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 a consolidated show cause notice covering multiple financial years can be issued under the GST Act? the General Clauses Act or not?

Milroc Good Earth Developers v. Union of India & Ors.-Writ Petition No. 2203 of 2025 (Bombay High Court at Goa)

Decision: No.

The petitioner is a developer. It undertook redevelopment. The GST authorities sought to levy GST on rehab flats given free to the landlord. A show cause notice came to be issued demanding GST. It also sought reversal of Input Tax Credit (ITC) under section 17(2) of GST Act. The show cause notice was for a cumulative period of several financial years. The show cause notice was challenged before the High Court on several grounds.

The Bombay High Court at Goa quashed the show cause notice and allowed the writ petition. It held: (i) though several grounds have been raised; the jurisdictional point is whether a consolidated show cause notice can be issued covering several financial years; (ii) refers to section 2; 7; 16; 24; 39; 44; 39; 73; 74 and the object of the Act; (iii) in view of the amendment from 2025; assessment could be only for financial years; (iv) show cause nor assessment order can be beyond one financial year; (v) refers to Madras High Court; Karnataka High Court; Kerala High Court and Andhra Pradesh High Court rulings; (vi) distinguishes reliance placed by Revneue on Delhi High Court judgment in Ambica traders on facts and notes SLP against the said decision was withdrawn; (vii) distinguishes Bombay High Court decision in Rio care; (viii) quashes show cause notices.

2. Whether payment made during DGGI search can be treated as voluntary under Section 74(5) of the CGST Act?

Million Lights v. Union of India & Ors.-W.P. No. 9890 of 2023 (T-RES) (Karnataka HC)

Decision: No.

The petitioner is a trader. The officers of DGGI visited its office and residential premises. They alleged that the petitioner had taken irregular input tax credit (ITC). They coerced him to deposit Rs.10 crores on pretext of arrest. The petitioner had to deposit the same. The petitioner filed a writ petition seeking refund of the said amount.

The Karnataka High Court, in a 109 page judgment; allowed the writ petition and directed the department to refund Rs.10 crores to the petitioner along with interest @6%. It held: (i) payment made on the day of the search; (ii) payment was made without any notice or demand; (iii) there were no proceedings pending against the petitioner; (iv) once payment is made under Form GST-DRC-03; the acceptance under Form GST DRC-04 is mandatory which was never issued by the department; (v) hence; the payment was involuntary and cannot be termed as "voluntary"; (vi) holds that the collection and retention of the said sum was contrary to ruling of the Supreme Court in Radhika Agarwal Case; (vii) refers and follows Delhi High Court; Punjab and Haryana High Court; Gujarat High Court and Karnataka High Court judgments on similar issue.

Matters Argued by us

3. Whether the revisional authority was justified in passing an 80-page order confirming tax demand without considering the petitioner's reply filed a day earlier?

Kalpataru Projects International Ltd. v. Union of India & Ors., W.P. No. 26053 of 2025-(Andhra Pradesh High Court)

Decision: No.

The petitioner is undertaking works contracts. It is a registered dealer under Andhra Pradesh VAT Act. Assessment was completed for FY and it was eligible for refund. However; revision show cause notice under section 32 of the AP VAT Act came to be issued. The petitioner replied. However, within a day; order came to be passed confirming demand of VAT of over Rs.26 crores along with interest thereon. The same was challenged in writ.

The Andhra Pradesh High Court set aside the order and allowed the petition. It noted that the reply was filed on 17.07.2025 and; within a day; 80 page order was passed on 19.07.2025. The order did not consider, though recorded; to any submissions of the petitioner. Hence; matter is remanded back to the revisionary authority for passing order afresh.

4. Whether redemption fine can be settled under the SVLDR Scheme or not?

HP Trading v. Union of India & Ors., Writ Petition No. 8288 of 2024 (Bombay High Court)

Decision: Yes.

The petitioner is engaged in trading of goods. Service tax enquiry was initiated against it. It filed appeal. Appeal was pending. In the mean time, it filed declaration under the SVLDR Scheme. It was accepted by issuing discharge certificate (Form SLVDRS-4) holding no tax dues are pending. However, it was directed that redemption fine is payable by the petitioner as the scheme does not cover waiver of fine. Hence, the petition came to be filed.

