UBR LEGAL ADVOCATES

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LEX LOQUITUR

A NEWSLETTER SUMMARIZING LATEST COURT RULINGS

CONTENT

Preface

Dear Reader,

Courts "rule". They actually do. Significance, application and implication of such rulings needs to be understood and appreciated.

Lex Loquitur is an endeavor to bring to you the latest rulings from the Courts and various other judicial fora. We intend to cull out the ratio of some important rulings and summarize them for your ready reference, with our observations/ comments, if any.

We trust you will find it an interesting read.

We would, however, look forward to your feedback/comments. Do write to us at:
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Warm Regards
Team Lex Loquitur
UBR LEGAL, ADVOCATES

Matters Argued by us

1. Whether GST registration cancelled for non-filing of returns can be restored when the taxpayer subsequently pays all outstanding dues and applies for revocation?

Kishore Nichani v. Union of India & Ors.– Writ Petition No. 4211 of 2025 [Bombay High Court]

Decision: Yes.

The petitioner is an individual. He was registered with the GST authorities. He is renting out his premises. He could not file GST returns for period of six months. Hence; his registration was cancelled. He made payments of all dues. Basis the same; the attachment of the property was lifted. However; registration was not restored. Application for restoration was not considered. Hence; writ petition came to be filed.

The Bombay High Court allowed the writ petition and directed restoration of registration. It held: (i) cancellation of registration has civil consequences and affects right to carry on trade; (ii) section 29 of the Act provides that opportunity of hearing must be granted before such cancellation; (iii) section 30 read with Rule 23 have inbuilt mechanism for revocation when all dues have been paid; (iv) follows its earlier decisions in Azaria Corp and Stanley Dsilva; (v) relies upon Madras High Court judgment to hold that registration is a measure for tax collection and cancellation would not ensure to the benefit of the Revenue; (vi) accordingly directs restoration of licence.

2. Whether GST on royalty/seigniorage paid to the State Government for mining can be adjudicated when the issue is pending before the Supreme Court?

Dharmaraj v. Union of India & Ors.- W.P. No. 2921 of 2026- [Madras High Court]

Decision: No.

The petitioner is undertaking mining activity. The mines are owned by the State of Tamil Nadu. The petitioner was paying sieniorage/royalty fees to the State. The GST authorities issued show cause notice proposing to demand GST; on reverse charge basis; claiming it to be a supply of service. The said notice came to be challenged in writ.

The Hon'ble Madras High Court disposed off the petition. It held: (i) the issue about levy of GST on royalty paid State Government is pending before the Supreme Court; (ii) the said decision would apply to all Assessee; (iii) hence; directs petitioner to file reply to show cause notice in four weeks; (iv) however; stays the operation of the order; if any; passed against the petitioner and the same shall be kept in abeyance till the Supreme Court decides the issue.

3. Whether an assessment order passed under Section 73 of the GST Act needs to be passed on the date of hearing?

Adama India Pvt. Ltd. v. State of U.P. & Anr.- Writ Tax No. 1629 of 2025- [Allahabad High Court, Lucknow Bench]

Decision: Yes.

The petitioner is a registered dealer. It was assessed to tax for FY 2021-2022 under section 73 of the GST Act. A demand of over Rs.5 crores along with interest and penalty was confirmed on account of mismatch between GSTR 3B and 2A returns. The petitioner could not file the appeal in time; hence; petition came to be filed.

The Hon'ble Allahabad High Court set aside the order and allowed the petition. It held: (i) the order was not passed on the date of hearing; but subsequently; hence; was passed in violation of principles of natural justice; (ii) the authority must pass order on the same date or give notice of hearing to the party for any subsequent date on which order is proposed to be passed; (iii) follows its earlier decision in Shubham Steel; (iv) remands matter back to adjudicating authority to pass fresh orders.

4. Whether GST registration can be cancelled retrospectively when the show cause notice and the cancellation order are based on different grounds?

Om Enterprises v. Union of India & Ors.- Writ Petition No. 12760 of 2025- [Bombay High Court, Kolhapur]

Decision: No.

The petitioner is a trader. He was issued with show cause notice proposing cancellation of registration on the ground that registration was obtained by means of fraud etc. however, order came to be passed; cancelling registration; retrospectively; on the ground that information was received from State GST authority about it being a non-genuine party. Hence, writ petition came to be filed.

The Hon'ble Bombay High Court at Kolhapur set aside the order and allowed the writ petition. It held: (i) the ground in tb show cause notice and order are at variance; (ii) the show cause notice is a cyclostyled notice; (iii) the reply has not been considered that the petitioner had closed business; (iv) rejects revenues contention on ground of alternate remedy of revocation under section 30 of the Act; (v) the officer had acted in very casual manner leading the petitioner to unnecessary litigation and hence, costs be imposed; (vi) at the request of the counsel for the Revenue does not impose costs; (vii) directs restoration of GST registration.

5. Whether an order confirming deficit stamp duty and penalty is valid when it does not consider the fact that the petitioner is a merged entity?

Metalloys Recycling Ltd. v. State of Gujarat & Anr.- SCA No. 12708 of 2023- [Gujarat High Court]

Decision: No.

The petitioner took over a company, pursuant to merger order passed by the High Court. As part of it, it became entitled to a parcel of land. The Deputy collector (stamps), Valsad assessed stamp duty along with penalties. Petitioner contended that the sale deed was entered into between the original seller and buyer; hence; it was not liable to differential stamp duty. However; demand was confirmed. Hence; petition came to be filed.

The Gujarat High Court set aside the order and allowed the petition. It held: (i) the order had not considered the detailed submission made by the petitioner; (ii) it was non speaking and passed in violation of principles of natural justice; (iii) accordingly; the matter was remanded for denovo consideration.

6. Whether a show cause notice and demand order under Section 74 of the CGST Act covering multiple financial years in a consolidated manner is valid?

