in the SCN was that the petitioner had been filing NIL GST returns for several months.
- Based solely on this ground, the Proper Officer passed an order cancelling the petitioner's GST registration under Section 29 of the CGST Act.
- Aggrieved, the petitioner filed a writ petition before the Uttarakhand High Court challenging both the SCN and the cancellation order.

Contentions

Petitioner

- Section 29(2) specifically enumerates the circumstances in which GST registration can be cancelled.
- Filing NIL returns is not one of the statutory grounds for cancellation.
- The petitioner relied on the decision of the Andhra Pradesh High Court in Kali Shankar Enterprises v. Additional Commissioner, which held that filing NIL returns cannot justify cancellation of registration.

Revenue

- The registration was cancelled because the petitioner had continuously filed NIL returns for several months.
- No additional statutory breach was alleged in the show-cause notice or the cancellation order.

Key Legal Principles

- GST registration can be cancelled only on the grounds expressly specified in Section 29(2) of the CGST Act.
- Filing NIL returns, by itself, does not amount to a statutory default warranting cancellation of registration.
- Administrative authorities cannot introduce new grounds for cancellation beyond those prescribed by the legislature.

- A cancellation order passed on a ground not recognized under the statute is liable to be quashed.

Decision of the High Court

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

- Section 29(2) exhaustively specifies the grounds on which GST registration may be cancelled.
- Filing NIL returns is not one of the grounds contemplated under Section 29(2).
- Since the cancellation was based solely on filing NIL returns, without alleging any other statutory violation, the action was beyond the scope of the Act.
- The Court agreed with the view taken by the Andhra Pradesh High Court in Kali Shankar Enterprises v. Additional Commissioner.

Accordingly, the Court:

- Quashed the show-cause notice dated 6 November 2024.
- Set aside the cancellation order dated 26 December 2024.
- Allowed the writ petition.

Final Decision

In favour of the Assessee.

The Uttarakhand High Court quashed both the show-cause notice and the GST registration cancellation order, holding that filing NIL returns alone is not a valid ground for cancellation under Section 29(2) of the CGST Act, 2017.

Key Takeaway

This decision reinforces that GST registration cannot be cancelled merely because a taxpayer files NIL returns for several months. The power to cancel registration is strictly governed by Section 29(2) of the CGST Act, and authorities must confine themselves to the statutory grounds. Any cancellation based solely on filing NIL returns, without establishing any other legal default, is unsustainable in law.

TAX INSIGHTS

By
 Tax Research Department

Direct Tax

31.07.2026

- Whether computer peripherals such as printers, scanners, modems and routers qualify for 60% depreciation as part of "computers including computer software".
- Whether expenditure incurred on production of TV serials and programmes is revenue expenditure or capital expenditure.
- Whether a film software library is an intangible asset eligible for 25% depreciation.
- Whether depreciation is allowable on non-compete rights received by the assessee pursuant to a demerger.

Dy. Commissioner of Income-tax v. Panorama Television (P.) Ltd.
 ITAT, Mumbai (23.06.2026)

Facts of the Case

- The assessee, a television broadcasting company, was formed pursuant to the demerger of Ushodaya Enterprises Pvt. Ltd.
- During AY 2013-14, it:
 - Claimed 60% depreciation on computer peripherals.
 - Claimed production costs of TV serials and programmes as revenue expenditure.
 - Claimed 25% depreciation on film software library treating it as an intangible asset.
 - Claimed depreciation on non-compete rights received under the demerger.
- The Assessing Officer:
 - Restricted depreciation on computer peripherals to 15%.
 - Capitalised programme production expenditure.
 - Treated film software library as plant and machinery eligible for 15% depreciation.
 - Disallowed depreciation on non-compete fee.
- The Commissioner (Appeals) allowed all the claims. Revenue appealed before the Tribunal.

Tribunal's Decision

The ITAT dismissed the Revenue's appeal and upheld the Commissioner (Appeals)'s order on all issues.

1. Depreciation on Computer Peripherals

The Tribunal held that:

- Printers, scanners, modems and routers are integral components of a computer system.
- The issue had already been decided in favour of the assessee in earlier years.
- The Revenue failed to produce any distinguishing facts or contrary judicial precedent.
- Applying the principle of consistency, depreciation at 60% was allowable.

2. Production Cost of TV Serials and Programmes

The Tribunal held that:

- Expenditure incurred on production of TV news and programmes forms part of the normal business operations of a broadcaster.

- Such content generally has fleeting commercial value and does not create an enduring capital asset.
- Earlier Tribunal decisions in the assessee's own case and other broadcasting companies had consistently treated such expenditure as revenue expenditure.
- Merely because Revenue has challenged earlier decisions before the High Court does not dilute their binding nature in the absence of any stay.