The Bombay High Court allowed the petition and held no fine is payable. It follows its earlier decisions in Juice Electricals and Esbee and Gujarat High Court judgment in Synpol to hold that redemption fine is akin to penalty and hence; covered under the scheme. As such, no redemption fine is payable by the petitioner.

5. Whether appellate authority is justified in rejecting the appeal for non-payment of mandatory pre-deposit without giving the petitioner an opportunity to cure the defect?

G. Khanna & Company v. Union of India & Ors., Writ Petition No. 208 of 2025 (Bombay High Court)

Decision: No.

The petitioner is a trader. Audit was conducted. Certain ITC mismatch based on 2A-3B returns was pointed out. The petitioner paid the same. However, notice was issued. Order was passed. The petitioner filed an appeal before the appellate authority. It was denied input tax credit under section 16(2)(b) of the CGST Act. A demand was confirmed. It filed an appeal before appellate authority. The appellate authority rejected the appeal on the ground that mandatory pre-deposit was not made. Hence, writ came to be filed.

The Bombay High Court allowed the petition and set aside the order-in-appeal. It held: (i) no opportunity was granted to the petitioner to cure the defects; (ii) follows decision of the High Court in JEM Exporter and other decisions; (iii) rejects Revenues contention that the petitioner was heard on merits; however; notes that it was not heard on defects; (iv) remands matter back to appellate authority to grant opportunity to the petitioner to cure the defects; if any; and then decide the issue on merits.

6. Whether service tax is leviable on payments received by a professional cricketer for playing in the Indian Premier League (IPL) under the taxable category of "Business Support Service"?

Commissioner of Service Tax-IV, Mumbai v. Sachin Tendulkar - ST Appeal No. 86880 of 2016 (CESTAT, Mumbai)

Decision: No**.**

The respondent was a leading international cricketer. He played matches in Indian Premier League (IPL). The service tax authorities demanded service tax under taxable head of "business support service" on the ground that he has promoted the business of the franchisee by wearing logo on the T-shirt etc. The demand was dropped by the Commissioner; holding that 90% of the amount was for playing cricket. As per the agreement; only 10% fee was paid even if he did not play any match. Hence; appeal by the Revenue.

CESTAT, Mumbai dismissed the appeal filed by the department. It held: (i) no business support service has been provided by playing matches to the franchisee; (ii) holds issue no longer res integra as held in the case of Sourav Ganguly, Irfan Pathan and others; (iii) follows decision in the case of Knight Riders Sports Limited.

7. Whether trade tax can be levied on the value of ink and chemicals used for printing lottery tickets under Section 3F(1)(b) of the Uttar Pradesh Trade Tax Act, 1948?

Aristo Printers Pvt. Ltd. v. Commissioner of Trade Tax, Lucknow, U.P. – Civil Appeal No. 703 of 2012 (Supreme Court)

Decision: Yes.

The assessee was engaged in printing lottery tickets. The work involved printing on paper supplied by the customer, using its own ink and processing materials, including chemicals. The Assessing Authority levied trade tax on the value of the ink, processing material, and packing material used in executing the printing work, treating the same as goods involved in the execution of a works contract under Section 3F of the Uttar Pradesh Trade Tax Act, 1948.

The assessee contended that ink and chemicals were "consumables". The Appellate Authority accepted this contention. On appeal, the Trade Tax Tribunal confirmed deletion of the tax on ink and chemicals, relying on Rainbow Colour Lab v. State of M.P. (2000) 2 SCC 385.

The Revenue challenged the Tribunal's decision before the Allahabad High Court. The High Court allowed the revisions and held that the ink and chemicals, once applied to the paper, are visibly transferred to the printed tickets and cannot be treated as consumables. Aggrieved, the assessee approached the Supreme Court.
The Supreme Court upheld the levy of tax on the value of ink and processing materials used in printing lottery tickets. The contract for printing, where the paper is supplied by the customer, constitutes a works contract, and once the ink and chemicals are applied to the paper, there is a transfer of property in those goods in tangible form to the customer. The subsequent drying or chemical change in the ink does not negate this transfer.
After the 46th Constitutional Amendment, the "dominant intention" test has no application to works contracts. What matters is whether there is a transfer of property in goods, whether as goods or in some other form, during the execution of the contract. The ink and chemicals used in printing, being incorporated into the finished product, are deemed to be transferred, and their value is liable to tax under Section 3F(1)(b).