ICAD School of Learning Pvt. Ltd. v. Union of India & Ors.- Writ Petition No. 736 of 2026-[Bombay High Court, Nagpur]

Decision: No.

The petitioner is a providing education to students. It also provides hostel and mess facility. It was issued a show cause notice proposing to demand GST alleging it's a composite supply. Demand if over Rs. 6 crores along with interest and penalty was confirmed. The show cause notice and order was issued for five financial years (from 2017-2018 to 2021-2022). Hence; petition came to be filed.

The Hon'ble Bombay High Court at Nagpur set aside the order and allowed the petition. It held: (i) notice and order for a consolidated period of five years is bad as held in Milroc and Rite Water case; (ii) distinguishes judgment of Delhi High Court in Mathur Polymers; (iii) mere dismissal of SLP does not amount to merger; (iv) relies on Godavari Saraf to hold that unless contrary ruling of a coordinate Bench is shown; ruling of the Division Bench is binding; (v) grants liberty to revenue to issue notice in accordance with law.

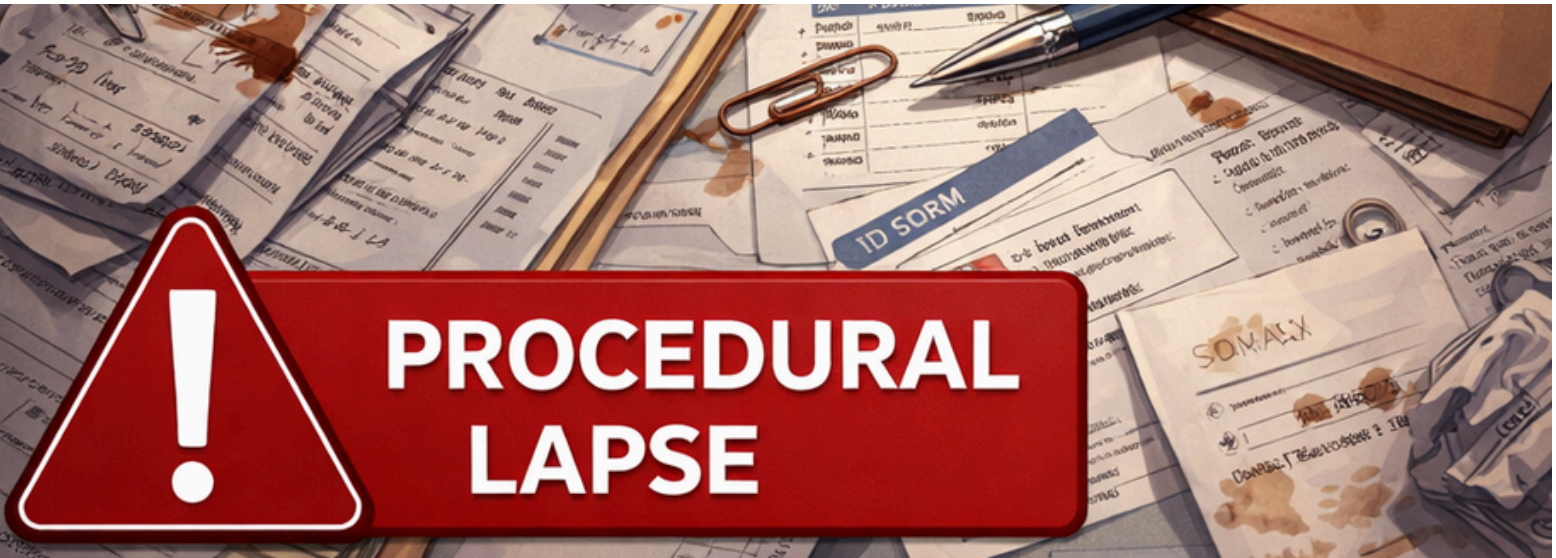
7. Whether benefit of central excise exemption can be denied merely for procedural lapses when the substantive conditions of the notification are fulfilled?

Commissioner of Central Excise & ST v. KEC International Ltd.-Central Excise Appeal No. 9 of 2025- [Bombay High Court]

Decision: No.

The appellant is manufacturer of wires and cables. A show cause notice was issued demanding Rs.4.4 crores on the ground that the appellant had availed benefit of exemption from central excise duty for supplies to government projects and projects of international competitive bidding but had not given/ furnished any undertaking/ certificate/ intimation to the competent authority. Demand was confirmed along with interest and penalty. On appeal, CESTAT allowed the appeal holding that there was substantial compliance and benefit cannot be denied for procedural infractions. Hence; appeal by the department.

The Hon'ble Bombay High Court dismissed the appeal filed by the department holding that there was no substantial question of law. It held: (i) the tribunal has noted at Para 8 that certificate has been issued directly by the Ministry to the department and invoices were also issued as per the notification; (ii) the genuiness of the invoices and quantum was verified by the jurisdictional officer; (iii) in the facts of the present case; there was substantial compliance and procedural irregularities cannot come in the way of granting benefit of exemption.



8. Whether GST demand on export freight classified as "intermediary services" can be enforced when multiple audits were conducted for the same period without concluding proceedings under Section 65(7) of the GST Act?

Expeditors International (India) Pvt. Ltd. v. Union of India & Ors.- W.P. No. 3258 of 2026- [Madras High Court]

Decision: Stay Granted.

The petitioner is a multimodal transport operator. It provides services to foreign principals. The Revenue classified the services as "intermediary" services on export freight and demanded GST of over Rs.400 crores; along with interest and penalties. The said order came to be challenged in writ petition.

The Hon'ble Madras High Court issued notice and granted stay of the entire demand. It; prima facie; held that audit was conducted for the same period. Thereafter; second and third audit was being undertaken without conclusion under section 65(7) of the GST. However; show cause notice came to be issued for the same period. Though revenue contended that the audits were for different issues; directs the department to file affidavit in reply.

