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BHUTA SHAH & CO LLP
CHARTERED ACCOUNTANTS

Monthly E-Newsletter

BSC BEACON

TAX & REGULATORY INSIGHTS

WHAT'S INSIDE

I. DIRECT TAXATION:
A. CORPORATE TAX

1. ***Procedural lapse in filing audit report in Form 10BB instead of Form 10B,cannot defeat entitlement of exemption under Section 12 of the Act***

Howrah Heritage Society ("the Assessee"), is a charitable trust registered under Section 12A of the Act and is engaged in carrying out charitable activities. For AY 2024-25, the Assessee was required to file its audit report in Form 10B to claim exemption under Section 12A of the Act. However, due to an inadvertent mistake, the audit report was filed in Form 10BB instead of Form 10B. After discovering the mistake, the Assessee filed an application seeking condonation of delay and rectification, but the tax authorities did not dispose of the condonation application.

The Assessee filed a writ petition before the Hon'ble Calcutta HC. The tax authorities submitted that the application for condonation of delay filed by the Assessee was still under process and referred to CBDT Circular No. 16/2024, which provides that condonation applications should be disposed of within six months. The Hon'ble HC observed that exemption under Section 12A is a substantive right and that a procedural mistake of filing Form 10BB instead of Form 10B should not deprive the Assessee of such exemption. The Hon'ble HC relied upon the judgment of the Hon'ble SC in "CIT v. Rajasthan and Gujarat Charitable Foundation[1]", wherein it was held that procedural lapses should not defeat a substantive legal entitlement.

The Hon'ble Calcutta HC held that the failure to decide the statutory application within the prescribed time amounted to administrative inaction warranting judicial interference. Accordingly, the Hon'ble HC directed the tax authorities to dispose of the Assessee's application for condonation of delay and rectification in accordance with CBDT Circular No. 16/2024, after providing an opportunity of hearing to the Assessee. Also, the Hon'ble HC directed the tax authorities to pass a reasoned speaking order preferably on or before 30.06.2026. The writ petition was disposed of without deciding the merits of the exemption claim and in favour of the Assessee.

Howrah Heritage Society and Anr [TS-673-HC-2026(CAL)]

[1] *CIT v. Rajasthan and Gujarat Charitable Foundation [TS-5245-SC-2017-O]*

2. ***Excise/GST subsidy refund under New Industrial Policy for J&K constitutes non-taxable capital receipt***

Jakson Limited ("the Assessee"), is engaged in the business of manufacturing generators, solar products and diesel power plants. For AY 2020-21, it filed its ROI declaring a total income of INR 132.06 crore. The case was selected for scrutiny, where it was noted that the Assessee had received GST/Excise Duty subsidy of INR 8.56 crore under the New Industrial Policy for Jammu & Kashmir and initially offered the subsidy to tax in its return of income. During the assessment proceedings, it filed a revised computation claiming that the subsidy was a capital receipt not liable to tax.

The AO rejected the Assessee's revised computation on the ground that a fresh claim for exemption of the GST/Excise Duty subsidy of INR 8.56 crore could not be entertained without filing a revised ROI. Accordingly, the AO treated the subsidy as a taxable revenue receipt and completed the assessment by making additions/disallowances of INR 1.48 crore, thereby not allowing the Assessee's claim that the subsidy was a capital receipt exempt from tax.

Aggrieved by the assessment order, the Assessee filed an appeal before the CIT(A). The CIT(A) upheld the AO's action and rejected the Assessee's claim, referring to the decision of the Hon'ble Supreme Court in Goetze (India) Ltd. v. CIT)[2], stating that power to entertain a claim not made in return of income is with Hon'ble ITAT and not with CIT(A).

Aggrieved by the order of the CIT(A), the Assessee preferred an appeal before the Hon'ble Delhi ITAT contending that the GST/Excise Duty subsidy received under the New Industrial Policy for Jammu & Kashmir was a capital receipt and therefore not liable to tax. The Hon'ble ITAT held that the AO was correct in rejecting the Assessee's revised computation since a fresh claim cannot be entertained without a revised return. After examining the New Industrial Policy and Notification No. 56/2002, the Hon'ble ITAT observed that the subsidy was granted to promote industrial development in Jammu & Kashmir by providing 100% refund of Excise Duty/GST for eligible units and was therefore in the nature of a capital incentive. The Hon'ble ITAT relied on the decisions of the Jammu & Kashmir & Ladakh High Court in PCIT v. Gravita Metal Inc.[3] and the coordinate bench rulings in DCIT v. PC Jeweller Ltd. and Balaji Powertronics v. DCIT, wherein it

[2] *[TS-21-SC-2006]*
[3] *[TS-6411-HC-2024(Jammu And Kashmir)-O]*

was held that such refunds do not fall within the definition of income under section 2(24)(xviii) and constitute capital receipts.

Jakson Limited [TS-811-ITAT-2026(DEL)]

3. *Fresh Section 54 claim rejected as it was not raised in the return or during assessment proceedings; remand upheld for additional evidence filed under rule 46A*

Surbhi Khandelwal ("the Assessee"), an individual, filed her return of income for AY 2018-19 declaring total income of INR 28.74 lakhs. During the course of assessment proceedings, the Jurisdictional AO observed that the Assessee, being a co-owner of a residential property situated at Ghaziabad, had disclosed LTCG of INR 1.08 lakhs on its sale. Invoking the provisions of Section 50C of the Act, the AO adopted the stamp duty value of the property and recomputed the LTCG, resulting in an addition of INR 17.85 lakhs, being the Assessee's 50% share.

Aggrieved by the assessment order, the Assessee preferred an appeal before CIT(A), making a request for admission of additional evidence under Rule 46A. The Assessee also submitted that by an inadvertent omission, it had failed to claim deduction under Section 54 in its return and that the same be allowed to it.

Consequently, the CIT(A) requested the AO for submission of a remand report, asking the AO as to how the value under section 50C was determined and necessary evidence thereof. However, no response was received from AO even after multiple follow ups. Accordingly, the CIT(A) remitted the issue back to the ld. AO to reverify the stamp value of the property under consideration and calculate the value of capital gains in accordance with law.

Aggrieved by the order of the CIT(A), the Assessee filed an appeal before the Hon'ble Delhi ITAT. The Hon'ble ITAT took up the Assessee's claim for deduction under Section 54. Upon consideration of the Hon'ble Supreme Court ruling in Goetze (India) Ltd. v. CIT[4], the ITAT noted that the said ruling limits the powers of the Assessing Officer to admit a fresh claims otherwise than by way of a revised return, but does not affect the powers of appellate authorities. The Hon'ble ITAT, however, distinguished the present matter on facts, by observing that the Assessee had admittedly not raised a claim for deduction under Section 54 either in the return of income or in the course of the assessment proceedings. In the view of above, the Hon'ble ITAT held that the ratio laid down in Goetze (India) Ltd. would not enure to the benefit of the Assessee, and accordingly upheld the disallowance of deduction under Section 54.

On the issue of recomputation of LTCG under Section 50C, the Hon'ble ITAT affirmed the order of the CIT(A) restoring the matter to the AO for fresh examination. The ITAT noted that the Assessee had filed additional evidence before the CIT(A), who, in strict compliance with Rule 46A, repeatedly called upon the AO to furnish a remand report. Since no response was received from the AO, the CIT(A) was justified in remitting the matter for de novo adjudication. The Hon'ble ITAT held that, as the AO bears the primary responsibility for verification of facts and determination of taxable income, the restoration of the issue to the AO was proper and warranted in law.

The Hon'ble ITAT also expressed serious concern over the AO's persistent failure to respond to such requisitions, observing that such non-compliance undermines the appellate process and appears to be an increasingly recurring phenomenon. Accordingly, the Hon'ble ITAT urged the CBDT to undertake a review of the issue, identify delinquent officers, and implement appropriate corrective measures to ensure accountability and preserve the integrity of the appellate framework. Consequently, the appeal filed by the Assessee was dismissed.

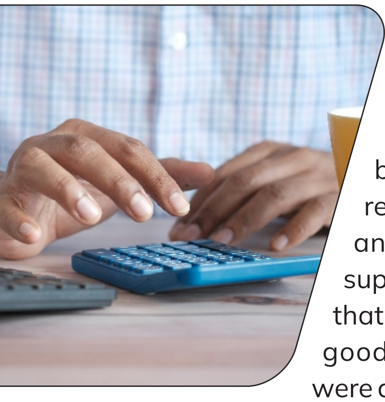
Surbhi Khandelwal [TS-867-ITAT-2026(DEL)]

4. *Undisclosed income addition solely based on third party statement sans opportunity of personal hearing, unsustainable*

Ahluwalia Contracts India Ltd ("the Assessee"), is engaged in the business of civil construction and infrastructure development. For AY 2019-20, it filed its ROI declaring a total income of INR 184.78 crore. Subsequently, a search under section 132 was conducted in the case of Sanjay Jain Group, during which certain seized ledger data allegedly indicated that the Assessee had received accommodation entries in respect of purchases from entities controlled by Shri Sanjay Jain. Based on the satisfaction recorded under Section 153C, assessment proceedings were initiated against the Assessee.

During the assessment, the AO alleged that the purchases from certain suppliers were bogus based primarily on the statement of Shri Sanjay Jain, whereas

[4] [TS-21-SC-2006]



the Assessee contended that the purchases were genuine and furnished purchase invoices, e-way bills, bank statements, stock registers, gate entry registers and supplier confirmations in support of its claim. The AO held that although the movement of goods and quantitative details were available, the statement of Shri Sanjay Jain admitting to issuing bogus purchase bills could not be ignored. Treating the purchases as untested purchases, the AO added 14.9% of the purchase value (INR 72.85 lakh for AY 2019-20) as undisclosed income under section 28 of the Act, considering that transaction with bogus entities have been made by the Assessee to suppress profits

Aggrieved, the Assessee preferred an appeal before the CIT(A), who upheld the addition holding that the documentary evidence produced by the Assessee could not outweigh the incriminating material found during the search and the statement of the entry operator. The CIT(A) also observed that only the embedded profit element had been taxed by following the decision in CIT v. Bholanath Poly Fab Pvt. Ltd.

Aggrieved by the CIT(A) order, Assessee filed an appeal before Hon'ble Delhi ITAT, the Hon'ble ITAT held that both the AO and the CIT(A) had wrongly relied upon the oral statement of the alleged entry operator without providing the Assessee an effective opportunity to cross-examine him, while simultaneously rejecting the documentary evidence produced by the Assessee without any valid basis. The Hon'ble ITAT relied on the decisions of the Hon'ble Supreme Court in Andaman Timber Industries v. CCE, CIT v. Odeon Builders (P.) Ltd. and Pr. CIT v. Shapoorji Pallonji & Co. Ltd. to hold that additions based solely on third-party statements without cross-examination are unsustainable.

The Hon'ble ITAT held that once the Assessee had substantiated the purchases through documentary evidence, the AO/CIT(A) could not disregard such evidence solely on the basis of a third-party statement without affording an opportunity of cross-examination. Accordingly, the Hon'ble ITAT allowed the Assessee's appeals and deleted the additions made towards alleged undisclosed income

Ahluwalia Contracts India Ltd [TS-872-ITAT-2026(DEL)]

5. ***Compensation received on surrender of tenancy rights cannot be taxed as 'Income from Other Sources'***

Dinesh Gulab Mirchandani ("the Assessee") transferred his tenancy rights in respect of two premises and received compensation amounting to INR 3.67 crores. In the ROI, the Assessee characterized the said receipt as consideration arising from the transfer of a capital asset. However, during the course of assessment proceedings, the AO observed that the Assessee failed to substantiate the cost of acquisition of the tenancy rights. Consequently, the AO held that the computation mechanism prescribed under Section 48 of the Act was not workable. On this basis, the AO proceeded to tax the entire amount of INR 3.67 crores under the head "Income from Other Sources."

Aggrieved, the Assessee filed an appeal before the CIT(A), submitting that the tenancy rights had been acquired for consideration and that both the acquisition and surrender agreements clearly evidenced the existence of the tenancy rights and the cost incurred. It was further contended that tenancy rights constitute a capital asset and that consideration received on surrender thereof could, if at all, be taxed only under the head "Capital Gains". Accepting the Assessee's contentions and relying on the decision of the Hon'ble Supreme Court in CIT v. D.P. Sandu Bros. Chembur Pvt. Ltd., the CIT(A) deleted the addition. Aggrieved, the tax authorities preferred an appeal before the Hon'ble Mumbai ITAT.

The Hon'ble ITAT observed that the existence of the tenancy rights and their surrender were never disputed by the AO and that the addition was made only on the premise that the cost of acquisition was not satisfactorily established. The Hon'ble ITAT held that even assuming the cost of acquisition was not ascertainable or was taken as nil, the consideration received on transfer of a capital asset cannot be brought to tax under the residuary head "Income from Other Sources". Relying on the decision of the Hon'ble Supreme Court in D.P. Sandu Bros. Chembur Pvt. Ltd., the Tribunal reiterated that where a receipt is capital in nature, it cannot be re-characterised and taxed under Section 56 merely because it is not chargeable under the head "Capital Gains". The Hon'ble ITAT further observed that the Assessee had placed the tenancy and surrender agreements on record and the AO had not recorded any adverse finding regarding their genuineness.

Accordingly, the Hon'ble ITAT held that the AO was not justified in taxing the compensation received on surrender of tenancy rights under the head "Income from Other Sources" and upheld the deletion of the addition of INR 3.67 crores.

Dinesh Gulab Mirchandani [TS-728-ITAT-2026(Mum)]

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6. *FMV of tenancy rights on surrender date constitutes CoA of permanent alternate accommodation under redevelopment*

Sarjit Ghanshyam Desai ('the Assessee"), an individual, was originally a tenant in a property situated at Mumbai. The said building underwent redevelopment pursuant to a development agreement dated 21.09.2010.

The Assessee surrendered his tenancy rights and in consideration of the same, he was allotted a shop in Punya Apartment as a Permanent Alternate Accommodation ("PAA"). The Assessee obtained possession of the redeveloped premises in 2010 and subsequently sold the said shop on 27.09.2010 for a consideration of INR 38.62 lakh.

The Assessee filed his ROI for AY 2011-12 on 24.09.2011 but did not offer to tax any capital gains arising from the transaction.

The AO noticed substantial deposits in the Assessee's bank account which were not disclosed in the return, leading to reopening of the assessment under Section 148 of the Act. During reassessment proceedings, the Assessee explained that the deposits represented sale proceeds of the shop received under redevelopment. He contended that since the property was acquired in lieu of surrender of tenancy rights for which no cost had been incurred, the cost of acquisition was indeterminable and, therefore, no capital gains were chargeable.

The AO rejected Assessee's contention, observing that tenancy rights constitute a capital asset and their surrender results in transfer. Since no cost had been incurred for acquiring the tenancy rights, the provisions of Section 55(2)(a) of the Act were applicable. Accordingly, the cost of acquisition was treated as 'Nil'. On this basis, the AO treated the entire sale consideration of INR 38.62 lakh as long-term capital gains.