8. Whether ITC can be denied to a bona fide purchasing dealer merely because the selling dealer failed to deposit tax with the Government?

Commissioner of Trade & Taxes, Delhi v. Shanti Kiran India (P) Ltd.-Civil Appeal Nos. 2042-2047 of 2015 (Supreme Court)

Decision: No.

The respondent purchased goods from registered selling dealers and made payment of the price inclusive of VAT. Subsequently, the selling dealers failed to deposit the tax collected with the Government, and their registrations were cancelled. The Department denied ITC to the respondent under Section 9(2)(g) of the DVAT Act on the ground that ITC is admissible only if the selling dealer has deposited the tax with the Government.

Aggrieved by such denial, respondent filed a writ before High Court. The Delhi High Court allowed the writ petition holding that ITC cannot be denied to bona fide purchasers who have paid VAT in good faith to registered selling dealers, provided the transactions are genuine and there is no collusion between the parties. The Court relied on **On Quest Merchandising India Pvt. Ltd. v. Government of NCT of Delhi (2017 SCC OnLine Del 13037)**, wherein Section 9(2)(g) was "read down" to protect bona fide purchasers from being penalized for a seller's default. Hence, the appeal.

The Supreme Court dismissed the Department's appeal. It held that where the selling dealer was registered at the time of transaction and neither the invoices nor transactions were found to be false, there is no justification to deny ITC to the purchaser merely because the seller failed to deposit the tax. The proper course for the Department is to proceed against the defaulting selling dealer, not to penalize the bona fide purchasing dealer.

9. Whether GST return details of third-party industries can be disclosed under the Right to Information Act, 2005, despite the confidentiality provisions under Section 158 of the GST Act?

Adarsh Gautam Pimpare v. State of Maharashtra & Ors. – Writ Petition No. 11135 of 2025 [Bombay High Court, Aurangabad Bench]

Decision: No.

The petitioner filed an application under the Right to Information Act, 2005 (RTI Act) before the Assistant State Tax Commissioner, seeking details of GST returns from 2008 to 2023 of six different industries located in Udgir, District Latur. The Public Information Officer (PIO) issued notices to the concerned industries under Section 11 of the RTI Act, inviting their objections to disclosure. The industries objected, and the PIO rejected the RTI request. The petitioner's first appeal before the Deputy State Tax Commissioner and second appeal before the State Information Commissioner were also dismissed. Hence, the petition.

The Bombay high Court held that GST returns constitute confidential third-party information protected under Section 158(1) of the GST Act, 2017, and their disclosure is expressly prohibited except in circumstances specified in sub-section (3). The Court held that the RTI Act cannot override the provisions of the GST Act, which is a special and later enactment, and therefore, the prohibition on disclosure under Section 158 prevails over the general right to information under the RTI Act. The GST authorities were right in seeking objections from the concerned industries under Section 11 of the RTI Act before refusing the information.

The Court relied on the Constitution Bench decision in Central Public Information Officer, Supreme Court of India v. Subhash Chandra Agarwal (2020) 5 SCC 481, reiterating that Sections 8 and 11 of the RTI Act must be read harmoniously and that information supplied by third parties and treated as confidential cannot be disclosed unless a larger public interest is clearly established.

10. Whether a show cause notice under Section 73(1) can be issued without prior scrutiny under Section 61, and if non-filing of optional Table 14 in GSTR-9C can justify such notice?

Pepsico India Holdings Pvt. Ltd. v. Union of India & Ors. – WP(C) No. 6960 of 2023 (Gauhati High Court)

Decision: No.