9. Whether CENVAT credit can be denied to the recipient when assessment is not questioned at suppliers end?

Lombardini India Pvt. Ltd. v. Commissioner of Central Excise & Service Tax, Aurangabad- Excise Appeal No. 86157 of 2016-[CESTAT, Mumbai]

Decision: No.

The appellant is a manufacturer. It entered into agreement with Kohler India for provision of certain services. Kohler raised invoices along with service tax thereon. The appellant availed credit of service tax paid on such invoices. Credit was sought to be denied on the ground that: (i) the invoices were mere reimbursement and recoupment of expenses; and (ii) supplier had not provided any services. Demand of over Rs.56 lakhs along with interest and penalty was confirmed. Hence; appeal.

Hon'ble CESTAT, Mumbai set aside the order and allowed the appeal. It held: (i) service tax was collected and accepted; then credit cannot be varied at the recipients end; (ii) Rule 3 of the Cenvat Credit allowed availment and utilization of credit paid on such input services; (iii) credit was availed on the basis of proper invoices; (iv) follows decision of Tribunal in the case of IFB; icici Lombard and Supreme Court judgment in MDS Switchgear.

10. Whether an assessment under Section 143(3) of the Income Tax Act is valid when the notice under Section 143(2) is issued by a non-jurisdictional Assessing Officer?

Vinod Ramnath Rao v. CIT(A), National Faceless Appeal Centre- ITA No. 1987/MUM/2025- [ITAT, Mumbai]

Decision: No.

The appellant is a consulting naturopath. For AY 2012-2013; it file a return. Scrutiny was undertaken under section 143(2) of the Income Tax Act. Assessment order came to be passed under section 143(3) making addition of over Rs. 4 crores. Appeal was rejected by appellate authority. Hence; appeal.

Hon'ble ITAT, Mumbai set aside the order and allowed the appeal. It held: (i) condoning the delay of 511 days; held that there was sufficient cause for delay; follows decision of the Supreme Court in Mst. Katiji and Moolchand; (ii) application seeking additional ground of law can be raised first time before the appellant tribunal; relies decision of National Thermal Power Corporation; distinguishes decision of ITAT in Fakrudabad Investments; (iii) the Assessee was under Navi Mumbai jurisdiction; however; notice under section 142(2) was issued by assessing officer at Mumbai; hence; a notice issued by a non-jurisdictional assessing office is void and without authority of law, and such a foundational defect cannot be cured by subsequent participation; (iv) rejects reliance placed by Revenue on section 124(3) of the Act; (v) follows its decision in Gulf Homes and quashes all proceedings.

11. Whether margin earned in land transactions, where the assessee enters into MoU with landowners and sells land to buyers as a confirming party, is taxable as "real estate agent" service?

Wilson Godinho v. Commissioner of Central Excise & Service Tax, Goa- Service Tax Appeal No. 85971 of 2015-[CESTAT, Mumbai]

Decision: No.

The appellant deals in land. It enters into MOU with owners of land. The land is sold to the purchasers. The appellant acts as a confirming party. The difference between the purchase price and sale price is the margin of the appellant. Service tax demand of over Rs2.15 crores was confirmed; along with interest and penalties,confirming on this margin under "real estate agent" service. Hence; appeal.

Hon'ble CESTAT, Mumbai set aside the order and allowed the appeal. It held: (i) the MOU has right to sell the land to the appellant or person nominated by the appellant; (ii) land is shown as "stock in trade" in the books of the appellant; (iii) mere non registration of the deed would not affect the right of title to land as held by Supreme Court in K. Gopi V/s Sub registrar; (iv) refers to Supreme Court judgment in Elegant Developers wherein it was held that no service; much less real estate agent service is provided in land deals; (v) holds that the Commissioner has not examined the agreements and balance sheets; accordingly; remands the matter back.

12. Whether "Sharbat Rooh Afza" is classifiable as a fruit drink/processed fruit product taxable at concessional rate or as an unclassified item taxable under the residuary entry?

Hamdard (Wakf) Laboratories v. Commissioner, Commercial Tax, U.P. – Civil Appeal Nos. 2557-2578 of 2026 & connected matters – [Supreme Court of India]

Decision: Fruit drink.

The appellant is engaged in manufacture of non-alcoholic beverage concentrate "Sharbat Rooh Afza", prepared from sugar syrup blended with fruit juices, herbal extracts and flavours and intended to be diluted for consumption. Prior to VAT, the product was taxed as a syrup under the U.P. Trade Tax Act, 1948; however, after the UPVAT Act, 2008 came into force, the appellant classified it as a fruit drink/processed fruit product taxable at 4% under Entry 103 of Schedule II Part A for the period 01.01.2008 to 31.03.2012. The assessing authorities rejected this claim, relying inter alia on food regulatory norms indicating that the product contained only about 10% fruit juice and treated it as a non-fruit syrup, thereby classifying it as an unclassified commodity taxable at 12.5% under the residuary entry in Schedule V. The first appellate authority and the Commercial Tax Tribunal affirmed the assessments, and the Allahabad High Court dismissed the revisions filed by the appellant and upheld the residuary classification. Hence, the present appeal.

The Supreme Court allowed the appeals and held the product to be a fruit-based beverage preparation taxable at the concessional rate. It also held that: (i) in absence of a statutory definition, classification must be determined by the common parlance test how the product is understood in trade and by consumers; (ii) regulatory classifications under food laws (e.g., description as "non-fruit syrup") are not determinative for fiscal classification unless the taxing statute adopts such definitions; (iii) the essential character test applies to composite products classification depends on the component imparting distinctive identity, not merely quantitative predominance; (iv) the flavour, aroma and beverage character of the product were derived from fruit juice and allied constituents, not from the sugar base; (v) Entry 103 was inclusive in nature and did not prescribe any minimum fruit content threshold, hence could cover fruit-based beverage concentrates intended for dilution; (vi) recourse to the residuary entry is permissible only when a product cannot reasonably fall within any specific entry the burden to establish this lies on the Revenue; (vii) the Revenue failed to produce market evidence showing that the product was not understood as a fruit-based beverage preparation; (viii) where two interpretations are reasonably possible, the one favourable to the assessee must prevail; (ix) consistent concessional treatment of the same product in several other States reinforced the assessee's classification as commercially plausible.