Aggrieved, the Assessee preferred an appeal before the CIT (A). The CIT(A) concurring the view of the AO reasoned that the Assessee had not incurred any actual expenditure to acquire the property and that the fair market value could not be equated with cost of acquisition. Aggrieved, the Assessee filed an appeal before the Hon'ble Mumbai ITAT.

Before the Hon'ble ITAT, the Assessee contended that premises received under the redevelopment arrangement were not acquired gratuitously but in exchange for surrender of valuable tenancy rights. The Hon'ble ITAT analysed the sequence of events and held that two distinct transactions had taken place: first, the surrender of tenancy rights in exchange for ownership rights in the redeveloped property; and second, the subsequent sale of such ownership property.

The Hon'ble ITAT observed that the ownership premises were not acquired without consideration, but rather in exchange for surrender of valuable tenancy rights, which are recognised as capital assets under Section 2(14) of the Act. It emphasised that the extinguishment of tenancy rights constituted consideration paid by the Assessee in kind. Therefore, ignoring the value of such rights and treating the cost of acquisition as 'Nil' would amount to taxing the entire sale consideration as gain, which is contrary to the scheme of Sections 45 to 48.

Relying on various judicial precedents, the Hon'ble ITAT held that where an asset is acquired in exchange for surrender of tenancy rights, the fair market value of such tenancy rights on the date of surrender or equivalently, the fair market value of the property received provides a determinable and legally sustainable cost of acquisition.

Accordingly, the Hon'ble ITAT concluded that the fair market value of the tenancy rights as on the date of surrender should be treated as the cost of acquisition of the PAA. The matter was restored to the AO for the limited purpose of recomputing capital gains by adopting such fair market value and determining the nature of gains based on the holding period. The appeal was thus allowed for statistical purposes.

Sarjit Ghanshyam Desai [TS-823-ITAT-2026(Mum)]

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7. *Consideration for grant of development rights, taxable as capital gains, not Income from Other Sources (IFOS)*

Sherlyn Dias (Legal heir of Late Mrs. Dorothy Lawrence Pereira) ('the Assessee') filed her ROI declaring a total income of INR 2.64 lakhs, which included capital gains and a corresponding exemption claim under Section 54EC for investments made in REC Bonds. The AO subsequently reopened the assessment under Section 147 of the Act based on tangible stamp duty information.

During the reassessment proceedings, the AO observed that the Assessee, as one of four joint owners, had received a monetary consideration of INR 50 lakhs (representing her one-fourth share of an aggregate INR 2 crores) pursuant to a redevelopment agreement executed with developers.

Before the AO, the Assessee submitted that the receipt of INR 50 lakhs represented consideration for the transfer/surrender of development rights, which constitutes a capital asset. Further, since the entire amount of INR 50 Lakhs was invested in REC Bonds, the Assessee was eligible for exemption under section 54EC of the Act.

The AO claimed that section 50C of the Act was applicable. Although the AO accepted that Section 50C did not apply, he held that because the property was temporarily handed over and would ultimately revert to the owners, the underlying capital structure remained intact. Treating the non-refundable sum as a revenue receipt derived from the exploitation of property rights and relying heavily on the developer's accounting treatment of the payment as a revenue expenditure, the AO assessed the receipt under the residuary head of IFOS under Section 56 of the Act.

The Assessee challenged the validity of the reopening and the merits of the addition, placing reliance on CIT vs. D.P. Sandu Bros. Chembur (P.) Ltd.[5] and Chaturbhuj Dwarkadas Kapadia[6] vs. CIT to argue that redevelopment consideration cannot be assessed under the residuary head. The CIT(A) dismissed the appeal, affirming that ownership rights were not extinguished and that the receipt was taxable under IFOS, thereby disentitling the Assessee from the Section 54EC exemption. Aggrieved, the Assessee appealed to the Hon'ble Mumbai ITAT.

The Hon'ble ITAT observed that the sum of INR 50 lakhs received under the Development Agreement was not a casual or independent payment, but a contractual receipt paid for the grant of development rights. It held that development rights in property represented valuable interest attached to its ownership, qualifying as "property" and consequently falling within the definition of a capital asset under Section 2(14) of the Act. Furthermore, the ITAT clarified that the contractual grant of these rights constituted a valid "transfer" of a capital asset. The Hon'ble ITAT also dismissed the tax authorities' argument regarding the property reverting back to the owners, stating that receiving a constructed area or retaining specific rights does not alter the fact that development rights were conferred on the developer.

The Hon'ble ITAT further rejected the argument that the builder's accounting treatment dictated taxability, emphasizing that the nature of a receipt must be determined strictly from the recipient's perspective and not the payer's books. It further ruled that the inapplicability of Section 50C cannot be used as a ground to deny the capital character of a receipt or to shift it to the residuary head of IFOS.

Consequently, the Hon'ble ITAT directed the AO to assess the receipt under the head "Capital Gains" and to allow the consequential exemption under section 54EC. Thereby, allowing the Appeal of the Assessee.

Sherlyn Dias (Legal heir of Late Mrs. Dorothy Lawrence Pereira) [TS-858-ITAT-2026(Mum)]

8. *Sustains penalty under Section 271D & 271E for journal entry loan violations on failure to explain reasonable cause under Section 273B of the Act*

Manjri Horse Breeders Farm Private Limited (the "Assessee") is engaged in real estate development, operation of stud farms, horse breeding and rearing, and related activities. For AY 2020–21, the Assessee filed its ROI on 31.03.2021, declaring a total income of INR 41.48 crore. During the course of assessment proceedings, the AO observed that the Assessee had accepted and repaid certain loans through journal entries rather than through the prescribed banking channels, which was considered to be in contravention of the provisions of Sections 269SS and 269T of the Act. Consequently, penalty proceedings under Sections 271D and 271E were initiated.The Addl. CIT rejected the Assessee's contention that such journal entries were necessitated by business exigencies and held that no reasonable cause, as contemplated under Section 273B of the Act, had been established. Accordingly, penalties under Sections 271D and 271E were levied.

Aggrieved, the Assessee filed an appeal before the CIT(A), who upheld the penalties holding that transactions through journal entries constitute a violation of sections 269SS and 269T unless the

[5] [TS-5-SC-2005-O]
[6] [TS-1-HC-2003(BOM)]

Assessee proves a reasonable cause under section 273B of the Act. The CIT(A) relied on the judgments of the Hon'ble Bombay High Court in CIT v. Triumph International Finance (I) Pvt. Ltd.[7], the Hon'ble Supreme Court in ADIT v. Kum. A.B. Shanthi[8], and CIT v. Adinath Builders (P.) Ltd.[9].

On further appeal, the Hon'ble Mumbai ITAT upheld the orders of the lower authorities, observing that although journal entries may constitute genuine transactions, the Assessee failed to demonstrate any compelling business necessity or unavoidable circumstance to justify deviation from the prescribed banking mode. The Hon'ble ITAT held that mere bona fide intention or administrative convenience is insufficient to claim immunity under section 273B of the Act. Accordingly, the Hon'ble ITAT dismissed the Assessee's appeals and sustained the penalties levied under sections 271D and 271E of the Act, holding that the Assessee had failed to establish the existence of a reasonable cause for undertaking the loan transactions through journal entries instead of recognized banking channels. Consequently, the matter was decided in favor of the tax authorities.

Manjri Horse Breeders Farm Private Limited [TS-868-ITAT-2026(Mum)]

9. *Disallows Artificial Project Expenditure Structures Used to Bypass Section 11(3)(d) of the Act*

D.L. Shah Trust for Applied Science, Technology, Arts and Philosophy ('the Assessee'), a charitable trust registered under Section 12A of the Act, filed its ROI for AY 2013-14 claiming exemption under Sections 11 and 12 of the Act.

During the assessment proceedings, the AO observed that the Assessee had utilized a portion of its accumulated funds to make payments to other charitable institutions registered under Section 12AA of the Act. Invoking the Explanation to Section 11(2), the AO held that any amount paid or credited out of accumulated income to another registered trust cannot be treated as an "application of income." Consequently, the AO treated the transferred amount as the Assessee's taxable income. Aggrieved, the Assessee preferred an appeal before the CIT(A).

Before the CIT(A), the Assessee contended that these payments were made specifically for project implementation. The Assessee further argued that the payments represented genuine project expenditure incurred through "implementing agencies" in furtherance of the trust's charitable activities, rather than inter-charity donations. Therefore, the Assessee claimed the transactions did not fall within the restrictive ambit of Section 11(3)(d) of the Act.

The CIT(A) observed that the legislative framework governing the accumulation of income by charitable trusts is based on the principle of conditional exemption. While a trust is permitted to accumulate income for specific charitable purposes under Section 11(2), the Explanation to that section explicitly prohibits utilizing those accumulated funds via payments to other Section 12AA-registered trusts. Furthermore, Section 11(3)(d) creates a deeming fiction: any accumulated income paid or credited to another trust automatically loses its exempt character and becomes taxable in the hands of the donor trust in the year of payment. Accordingly, the CIT(A) upheld the action of the Assessing Officer and confirmed the addition made under Section 11(3)(d) of the Act.

The Hon'ble Mumbai ITAT observed that the statutory scheme of Sections 11(2) and 11(3)(d) leaves no room for the distinction the Assessee tried to draw between "project expenditure" and "donations" to other charitable institutions. The Tribunal held that merely labelling the recipient institutions as "implementing agencies" - or earmarking the funds for specific projects - does not alter the legal character of the transaction. Under Section 11(3)(d) of the Act, the actual utilization of the funds by the recipient institution is not a determinative factor.

Relying on the landmark Supreme Court principles established in Durga Prasad More[10], Sumati Dayal[11], and McDowell & Co. Ltd.[12], the ITAT noted that accepting the Assessee's interpretation would defeat the purpose of Section 11(3)(d) of the Act. If allowed, any transfer of accumulated income could simply be restructured as "project expenditure" through a secondary trust. The Tribunal emphasized that statutory provisions must be interpreted to uphold legislative intent and prevent tax avoidance through artificial arrangements or legal masks.

Accordingly, the Hon'ble ITAT ultimately held that transferring accumulated income to other charitable institutions attracts the provisions of Section 11(3)(d) of

[7] [TS-400-HC-2012(BOM)]
[8] [TS-5015-SC-2002-O]
[9] [TS-5517-SC-2018-O]
[10] [TS-5156-SC-1971-O]
[11] [TS-5013-SC-1995-O]
[12] [TS-1-SC-1985]

the Act, irrespective of the nomenclature assigned to the payments. The addition made by the AO and confirmed by the CIT(A) was upheld, and the Assessee's appeal was dismissed

D.L.Shah Trust For Applied Science, Technology, Arts And Philoso [TS-876-ITAT-2026(Mum)]

10. Penalty under Section 270A of the Act deleted where despite the disallowance of depreciation, assessed income remains Nil as returned income.

Besant Montessori School ('the Assessee') is a charitable trust engaged in running a Montessori school. For the AY 2017-18, it filed its ROI declaring a loss amounting to Rs. 13.43 lakhs and reported gross receipts of Rs. 2.97 crores. The Assessee had claimed various expenses including depreciation of Rs. 38.42 lakhs. During the assessment proceedings, the AO held that since cost of the assets had already been considered as application of income under Section 11, depreciation could not again be claimed in view of specific denial under Section 11(6) of the Act. Accordingly, the AO disallowed the depreciation claim. However, the disallowance of depreciation was deleted in the appellate proceedings by allowing the accumulation by the CIT(A). Based on disallowance in the assessment order, the AO initiated penalty proceedings under Section 270A for alleged under-reporting of income and initiated penalty proceedings.

The AO held that the inadmissible claim of depreciation amounted to under-reporting of income and levied penalty of Rs. 9.36 lakhs under Section 270A. Aggrieved, the Assessee filed an appeal before the CIT(A). The CIT(A) confirmed the penalty on the ground

that the disallowance of depreciation resulted in under-reporting of income under Section 270A of the Act. Aggrieved, the Assessee filed an appeal before the Hon'ble Mumbai ITAT. The Hon'ble ITAT observed that penalty under section 270A is not automatic and that mere disallowance of a claim does not amount to under-reporting unless it results in taxable income, tax liability or any present or future tax advantage.

Consequently, there was no positive assessed income, no tax liability and no benefit of carry forward or set-off arising from the impugned claim. The Hon'ble ITAT further observed that an inadmissible claim may warrant correction in assessment but does not automatically attract penalty. Relying upon its earlier decision in Podar Literacy and Education Trust[13] on identical facts, the Hon'ble ITAT held that where the returned income and the assessed income ultimately remain Nil and no tax advantage accrues to the assessee, the essential ingredient sought to be addressed by Section 270A of the Act is absent. Accordingly, the Hon'ble ITAT held that the penalty provisions cannot be invoked mechanically and, therefore, set aside the orders of the AO as well as the CIT(A) and deleted the penalty. Thus, the appeal was allowed of the Assessee.

Besant Montesori School [TS-878-ITAT-2026(Mum)]

11. Compensation for Withdrawal of Litigation Held to Be a Non-Taxable Capital Receipt

Belani Housing Development Ltd ("the Assessee"), engaged in real estate development, filed its return for AY 2018-19 on 23.04.2021, declaring total income of INR 96.46 lakhs.

During assessment, the AO noted that the Assessee, along with three associated parties, had entered an unregistered agreement to purchase land from Saregama India Ltd (SIL). The deal collapsed, leading to arbitration, where it was found that SIL lacked marketable title and could not lawfully transfer the property. Consequently, the Assessee's claim for specific performance was rejected, and further civil and arbitration proceedings also went against it, leaving the Assessee with no enforceable legal right over the land.

The parties then entered a Settlement Agreement under which the Assessee agreed to unconditionally withdraw all pending suits, applications, and complaints across various forums. As consideration for this withdrawal and full settlement, SIL agreed to pay INR 18 crore, apportioned among the Assessee and the three other parties.

The AO treated this sum as consideration for relinquishing rights in a capital asset namely, the right to specific performance and taxed it as capital gains under Section 45 of the Act. The CIT(A) partly upheld this, taxing the Assessee's share of INR 6.58 crore,

[13] [TS-7838-ITAT-2025(Mumbai)-O]

while retaining the remaining INR 11.42 crore on a protective basis pending assessment in the hands of the other parties. Aggrieved, the Assessee filed an appeal before the Hon'ble Kolkata ITAT.

The key question was whether the payment was consideration for transfer of a capital asset, or merely for surrendering the right to sue. The Hon'ble ITAT held that the payment was solely to settle the dispute and withdraw litigation, not to transfer any property rights. Since SIL never held valid title, the Assessee never had an enforceable right to specific performance - meaning no capital asset had ever existed.

The Hon'ble ITAT clarified that the Assessee only held a personal, non-transferable "right to sue," which does not qualify as a "capital asset" under Section 2(14) of the Act. As surrendering such a right is not a "transfer" under Section 2(47), the compensation could not be taxed as capital gains.

The Hon'ble ITAT also accepted the Assessee's alternate argument that the payment compensated for loss of a potential income source. Had the acquisition succeeded, the land would have formed part of the Assessee's income-generating capital structure. By settling and withdrawing its claims, the Assessee lost the opportunity to acquire that asset, impairing its capital base making the receipt capital in nature on this ground too.