The petitioner was subjected to a tax demand under Section 73 of the CGST Act for alleged short payment of tax. The Proper Officer issued a show-cause notice directly under Section 73 without first initiating scrutiny proceedings under Section 61 and without issuing Form GST ASMT-10, which is the prescribed form for intimating discrepancies detected during scrutiny of returns. The petitioner contended that such omission vitiated the proceedings since scrutiny under Section 61 is a mandatory precondition to invoking Section 73.

The Gauhati High Court held that issuance of Form GST ASMT-10 is a condition precedent for initiating any proceeding under Section 73 of the CGST Act. The Court observed that Section 61 read with Rule 99 of the CGST Rules, 2017 clearly mandates that, upon finding discrepancies in returns, the Proper Officer must issue Form ASMT-10 to the registered person, giving them an opportunity to explain the differences. Only if the explanation is unsatisfactory can proceedings under Section 73 be initiated. The Court ruled that failure to comply with this statutory step renders the subsequent demand without jurisdiction. Consequently, the impugned order of demand was set aside and the matter was remitted to the Proper Officer to initiate proceedings afresh in accordance with law after following due procedure.

11. Whether GST registration cancelled under Section 29(2)(c) of the CGST Act for non-filing of returns can be restored when the taxpayer subsequently files all pending returns and pays tax, interest, and late fees as per the proviso to Rule 22(4) of the CGST Rules, 2017?

Dhirghat Hardware Stores & Anr. v. Union of India & Ors. – WP(C) No. 5944 of 2025 (Gauhati High Court)

Decision: Yes.

The petitioner, a proprietorship firm registered under the CGST/AGST Acts, failed to file GST returns for a continuous period of six months. Show-cause notice dated 15.01.2023 was issued under Section 29(2)(c) of the CGST Act proposing cancellation of registration. Subsequently, ex parte order passed cancelling the petitioner's GST registration. The petitioner's appeal before the Commissioner (Appeals) was dismissed on 09.10.2025.

Thereafter, the petitioner filed all pending GST returns up to March, 2023 and discharged the entire tax dues with applicable interest and late fees. However, the GST portal did not allow submission of an application for revocation of cancellation since the prescribed time limit had expired. The petitioner approached the High Court.

The Gauhati High Court held that where a taxpayer whose registration has been cancelled under Section 29(2)(c) subsequently furnishes all pending returns and pays the tax, interest, and late fees, the Proper Officer may consider restoration of registration under the proviso to Rule 22(4) of the CGST Rules, 2017. Cancellation of GST registration entails serious civil and business consequences, and therefore, the benefit of the proviso to Rule 22(4) should be extended to bona fide taxpayers who have rectified their defaults.

12. Whether a non-resident company can claim deduction of business expenditure and carry forward of unabsorbed depreciation when there is a temporary lull in business but no cessation of operations?

Pride Foramer S.A. v. CIT – Civil Appeal Nos. 4395–4397 of 2010 (Supreme Court)

Decision: Yes.

The appellant, a non-resident company incorporated in France, is engaged in oil drilling operations. It was awarded a ten-year contract by ONGC for offshore drilling from 1983 to 1993. After completion of the contract, the appellant continued to maintain its business presence through correspondence with ONGC from its Dubai office and headquarters in France and even submitted a bid for oil exploration in 1996. A new contract was ultimately awarded in October 1998, formalised in January 1999.

During the intervening assessment years (1996-97, 1997-98 and 1999-2000), though no drilling contract was operational, the appellant incurred administrative and audit expenses and filed returns showing 'NIL' income except for interest received on tax refunds. The Assessing Officer and CIT (Appeals) disallowed the claim of business expenditure and unabsorbed depreciation under Sections 37(1) and 32(2) of the Income Tax Act, 1961, holding that the assessee was not carrying on any business during those years. The ITAT reversed these findings, observing that the company had not gone out of business but was only facing a temporary lull. The Tribunal held that mere absence of an active contract does not amount to cessation of business.

The High Court, however, set aside the ITAT order, holding that since the appellant had no permanent office, business establishment, or ongoing contract in India during the relevant period, it could not be said to be carrying on business in India and hence was not entitled to the deductions claimed.