13. Whether a taxpayer is entitled to refund of GST collected from customers when the tax burden has been passed on?

BUnion of India & Anr. v. Torrent Power Ltd. – Civil Appeal No. ___ of 2026 (arising out of SLP (C) No. 13084 of 2025) – [Supreme Court of India]

Decision: No.

Respondent is a generator and distributor of electricity in Gujarat. It collected IGST from its consumers pursuant to Notification No. 10/2017-Integrated Tax (Rate) dated 28.06.2017. Subsequently, the said notification was declared unconstitutional by the Gujarat High Court in Mohit Minerals Pvt. Ltd. v. Union of India, which was later affirmed by the Supreme Court. Therefore, respondent sought refund but since the tax burden had already been passed on to consumers, the statutory provisions under Section 54 of the CGST Act required such refund to be credited to the Consumer Welfare Fund unless the incidence had not been passed on. The Gujarat High Court, however, accepted the company's proposal to deposit the refund amount in a separate bank account to be used for reducing future electricity tariffs so that consumers could be compensated. Hence, the present appeal.

The Supreme Court held that: i) under Section 54(5) of the CGST Act, refundable amounts are ordinarily required to be credited to the Consumer Welfare Fund; (ii) payment to the applicant is permissible only if the conditions under Section 54(8) are satisfied, particularly that the incidence of tax has not been passed on; (iii) since the respondent-company had passed on the tax burden to consumers, the statutory exception did not apply; (iv) the procedure devised by the High Court for refund through tariff adjustment was not contemplated by the statute and introduced an impermissible mechanism; (v) practical difficulties in identifying and compensating actual consumers further underscored the statutory scheme of crediting such amounts to the Consumer Welfare Fund; (vi) accordingly, the High Court's judgment was set aside and the respondent was directed to transfer the refund amount to the Consumer Welfare Fund within three months.

14. Whether Input Tax Credit on charges paid to GIDC for transfer of leasehold rights of industrial sub-plots is blocked under Section 17(5)(d) and whether proceedings under Section 74 can be invoked in absence of fraud or suppression?

Niket Bipinbhai Patel v. Assistant Commissioner (A.E.), CGST & Central Excise, Vadodara-II – Special Civil Application No. 18068 of 2025 – [Gujarat High Court]

Decision: No.

The petitioner, an NRI, had acquired leasehold rights in a GIDC industrial plot and undertook sub-plotting activities, subsequently transferred leasehold rights of sub-plots to purchasers. For such transfers, the petitioner paid various statutory charges to GIDC on which GST was levied, and accordingly availed Input Tax Credit (ITC). The department alleged that such ITC was blocked under Section 17(5)(d) of the CGST Act and issued a show cause notice under Section 74(1), besides blocking ITC of Rs. 98.11 lakh.

The Gujarat High Court quashed the notice and directed unblocking of ITC. It held:
(i) Section 17(5)(d) applies only to goods or services used for construction of immovable property on one's own account; mere transfer of leasehold rights does not amount to construction; (ii) the department failed to establish that the petitioner had undertaken any construction activity; hence the provision had no application; (iii) issuance of notice under Section 74 requires fraud, wilful misstatement, or suppression of facts, none of which was demonstrated; (iv) the petitioner had reversed inadvertently utilised ITC and discharged output tax liability in cash, negating any allegation of revenue loss; (v) the action of the department reflected misinterpretation and misapplication of statutory provisions and was without jurisdiction.

15. Whether penalty under Section 122(1A) of the CGST Act can be imposed on company officials/employees for alleged wrongful availment or passing on of Input Tax Credit by the company?

Amit Manilal Haria & Ors. v. Joint Commissioner, CGST & Central Excise & Ors. – Writ Petition No. 5001 of 2025 – [Bombay High Court]

Decision: No.

The petitioners were the Chief Financial Officer, Chief Executive Officer and Joint Managing Director of M/s. Shemaroo Entertainment Limited. Pursuant to investigation alleging fake invoicing and wrongful availment/passing on of Input Tax Credit by the company, show cause notices were issued not only to the company but also to the petitioners personally proposing penalties under Section 122(1A) of the CGST Act. An Order-in-Original imposed penalties of Rs. 133.60 crore each on the petitioners. Hence, the petition.

The Bombay High Court allowed the writ petition and quashed the penalties. It held: (i) Section 122(1) applies to a "taxable person", and Section 122(1A) must be read in conjunction with it; hence, liability under Section 122(1A) arises only in relation to transactions attributable to a taxable person; (ii) company officials/employees who are not taxable persons in respect of the business cannot be penalised merely because of their designation; (iii) Section 122(1A) requires proof that the person retained the benefit of the transaction and that the transaction was conducted at his instance – both conditions were absent; (iv) there is no concept of vicarious liability under Sections 122 or 137 of the CGST Act in such circumstances; (v) reliance on the earlier decision in Shantanu Sanjay Hundekari v. Union of India, affirmed by the Supreme Court, was appropriate; (vi) retrospective application of Section 122(1A) (introduced w.e.f. 01.01.2021) for periods prior thereto is impermissible and barred by Article 20(1) of the Constitution; (vii) consequently, the show cause notices and the impugned order imposing penalties on the petitioners were held to be without jurisdiction and illegal.

16. Whether GST exemption on health insurance policies introduced by Notification No.16/2025-Central Tax (Rate) dated 17.09.2025 applies to group health insurance policies of retired bank employees?

E.P. Gopakumar & Ors. v. Union of India & Ors. – W.P.(C) No. 38316 of 2025– [Kerala High Court]

Decision: No.