Relying on precedents such as Oberoi Hotels Pvt. Ltd and Saurashtra Cement Ltd, the Hon'ble ITAT reiterated that compensation for the loss or sterilization of an income-earning source is a non-taxable capital receipt.

It further held that Section 28(ii)(e), inserted by the Finance Act, 2019, applies prospectively from AY 2019-20 and was therefore inapplicable to this case.

The Hon'ble ITAT concluded that the INR 6.58 crore was a non-taxable capital receipt and directed deletion of the addition. It also deleted the protective addition of INR 11.42 crore, as it did not accrue to the Assessee. Thus, compensation for surrendering a mere right to sue, absent any transferable capital asset, was held not exigible to tax.

Belani Housing Development Limited [TS-714-ITAT-2026(Kol)]

B. INTERNATIONAL TAXATION

1. No taxability on salary income arises in India when relief is claimed under DTAA. Further, the exemption claimed on per-diem as per UK laws received on account of service rendered in UK shall not be taxable in India

Sachin Saxena[14] ('the Assessee'), employee of Ernst & Young LLP, India was deputed to the Ernst & Young, UK from 1 April 2016 to 31 March 2017. Accordingly, the Assessee qualified as a non-resident in India during the relevant financial year. The. Assessee filed a revised return declaring salary income of INR 35,506 after claiming an exemption of INR 27.10 Lakh earned in UK under Article 16 of the India–UK DTAA as the Assessee by mistake reported his entire UK salary in original return. Accordingly, scrutiny notice under Section 142(1) of the Act was issued.

The AO observed that Assessee's UK tax return reflected salary income of only INR 9.84 lakhs (GBP 12,151) and accordingly held that the differential salary of INR 17.25 lakhs, i.e. INR (27.45 L–9.84L-0.35L) should be offered to tax in India under Section 5(2)(a) of the Act.

Aggrieved by the order, the Assessee filed an appeal before the Hon'ble CIT(A).

The Assessee submitted UK salary reconciliation stating that total income of INR 10.84 lakhs (GBP 12,151) was taxed in UK after claiming an exemption of INR 16.17lakhs received as per-diem allowance (perquisites) and INR 64,577 received as bonus on account of non-working UK days. The Assessee contended that these amounts were not taxable in India as they arose from employment exercised in the United Kingdom as per Article 16 of the India-UK DTAA

The CIT(A) dismissed the appeal of the Assessee and upheld the order of the Ld. AO on the ground that the Assessee has failed to substantiate the basis of exemptions claimed in UK.

Aggrieved, the Assessee filed an appeal before the Hon'ble Delhi ITAT, where it examined the UK Tax Return, Tax Residency Certificate, assignment agreement and reconciliation statement furnished by the Assessee. The Hon'ble ITAT observed that as the stay in India was less than 60 days, the Assessee was a non-resident in India during the relevant period. The Hon'ble Delhi ITAT relying on Article 16(1) of the India-UK DTAA read with Section 90 of the Act held that since the Assessee qualified as non - resident for the said

[14] *Sachin Saxena [TS-782-ITAT-2026(DEL)]*

period, the salary was not liable to be taxed in India. He further noted that the receipt of per-diem allowance was not in dispute. The Hon'ble ITAT held that the Assessee has rightly offered salary income in UK after claiming the per-diem and bonus exemption in UK and offered the balance salary of INR 35,506 in India. Accordingly, the Hon'ble ITAT deleted the addition of INR 17.25 lakh made by the AO.

Sachin Saxena [TS-782-ITAT-2026(DEL)]

2. *Procedural lapse cannot obliterate Treaty relief*

Jean Christophe Pierre Andre Letellier[15] ('the Assessee'), a French citizen was a resident and ordinarily resident in India during AY 2018-19. Accordingly, he filed his ROI in India which was selected for limited scrutiny relating to foreign immovable property and foreign bank accounts. The Assessee disclosed details relating to foreign assets like foreign immovable property located in France and rental income earned from the said property of Euro 9000. Since the property was located in France, the income was not taxable in India under Article 6 of the India-France DTAA and hence not reported in ROI filed in India. Accordingly, no FTC was claimed by filing Form No. 67 in prescribed manner.

The AO held that since the Assessee was a resident in India, his global income was taxable and included the rental income in the total income. He further denied the Assessee's FTC claim of INR 1.72 lakhs paid on rental income in France on the ground that Form No. 67 was not filed within the statutory time mentioned under Rule 128 of the Income-tax rules, 1962 and accordingly passed the assessment order.

Aggrieved by the assessment order, the Assessee filed an appeal before the learned CIT(A). The Hon'ble CIT(A) upheld the order of the AO denying the FTC claim of the Assessee.

The Assessee filed an appeal before the Hon'ble Mumbai ITAT. The Hon'ble ITAT observed that the Assessee had adequately disclosed the French property as well as the rental income and paid tax on the said income in France. Accordingly, he observed that the claim for FTC was not an afterthought. Relying on the decisions of Brinda Ramakrishna v. ITO[16], Power and Energy Consultants India (P.) Ltd. v. ITO[17], Sonakshi Sinha v. CIT[18] and Duraiswamy Kumaraswamy v. PCIT[19], the Hon'ble ITAT observed that FTC cannot be denied merely on account of delayed filing of Form No. 67 when the foreign taxes are paid and the corresponding income are otherwise verifiable. Accordingly, the Hon'ble ITAT directed the AO to verify the claim and grant FTC of INR 1.72 Lakhs in accordance with law.

Jean Christophe Pierre Andre Letellier [TS-812-ITAT-2026(Mum)]

3. *Fresh claim before the appellate authorities accepted by the Hon'ble ITAT; Matter restored to AO for re-examination*

McAfee Singapore Pte. Ltd. ("the Assessee") is a tax resident of Singapore and engaged in the business of selling McAfee's limited license security software to Indian distributors both in physical form and through electronic medium. The Assessee granted a limited, non-exclusive right to resell software products to the Indian distributors. During AY 2018-19, the Assessee reported an income of INR 134.04 crores as income in the nature of royalty under Section 9(1)(vi) of the Act r.w. Article 12(3) of India-Singapore DTAA. The return was processed under Section 143(1) without any adjustment.

The Assessee thereafter filed an appeal before the CIT(A) contending that the receipts are not in the nature of royalty based on the decision of the Hon'ble Supreme Court in case of Engineering Analysis Centre of Excellence Pvt. Ltd. vs. CIT[20]. However, the Ld. CIT(A) dismissed the appeal in limine, holding that since no adjustment was made in the intimation and the Assessee itself had offered the income as royalty, the claim was not maintainable.

Aggrieved, the Assessee appealed before the Hon'ble Mumbai ITAT. It submitted that at the time of filing of the return of income, there was lack of clarity on the issue as to whether the sale of software licenses is in the nature of royalty or not. However, the decision of the Hon'ble Supreme Court, in March 2021, in case of Engineering Analysis laid down parameters to identify a particular receipt whether in the nature of royalty or not.

The Hon'ble ITAT first addressed the maintainability of the fresh claim. It observed that Article 265 of the Constitution mandates that tax can be levied only by authority of law, and that there can be no estoppel against statute. Accordingly, even if an Assessee has

[15] *Jean Christophe Pierre Andre Letellier [TS-812-ITAT-2026(Mum)]*
[16] *[TS-7613-ITAT-2021(Bangalore)-O]*
[17] *[TS-7528-ITAT-2024(Delhi)-O]*
[18] *[TS-6770-ITAT-2022(Mumbai)-O]*
[19] *[TS-5818-HC-2023(Madras)-O]*
[20] *TS-106-SC-2021*

wrongly offered a receipt to tax, it retains the right to contend that such income is not taxable. The ITAT held that appellate authorities are empowered to entertain fresh claims and that the CIT(A) erred in rejecting the claim without examining it on merits.

In light of the decision of the Hon'ble Supreme Court in case of Engineering Analysis Centre of Excellence Pvt. Ltd., the Hon'ble ITAT held that the Assessee is entitled to raise the claim of non-taxability of receipts as royalty income. Accordingly, the Hon'ble ITAT held that if the Assessee is found to have merely sold copyrighted articles without transfer of copyright, the receipts cannot be characterized as royalty and would not be taxable in India under the DTAA. The appeal was thus allowed for statistical purposes, with directions for fresh examination by the AO.

McAfee Singapore Pte. Ltd [TS-831-ITAT-2026 (Mum)]

4. ***Foreign Remittance by Indian PE to Head Office held disallowable under Section 40(a)(i) for non-compliance with Section 195; Section 44C issue sent back for reconsideration***

Sheladia Associates("the Assessee"), a US-based company operating in India through a PE, claimed deduction of expenses towards backstopping technical support and business development services representing reimbursement of salary costs incurred by its Head Office for personnel engaged in India projects.

During the assessment proceedings, the AO held that the functions performed by the HO personnel, were managerial and executive in nature and constituted "Head Office expenditure" under Section 44C of the Act. The AO further treated the payments as FTS chargeable to tax in India and, since no tax had been deducted under Section 195, disallowed the expenditure under Section 40(a)(i) of the Act. Aggrieved by the above, the Assessee filed objections before the DRP and the DRP upheld the AO's findings, pursuant to which the final assessment order was passed.

Aggrieved, the Assessee filed an appeal before the Hon'ble ITAT. The Assessee relied upon earlier ITAT orders in its own case, contending that the impugned expenditure related exclusively to Indian projects and should not be subjected to the restriction under Section 44C of the Act. Alternatively, the Assessee submitted that even if Section 44C of the Act is applied, the AO ought to compute the admissible deduction under the statutory formula instead of disallowing the entire expenditure.

The Hon'ble ITAT observed that although the services performed by the HO personnel prima facie appeared to be managerial and supervisory in nature, its earlier orders in the Assessee's own case warranted fresh verification of whether the expenditure fell within the definition of "Head Office expenditure" under Section 44C. Accordingly, the matter was restored to the AO for fresh examination. The Hon'ble ITAT, however, clarified that in view of the Hon'ble Supreme Court's decision in Director of Income Tax (International Taxation) v. American Express Bank Ltd.[21], even expenditure incurred exclusively for Indian operations would remain subject to the limitation under Section 44C if it qualified as Head Office expenditure.

With regard to the disallowance under Section 40(a)(i), the Hon'ble ITAT upheld the findings of the AO, holding that the Assessee had failed to establish that the reimbursements were not chargeable to tax in India or that the "make available" condition under Article 12 of the India-USA DTAA was not satisfied. However, it directed that if the expenditure was ultimately found to be covered by Section 44C, the AO should compute the deduction admissible under the statutory limits instead of disallowing the entire expenditure.

Sheladia Associates INC [TS-877-ITAT-2026(HYD)]

II. TRANSFER PRICING

1. ***Tax authorities' SLP challenging HC-order on AMP adjustment dismissed in case of Pernod Ricard India.***

Pernod Ricard India Private Limited ("the Assessee"), is engaged in the business of manufacturing and sale of alcoholic beverages and had entered into international transactions with its AEs. The Assessee filed its ROI for AYs 2007-08 to 2011-12. Subsequently, the case was selected for scrutiny and referred to the TPO for determination of the ALP of the international transactions.

During the TP proceedings, the TPO held that the AMP expenditure incurred by the Assessee resulted in brand building for the benefit of its foreign AE and treated the same as an international transaction warranting a TP adjustment. Accordingly, the AO passed the assessment orders making the corresponding TP adjustments. Aggrieved, the Assessee preferred appeals before the Hon'ble Delhi ITAT, which deleted the AMP adjustments. The Tax Authorities challenged the order before the Hon'ble Delhi HC[22], contending that the AMP expenditure resulted in creation of marketing intangibles and brand promotion for the benefit of the foreign AE.

[21] [TS-1655-SC-2025]
[22] PR.Commissioner Of Income Tax (Central) Vs Pernod Ricard India Pvt Ltd - ITA No 872/2019 [TS-394-HC-2024(DEL)-TP]

Per contra, the Assessee submitted that the issue was squarely covered by the judgments of the Hon'ble Delhi HC in Maruti Suzuki India Ltd. and Sony Ericsson Mobile Communications India Pvt. Ltd. The Assessee further submitted that the Tax Authorities had failed to establish the existence of any arrangement or understanding with its AE for undertaking brand promotion activities.

While adjudicating the matter, the Hon'ble Delhi HC observed that the Tax Authorities had failed to place any material on record demonstrating the existence of an arrangement or concerted action between the Assessee and its AE for brand promotion. Relying upon its earlier decisions in Maruti Suzuki India Ltd.[23] and Sony Ericsson Mobile Communications India Pvt. Ltd.[24], the Hon'ble HC held that mere incurrence of AMP expenditure, even if it incidentally benefits the foreign AE, does not constitute an international transaction in the absence of such evidence. Accordingly, the Hon'ble HC upheld the order of the Hon'ble ITAT and dismissed the Revenue's appeals.

Aggrieved by the order of the Hon'ble Delhi HC, the Tax Authorities preferred an SLP before the Hon'ble SC. The Hon'ble SC dismissed the SLP on the ground of delay as well as on merits, thereby affirming the decision of the Hon'ble Delhi HC that AMP expenditure cannot be regarded as an international transaction in the absence of evidence establishing an arrangement or understanding between the Indian entity and its AE for brand promotion.

Pernod Ricard India Pvt Ltd [TS-418-SC-2026-TP]

2. ***TP adjustment on payment of management fees deleted by Hon'ble Mumbai ITAT by applying principle of consistency***

NTT India Private Limited[25] ('the Assessee') is engaged in the trading of networking products and other related services such as training, maintenance, installation, consultancy. The Assessee paid management fees to its AE for availing various management services like business development, corporate communication, brand management, human resources, information technology, finance and other managerial functions. The Assessee benchmarked the transaction adopting TNMM at the entity level and claimed that its overall margins were at arm's length. The Assessee also submitted agreements, invoices, cost allocation workings and other documentary evidence to substantiate receipt of services.

However, the TPO treated the transaction of management fees as a separate international transaction and rejected Assessee's benchmarking. The TPO alleged that certain services were either not rendered or were in the nature of shareholder activities and accordingly made a partial disallowance in respect to payment of management fees which was further upheld by the Hon'ble DRP.

Aggrieved, the Assessee filed an appeal before the Hon'ble Mumbai ITAT, the Assessee contended that management fees paid to AE were adequately benchmarked at entity level and contended that the same cannot be a mere shareholder activity by submitting documentary evidence demonstrating receipt of services and benefits derived from the services. The Assessee also relied on favourable decisions in its own case for AYs 2011-12, 2017-18 and 2018-19, wherein identical TP adjustments were deleted.

On further appeal before the Hon'ble Mumbai ITAT, the Hon'ble ITAT observed that similar transfer pricing adjustments relating to payment of management fees had been deleted in earlier years and that such decisions had attained finality. It further noted that the Hon'ble ITAT in earlier years had relied upon the decision of jurisdictional High Court in case of Merck Ltd and accepted Assessee's entity level benchmarking at TNMM. Since no distinguishing facts were brought on record by the TPO and that the services were rendered under umbrella agreement of intra group services, no adjustment shall be required to be done in the services availed from AEs.