The Supreme Court held that a temporary lull in business activity does not amount to cessation of business, and a taxpayer cannot be denied deduction of business expenditure or carry forward of unabsorbed depreciation merely because no contract was in operation during a particular period. The Court held that the correspondence between the appellant and ONGC, including its 1996 bid for a drilling contract, clearly demonstrated a continuing intention to carry on business. The Court further clarified that a non-resident company is not required to maintain a permanent establishment in India to be regarded as carrying on business within the meaning of the Act.

13. Whether 100% addition of alleged bogus purchases can be sustained when the assessee has furnished purchase invoices, bank payments, and VAT audit confirmation, and the Assessing Officer has not proved the purchases to be entirely non-genuine?

PCIT, Pune v. Ramelex Pvt. Ltd. – Income Tax Appeal No. 14 of 2022 (Bombay High Court)

Decision: No.

The respondent-assessee, engaged in the business of transmission and distribution in the power sector, filed its return of income for Assessment Year 2009-10 declaring an income of Rs. 7.65 crore. The case was reopened under Section 147, based on information received from the Directorate General of Income Tax (Investigation), Pune, alleging that the assessee had obtained bogus purchase bills amounting to Rs. 2.05 crore from 12 parties identified as "hawala dealers" by the Maharashtra Sales Tax Department.

During reassessment, the AO disallowed the entire amount, holding that the suppliers were non-existent and the purchases were bogus. CIT(A) partially allowed the appeal, holding that the AO had not proved the purchases to be wholly fictitious and that only the profit element embedded in the purchases could be added. Applying a 15% gross profit rate on the alleged bogus purchases, the CIT(A) restricted the addition to Rs. 15,12,713. ITAT affirmed the CIT(A)'s order, holding that the disallowance should be confined to the profit margin since the assessee had demonstrated genuine sales and payments through banking channels. Hence, appeal.

The High Court held that no substantial question of law arose and affirming the concurrent findings of the CIT(A) and ITAT. AO had made additions solely based on general information from the Sales Tax Department without furnishing the details to the assessee or allowing cross-examination of the alleged hawala dealers. AO also failed to establish that the assessee's purchases were entirely fictitious or that any corresponding sales were unrecorded. Hence, a full disallowance of the purchases was unsustainable.

Relying on its earlier judgment in Principal Commissioner of Income Tax v. SVD Resins and Plastics Pvt. Ltd., the Court emphasized that the element of gross profit is the only component liable to addition in such cases.

14. Whether revision under Section 263 was justified where the Assessing Officer accepted the assessee's slump sale under Section 50B without detailed inquiry?

Sterling Farm Research and Services Pvt. Ltd. v. CIT – ITA No. 55 of 2024 (Kerala High Court)

Decision: Yes.

During Assessment Year 2016-17, the appellant sold its "Test House Division" as a slump sale and filed its return treating the transaction under Section 50B of the Income Tax Act. The assessment was completed under Section 143(3). Subsequently, the PCIT initiated revisional proceedings under Section 263, observing that the AO had failed to properly examine whether the sale qualified as a slump sale under Section 50B or should have been treated as a short-term capital gain under Section 50. The ITAT upheld the revision, leading to the present appeal before the High Court under Section 260A.

The Kerala High Court upheld the Commissioner's invocation of powers under Section 263 of the Income Tax Act.

Relying on the Supreme Court's ruling in Malabar Industrial Co. Ltd. v. CIT (2000) 2 SCC 718, the Court reiterated that the Commissioner can exercise Section 263 jurisdiction when both conditions error in the assessment and prejudice to Revenue coexist. The Court, however, clarified that observations in the revisional order would not preclude the assessee from making its submissions in the reassessment proceedings.

15. Whether a mere remark "Yes, I am satisfied" under Section 151 amounts to valid approval for reopening under Section 147?

PCIT v Agroha Fincap Ltd. – ITA No. 60 of 2024 (Delhi High Court)

Decision: Yes.