The petitioners are retired employees of various banks who were covered under group medical insurance policies arranged through the Indian Banks' Association and issued by National Insurance Company. The premium for the policy renewal for the year 2025-26 was demanded along with GST at 18%. The petitioners contended that pursuant to Notification No.16/2025-Central Tax (Rate) dated 17.09.2025 issued on the recommendation of the GST Council, health insurance policies were exempted from GST and therefore such exemption should apply to them as well. The insurer and banks, however, insisted on payment of GST on the ground that the exemption applied only to individual policies and not to group insurance schemes. Aggrieved by the levy of GST on the premium paid for renewal of the group insurance policies, the petitioners filed writ petitions before the Kerala High Court seeking declaration that the levy was illegal and for refund of GST collected.

The Kerala High Court dismissed the petitions and held: (i) The exemption under Notification dated 17.09.2025 applies only to individual health insurance policies, including family floater policies, and not to group insurance policies; (ii) The insurance schemes covering the petitioners were group medical insurance policies negotiated by the Indian Banks' Association with the insurer, and therefore fall within the category of group policies; (iii) Members of such schemes derive benefits such as lower premiums, risk pooling and relaxed underwriting conditions, which distinguish them from individual insurance policies; (iv) The definition of "group" in the notification cannot be interpreted to exclude the present policies, particularly when the policies are issued in accordance with IRDAI regulations governing group insurance; (v) Exemption notifications in fiscal statutes must be strictly interpreted, and any ambiguity must operate in favour of the Revenue; (vi) Since the exemption was intended only for individual policies, GST is payable on premiums for group health insurance policies issued to retired bank employees.

17. Whether demand of tax based solely on mismatch between GSTR-1 and GSTR-3B, without examining reconciliation and absence of intent to evade tax, can be sustained under Sections 73/74 of the CGST Act?

Sterling & Wilson Pvt. Ltd. v. Commissioner, CT & GST, Odisha & Ors. – Appeal No. APL/1/PB/2026 – [GSTAT, Principal Bench, Delhi]

Decision: No.

The Petitioner is engaged in engineering, procurement and construction (EPC) services. A notice was issued alleging that for the financial year 2018-19, the Petitioner had disclosed a lower tax liability in Form GSTR-3B as compared to Form GSTR-1. The adjudicating authority passed an order under Section 74 of the CGST Act confirming the demand of tax along with interest and penalty. In appeal, the Commissioner (Appeals), upon examining the relevant records and returns, held that there was no intent to evade tax and accordingly converted the proceedings from Section 74 to Section 73, reduced the penalty to 10% of the tax amount, while sustaining the tax and interest, and determined a total liability of ₹45,61,546 after adjusting payments already made. Aggrieved by the said order, the Petitioner has filed the present appeal before the Tribunal.

The Tribunal held that (i) absence of fraud or intent to evade tax rules out invocation of Section 74; (ii) once proceedings under Section 74 are held unsustainable, determination under Section 73 must be carried out by the Proper Officer and not by the appellate authority; (iii) discrepancies arising from credit/debit notes and timing differences require factual verification and reconciliation; (iv) the Tribunal, being the final fact-finding authority, has jurisdiction to examine questions of fact in second appeal; (v) considering the nascent stage of GST implementation, manual filing practices and possibility of human error, a pragmatic approach is warranted; (vi) principles of natural justice require giving the taxpayer opportunity to amend returns and produce supporting documents.

18. Whether adjudication orders passed under GST in the name of a non-existent entity (after amalgamation) are valid in law?

Larsen and Toubro Ltd. v. Union of India & Ors. – D.B. Civil Writ Petition No. 17163/2024 – [Rajasthan High Court, Jaipur Bench]

Decision: No.

The petitioner had a separate subsidiary, L&T Hydrocarbon Engineering Ltd. (LTHE). Pursuant to a scheme of amalgamation approved by the National Company Law Tribunal, Mumbai on 28.01.2022, LTHE merged with the petitioner company with effect from 07.02.2022 (appointed date 01.04.2021). The amalgamation was duly intimated to the GST authorities. Despite such intimation, the Deputy Commissioner passed adjudication orders in Form GST DRC-07 dated 28.12.2023 and 06.08.2024 in the name of LTHE, which had already ceased to exist. Aggrieved by the orders passed against a non-existent entity, the petitioner filed writ petitions before the Rajasthan High Court challenging the validity of such orders.

The Rajasthan High Court held that: (i) It is a settled principle of law that no order can be passed against a non-existent entity, and such an action amounts to a jurisdictional error; (ii) Once a company is amalgamated and ceases to exist, any proceedings initiated or orders passed in its name are legally unsustainable; (iii) Upon amalgamation, the earlier GST registration of the merged entity must be treated as deemed cancelled from the date of merger; (iv) The Revenue was directed to upload the adjudication orders on the GST portal under the GST registration of the petitioner company and permit the petitioner to avail statutory remedies; (v) Any demands pertaining to the earlier GST registration may be uploaded against the surviving entity, which would be entitled to contest the same in accordance with law; (vi) The Court further clarified that issues of limitation would not arise in view of Section 75(3) of the CGST Act once the orders are re-uploaded in the correct name.

19. Whether the Supreme Court should issue directions to introduce safeguards to prevent inadvertent default by property buyers in complying with TDS obligations under Section 194IA of the Income-tax Act, 1961?

Arun Singh v. Union of India – Diary No. 50293/2025 – [Supreme Court of India]

Decision: No.

Section 194IA of the Income-tax Act mandates that a purchaser of immovable property valued at ₹50 lakh or more must deduct 1% TDS from the sale consideration and deposit it with the Government. The petitioner contended that many property buyers, particularly first-time purchasers, are unaware of this obligation and inadvertently default, leading to interest and penalty proceedings. He submitted that there is presently no mechanism at the time of property registration to alert buyers regarding the TDS requirement or to verify compliance. The petitioner therefore filed a petition seeking directions to introduce safeguards, such as linking compliance with property registration processes. Aggrieved by the absence of such institutional safeguards, the petitioner approached the Supreme Court seeking appropriate directions to the authorities.