NTT India Pvt Ltd [TS-387-ITAT-2026(Mum)-TP]

3. ***Internal TNMM preferred over CUP for benchmarking sale of finished goods; sustains deletion of marketing services adjustment***

Gulbrandsen Private Limited ("the Assessee") is engaged in the business of manufacturing and sale of chemicals and had entered into international transactions with its AEs, including sale of finished goods and availing sales promotion and marketing services. The Assessee filed its ROI for AYs 2012-13 and 2013-14. Subsequently, the case was selected for scrutiny and referred to the TPO for determination of the ALP of the international transactions.

[23] Maruti Suzuki India Ltd Vs CIT [TS-595-HC-2015(DEL)-TP]
[24] Sony Ericsson Mobile Communications India Pvt. Ltd. Vs Commissioner of Income Tax – III- ITA No. 16/2014 [TS-96-HC-2015(DEL)-TP]
[25] NTT India Private Limited [TS-387-ITAT-2026(Mum)-TP]

During the TP proceedings, the TPO rejected the Internal TNMM adopted by the Assessee for benchmarking the sale of finished goods and adopted the Internal CUP Method as the MAM, resulting in TP adjustments of INR 1.50 crores for AY 2012-13 and INR 2.86 crores for AY 2013-14. The TPO also made TP adjustments in respect of sales promotion and marketing services on the ground that the Assessee had failed to establish the actual rendition of services and the arm's length nature of the sales commission paid.

Aggrieved, the Assessee preferred appeals before the Hon'ble CIT(A). The Hon'ble CIT(A) deleted both TP adjustments by relying upon the decisions of the Hon'ble Ahmedabad ITAT rendered in the Assessee's own case[26] for the earlier assessment years. Pursuant thereto, the Tax Authorities preferred appeal before the Hon'ble Ahmedabad ITAT challenging the findings of the Hon'ble CIT(A).

Before the Hon'ble Ahmedabad ITAT, the Tax Authorities contended that the Hon'ble CIT(A) erred in accepting the Internal TNMM as the MAM and that the Internal CUP Method ought to have been adopted. The Tax Authorities also contended that the Assessee had failed to establish the actual rendition of sales promotion and marketing services.

Per contra, the Assessee submitted that the issues were covered by the earlier decisions of the Hon'ble Ahmedabad ITAT in its own case, that the Internal CUP Method was unreliable due to differences in contractual terms, business volumes, FAR profile and economic circumstances, and that it had furnished evidence establishing the actual rendition of services.

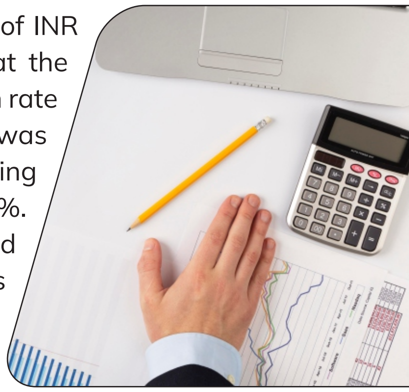
While adjudicating the matter, the Hon'ble Ahmedabad ITAT found no reason to depart from its earlier decisions in the Assessee's own case. It held that the Internal TNMM was the MAM, as the Internal CUP Method was unreliable, and further held that the Assessee had established the actual rendition of services and that the TPO cannot question the commercial expediency of such services while determining the ALP.

Accordingly, the Hon'ble Ahmedabad ITAT upheld the order of the Hon'ble CIT(A) and deleted the TP adjustments relating to sale of finished goods and sales promotion and marketing services. While doing so, the Hon'ble ITAT followed the decisions rendered in the Assessee's own case for AYs 2007-08[27], 2009-10 - 2010-11[28] and 2011-12[29], as affirmed by the Hon'ble Gujarat HC for AY 2007-08[30], and also relied upon the principles laid down in Serdia Pharmaceuticals India Pvt. Ltd.[31], MSS India Ltd.[32], Dishman Pharmaceuticals & Chemicals Ltd.[33] and other cases, reiterating that the MAM must be selected having regard to the facts of each case and that the TPO cannot question the commercial expediency of intra-group services once their actual rendition and arm's length nature have been established.

GULBRANDSEN PRIVATE LIMITED [TS-461-ITAT-2026(Ahd)-TP]

4. *Hon'ble ITAT Holds PLR over EBLR for benchmarking interest on NCDs; Confirms adjustment deletion*

Matrix Power (Wind) Private Limited ("the Assessee"), is engaged in the business of generation of electricity through wind resources and operates a 15 MW wind power plant in Karnataka. For AY 2021-22, the Assessee filed its ROI declaring a current year loss of INR 4.79 crores. During the scrutiny assessment, the AO referred the matter to TPO in the view of transactions of interest payment by the Assessee to its AE Greenko Dutch B.V. The TPO proposed a TP adjustment of INR 13.02 lakhs by holding that the interest paid at 11% coupon rate on NCDs issued to the AE was excessive after benchmarking it using the EBLR of 8.61%. The AO also disallowed employee benefit expenses of INR 8.04 crores on the ground that employee costs had substantially increased despite a decline in revenue from operations. Consequently, the AO



[26] *The Hon'ble Ahmedabad ITAT, in the Assessee's own case for Ays 2007-08 and 2011-12, held that the TPO cannot determine the ALP of intra-group sales promotion and marketing services at nil by questioning the necessity or actual rendition of the services where the Assessee had furnished agreements and supporting evidence establishing the services. Further, the Hon'ble ITAT accepted the Internal TNMM as the MAM for benchmarking the sale of chemical products to AEs, holding that material differences in contractual terms and economic circumstances rendered the Internal CUP Method unreliable, and accordingly deleted the TP adjustments.*

[27] *Gulbrandsen Chemicals Pvt. Ltd vs DCIT- ITA No.: 874/Ahd/2012 [TS-128-ITAT-2019(Ahd)-TP]*

[28] *Gulbrandsen Chemicals P Ltd vs DCIT- ITA.N0 1230/Ahd/2017 [TS-1189-ITAT-2019(Ahd)-TP]*

[29] *DCIT vs Gulbrandsen Chemicals Pvt. Ltd [TS-278-ITAT-2022(Ahd)-TP]*

[30] *Pr CIT vs. Gulbrandsen Chemicals Pvt Ltd - R/TAX APPEAL NO. 751-753 of 2019 [TS-466-HC-2020(GUJ)-TP]: The Hon'ble Gujarat HC held that the Internal TNMM was the MAM for benchmarking the international transaction relating to sale of finished goods, as material differences in contractual terms, payment conditions and economic circumstances rendered the Internal CUP Method unreliable. The Hon'ble HC further held that the selection of the MAM is a question of fact and does not give rise to a substantial question of law under Section 260A of the Act. Accordingly, the Revenue's appeals were dismissed.*

[31] *Serdia Pharmaceuticals India Pvt Ltd VS ACIT [TS-5939-ITAT-2010(Mumbai)-O]*

[32] *ACIT Vs MSS India Ltd [TS-14-ITAT-2009(PUN)-TP]*

[33] *DCIT Vs Dishman Pharmaceuticals & Chemicals Ltd and vice versa [TS-325-ITAT-2011(Ahd)-TP]*

completed the assessment by determining the total income at INR 3.37 crores and passed the final assessment order.

Aggrieved, the Assessee filed an appeal before the CIT(A). The CIT(A) allowed the appeal and deleted both additions. In respect of employee benefit expenses, the CIT(A) held that the AO could not disallow expenditure merely because employee costs had increased while revenue had declined, particularly when the Assessee had substantiated the payments with supporting documents, TDS deductions and board approvals. The CIT(A) relied upon the judgments of the Hon'ble SC in "CIT v. Walchand & Co. (P.) Ltd.[34]" and the Hon'ble Bombay HC in "Extrusion Process Pvt. Ltd. v. CIT[35]", which held that the reasonableness of business expenditure should be viewed from the perspective of a businessman and not that of the tax authorities. Regarding the TP adjustment, the CIT(A) followed the decision of Hon'ble Hyderabad ITAT in "Hyderabad Infratech (P.) Ltd. v. DCIT[36]", holding that where NCDs are denominated in Indian Rupees, PLR is the correct benchmark and not EBLR. Aggrieved, the tax authorities filed an appeal before the Hon'ble Hyderabad ITAT.

The Hon'ble Hyderabad ITAT dismissed the tax authority appeal and upheld the order of the Hon'ble CIT(A) in its entirety. The Hon'ble ITAT held that the AO had wrongly disallowed employee benefit expenses merely because there was an increase in such expenses and a decrease in revenue, without disputing the genuineness of the expenditure or proving that it was excessive or not incurred for business purposes. The Hon'ble ITAT also reaffirmed that for Indian Rupee-denominated NCDs, the PLR is the correct benchmark for determining the ALP of interest payments and not the External EBLR. Relying on the Special Bench ruling in Hyderabad Infratech (P.) Ltd., the Hon'ble ITAT held that the payment of interest at 11% by the Assessee was at the arm's length as it was lower than the applicable PLR.

Matrix Power-(Wind) Pvt. Ltd [TS-451-ITAT-2026(HYD)-TP]

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5. ***The margins distorted due to COVID-19 pandemic shall be treated as an extraordinary event for TP Analysis and transactions inextricably linked with the main business shall be aggregated for benchmarking purpose*.**

Heidelberg India Pvt. Ltd. ('The Assessee') is engaged in the business of marketing and distribution of graphic arts machinery. The Assessee has received management support services in AY 21-22 from its AE headquartered in Germany. The case of the Assessee was selected for scrutiny Assessment and the matter was referred to the TPO for the determination of the Arm's Length of the international transactions. The Assessee benchmarked the management support services at entity level as the same cannot be benchmarked independently due to services inextricably linked to core business operations. The Assessee adopted TNMM using OP/OI as PLI at 1.68% vis-à-vis the arm's length arithmetic mean of the comparable companies at 1.29%. However, the TPO rejected Assessee's benchmarking, conducted separate benchmarking of the transaction and determined NIL ALP on an adhoc basis. The TPO disallowed the entire expense on the grounds that the Assessee could not furnish sufficient documentary evidence substantiating receipt of services.

The Ld. TPO performed alternative benchmarking on a protective basis by separately benchmarking the management expenses as operating expense. It conducted fresh search of the comparables and included new comparables to determine the revised arm's length arithmetic mean at 2.98% and made the differential adjustment. The Assessee contended that the TPO had erroneously compared its single-year pandemic-affected margins with the three-year weighted average margins of comparable companies. Relying on the decision of Hon'ble ITAT in case on Brakes India Pvt. Ltd[38] and Shibaura Machine India Pvt. Ltd,[39] the Assessee contended that its single year margin of -1.63% can appropriately compared with the comparable companies single year average margin at -23.9%

Aggrieved, the Assessee filed an objection before the Hon'ble DRP which was decided against the Assessee.

Aggrieved, the Assessee filed an appeal before the Hon'ble Chennai ITAT. Relying on the decision of EKL Appliances Ltd.[40] and AMEC Foster Wheeler India (P.)[37] Ltd., the Hon'ble ITAT held that the TPO cannot determine the ALP of any transaction on the basis of benefit derived from service based on commercial expediency under Section [37] of the Act which falls outside the jurisdiction of the TPO. The jurisdiction of

[34] [TS-5011-SC-1967-O]
[35] [TS-5101-HC-1979(Bombay)-O]
[36] [TS-5535-ITAT-2025(Hyderabad)-O]
[37] [TS-515-ITAT-2022(CHNY)-TP]
[38] [TS-332-ITAT-2025(CHNY)-TP]
[39] [TS-280-ITAT-2026(CHNY)-TP]
[40] [TS-5232-HC-2012(Delhi)-O]

the TPO is limited to examine the method employed and the comparables selected for determining the ALP of the transaction. The Hon'ble ITAT directed that the NIL ALP determined by the TPO without any independent benchmarking is incorrect. Further relying on the decision of the appellate authorities in the case of Haworth India Pvt Ltd[41] and Bonfigioli transmissions Private Limited[42] and Delhi High Court decision in the case of Magneti Marelli Powertrain India Pvt Ltd[43], held that the Assessee has correctly aggregated and benchmarked this transaction using TNMM as the Management services rendered by AE are inextricably linked to Assessee's core business operations. It directed to delete the addition based on the single year benchmarking done by the Assessee.

Heidelberg India Pvt. Ltd [TS-462-ITAT-2026(CHNY)-TP]

III. GOODS AND SERVICES TAX – UPDATES

GST – Case Laws

1. ***Confiscation under Section 130 cannot be initiated without a prior determination of tax under Section 73 or Section 74, and not at all for an alleged contravention of Section 35 relating to excess stock***

The Assessee, Kvn Fmcg (P.) Ltd., was subjected to a search at which the Department alleged excess stock and record-keeping lapses, and an amount of about Rs. 64,91,007 was recovered through DRC-03 during the search itself. A SCN was issued under Section 130 read with Section 122 of the CGST Act, 2017 proposing confiscation and penalty, and a confiscation order under Section 130(1)(i) followed, with the demand reflected in DRC-07. The Assessee approached the writ court challenging the very jurisdiction to invoke Section 130, contending that no tax had first been determined under Section 73 or Section 74.

The issue before the Hon'ble Court was whether confiscation proceedings under Section 130 could be initiated on the strength of an alleged stock discrepancy and breach of Section 35, without any prior determination of tax liability under Section 73 or Section 74.

The Hon'ble Court held that the position was no longer res integra, and that proceedings under Section 130 could not be set in motion without a prior determination of tax under Section 73 or Section 74, nor could such a notice be founded on an alleged violation of Section 35. The Hon'ble Court treated the notice as one issued without jurisdiction, a recognised exception to the alternative-remedy rule under Whirlpool Corporation v. Registrar of Trade Marks[44]. The SCN and the consequent confiscation order were quashed, with liberty to the Department to proceed afresh under the appropriate provisions, and the claim for refund of the amount recovered was left open to be pursued in accordance with law.

Kvn Fmcg (P.) Ltd. v. State of U.P., Hon'ble Allahabad High Court, Writ Tax No. 720 of 2026, decided on 18 May 2026

2. ***Assignment of leasehold rights in an industrial plot is a transfer of benefits arising out of immovable property and not a supply of service, and is therefore not exigible to GST***

The Assessee, had assigned its leasehold rights in a plot allotted by MIDC, held under a 95-year lease, to a third party with the consent of MIDC. A notice under Section 74(1) of the CGST Act, 2017, was issued and it was alleged that the Assessee had concealed the transaction, the Department treating the assignment as a supply of service under Section 7(1) of the CGST Act. The Bombay High Court in Aerocom Cushions (P.) Ltd. v. Assistant Commissioner (Anti-Evasion), CGST & CX, Nagpur-1[45], held that the transaction was a transfer of benefits arising out of immovable property, with no nexus to the business of the Assessee, so that the essential element of a supply of service in the course or furtherance of business was absent. The Department carried the matter to the Hon'ble Supreme Court.

The issue before the Hon'ble Supreme Court was whether the assignment and transfer of leasehold rights in the allotted plot amounted to a taxable supply of service under Section 7, or a transfer of immovable property outside the levy of GST.