The assessee, filed its return for AY 2009-10 declaring an income of Rs. 40,720, which was processed under Section 143(1) without scrutiny. Subsequently, based on information from the Investigation Wing regarding alleged accommodation entries from the S.K. Jain group, the Assessing Officer reopened the assessment under Section 147 and issued notice under Section 148. The reopening was based on the finding that the assessee had received Rs. 25,00,000 as share capital and premium from companies allegedly controlled by the S.K. Jain group. The AO added Rs. 25,00,000 under Section 68 as unexplained credit and Rs. 45,000 as unexplained expenditure. The CIT(A) upheld the reassessment order.

On appeal, the ITAT quashed the reassessment, holding that the approval granted under Section 151 by the Principal Commissioner merely stating "Yes, I am convinced it is a fit case for reopening under Section 147" was mechanical and without independent application of mind. Relying on PCIT v. N.C. Cables Ltd. (2017) 391 ITR 11 (Del), the Tribunal held that such ritualistic approval did not meet the statutory requirement. Hence, appeal.

The Delhi High Court held that the expression "Yes, I am satisfied it is a fit case for reopening" constitutes a valid approval under Section 151 of the Income Tax Act. The Court distinguished the case from PCIT v. N.C. Cables Ltd. (2017) 391 ITR 11 (Del), observing that in N.C. Cables, the authority had only written "approved" without indicating any satisfaction. Here, however, the approving authority recorded a conscious satisfaction in writing, which met the statutory mandate.

16. Whether undue delay in pronouncing an arbitral award affects its validity, and whether an award that fails to finally resolve the dispute can be set aside for perversity or patent illegality?

Lancor Holdings Ltd. v. Prem Kumar Menon & Ors. – Civil Appeal No. 10482 of 2013 (Supreme Court of India)

Decision: Yes.

The appellant and the respondents had entered into a development agreement concerning a real estate project. Disputes arose over profit sharing and delivery of constructed area, leading to arbitration. The arbitral proceedings concluded on 6 July 2012, but the award was pronounced nearly a year later on 3 June 2013. The award granted limited reliefs to both parties without conclusively determining core issues relating to title, ownership, and obligations.

Aggrieved, the appellant challenged the award under Section 34 of the Arbitration and Conciliation Act, 1996, alleging inordinate delay in pronouncement and failure to render a complete and reasoned adjudication. The District Court and the High Court dismissed the challenge.

The Supreme Court set aside the arbitral award, holding that inordinate and unexplained delay in pronouncing the award vitiates the decision-making process and undermines the confidence of parties in arbitration. The Court noted that the award was rendered nearly one year after hearings had concluded, without any explanation, and failed to address key issues, compelling parties to litigate further. Such conduct was contrary to the principles of natural justice and Section 31(3) of the Arbitration Act, which mandates a reasoned and final determination.

An arbitral award must finally resolve the dispute and not leave substantial matters open for future adjudication. Since the award suffered from both procedural impropriety and substantive deficiency, it was liable to be set aside under Section 34(2A) for patent illegality and for being against public policy. The matter was remitted for fresh arbitration before a new arbitrator.

17. Whether termination of arbitration under Section 25(a) for non-filing of claim is an award or can be challenged under Section 14 for substitution of arbitrator?

Mecwel Constructions Pvt. Ltd. v. GE Power Systems India Pvt. Ltd. – O.M.P. (T)(COMM.) Nos. 38–40 of 2025 (Delhi High Court)

Decision: No.

The petitioner, was awarded subcontract works by GE Power Systems India Pvt. Ltd. for erection and commissioning of mechanical and turbine packages in various thermal power projects. Following disputes over delays and termination of contracts, arbitration was initiated pursuant to a High Court order dated 08.01.2024. However, the petitioner failed to file its Statement of Claim (SOC) and did not pay its share of arbitral fees despite repeated extensions. Consequently, the arbitrator, by order dated 18.11.2024, closed the proceedings under Section 25(a) of the Arbitration and Conciliation Act. The arbitrator subsequently declined to revive the proceedings, prompting the petitioner to move the present petitions under Sections 14 and 15 seeking substitution of the arbitrator or continuation of proceedings. The respondent opposed maintainability, contending that the termination order constituted an "award" challengeable only under Section 34.