The Supreme Court held that (i) Section 194IA clearly places the statutory obligation on the buyer to deduct and deposit TDS when purchasing property valued above ₹50 lakh; (ii) The Court declined to issue directions introducing additional institutional safeguards or verification mechanisms at the stage of property registration; (iii) Judicial intervention to restructure the statutory compliance framework was not warranted in the absence of a challenge to the validity of the provision.

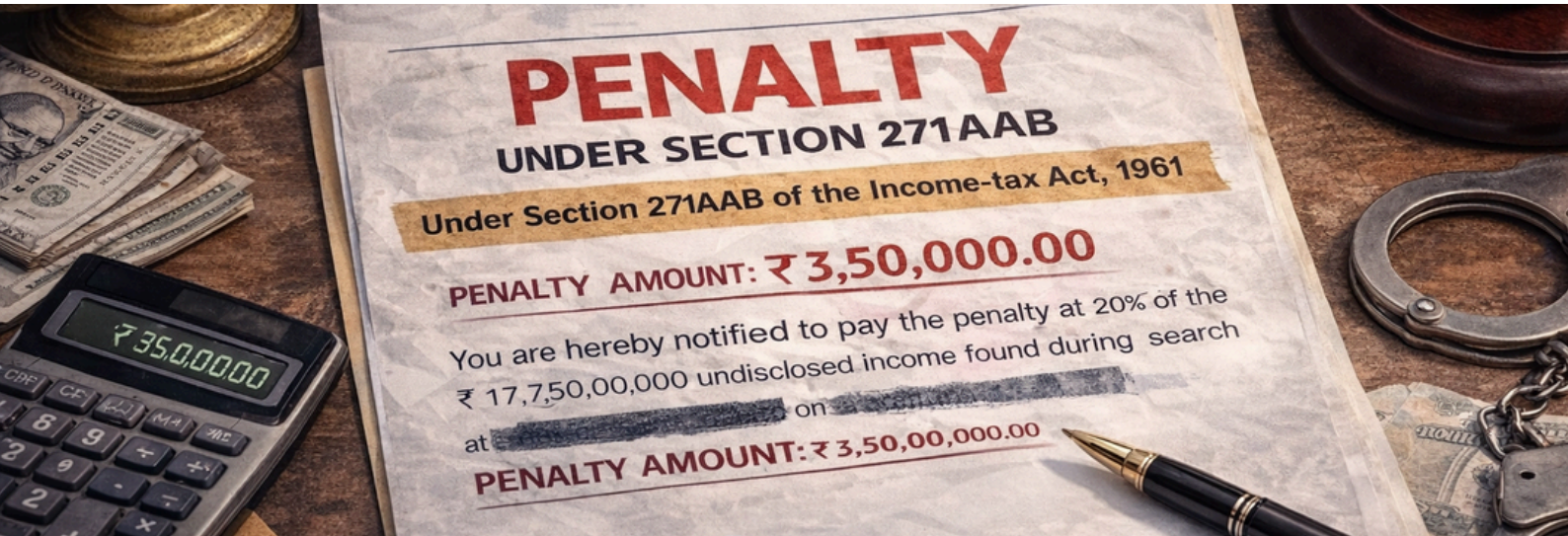
20. Whether penalty under Section 271AAB of the Income-tax Act, 1961 is barred by limitation when the penalty order is passed after completion of appellate proceedings against the assessment order?

Chandrasekaran Joseph Vijay v. Deputy Commissioner of Income Tax & Ors. – W.P. No. 21006 of 2022 – [Madras High Court]

Decision: No.

Search proceedings were conducted against the petitioner on 30.09.2015, during which he admitted receipt of Rs. 15 crore in cash income for FY 2015-16. The petitioner subsequently filed his return of income for AY 2016-17 including the admitted amount. An assessment order was passed making certain additions and recorded that penalty proceedings under Section 271AAB would be initiated. The assessment order was challenged before the Commissioner of Income Tax (Appeals), whose order was further appealed by the Revenue before the Income Tax Appellate Tribunal (ITAT). Meanwhile, penalty proceedings were initiated and an order dated 30.06.2022 imposing penalty under Section 271AAB was passed. The petitioner filed a writ petition before the Madras High Court contending that the penalty order was barred by limitation under Section 275(1) of the Income-tax Act.

The Madras High Court held that: (i) Section 275(1)(c) of the Income-tax Act is a residuary provision and applies only where clauses (a) and (b) are not applicable; (ii) Where penalty proceedings originate from the assessment order and such order is subject to appellate proceedings, the limitation must be computed under Section 275(1)(a); (iii) Penalty under Section 271AAB arises from search proceedings but may still be closely linked with the assessment order, particularly where action for penalty is recorded in the assessment order itself; (iv) When the assessment order is carried in appeal up to the ITAT, the limitation period for imposing penalty extends to six months from the end of the month in which the appellate order is received by the Commissioner; (v) Since the ITAT order was issued on 22.12.2021, the limitation period expired on 30.06.2022, and the penalty order dated 30.06.2022 was therefore within the prescribed limitation period.



21. Whether criminal prosecution for failure to deposit TDS can be quashed at the summons stage on the ground that the Managing Director was not responsible for the default and that TDS was subsequently deposited?

Dr. Manoj Khanna v. Income Tax Office – CRL.M.C. 7461/2025 – [Delhi High Court]

Decision: No.