The controversy sits at the intersection of Schedule II, which treats a lease, tenancy, easement or license to occupy land as a supply of service, and Schedule III, which keeps the sale of land outside the scope of supply, and turns on the correct characterization of the transaction. A lease or license is a continuing grant of the right to use land while the lessor retains the underlying estate, whereas an assignment transfers an existing interest, with the assignee stepping into the shoes of the lessee. What passes on assignment is

[41] *[TS-503-ITAT-2025(CHNY)-TP]*
[42] *[TS-388-ITAT-2018(CHNY)-TP]*
[43] *[TS-869-HC-2016(DEL)-TP]*
[44] *[TS-5070-SC-1998-O]*
[45] *[TS-10-HC(BOM)-2026-GST]*

therefore not a mere right to use land but an interest arising from the land itself, immovable property being understood under the Transfer of Property Act, 1882 as a bundle of rights comprising possession, enjoyment, exploitation, transferability and assignability. On that footing the Gujarat High Court in Gujarat Chamber of Commerce and Industry v. Union of India[46], had held the assignment of leasehold rights of an allotted plot for consideration to be a transfer of benefits arising out of immovable property outside the GST net, a view the Bombay High Court adopted while observing that, in a destination-based national levy and absent a contrary ruling, the authorities could not lightly disregard a persuasive decision of another High Court.

The Hon'ble Supreme Court condoned the delay and, recording that it was not inclined to interfere, dismissed the Special Leave Petition. The dismissal lends persuasive weight to this position, but under the doctrine of merger it neither affirms the High Court's reasoning nor lays down binding law under Article 141 of the Constitution, as explained in Kunhayammed v. State of Kerala[47]; and the Revenue's Special Leave Petition against the Gujarat Chamber of Commerce ruling remains pending, so the issue awaits a conclusive pronouncement.

Assistant Commissioner (Anti-Evasion) v. Aerocom Cushions (P.) Ltd., [TS-380-SC-2026-GST]

3. *A show cause notice issued in conflict with a binding Advance Ruling that has attained finality, is without foundation and is to be treated as non-est*

The Assessee was issued show cause notice under Section 73 of the CGST Act, by the DGGI demanding tax. The Assessee did not file a reply and approached the writ court, relying on an Advance Ruling dated 11 April 2022 which had classified its “Roof Mounted AC Package Unit”, manufactured to Railways (RDSO) specifications and supplied only to the Indian Railways, under Chapter 86.07 of the GST Tariff. The ruling had been accepted by the Department, was never assailed, and had attained finality. The Department urged that the Assessee ought to have replied to the notice and pursued the statutory remedy of appeal.

The issue before the Hon'ble Court was whether a SCN could be sustained when it ran, contrary to an Advance Ruling that remained binding between the parties and had not been declared void under Section 104(1) of the CGST Act.

The Hon'ble Court held that an Advance Ruling is valid under Section 103(2) and binding unless declared void under Section 104(1), and that the Department, having neither disputed nor assailed the ruling, was bound by it. With the fate of the notice apparent on the face of the record, there was no justification to relegate the Assessee to the adjudication process, and the notice had to be treated as non-est. Exercising its discretion under Article 226, the Hon'ble Court quashed the show cause notice.

Amit Engineers v. Union of India, Hon'ble Himachal Pradesh High Court, [TS(DB)-GST-HC(HP)-2026-628]

4. *Where Rule 96(10) of the CGST Rules was omitted without a saving clause and a demand resting solely on the omitted rule cannot survive*

The Assessee, Techno Waxchem (P.) Ltd., a manufacturer and exporter of rubber-industry chemicals, procured a critical input, Resorcinol, under the Advance Authorisation Scheme on a duty-free basis and exported its goods as zero-rated supplies, having obtained IGST refunds of about Rs. 6.28 crore against ICEGATE shipping bills. The Department alleged a breach of Rule 96(10) of the CGST Rules, in availing refund alongside duty-free imports, issued a notice under Section 74, and confirmed the demand under Section 74(9) with a DRC-07. The Assessee contended that Rule 96(10) had been omitted by Notification No. 20/2024-Central Tax dated 08 October 2024 without a saving clause, extinguishing jurisdiction.

The issue before the Hon'ble Court was whether proceedings founded solely on Rule 96(10) could continue after that rule was omitted without a saving clause, and whether Section 6 of the General Clauses Act, 1897 saved the pending action.

The Hon'ble Court held that since the entire proceeding rested only on an alleged contravention of Rule 96(10), and that rule stood omitted without a saving clause, no action based exclusively on it could continue after the omission. Section 6 of the General Clauses Act applies to the repeal of a Central Act or Regulation and not to the omission of a rule. The Hon'ble High Court followed the decision in the matter of Hikal Ltd. v. Union of India[48] and Addwrap Packaging (P.) Ltd. v. Union of India[49], wherein it was held that upon omission of rule 96(10) of

[46] *[TS-03-HC(GUJ)-2025-GST]*
[47] *[TS-5031-SC-2000-O]*

CGST Rules without any savings clause, all pending proceedings (not constituting transactions "past and closed") shall lapse and upon removal of rule 96(10), it should be regarded as a provision that never existed.

Techno Waxchem (P.) Ltd. v. Union of India, Hon'ble Calcutta High Court, [TS-387-HC(CAL)-2026-GST]

5. ***Where both State and Central GST authorities initiate adjudication on the same subject and period, only the authority that commenced first can proceed***

The Assessee challenged DRC-01A and DRC-01 issued by the State GST authority proposing denial of input tax credit under Section 16(2)(C), to which it had filed detailed replies. For the same period and subject, the Central GST authority had also issued a show cause notice initiating parallel proceedings. The Assessee invoked the statutory bar on parallel adjudication and sought coordination between the two authorities.

The issue before the Hon'ble Court was whether the State and Central GST authorities could simultaneously adjudicate the same cause for the same period, or whether only the authority that initiated proceedings first in point of time could proceed.

The Hon'ble Court, following Armour Security (India) Ltd. v. Commissioner, CGST, Delhi East Commissionerate[50], held that once one authority had initiated proceedings first, any subsequent parallel adjudication on the same cause and period stood barred, while bona fide investigative steps such as summons could continue so long as they did not mature into a parallel adjudication. The authorities were directed to coordinate so that the Assessee was not subjected to multiple adjudicatory processes for the same subject and period, with the proceedings to continue only before the competent authority after due opportunity of hearing, and the petition was disposed of with these directions.

Saraswati Spinning and Weaving Mills v. State of Himachal Pradesh, [TS(DB)-GST-HC(HP)-2026-627]

6. ***An Advocate cannot be prosecuted for professional acts done in representing a client, such as filing an appeal or arranging the statutory pre-deposit from the Electronic Credit Ledger***

The Assessee, Samarpan Jain, an Advocate, was engaged by a registered client to file statutory appeals under Section 107 of the CGST Act, 2017 against assessment orders passed under Section 74. He filed two online appeals and debited the 10% pre-deposit from the client's Electronic Credit Ledger using input tax credit. The Appellate Authority declined that mode and dismissed the appeals on maintainability, and the Deputy Commissioner lodged an FIR alleging an illegal debit and evasion. A charge-sheet was filed, and the Magistrate took cognizance under Sections 61(2), 318(4), 336(3), 338 and 340(2) of the Bharatiya Nyaya Sanhita, 2023. The Advocate challenged the FIR, charge-sheet and cognizance order.

The issue before the Hon'ble Court was whether an Advocate could be subjected to criminal prosecution for the professional act of filing an appeal and arranging the pre-deposit from the Electronic Credit Ledger on behalf of a client.

The Hon'ble Court held that prosecuting an Advocate for professional acts violated settled principles of criminal liability and the right to practise protected under Articles 14 and 21, advocates being required to act fearlessly for their clients. Even if the debit of the Electronic Credit Ledger for the pre-deposit was wrong in law, it was a professional decision taken during the appeal and not the client's business, so no conspiracy could be made out. Drawing on the approach in Union of India v. Yasho Industries Ltd.[51], the Hon'ble Court found the FIR, charge-sheet and cognizance order unsustainable as against the Advocate and quashed them, while leaving the substantive question of the correct mode of pre-deposit to be worked out in the appropriate proceedings.

Samarpan Jain v. State of U.P., Hon'ble Allahabad High Court, [TS-390-HC(ALL)-2026-GST]

7. ***Sections 73 and 74 operate in distinct arenas, and the availability of an efficacious appeal that can re-appreciate evidence and admit additional evidence bars a writ***

The Assessee, PEI Industries, challenged an Order-in-Original passed by the Central GST authority under Section 74 of the CGST Act, contending that the proceedings were barred under Section 6(2)(b) because the State GST authority had earlier closed proceedings on the same documents under Section 73. The Assessee urged that the Central authority had ignored the documents that had persuaded the State authority to close its proceedings, had not put it on notice of the additional documents it sought, and had granted a hearing on only two of the four dates noted in the order, thus, the order being discriminatory and in

[48] *[TS-788-HC(BOM)-2025-GST]*
[49] *[TS-525-HC(GUJ)-2025-GST]*
[50] *[TS-711-SC-2025-GST]*
[51] *[TS-415-SC-2025-GST]*

breach of Article 14 of COI. The Department objected to maintainability, pointing to the efficacious appellate remedy that permitted re-appreciation of evidence and the admission of additional evidence.

The issue before the Hon'ble Court was whether the writ petition was maintainable against the Order-in-Original despite the availability of a statutory appeal, given the plea of prior closure under Section 73 and the alleged denial of hearing.

The Hon'ble Court held that Sections 73 and 74 operate in distinct arenas, so that an exoneration in Section 73 proceedings could not by itself foreclose action under Section 74. The Appellate Authority possessed the power to re-appreciate evidence and to permit additional evidence, and the burden of a statutory pre-deposit could not justify bypassing that remedy. Finding no ground to exercise writ jurisdiction in presence of an efficacious alternative remedy, the Hon'ble Court dismissed the petition with liberty to the Assessee to pursue the appeal.

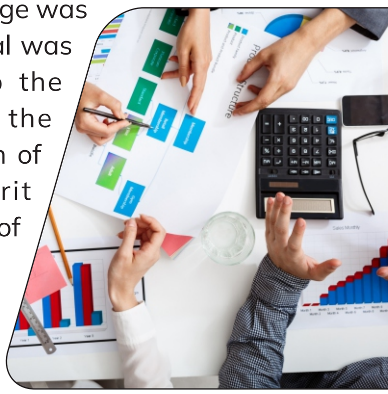
PEI Industries v. Union of India, Hon'ble Delhi High Court, [TS-400-HC(DEL)-2026-GST]

8. ***Where the existence of a prior transitional notice is itself a disputed question of fact, the order is not a nullity on the face of the record, and a writ is not maintainable in preference to the statutory remedy***

The Assessee, Abdul Gafoor M., challenged a GST order, described as Ext.P10, by a writ petition on the ground that no statutory notice under Section 142(1)(a) of the CGST Act, 2017 had been issued before the show cause notice, contending that the omission of this imperative requirement rendered the order null and void and made a writ maintainable. The learned Single Judge declined to admit the writ petition, citing the availability of an efficacious statutory remedy. On appeal, the Assessee pressed the plea of nullity, pointing out that the Ext.P10 order itself made no mention of any notice having been issued prior to the show cause notice, while the State maintained that the prior notice had in fact been issued and that the dispute belonged before the statutory forum, where the position would be established.

The issue before the Hon'ble Court was whether a writ petition was maintainable on a plea of nullity when the very existence of the prior transitional notice was a disputed question of fact.

The Hon'ble Court reiterated that, while an order that is null and void may be assailed by writ despite an alternative remedy, the present controversy turned on whether a prior notice had been issued, which lay in the factual realm beyond the constraints of Article 226. The view of the learned Single Judge was sustained and the writ appeal was dismissed, with liberty to the Assessee to seek before the statutory forum the exclusion of the time spent in the writ proceedings from the period of limitation.



Abdul Gafoor M. v. Deputy Commissioner, Hon'ble Kerala High Court, [TS(DB)-GST-HC(KER)-2026-524]

9. ***Belated writ against a consolidated SCN and order is not maintainable where an efficacious statutory appeal is available***

The Assessee, S.S. Iron & Steel, was issued a consolidated SCN covering the financial years 2019-20 to 2023-24, followed by an Order-in-Original under Section 74(9) of the CGST Act, 2017. Instead of filing a statutory appeal, the Assessee invoked writ jurisdiction, contending that the consolidated notice and order were without jurisdiction and barred by limitation.

The issue before the Hon'ble Court was whether the writ petition was maintainable against the consolidated notice and order, or whether the Assessee ought to be relegated to the statutory appeal.

The Hon'ble Court held that writ jurisdiction is not ordinarily exercised where an efficacious statutory appeal exists, unless a breach of natural justice, a patent lack of jurisdiction or a challenge to vires is shown, none of which was demonstrated. The recognised exception in Whirlpool Corporation v. Registrar of Trade Marks[52] was not attracted. The pleas of limitation and jurisdiction could be urged in appeal, and the question of the permissibility of consolidated notices was in any event pending before a larger Bench at Bombay in Milroc Good Earth Developers v. Union of India[53], so judicial propriety warranted no view on the merits. Finding the belated challenge intended to stall the statutory process, the Hon'ble Court dismissed the petition on the ground of an available alternative remedy.

S.S. Iron & Steel v. Union of India, Hon'ble Calcutta High Court, WPA No. 10419 of 2026, decided on 19 May 2026

[52] (1998) 8 SCC 1
[53] [TS-871-HC(BOM)-2025-GST]

10. Cancellation of registration for an alleged Rule 10A breach violates the statute and natural justice and is liable to be set aside

The Assessee, Huma Power & Tower (P.) Ltd., a company registered under the CGST Act,since 2017, was issued a SCN in Form GST REG-17 alleging a breach of Rule 10A relating to bank-account details, granting seven days, noting that its bank account was frozen, and fixing no hearing. The Assessees registration was cancelled ex parte before the expiry of thirty days from the notice. The Assessee's case was that, as the notice was uploaded only on the common portal under Section 146 without individual communication, it escaped attention, and that its request for time to regularise the bank account, maintained at a branch in Lucknow, was verbally declined. The Proper Officer cancelled the registration ex parte by order dated 09 June 2025, before the expiry of thirty days from the notice.

The issue before the Hon'ble Court was whether the cancellation of registration for an alleged Rule 10A contravention, effected in Form GST REG-17 with seven days' notice and before thirty days had elapsed, was sustainable.

The Hon'ble Court held that Section 29(2) read with Rule 10A and Rule 21A(2A)(b) required suspension of registration, issuance of Form GST REG-31, and thirty days to explain, and that the generic route under Rule 22(1) could not be invoked for a Rule 10A contravention. The use of Form GST REG-17 with seven days' notice, without suspension or details of any hearing, and the passing of the cancellation order before the thirty-day period expired, violated both the statute and the principles of natural justice. The SCN and the cancellation order were quashed and the registration restored, the Hon'ble Court clarifying that the Assessee's liability to tax and any dues would remain unaffected by the restoration.