The Delhi High Court allowed the petitions, holding that an order passed under Section 25(a) of the Arbitration and Conciliation Act—terminating proceedings for non-filing of the statement of claim—is not an arbitral award, as it does not adjudicate the rights or liabilities of the parties. Such an order merely terminates proceedings procedurally and lacks the essential attributes of an award as defined under Section 2(1)(c). The Court clarified that for an order to qualify as an award, it must finally decide an issue forming part of the dispute referred to arbitration.

Relying on Lalit Kumar v. Sanghavi (2014) 7 SCC 255 and Indian Farmers Fertilizer Cooperative Ltd. v. Bhadra Products (2018) 2 SCC 534, the Court held that termination under Section 25(a) is an order under Section 32(2)(c), not an award, and hence can be examined under Section 14(2). Observing that the arbitrator's mandate could continue once the petitioner complied with fee payment and filing requirements, the Court directed that the same arbitrator resume the proceedings, upon the petitioner's compliance.

18. Whether the Official Liquidator can grant one-time ex-gratia payment to company-paid staff from the Common Pool Fund as a welfare measure upon office closure or superannuation?

Official Liquidator, Various Companies (In Liquidation) – OLR No. 62 of 2025 (Gujarat High Court)

Decision: Yes**.**

The Official Liquidator (OL), attached to the High Court of Gujarat, sought permission to provide one-time ex-gratia payments to 12 company-paid staff members from the Common Pool Fund, in recognition of their long and continuous service of 17-20 years. The staff, unlike Central Government employees, were not entitled to pension or post-retirement benefits, receiving only gratuity and leave encashment. With the advent of the Insolvency and Bankruptcy Code, 2016 and transfer of winding-up jurisdiction to the NCLT, the OL office was likely to be phased out, creating uncertainty for these employees. The Ministry of Corporate Affairs clarified that company-paid staff were not government servants and any welfare benefit, if approved, must be funded from the Common Pool Fund. The OL, therefore, proposed ex-gratia payments of ₹20 lakh each for Group 'C' and ₹18 lakh each for Group 'D' employees, subject to good conduct and availability of funds.

The Gujarat High Court approved the proposal for a one-time ex-gratia payment to 12 company-paid staff as a welfare measure, directing that the amount be met exclusively from the Common Pool Fund, which had sufficient surplus exceeding ₹200 crore. The Court held that in the absence of statutory retirement coverage, such ex-gratia disbursement was justified in equity, provided it did not prejudice liquidation stakeholders. The sanctioned amounts were to be invested in joint term deposits in the names of the OL and individual employees, to be released only upon superannuation, death, or closure of the OL's office, whichever occurred first.

The Court further clarified that the benefit was non-precedential, limited to the 12 current company-paid staff, and would not create any right of regularization or future entitlement. The order ensured fairness to long-serving employees while safeguarding the integrity of liquidation funds.

Ex Gratia Payment

19. Whether employees working in a cooperative society-run canteen within a bank's premises can be treated as employees of the Bank and entitled to reinstatement under the Industrial Disputes Act?

General Manager, U.P. Cooperative Bank Ltd. v. Achchey Lal & Anr. – Civil Appeal No. 2974 of 2016 (with connected appeals) (Supreme Court of India)