The Petitioner is a whole time director of Enhance Aesthetic & Cosmetics Studio Pvt. Ltd. During the F.Y. 2017-18, was a MD of the company. During FY 2017-18, Enhance Aesthetic & Cosmetics Studio Pvt. Ltd. deducted TDS amounting to Rs. 2,09,13,002 from payments made to various persons but failed to deposit the deducted amount with the Central Government within the prescribed time. A notice of default and show cause notice in December 2019. By orders dated 22.12.2019 and 13.01.2020, the Deputy Commissioner held the petitioner, the Managing Director, and another director as principal officers responsible for the company's affairs. After granting an opportunity of hearing, sanction for prosecution was granted on 18.05.2022 and a complaint was filed before the Trial Court under Sections 276B, 278B and 278E of the Income-tax Act. The Trial Court took cognizance and issued summons on 21.10.2024, which was challenged by the petitioner before the Delhi High Court seeking quashing of the proceedings.

The Delhi high Court held that: i) At the stage of exercising jurisdiction to quash proceedings, the Court must only examine whether prima facie ingredients of the offence are disclosed, and not conduct a detailed examination of evidence; (ii) Section 276B criminalises failure to deposit TDS deducted to the credit of the Central Government, and the record showed that TDS was deducted but not deposited within the prescribed time; (iii) The petitioner was the Managing Director and a principal officer responsible for the conduct of the company's business, attracting liability under Section 278B;(iv) The defence that another director was responsible raises disputed questions of fact, which can only be determined at trial; (v) Subsequent deposit of TDS does not extinguish criminal liability unless specifically provided under the statute.

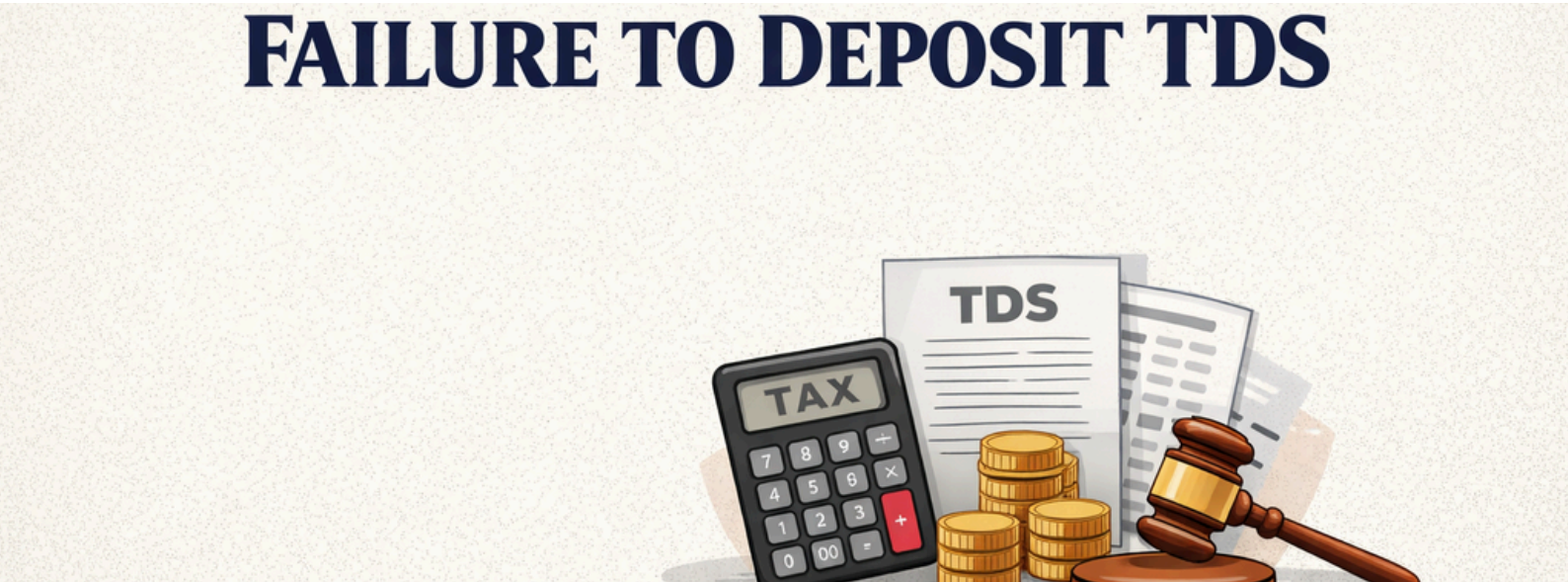
22. Whether the Commissioner of Income Tax can invoke revisionary powers under Section 263 of the Income-tax Act on the ground that the Assessing Officer failed to examine carry forward of losses in a scheme of demerger?

Commissioner of Income Tax v. Eastman Exports Global Clothing Pvt. Ltd. - TCA No. 602 of 2013 - [Madras High Court]

Decision: No.

For AY 2007-08, the assessee filed its return of income which was accepted by the Assessing Officer by order dated 18.12.2009. Subsequently, the Commissioner of Income Tax issued a show cause notice dated 14.02.2012 proposing revision under Section 263 on the ground that the assessee had wrongly carried forward unabsorbed depreciation and business losses of certain entities, treating the arrangement as an amalgamation. The assessee responded that the scheme sanctioned by the Company Court was actually a demerger, and therefore Section 72A(4) - and not Section 72A(2) - would apply. The CIT nevertheless passed a revision order dated 27.03.2012 directing the Assessing Officer to re-examine the issue. The assessee succeeded before the ITAT, and the Revenue filed the present appeal before the Madras High Court.

The Madras High Court held that: (i) Exercise of powers under Section 263 requires satisfaction of two conditions the order must be erroneous and prejudicial to the interests of the Revenue; (ii) The scheme sanctioned by the Company Court was a demerger and not an amalgamation, and therefore the CIT proceeded on an incorrect premise; (iii) the condition of minimum three years' existence under Section 72A(2) applies only to amalgamation and does not apply in cases of demerger governed by Section 72A(4); (iv) The CIT failed to identify any specific error in the assessment order and merely directed a fresh enquiry by the Assessing Officer; (v) A revision under Section 263 cannot be used to initiate a roving enquiry in the absence of a demonstrated error.