Accordingly, the expenditure was allowable under section 37(1).

3. Film Software Library

The Tribunal observed that:

- A film software library represents business or commercial rights of similar nature.
- It qualifies as an intangible asset under section 32(1)(ii).
- Since the issue had already been settled in the assessee's favour for earlier years, depreciation at 25% was rightly allowed.

4. Depreciation on Non-Compete Fee

The Tribunal held that:

- The assessee received the non-compete right pursuant to a court-approved demerger.
- In the hands of the predecessor company (UEPL), depreciation on the same non-compete asset had already been accepted after valuation by the Department.
- Once the Revenue had accepted the depreciable nature and valuation of the asset in the predecessor's case, it could not deny depreciation to the demerged company without any change in facts.
- Therefore, depreciation on the allocated non-compete right was allowable.

Ratio Decidendi

Computer peripherals integral to a computer system are eligible for depreciation applicable to computers. Further, TV programme production expenses are deductible as revenue expenditure, film software libraries qualify as intangible assets eligible for higher depreciation, and depreciation on non-compete rights cannot be denied to a demerged entity where the same asset has already been accepted as depreciable in the predecessor's case.

TAX INSIGHTS

By
Tax Research Department

Goods & Services Tax

31.07.2026

Whether input tax credit (ITC) denied solely on the ground of delayed availment under section 16(4) and failure to reply to the show cause notice could be reconsidered in light of the retrospective insertion of sections 16(5) and 16(6), which condone delayed ITC subject to prescribed conditions.

24 HRS Productions v. Superintendent of GST and Central Excise
High Court of Madras (22.06.2026)

Facts of the Case

- The petitioner challenged an order confirming GST demand arising from the belated availment of input tax credit under section 16(4) of the CGST/TNGST Acts.
- The demand was confirmed because the petitioner had not filed a reply to the show cause notice.
- Earlier, the High Court had disposed of the writ petition on 24 March 2026.
- Subsequently, the petitioner mentioned the matter before the Court, submitting that:
 - they were unaware of judicial developments concerning section 16(4); and
 - the retrospective amendment introducing sections 16(5) and 16(6) had cured the delay in claiming ITC.
- The petitioner requested remand of the matter without insisting on any pre-deposit, contending that the only remaining requirement was to establish receipt of supplies and fulfilment of other statutory conditions.

Decision

The Madras High Court modified its earlier order and remanded the matter to the adjudicating authority for fresh consideration.

Key Observations of the Court

1. Retrospective Amendment Cures Delay

The Court observed that:

- Sections 16(5) and 16(6) inserted by the Finance (No. 2) Act, 2024 with retrospective effect from 1 July 2017 condone delay in availing ITC under section 16(4), subject to prescribed conditions.
- Therefore, the mere fact that ITC had been claimed beyond the earlier statutory time limit no longer justified denial of credit.

2. Non-filing of Reply Not Fatal

The Court held that:

- Failure to file a reply to the show cause notice does not permanently deprive the taxpayer of the benefit of the retrospective amendment.
- The petitioner should be given an opportunity to produce documents establishing:
 - receipt of goods or services;
 - entitlement to ITC; and
 - compliance with other statutory requirements.

3. Fresh Adjudication Required

Since the legal position had materially changed owing to the retrospective amendment, the original order required reconsideration on merits rather than rejection merely because of procedural default.

4. Bank Attachment to be Vacated

The Court directed that:

- the adjudicating authority shall pass a fresh order preferably within three months; and
- upon compliance with the Court's directions, the attachment of the petitioner's bank account shall automatically stand vacated.

Legal Principles

- The retrospective insertion of sections 16(5) and 16(6) provides statutory relief for delayed availment of ITC where prescribed conditions are satisfied.
- Procedural lapses, such as failure to respond to a show cause notice, should not defeat a substantive statutory benefit created through retrospective legislation.
- Tax authorities must adjudicate ITC claims on their merits by examining eligibility and documentary evidence rather than rejecting them solely on the ground of delay.

Ratio Decidendi

Where delayed availment of ITC stands retrospectively condoned by the insertion of sections 16(5) and 16(6), denial of credit solely because of delay under section 16(4) or failure to reply to a show cause notice cannot be sustained. The taxpayer must instead be afforded an opportunity to establish actual receipt of supplies and fulfilment of the statutory conditions for availing ITC.

Significance of the Ruling

- Reinforces the beneficial and curative nature of the retrospective amendments to section 16.
- Clarifies that procedural defaults cannot override substantive entitlement created by retrospective legislation.
- Ensures that taxpayers whose ITC claims were rejected solely on limitation grounds receive an opportunity for fresh adjudication.
- Strengthens the principle that GST authorities must examine the actual eligibility of ITC rather than deny it merely because of earlier procedural or timing lapses.