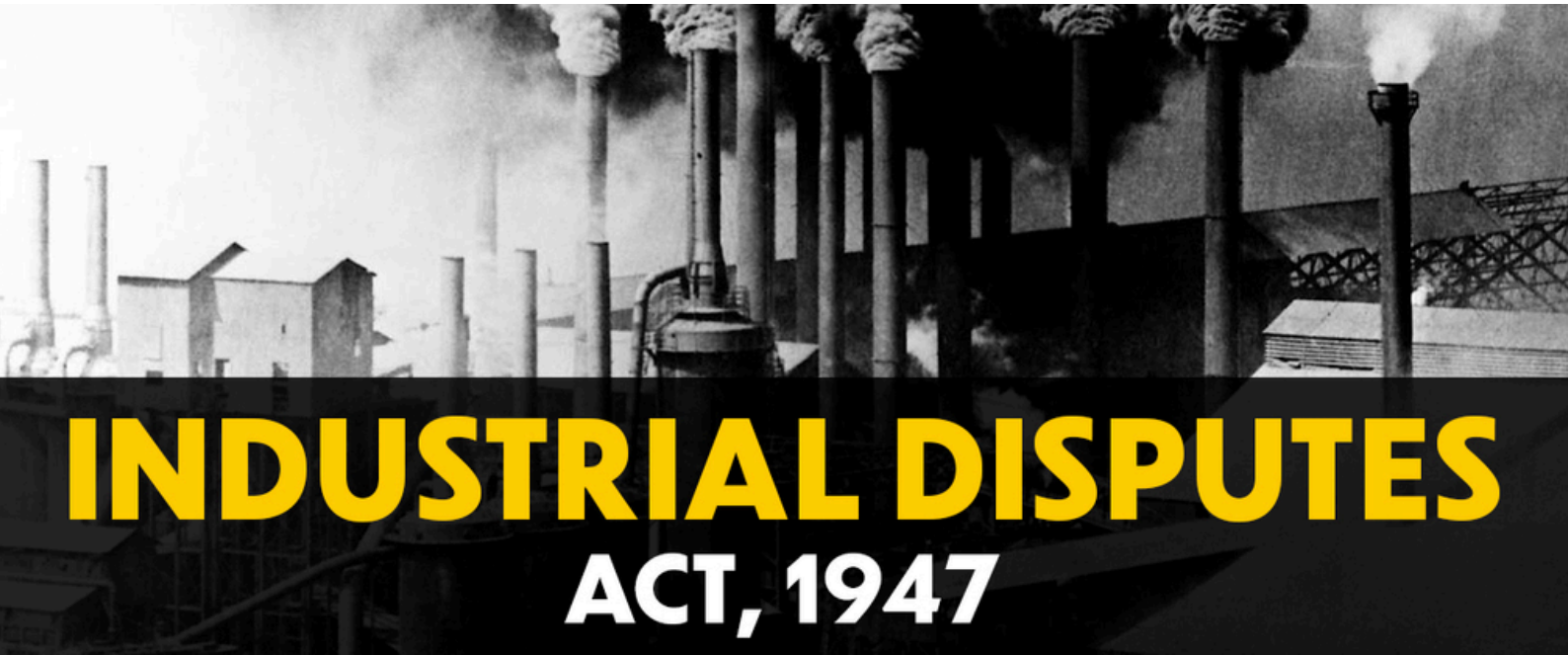
Decision: No.

The appellant is a cooperative bank registered under the Cooperative Societies Act, 1912. Its employees had formed a separate society named U.P. Cooperative Bank Employees Society Ltd. to manage a canteen for staff members. The Bank had permitted the Society to run the canteen, provided necessary infrastructure and subsidies and shared part of the wages and electricity costs. The canteen employees, including the respondents, were appointed by the Society, not by the Bank, and there were no formal appointment orders or records of service conditions issued by the Bank.

In 1995, the Society decided to close the canteen after the Bank declined to enhance its financial subsidy. The services of the canteen workers were terminated, leading to an industrial dispute. The Labour Court held that the workmen were employees of the Bank, finding that the Bank exercised financial and supervisory control, and directed reinstatement with back wages. The High Court upheld this finding, holding that the Bank's involvement in providing subsidies, infrastructure, and supervision indicated a master-servant relationship between the Bank and the canteen workers. It relied on Indian Overseas Bank v. IOB Staff Canteen Workers' Union (2000) 4 SCC 245. Hence, the appeal.

The Supreme Court allowed the appeals and set aside the judgment of the High Court holding that there was no master-servant relationship between the U.P. Cooperative Bank and the canteen workers. The canteen had been established and operated independently by the Employees' Society, which had appointed and managed the staff. The Bank's role was limited to providing space, infrastructure, and financial assistance in the form of subsidies. Such support did not amount to control or supervision sufficient to establish an employer-employee relationship.

The Court further clarified that the decisive test is whether the employer exercises effective and direct administrative control over the appointment, discipline, and supervision of employees. In this case, the Society had complete control over canteen operations, and the Bank neither appointed nor paid the employees directly.



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