23. Whether arbitration proceedings conducted during the moratorium period under Section 14 of the Insolvency and Bankruptcy Code are liable to be declared a nullity?

Ankhim Holdings Pvt. Ltd. & Anr. v. Zaveri Construction Pvt. Ltd. – Civil Appeal No. 779 of 2026 – [Supreme Court of India]

Decision: No.

The appellants and the respondent entered into a development arrangement to construct a residential project in Mumbai, pursuant to which disputes arose and arbitration proceedings were initiated before the Bombay High Court under Section 9 of the Arbitration and Conciliation Act, 1996. An arbitrator was appointed by the High Court and arbitration proceedings commenced. Meanwhile, the NCLT admitted insolvency proceedings against the respondent company on 26.09.2019 and imposed a moratorium under Section 14 of the Insolvency and Bankruptcy Code. During the subsistence of the moratorium, certain applications and orders were passed by the arbitral tribunal between 17.03.2022 and 25.08.2022. The respondent challenged these proceedings before the Bombay High Court, which held that the arbitral proceedings conducted during the moratorium period were a nullity, leading to the present appeal before the Supreme Court.

The Supreme Court held that: (i) Section 15 of the Arbitration and Conciliation Act provides that when the mandate of an arbitrator terminates, a substitute arbitrator must be appointed according to the rules applicable to the original appointment; (ii) Once a substitute arbitrator is appointed, the arbitration proceedings may continue from the stage already reached, unless the parties decide otherwise; (iii) The High Court exceeded its jurisdiction under Section 15(2) of the Arbitration Act by declaring the arbitral proceedings undertaken during the moratorium period as a nullity; (iv) Courts exercising jurisdiction under the Arbitration Act must confine themselves to powers expressly conferred by the statute and cannot assume broader supervisory jurisdiction; (v) The objective of arbitration law is continuity and speedy resolution of disputes, and substitution of an arbitrator should ordinarily permit proceedings to continue from the existing stage.

24. Whether a court exercising jurisdiction under Section 37 of the Arbitration and Conciliation Act can modify the quantum of compensation determined by a court under Section 34?

Saisudhir Energy Ltd. v. NTPC Vidyut Vyapar Nigam Ltd. – Civil Appeal Nos. 12892-12895 of 2024 – [Supreme Court of India]

Decision: No.

Under the Jawaharlal Nehru National Solar Mission, NTPC Vidyut Vyapar Nigam Ltd. (NVVNL) entered into a Power Purchase Agreement dated 24.01.2012 with Saisudhir Energy Ltd. for commissioning a 20 MW solar power project. The project was required to be commissioned by 26.02.2013, but the developer delayed commissioning by two months for 10 MW capacity and by about five months for the remaining capacity. NVVNL invoked the clause relating to liquidated damages for delay, which led to arbitration proceedings. The Arbitral Tribunal awarded ₹1.2 crores as damages, which was modified by the Single Judge of the Delhi High Court under Section 34 by granting 50% of the contractual damages. The Division Bench, in appeal under Section 37, further recalculated and reduced the compensation, leading to cross appeals before the Supreme Court.

The Supreme Court held that (i) A court under Section 34 of the Arbitration Act has a limited power to modify an arbitral award, particularly when applying contractual clauses to admitted facts; (ii) The Single Judge's determination granting 50% of the contractual liquidated damages as reasonable compensation was a plausible exercise of jurisdiction under Section 34; (iii) A court exercising jurisdiction under Section 37 cannot substitute its own view for the plausible view taken by the Section 34 court, unless the determination is arbitrary or perverse; (iv) The Division Bench exceeded its jurisdiction by recalculating and reducing the compensation, which amounted to a merits-based re-evaluation; (v) In public utility projects such as solar power projects under the National Solar Mission, strict proof of actual loss is not mandatory for awarding liquidated damages; (vi) Delay in commissioning such projects itself constitutes loss to public interest, shifting the burden to the breaching party to show absence of loss.

25. Whether spectrum allocated to telecom service providers can be treated as an "asset" of the corporate debtor so as to be subjected to insolvency proceedings under the Insolvency and Bankruptcy Code, 2016?

State Bank of India v. Union of India & Ors. – Civil Appeal No. 1810 of 2021 & connected appeals – [Supreme Court of India]

Decision: No.

The Aircel group entities were granted telecom licences by the Department of Telecommunications (DoT) under the Unified Access Service Licence regime in 2006 for a period of twenty years and were allotted spectrum through auctions conducted between 2010 and 2016. Domestic lenders, including the State Bank of India, extended substantial loan facilities to these entities. Upon default in payment of licence fees and spectrum usage charges, the entities initiated corporate insolvency resolution proceedings under Section 10 of the Insolvency and Bankruptcy Code before the NCLT, Mumbai, which admitted the petitions in March 2018. The Committee of Creditors approved a resolution plan which was sanctioned by the NCLT. Aggrieved by the treatment of its dues and the status of spectrum in insolvency proceedings, the Department of Telecommunications challenged the order before the NCLAT. The findings of the NCLAT were thereafter challenged before the Supreme Court by the financial creditors, the resolution professional and the Union of India, raising questions regarding the nature of spectrum and its treatment under the Insolvency and Bankruptcy Code.

The Supreme Court held that: (i) Spectrum is a scarce natural resource belonging to the people of India and held by the Government in public trust; (ii) A telecom licence grants only a limited and conditional right to use spectrum and does not confer ownership; (iii) Assets forming part of insolvency proceedings must be those over which the corporate debtor has ownership rights; (iv) The telecom regulatory framework cannot be overridden by the Insolvency and Bankruptcy Code; (v) Transfer or trading of spectrum is permissible only in accordance with licence conditions and regulatory approvals; (vi) Insolvency proceedings cannot be used to avoid statutory dues payable to the Government; (vii) Accordingly, spectrum allocated to telecom service providers cannot be subjected to proceedings under the Insolvency and Bankruptcy Code, 2016.

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