Huma Power & Tower (P.) Ltd. v. State of Assam, Hon'ble Gauhati High Court, [TS-407-HC(GAUH)-2026-GST]

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11. Production of a person arrested for GST offences before a remand Magistrate in another State without a transit remand, and an arrest memo, vitiate the arrest and render the detention illegal

The Assessee, Mohd. Akib, was arrested for alleged GST offences at Dehradun and produced before the remand Magistrate at Meerut without any transit remand order from the competent Magistrate at the place of arrest. A habeas corpus petition was filed. The Department placed on record the arrest memo, the reasons to believe, the grounds of arrest and the Jama Talashi, but the arrest memo did not disclose the place of arrest at Dehradun and did not annex the written grounds of arrest, even though its endorsement recorded that the grounds and reasons had been furnished in writing, contrary to the departmental Instruction No. 1/2025 dated 13 January 2025 which required the grounds of arrest to be explained and furnished in writing as an annexure to the arrest memo.

The issue before the Hon'ble Court was whether the arrest and remand stood vitiated where the detenue was produced before a Magistrate of a different State without a transit remand, and where the arrest memo failed to meet the mandatory safeguards.

The Hon'ble Court held that production before a remand Magistrate of a different State, without first obtaining a transit remand from the Magistrate at the place of arrest, was impermissible, and as no such order was obtained or shown, the arrest and consequent remand stood vitiated under Section 69 read with Section 132 of the CGST Act. The non-disclosure of the place of arrest in the arrest memo and the failure to furnish the written grounds of arrest as an annexure, despite the departmental Instruction dated 13 January 2025 requiring it and despite the endorsement to the contrary, breached the mandatory arrest safeguards. The remand order and detention were held illegal, and release was directed.

Mohd. Akib v. Union of India, Hon'ble Allahabad High Court, Writ Petition No. 683 of 2026, decided on 8 June 2026

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12. An order passed and uploaded after the expiry of the extended limitation suffering from a jurisdictional defect is unsustainable

The Assessee was issued a SCN for the period April 2019 to March 2020 quantifying discrepancies between GSTR-09, GSTR-3B and connected records and calling for objections in DRC-06. No objections were filed and no personal hearing was availed despite reminders, and an ex parte best-judgment order under Section 73 of the Telangana GST Act, was passed. While the last date for passing such orders for 2019-20, as stood extended was till 31 August 2024 under Section 168A, whereas the portal reflected the order date as 02 September 2024 with a reference number

ZD360924002306K. The Department explained that the Proper Officer, holding additional charge of two circles, had to process a large number of time-bound orders using a single digital signature up to the last hour of 31 August 2024, that this order was ready but could not be uploaded as the day changed and the following day was a Sunday, and that it was uploaded on the next working day, adding that, on the Assessee's later explanation, the differential input tax credit related to import IGST on capital goods and installation, with no revenue loss on the major issue. The appeal was dismissed because of an order in Form GST APL-02 dated 23 February 2026.

The issue before the Hon'ble Court was whether an order for 2019-20 passed and uploaded after the extended limitation ending 31 August 2024 was sustainable.

The Hon'ble Court held that the order dated 02 September 2024 had been passed and uploaded after the expiry of the extended limitation, and that the question of limitation goes to the root of the jurisdiction to pass an order imposing tax. The Department's explanation of the workload across two circles, and its acknowledgment that on the major issue there was no revenue loss, did not cure the jurisdictional defect, and the Special Government Pleader was unable to justify how an order passed beyond limitation could be sustained in law. The Appellate Authority had compounded the error by failing to notice the jurisdictional infirmity and dismissing the appeal on the ground of delay. The Order-in-Original and the order-in-appeal were accordingly set aside, and the writ petition was allowed.

Divya Textile Industries v. Assistant Commissioner, Hon'ble Telangana High Court, Writ Petition No. 12213 of 2026, decided on 8 June 2026

13. A bail condition requiring a security bond equal to the tax and penalty claimed, when neither has been determined, is onerous and vague

The Assessee was prosecuted for the alleged fraudulent availment of input tax credit punishable under Sections 132(1)(b), (c) and (i) read with Section 135 of the CGST Act and was arrested. He was granted bail by an order dated 15 December 2025, but subject to a condition that he furnish a security bond equal to the amount being claimed by the complainant as tax and penalty. He contended before the Hon'ble Supreme Court that the condition was onerous and vague, since the tax and penalty had not yet been determined in any adjudication, and a short affidavit of his mother disclosing the entire assets of the family was tendered and accepted on record.

The issue before the Hon'ble Supreme Court was whether a bail condition requiring a security bond equal to the undetermined tax and penalty could be sustained, or whether it ought to be modified.

The Hon'ble Supreme Court held that a condition directing a security bond equal to the tax and penalty was onerous and vague, since the amount of tax and penalty had not been determined,

and that such a condition could not be given effect, a bail condition being required to be capable of compliance rather than illusory. Conditions may legitimately accompany a grant of bail, but they must be capable of performance and must not be so onerous as to render the liberty granted illusory, and a bond pegged to a liability still to be quantified in adjudication failed that test. The security of the assets disclosed in the affidavit filed by the Assessee's mother was held to be an adequate substitute for the bond, and the Hon'ble Court directed that, subject to furnishing such security, the Assessee be released on bail without insisting on the impugned condition of the bail order. The Special Leave Petitions were disposed of accordingly, leaving the determination of the tax and penalty to be made in the appropriate proceedings.

Baldeep Singh Sapra v. State (Directorate General of GST Intelligence), Chandigarh, Hon'ble Supreme Court, [TS-360-SC-2026-GST]

14. A challenge to a GST demand on annuity under a BOT (Annuity) road project, turning on classification, exemption and composite supply, raises mixed questions of fact and law and is not fit for a writ where an efficacious appeal exists

The Assessee, Jorabat Shillong Expressway Ltd., a concessionaire incorporated to execute the four-laning of about 61.98 km of the Jorabat–Shillong section of National Highway No. 40 on a Build-Operate-Transfer (Annuity) basis under a Concession Agreement dated 16 July 2010, was entitled to annuity from the National Highways Authority of India after the commercial operation date. A SCN was issued by the Additional Director, DGGI, which alleged non-payment of GST on the annuity by classifying the activity as works contract service under SAC 9954 rather than the exempt road-access service under SAC 9967, and the same was confirmed vide Order-in-Original dated 18 April 2024, a reduced demand of about Rs. 112.39 crore with interest and penalty on annuity of about Rs. 864.12 crore received for July 2017 to December 2022. The Assessee sought to quash the notice and order, alleging want of jurisdiction, breach of natural justice, the denial of the exemption under Entry 23A of Notification No. 12/2017-Central Tax (Rate) dated 28 June 2017, and the invalidity of Circular No. 150/06/2021-GST dated 17 June 2021 as overriding the exemption.

The issue before the Hon'ble Court was whether the writ petition was maintainable, given that the core disputes concerned classification, exemption and composite supply, and whether the officers who issued and adjudicated the notice had jurisdiction to do so.

The Hon'ble Court held that the central controversy, namely the classification of the activity under SAC 9954 or SAC 9967, the availability of the exemption under Entry 23A, the characterization of the annuity and the question of composite supply, involved mixed questions of fact and law not fit for determination in writ at the threshold, with no patent lack of jurisdiction or breach of natural justice shown and constitutional phraseology not altering the essential nature of an assessment dispute. The reliance on DPJ Bidar - Chincholi (Annuity) Road Project (P.) Ltd. v. Union of India[54], wherein Circular No. 150/06/2021 was declared invalid and annuity to be exempt from payment of GST, was found to be a matter for the appellate forum. The Additional Director, DGGI, invested with the powers of a Commissioner by Notification No. 14/2017, was a Proper Officer within Section 2(91) competent to issue the notice under Section 74, and the Additional Commissioner, CGST, Shillong, empowered by Notification No. 2/2017 as amended by Notification No. 02/2022, was a Proper Officer for adjudication, the power being traceable to Sections 3 and 5 of the CGST Act, hence, the jurisdictional challenge failed. The writ was dismissed on the ground of the efficacious alternative remedy of appeal under Section 107.

Jorabat Shillong Expressway Ltd. v. Union of India, Hon'ble Meghalaya High Court, [TS-406-HC(MEGH)-2026-GST]

[54] *[TS-364-HC(KAR)-2022-GST]*

GST - Notifications, Circulars & Instructions

1. *Instruction F. No. GSTAT/PR.BENCH/PORTAL/125/25-26 dated 14 May 2026*

The President, GST Appellate Tribunal, in exercise of the authority under Rule 123 of the Goods and Services Tax Appellate Tribunal (Procedure) Rules, 2025, has directed that the guidelines of Order No. 16/2026 dated 20 January 2026 and the Instructions dated 10 March 2026 shall continue to be followed until 31 December 2026, to ease the filing of appeals on the GSTAT Portal during the initial phase.

Scrutiny officers are directed not to raise a defect where the Form APL-05 contains soft copies of the show cause notice, Order-in-Original, Order-in-Appeal, statement of facts, grounds of appeal and proof of pre-deposit and court fees, or where a higher court has exempted court fee or pre-deposit, and not to flag a defect where a scanned certified copy of the Order-in-Original or Order-in-Appeal carries a satisfactory endorsement. The appellant must also upload the authorisation in favour of the tax professional or the Vakalatnama in favour of the Advocate. For an application by the Revenue under Section 112(3), the show cause notice, Order-in-Original, Order-in-Appeal, the Commissioner's opinion directing the application, the statement of facts and the grounds of appeal are required, and no court fee or pre-deposit is payable on a departmental appeal.

2. *Notification No. 24/2026-Central Excise dated 30 May 2026*

In exercise of the powers under Section 5A of the Central Excise Act, 1944 read with Section 147 of the Finance Act, 2002, the Central Government has further amended Notification No. 06/2026-Central Excise dated 26 March 2026, which concerns the special additional excise duty on specified goods. In the Table to that notification, the entry against serial number 1 in column (4) is substituted by “Rs 1.5 per litre”, and the entry against serial number 2 by “Rs 13.5 per litre”. The amendment came into force with effect from 01 June 2026.

3. *Notification No. 03/2026-HSNS Cess dated 20 May 2026*

In exercise of the powers under Section 35 of the Health Security se National Security Cess Act, 2025, the Central Government has notified the Health Security se National Security Cess (Second Amendment) Rules, 2026, amending rule 35 of the principal rules. Sub-rule (3) is omitted; in sub-rule (5) the words referring to the Budget Division, Department of Economic Affairs are omitted; and in sub-rule (6) the reference to the Principal Chief Controller of Accounts, CBIC, as approved by the Comptroller and Auditor General of India, is substituted by the Chief Controller of Accounts (Finance). The amendment is to a cess and is administrative in character, concerning the accounting arrangements for the cess.

Customs - Notifications, Circulars & Instructions

1. *Circular No. 27/2026-Customs [No. 450/214/2015 -Cus.IV], dated 15 June 2026*

As a trade facilitative measure, the CBIC has decided that no Merchant Overtime (MOT) charges shall be levied for services rendered by Customs officers in relation to the clearance of international cruise passengers and their accompanied baggage at Customs locations notified for 24x7 operations. The decision follows representations from the Ministry of Ports, Shipping & Waterways, the Cruise Bharat Mission and other stakeholders, and is read with the Customs (Fees for Rendering Services by Customs Officers) Regulations, 1998 [Notification No. 69/98-Cus. (N.T.) dated 04 September 1998, as amended by Notification No. 46/2016-Cus. (N.T.) dated 01 April 2016]. Field formations have been directed to ensure strict compliance and uniformity in implementation.

2. *Notification No. 48/2026-Customs (N.T.), dated 29 May 2026*

In exercise of the powers conferred by sub-section (1) of Section 5 of the Customs Tariff Act, 1975, the Central Government has notified the Customs Tariff (Determination of Origin of Goods under the Comprehensive Economic Partnership Agreement between India and Oman) Rules, 2026, which came into force on 01 June 2026.

The rules prescribe the criteria for conferring originating status on goods for preferential tariff treatment under the India–Oman CEPA signed on 18 December 2025, covering wholly obtained or produced goods, products not wholly obtained subject to qualifying value content and change in tariff classification requirements, cumulation, treatment of indirect materials, minimal operations and fungible materials. They also lay down the framework for the issue, certification and verification of certificates of origin and the related compliance for imports into India and exports to Oman.

3. *Circular No. 26/2026-Customs dated 15 May 2026*

The CBIC has standardised the procedures for grant of Entry Inward and Vessel Sail-out Clearance, clarifying that these shall not be made contingent upon physical boarding of Customs officers on the vessel. Entry Inward is governed by Sections 30 and 31 and Sail-out Clearance by Sections 41 and 42 of the Customs Act, 1962, while physical boarding of vessels is an independent statutory process under Section 37 read with the Imported Stores (Retention on Board) Regulations, 1963. With the rollout of the Sea Arrival Manifest (SAM) and Sea Departure Manifest (SDM) messages under the SCMTR, shipping lines and shipping agents may file crew, store and related declarations electronically, allowing officers to grant clearance remotely. Entry Inward and Sail-out Clearance are to be granted promptly upon filing of the requisite documents, and physical boarding is to be undertaken on the basis of risk profiling of vessels.

4. *Circular No. 28/2026-Customs [F. No. 401/24/ 2026-Cus.II]*

The CBIC has clarified that, in respect of export consignments, exporters may continue to voluntarily obtain test reports from laboratories accredited by the National Accreditation Board for Testing and Calibration Laboratories (NABL), laboratories recognised by Export Promotion Councils, or other recognised agencies, to meet the technical, sanitary and phytosanitary or product-standard requirements of the importing country. Where such a report is submitted and there is no risk-based intervention or intelligence, the proper officer shall take the report into consideration without mandatorily forwarding the samples to CRCL. The clarification is read with Circular No. 43/2017-Customs dated 16 November 2017, Circular No. 11/2018-Customs dated 17 May 2018 and Circular No. 46/2020-Customs dated 15 October 2020. In cases involving risk-based intervention or intelligence the existing procedure for drawal and testing of samples continues, and the procedure for import consignments remains unchanged.

Customs – Case Laws

1. ***Seized cash must be returned on expiry of six months under Section 110(2) where the extension is a mechanical and mandatory***

The Assessee, Shalabh Agarwal, had cash of Rs. 25.2 lakhs which was seized on 20 August 2025 during searches conducted by the DRI at the premises of M/s Sanklap Golds Pvt. Ltd. and M/s KB Gold & Bullions, Bareilly, in the course of a connected gold-seizure investigation. Six months expired on 19 February 2026 without any SCN being issued in respect of the cash. The DRI relied on a single-page note-sheet described as an order under Section 110(2) of the Customs Act, extending the period by a further six months, but this was never communicated to the Assessee before the original period expired. While the writ petition seeking release of the cash was pending, the DRI handed over the cash to the Income Tax authorities on 20 May 2026 against a requisition dated 19 May 2026 issued under Section 248(1) of the Income Tax Act, 2025.

The issue before the Hon'ble Court was whether retention of the seized cash beyond six months could be sustained where the purported extension under the first proviso to Section 110(2) was a mechanical approval without recorded reasons and was not communicated to the Assessee before expiry of the original period.

The Hon'ble Court held that the note-sheet did not reflect any application of mind, the higher authority's bare signature without any remark or recorded reasons being a rubber-stamp act rather than a lawful approval. It was further observed that since the extension was never communicated before expiry, both mandatory conditions of the proviso failed, and the Assessee had acquired a right to return of the cash. The transfer of the cash to the Income Tax authorities during pendency, after jurisdiction to retain it had ceased, was treated as conduct intended to overreach the proceedings. Costs originally proposed at Rs. 10 lakh were reduced to Rs. 1 lakh in view of an unconditional apology and assurance of future compliance.

Shalabh Agarwal v. Additional Director General, Hon'ble Allahabad High Court, [TS-172-HC-2026(ALL)-CUST]

2. ***Absolute confiscation of foreign-marked high-purity gold restored where seizure rested on reasonable belief***

The Assessee, Anil Kumar Gaur, was found in possession of foreign-marked high-purity gold, which Customs (Preventive), Kolkata seized on a reasonable belief that it had been smuggled. The Assessee's statements recorded under Section 108 of the Customs Act, were retracted only belatedly. The adjudicating authority ordered absolute confiscation with consequential penalties. The Tribunal had set aside that order, but the Revenue filed appeal before the Hon'ble Calcutta High Court in Commissioner of Customs (Preventive), Kolkata v. Anil Kumar Soni[55]. It was held that the Tribunal's order to be perverse and restored absolute confiscation, finding that the seizure was supported by reasonable belief, and that the belated retraction did not nullify the Section 108 statements. The High Court also observed that the documentary trail relied on by the Assessee failed to establish lawful provenance of the bullion. Aggrieved by the order, the Assessee carried the matter to the Hon'ble Supreme Court.

The issue before the Hon'ble Supreme Court was whether it should interfere with the High Court's order restoring absolute confiscation, having regard to the statutory presumption under Section 123 casting the burden of proving licit importation on the possessor of notified goods, and the evidentiary value of the retracted Section 108 statements.

The Hon'ble Supreme Court, after hearing counsel for the Assessee and perusing the record, found no good ground to interfere with the order passed by the High Court. The Special Leave Petition was accordingly dismissed, leaving undisturbed the High Court's conclusion that, in matters concerning foreign-origin bullion, an unexplained possession unsupported by credible proof of lawful acquisition justifies absolute confiscation once the burden under Section 123 of the Customs Act, 1962 remains undischarged.

Anil Kumar Gaur v. Commissioner of Customs (Preventive), Kolkata, [TS-162-SC-2026-CUST]

[55] *[2026 (4) TMI 85]*

3. ***Where goods are neither prohibited for want of BIS certification nor misdeclared, the self-assessed Bills of Entry are entitled to be processed for clearance under Section 47***

The Assessee, Al Udai Exim LLP, imported goods that were assessed by the Department on the footing that they were prohibited for want of BIS certification and had been misdeclared, and the declared transaction value was enhanced on reassessment. Aggrieved, the Assessee filed an appeal before the CESTAT, wherein it was held that the goods were neither prohibited for want of BIS certification nor misdeclared. It was held that the enhanced valuation was unsustainable in law, and that the Bills of Entry as self-assessed were entitled to be processed for clearance under Section 47 of the Customs Act, 1962. The Department challenged the order of the CESTAT before the Hon'ble Supreme Court.

The issue before the Hon'ble Supreme Court was whether the Tribunal's order, holding that the imported goods were not liable to be treated as prohibited or misdeclared and that the reassessment of value could not be sustained, called for interference.

The Hon'ble Supreme Court condoned the delay and, on consideration of the submissions and the material on record, found no error in the view taken by CESTAT. The Revenue's appeals were dismissed, leaving in place the Tribunal's finding that, absent a valid basis for treating the goods as prohibited or misdeclared, the importer's self-assessment under the transaction value regime had to be given effect and the consignments processed for clearance under Section 47 of the Customs Act, 1962.

Commissioner of Customs v. Al Udai Exim LLP, [TS-212-SC-2026-CUST]

4. ***n-Hexane is a separate chemically defined compound classifiable under Chapter 29 (CTH 290110 / CETH 290190)***

The Assessee, Reliance Industries Ltd., imported "Exxsol Hexane RD / Hydrosol n-Hexane" and self-classified it under Customs Tariff Heading 290110 and Central Excise Tariff Heading 290190 as a saturated acyclic hydrocarbon existing as a compound in pure commercial form. On the strength of the SGS Redwood test report dated 10 May 2000, which recorded a distillation range of about 63°C to 70°C and a flash point below 25°C, the Department issued a show cause notice dated 21 March 2001 proposing classification under CTH 271000 and CETH 271012, treating the product as motor spirit and an admixture of various hydrocarbons. The adjudicating authority confirmed classification under Chapter 27, however, Commissioner (Appeals) reversed that finding and placed the product under Chapter 29, and CESTAT, Ahmedabad dismissed the Revenue's appeal. The Revenue appealed to the Hon'ble Supreme Court.

The issue before the Hon'ble Supreme Court was whether n-Hexane was to be classified as a petroleum oil/motor spirit under CTH 271000 and CETH 271012, as contended by the Revenue, or as a pure hydrocarbon existing as a separate chemical compound under CTH 290110 and CETH 290190, as claimed by the Assessee.

The Hon'ble Supreme Court held that the burden to establish classification under Chapter 27 lay on the Revenue and was not discharged merely by pointing to the distillation range and a flash point below 25°C. The relevant Supplementary Note defining motor spirit requires all of its conditions to be met, including that the product, by itself or in admixture with any other substance, is suitable for use as fuel in spark ignition engines, and no evidence of such suitability was led. Applying Rule 3(a) of the General Rules of Interpretation, the more specific HSN description prevailed, Hexane being specifically named under Chapter 29 as an acyclic saturated hydrocarbon. The Hon'ble Court found that n-Hexane satisfies the test of a separate chemically defined compound, having a constant ratio of elements (C_6H_{14}) and a definitive structural diagram distinguishing it from its branched isomers, and that impurities arising from fractional distillation did not convert it into an excluded mixture, since nothing was deliberately added or retained to make it suitable for a specific use. The Hon'ble Court treated the DGFT Policy Circular No. 40(RE-2003)/2002-2007 dated 14 July 2004 clarifying that imports of Hexane fall under Chapter 29 as binding and relied on the decision of CCE v. Wood Craft Products Ltd.[56], with respect to the HSN as a safe guide to classification. The appeal was dismissed and the order of CESTAT affirmed.

Commissioner of Customs, Kandla v. Reliance Industries Ltd., [TS-156-SC-2026-CUST]

[56] *(1995) 3 SCC 454*

5. ***Container Freight Station custodian appointed under Section 45(1) is liable for cost recovery charges towards customs officers deployed at the facility; the liability rests on substantial compliance and the custodian's own conduct, and cannot be reagitated in view of res judicata and estoppel***

The Assessee was the notified operator and the custodian, appointed under Section 45(1) of the Customs Act, 1962, for the Container Freight Station at Haldia/Kolkata port. The Assessee paid cost recovery charges towards the customs personnel deployed at the facility for the initial period but stopped remitting them with effect from 1 January 2015. The Department raised demands by notices dated 4 April 2016, 2 July 2020 and 10 November 2020, and by letter dated 12 August 2020 and restricted the movement of incoming cargo to the CFS with effect from 13 August 2020 on account of an outstanding sum of Rs. 5,04,51,775. The Assessee contended that no liability arose in the absence of sanction of posts and actual physical deployment of personnel, and that the earlier payments had been made in ignorance of law.

The issue before the Hon'ble Court was whether the Assessee, as CFS custodian, was liable to pay cost recovery charges for customs personnel where formally sanctioned posts were said to be absent, and whether the consequential restriction on the movement of cargo was sustainable.

The Hon'ble Court approached the dispute as one of substance over form, holding that the material consideration was not the internal nomenclature or administrative classification of posts within the customs establishment, but whether customs infrastructure, supervision and manpower were in fact made available for the operation of the CFS. The record showed that customs functions were discharged at the facility throughout, which could not have handled import and export cargo for years without customs supervision, examination, sealing and clearance, and the liability under Regulation 6(1)(o) of the Handling of Cargo in Customs Areas Regulations, 2009 to bear the cost of officers posted on cost recovery basis was not made to depend on a prior formal sanction of posts by the Department of Expenditure.

In the Hon'ble Court's view the governing principle was substantial compliance rather than strict compliance, as explained in Sumita Jha v. Aaone Developers Pvt. Ltd.[57], and the consistent administrative understanding reflected in the Public Notice, the Regulations and the Circulars, an application of contemporanea expositio, pointed the same way, as did the Assessee's own conduct in remitting charges for years and seeking waiver. The subsuming of the diverted unsanctioned posts into the departmental cadre by the Board's proceedings of 18 June 2015 and the office order of 23 February 2016 was an internal regularisation that did not extinguish the obligation, exemption being neither automatic nor available without the fulfilment of performance norms and a specific order, which the Assessee did not have. The foundational challenge to the existence of the liability was in any event barred by res judicata, estoppel and acquiescence, the Assessee having earlier failed before the Division Bench of the Hon'ble Delhi High Court by judgment dated 24.09.2020, which upheld the regulatory framework on the authority of Allied ICD Services Ltd. v. Union of India[58] and left open only the question of quantification, a matter turning on disputed facts unfit for writ jurisdiction. Allied ICD Services Ltd. was read as supporting the Revenue, cost recovery charges being a fee for services actually rendered, while R.K. Sabharwal v. State of Punjab[59], relied on by the Assessee, was distinguished as a decision on reservation and sanctioned posts in public employment with no application to cost recovery under the Customs Act. Having furnished security, remitted charges over a substantial period and sought waiver, the Assessee was estopped by its own conduct from asserting the contrary, and the restriction on the movement of cargo was upheld as a proportionate consequential measure flowing from persistent default. The writ petition was dismissed.

Apeejay Infra-Logistics Pvt. Ltd. v. Union of India, Hon'ble Calcutta High Court, [TS-148-HC-2026(CAL) -CUST]

[57] [2025 SCC OnLine SC 1822]
[58] [2018 SCC OnLine Del 10816]
[59] (1995) 2 SCC 745

IV. REGULATORY UPDATES

A. Reserve Bank of India (RBI) — Foreign Exchange Management (FEMA)

1. *Foreign Exchange Management (Cross Border Merger) (Amendment) Regulations, 2026*

Circular / Notification	FEMA 389(1)/2026-RB
Date	29th May, 2026
Effective From	29th May, 2026

This circular amends the Foreign Exchange Management (Cross Border Merger) Regulations, 2018 by replacing references to the "National Company Law Tribunal (NCLT)" with the broader term "Competent Authority". The amendment inserts a definition for "Competent Authority," meaning any authority empowered under the Companies Act, 2013 ('Act') or its subordinate legislation to approve a merger or amalgamation, while omitting the previous definition of NCLT. This change aligns the FEMA framework with the evolving corporate restructuring regime under the Act and resolves ambiguity regarding approvals via the fast-track merger route under Section 233 of the Act.

2. *Investments by Foreign Portfolio Investors in Government Securities – Amendments to the regulatory framework*

Circular / Notification	RBI/2026-27/97 A.P. (DIR Series) Circular No. 11
Date	05th June, 2026
Effective From	05th June, 2026

Reserve Bank of India vide this circular liberalizes the regulatory framework for Foreign Portfolio Investor (FPI) investments in government securities to enhance ease of investment. It withdraws the short-term investment, security-wise, and concentration limits previously applicable under the General Route, and merges the 'general' and 'long-term' investment sub-categories into single limits for Central and State Government Securities for financial year 2026-27. The circular further expands the Fully Accessible Route (FAR) by designating all new issuances of 15-year, 30-year, and 40-year government securities, along with new sovereign green bonds across various tenors and three specified existing securities, as 'specified securities'. These amendments are incorporated into the Master Direction enclosed in the circular.

3. *Reserve Bank of India (Trade Receivables Discounting System) Directions, 2026*

Circular / Notification	RBI/DPSS/2026-27/406 CO.DPSS.POLC.No.S257/02-01-010/2026-27
Date	23rd June, 2026
Effective From	23rd June, 2026

This circular introduces the comprehensive "Reserve Bank of India (Trade Receivables Discounting System) Directions, 2026". It includes Master Direction which consolidates and replaces all earlier guidelines on Trade Receivables Discounting System (TReDS) to rationalize and harmonize the regulatory framework for platforms that facilitate the financing of MSMEs' trade receivables. The new directions streamline capital requirements for TReDS operators by aligning them with those for other non-bank payment system operators, simplify the onboarding process for MSME sellers, and permit financiers to avail credit guarantee cover for their exposures on these platforms.

4. *Reserve Bank of India (Non-Banking Financial Companies – Registration, Exemptions and Framework for Scale Based Regulation) Second Amendment Directions, 2026*

Circular / Notification	RBI/2026-27/163 DOR.FIN.REC.No.137/03.10.001/2026-27
Date	24th June, 2026
Effective From	24th June, 2026

NBFCs in the Upper Layer ('NBFC-UL') comprises of those NBFCs that are specifically identified to have enhanced governance and compliance, stricter risk management along with regulatory requirement based on the criteria provided as per the Reserve Bank of India Directions. This circular includes simplifying the identification criteria for NBFC-UL by setting a fixed asset size threshold of ₹1,00,000 crore and above, deleting the existing complex parametric methodology. It also states that the criteria for identification of NBFC-UL shall be reviewed periodically and the asset size threshold for identification of NBFC-UL shall be reviewed every three years. The circular further includes Guidelines for NBFC Group entities of Scheduled Commercial Banks.

5. Reserve Bank of India (Non-Banking Financial Companies – Governance) Amendment Directions, 2026

Circular / Notification	RBI/2026-27/165 DOR.FIN.REC.No.139/03.10.001/2026-27
Date	24th June, 2026
Effective From	24th June, 2026

This circular states that the Reserve Bank of India (Non-Banking Financial Companies - Governance) Directions shall include a provision stating that the directions for NBFCs in the Upper Layer ('NBFC-UL') shall not be applicable to NBFC-UL which are fully owned and controlled by Government.

B. Insolvency and Bankruptcy Code (IBC)

IBBI introduces key changes to cirp regulations: greater transparency, accountability and stakeholder participation

The Insolvency and Bankruptcy Board of India (IBBI) has notified the **Insolvency Resolution Process for Corporate Persons (Fourth Amendment) Regulations, 2026,** which came into effect on 8 June 2026. The amendments focus on improving transparency in the insolvency process, strengthening oversight of costs, and ensuring broader stakeholder participation in the Committee of Creditors (CoC).

1. Increased representation of Operational Creditors

Under the amended regulations, the representative of operational creditors in the CoC will be selected from the 18 largest unrelated operational creditors. Further, if the number of such unrelated operational creditors is less than 18, all of them will be included.

This change seeks to ensure that operational creditors participating in the process are independent and have a meaningful stake in the outcome of the CIRP.

2. Observer status for large Operational and Statutory Creditors

A significant new provision has been introduced through Regulation 16E. Where creditors other than scheduled banks or public financial institutions collectively hold more than 66% of the voting share in the CoC, the Resolution Professional (RP) must invite the five largest unrelated operational creditors to attend CoC meetings as observers.

Importantly, these five creditors must include the three largest statutory authorities (such as tax authorities and government departments) based on the value of their admitted claims. While these observers will not have voting rights, their observations must be recorded in the minutes of the CoC meetings.

This amendment aims to provide greater visibility into the decision-making process and ensure that key stakeholders remain informed about developments in the CIRP.

3. Stricter monitoring and approval of CIRP Costs

The amendment significantly strengthens the framework governing insolvency resolution process costs.

The RP is now required to place before the first CoC meeting:

- Details of all CIRP costs incurred up to that stage along with justification for such expenditure; and
- A Going Concern Assessment Report containing projected income, expenses, cash flows, working capital requirements and risks associated with continuing or suspending operations.

Based on this report, the CoC must decide whether the corporate debtor's operations should continue during CIRP and determine the scope and duration of such operations.

Further, after the first CoC meeting, all CIRP costs can be incurred only with the prior approval of the CoC. The RP must also periodically provide cost estimates, seek approval for proposed expenses and report actual costs against previously approved budgets.

These measures are expected to bring greater financial discipline and accountability to insolvency proceedings.

4. Enhanced disclosure of CoC decision-making

The amendment also requires the CoC to formally record the rationale behind its decisions while evaluating resolution plans. The CoC must specifically document its deliberations regarding:

- The feasibility and viability of each resolution plan;
- The expected recovery for creditors compared with the fair value and liquidation value of the corporate debtor; and
- The adequacy of market discovery efforts undertaken during the CIRP, including challenge mechanisms or re-invitation of resolution plans, wherever applicable.

This requirement is likely to improve transparency, reduce disputes and create a stronger evidentiary record supporting commercial decisions taken by the CoC.

BSC PERSPECTIVE

The Fourth Amendment Regulations reflect IBBI's continued effort to enhance transparency, accountability and stakeholder confidence in the insolvency ecosystem. By strengthening cost oversight, improving documentation of CoC decisions and providing greater participation opportunities for operational and statutory creditors, the amendments seek to make the CIRP process more robust, transparent and value-maximising for all stakeholders.

IBC (AMENDMENT) ACT, 2026 - A NEW PHASE IN INDIA'S INSOLVENCY FRAMEWORK

The Insolvency and Bankruptcy Code (Amendment) Act, 2026 received Presidential assent on 6 April 2026, and most of its provisions came into force on 26 May 2026. The amendments are aimed at reducing delays, improving value maximisation, strengthening creditor oversight, and bringing greater certainty to insolvency and liquidation processes.

KEY CHANGES AT A GLANCE

1. CoC gets a bigger role in Liquidation

One of the most significant changes is that the Committee of Creditors (CoC) will now continue to supervise the liquidation process, instead of its role ending once liquidation begins. The CoC can also replace a liquidator with a 66% vote if it believes a change is necessary. This is intended to improve accountability and oversight during liquidation.

2. CIRP can be revived before Liquidation

Earlier, failure of CIRP generally resulted in liquidation. The amendment now allows the Adjudicating Authority to restore the CIRP, upon approval by 66% of the CoC, before passing a liquidation order. This provides one final opportunity to rescue a corporate debtor and maximise value.

3. Clear timelines for NCLT orders

The amendments prescribe timelines for admission of insolvency applications, approval of resolution plans, liquidation orders and withdrawal applications. Where these timelines are not met, the Adjudicating Authority must record reasons for the delay. This aims to address one of the biggest concerns under the Code- procedural delays.

4. Greater certainty for Successful Resolution Applicants

The amendment clarifies that once a resolution plan is approved, pre-resolution claims against the corporate debtor stand extinguished and cannot be pursued further. It also protects licences, permits, registrations and concessions necessary for the business, ensuring smoother implementation of approved plans.

5. Stronger focus on Avoidance and Fraudulent Transactions

The Code now expressly recognises avoidance transactions and fraudulent or wrongful trading. Creditors, members and partners can approach the NCLT if the RP or liquidator fails to pursue such transactions. Proceedings relating to these transactions can also continue even after completion of CIRP or liquidation.

BSC PERSPECTIVE

The 2026 amendments mark a shift from a purely process-driven insolvency regime to a more outcome-oriented framework. By strengthening creditor oversight, preserving value through revival opportunities, and providing greater certainty to resolution applicants, the amendments seek to make the insolvency ecosystem more efficient, predictable and investor-friendly.

C. Registrar of Companies (ROC)

1. Amendment in CSR Rules

Circular / Notification	G.S.R. 416(E)
Date	27th May, 2026
Effective From	Date of publication in the Official Gazette (i.e., 27th May 2026)

Insertion of item no xiii in the Schedule VII of the Companies Act, 2013:

(xiii) Subscription to zero coupon zero principal instruments on Social Stock Exchange.

2. *Amendment in CSR Rules*

Circular / Notification	G.S.R. 415(E)
Date	27th May, 2026
Effective From	Date of publication in the Official Gazette (i.e., 27th May 2026)

Insertion of Rule 4A Corporate Social Responsibility implementation through zero coupon zero principal instrument:

(1) A company may carry out Corporate Social Responsibility activities through a zero coupon zero principal instrument:

Provided that the expenditure incurred for such instrument shall not exceed ten percent of the total Corporate Social Responsibility expenditure of such company for that financial year.

(2) The company that has subscribed to a zero coupon zero principal instrument shall be exempted from undertaking impact assessment of any project funded by such an instrument.

(3) The Not for Profit Organisation issuing the zero coupon zero principal instrument and raising fund therefrom shall

(a) undertake a project with a duration not more than three succeeding financial years from the issue of such zero coupon zero principal instrument; and

(b) on termination of listing of such zero coupon zero principal instrument, transfer the unspent amount to any fund included in Schedule VII which outlines the specific activities and projects that eligible companies can undertake to fulfill their statutory Corporate Social Responsibility (CSR) obligations under Section 135 to the Act and submit its compliance report to the Securities Exchange Board of India;

(4) The general framework governing Corporate Social Responsibility (CSR) activities—including planning, execution, and oversight—shall also apply when CSR is undertaken through a zero-coupon, zero-principal instrument. However, exclusions relating to activities that benefit only employees of the company and their families, as well as provisions concerning CSR capacity-building expenditure (including the cap on administrative overheads), will not apply in such cases.

D. Securities and Exchange Board of India (SEBI)

1. *Master Circular for Alternative Investment Funds (AIFs)*

Circular / Notification	Circular No. HO/19/34/11(6)2025-AFD-POD1/I/12928/2026
Issue Date	03 June, 2026
Last Update on	16 June 2026

SEBI has issued an updated Master Circular for Alternative Investment Funds (AIFs), consolidating and streamlining all relevant circulars issued under the SEBI (AIF) Regulations, 2012 up to May 31, 2026, thereby superseding the earlier Master Circular dated May 7, 2024. The revised circular also incorporates recent guidelines issued on June 16, 2026 regarding the winding up of AIFs, including provisions on retention of proceeds and "Inoperative Fund" status. While previous circulars listed in the annexure are rescinded to the extent they relate to AIFs, actions already taken, rights accrued, ongoing applications, and enforcement proceedings under those circulars remain valid and unaffected. Additionally, AIF trustees, sponsors, and managers are required to ensure comprehensive compliance with all provisions of the updated Master Circular, including reflecting such compliance in the Compliance Test Report, reinforcing SEBI's objective of protecting investors and strengthening market regulation.

V. COMPLIANCE CALENDAR FOR THE MONTH JULY 2026

A. Income tax

Sr No.	Due Dates	Concerned (reporting) Period	Compliance Detail	Applicable to
01	7th July	June 2026	TDS Payment	Non-Government Deductors
02	15th July	June 2026	Provident Fund (PF) and Employee State Insurance Corporation (ESIC) Returns and Payment	All deductors
03	15th July	April 26 – June 26	Upload the declarations received from recipients in Form No. 15G/15H	Tax on the total income including PPF balance withdrawn is Zero
04	15th July	April 26 – June 26	Quarterly statement in respect of foreign remittances (to be furnished by authorized dealers) in Form No. 15CC	Authorized dealer
05	30th July	June 2026	TDS Payment in Form 26QB (Property) Form 26QC (Rent), Form 26QD (Contractor Payment)	Non-Government deductors
06	31st July	April to June 2026	TDS Returns in Form 24Q	Non-Government deductors
07	31st July	Financial Year 25-26	Return of income for the assessment year 2026-27 for all assessee other than(a) corporate-assessee or (b) non-corporate assessee (whose books of account are required to be audited) or (c) partner of a firm whose accounts are required to be audited or the spouse of such partner if the provisions of section 5Aapplies or (d) an assessee who is required to furnish a report under section 92E or (e) any assessee having income from Business and Profession	For all Taxpayers

B. Goods and Service Tax

Sr. No.	Due Dates	Concerned (reporting) Period	Compliance Detail	Applicable to
01	10th July 2026	June 2026	GSTR – 7 (TDS)	Person required to deduct TDS under GST
02	10th July 2026	June 2026	GSTR – 8 (TCS)	Person required to collect TCS under GST
03	11th July 2026	June 2026	GSTR 1	a) Taxable persons having annual turnover > INR 5 crores in FY 2024-25 b) Taxable persons having annual turnover ≤ INR 5 crores in FY 2024-25 and not opted for Quarterly Return Monthly Payment (QRMP) Scheme
04	13th July 2026	April - June 2026	GSTR 1 IFF	Persons with turnover less than INR 5 Crores during the preceding year and who have opted for QRMP scheme.
05	13th July 2026	June 2026	GSTR - 5 (NRTP)	Non-resident taxable person (NRTP)
06	13th July 2026	June 2026	GSTR – 6 (ISD)	Person registered as ISD
07	20th July 2026	June 2026	GSTR – 3B	a) Taxable persons having annual turnover > INR 5 crores in FY 2024-25 b) Taxable persons having annual turnover ≤ INR 5 crores in FY 2024-25 and not opted for QRMP scheme
08	20th July 2026	June 2026	GSTR - 5A (OIDAR)	OIDAR services provider
09	22nd/ 24th July 2026	April- June 2026	GSTR – 3B	Quarterly return for persons who have opted for QRMP scheme

C. MCA Compliance

Sr. No.	Due Dates	Concerned (reporting) Period	Compliance Detail	Applicable to
01	31st July	Financial Year 25-26	Filing of return of deposits / exempted deposits in form DPT-3	All Companies

D. FEMA Compliance

Sr. No.	Due Dates	Particulars	Applicable to
01	7th July	ECB 2 Return (External Commercial Borrowing)	All Indian Borrowers who have non-resident lenders
02	15th July	Form FLA Return – based on unaudited financials	Any company who has either made ODI or received FDI

GLOSSARY

ABBREVIATION	FULL FORM
Act	Income-Tax Act, 1961
AE	Associated Enterprise
AIFs	Alternative Investment Funds
ALP	Arm's Length Price
AMP	Advertising, Marketing, and Promotion
AO	Assessing Officer
APL	Appeal
AY	Assessment Year
BIS	Bureau of Indian Standards
BOT	Build-Operate-Transfer
CBDT	Central Board Of Direct Taxes
CBIC	Central Board of Indirect Taxes and Customs
CCE	Commissioner of Central Excise
CEPA	Comprehensive Economic Partnership Agreement
CESTAT	Customs, Excise and Service Tax Appellate Tribunal
CETH	Central Excise Tariff Heading
CFS	Container Freight Station
CGST	Central Goods And Service Tax
CIRP	Corporate Insolvency Resolution Process
CIT	Commissioner Of Income-Tax
CIT(Appeals) / CIT(A)	Commissioner Of Income-Tax (Appeals)
COA	Cost of Acquisition
COC	Committee of Creditors
COI	Constitution of India.
CSR	Corporate Social Responsibility
CTH	Customs Tariff Heading
CUP	Comparable Uncontrolled Price
CX	Central Excise
DCIT	Deputy Commissioner Of Income Tax
DGFT	Directorate General of Foreign Trade
DGGI	Directorate General of GST Intelligence
DRI	Directorate of Revenue Intelligence
DRP	Dispute Resolution Panel
DTAA	Double Taxation Avoidance Agreement
EBLR	External Benchmark Based Lending Rate
ECB	External Commercial Borrowing
ESIC	Employee State Insurance Corporation

GLOSSARY

ABBREVIATION	FULL FORM
FAR	Functions, Assets, and Risks Analysis
FAR	Fully Accessible Route
FDI	Foreign Direct Investment
FEMA	Foreign Exchange Management
FIR	First Information Report
FLA	Foreign Liabilities and Assets Return
FPI	Foreign Portfolio Investor
FTC	Foreign Tax Credit
GST	Goods & Services Tax
GSTAT	Goods and Services Tax Appellate Tribunal
GSTR	Goods and Services Tax Return
HC	High Court
HO	Head Office
Hon'ble	Honourable
HSNS	Health Security and National Security
HSN	Harmonized System of Nomenclature
IBBI	Insolvency and Bankruptcy Board of India
IBC	Insolvency and Bankruptcy Code
ICEGATE	Indian Customs Electronic Data Interchange Gateway
IFF	Invoice Furnishing Facility
IFOS	Income from Other Sources
IGST	Integrated Goods and Services Tax
INR	Indian Rupee
ISD	Input Service Distributor
ITAT	Income Tax Appellate Tribunal
ITO	Income Tax Official
LLP	Limited Liability Partnership
LTCG	Long Term Capital Gains
MAM	Most Appropriate Method
MCA	Ministry of Corporate Affairs
MIDC	Maharashtra Industrial Development Corporation
MOT	Merchant Overtime
MSME	Micro, Small and Medium Enterprises
MW	Mega Watt
NABL	National Accreditation Board for Testing and Calibration Laboratories
NBFC	Non-Banking Financial Company
NBFC-UL	Non-Banking Financial Company – Upper Layer

GLOSSARY

ABBREVIATION	FULL FORM
NCDs	Non-Convertible Debentures
NCLT	National Company Law Tribunal
NRTP	Non-resident taxable person
ODI	Overseas Direct Investment
OIDAR	Online Information Database Access and Retrieval
OP/OI	Operating Profit / Operating Income
PAA	Permanent Alternate Accommodation
PCIT	Principal Commissioner of Income Tax.
PE	Permanent Establishment
PEI	Project Electrical Industries
PF	Provident Fund
PLI	Profit Level Indicator
PLR	Prime Lending Rate
QRMP	Quarterly Return Monthly Payment
RBI	Reserve Bank of India
RDSO	Research Designs and Standards Organisation
REC	Rural Electrification Corporation Bonds
REG	Registration
ROI	Return Of Income
ROP/RP	Resolution Profession
SAC	Service Accounting Code
SAM	Sea Arrival Manifest
SC	Supreme Court
SCMTR	Sea Cargo Manifest and Transshipment Regulations
SCN	Show Cause Notice
SDM	Sea Departure Manifest
SEBI	Securities and Exchange Board of India
SGS	Société Générale de Surveillance
SLP	Special Leave Petition
TDS	Tax Deducted At Source
TNMM	Transactional Net Margin Method
TP	Transfer Pricing
TPO	Transfer Pricing Officer
TReDS	Trade Receivables Discounting System

BHUTA SHAH & CO LLP
CHARTERED ACCOUNTANTS

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