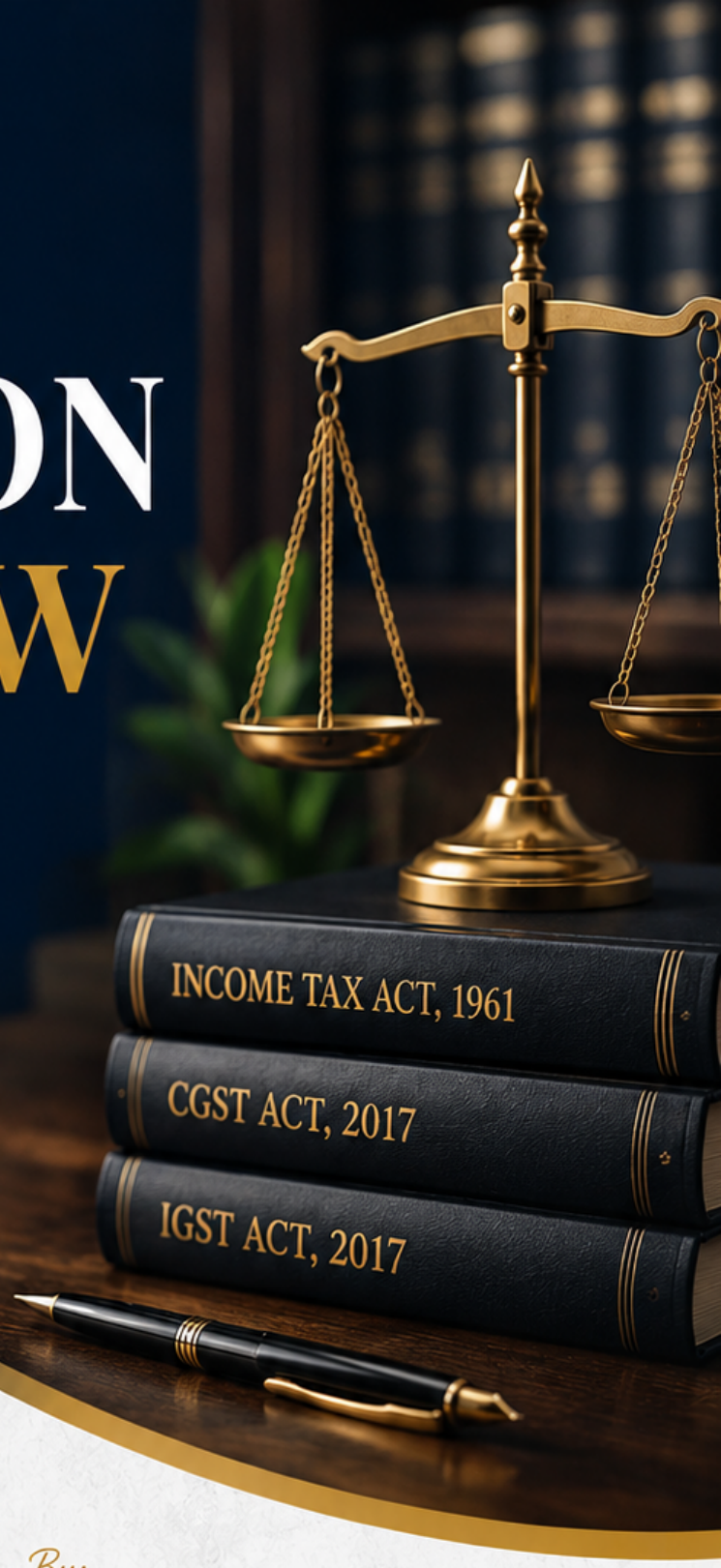
E-JOURNAL

TAXATION CASE LAW

JULY 2026





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Summary: Goods and Services Tax Case Laws

1. **Can GST registration cancelled for non-filing of returns be restored even after the statutory time for revocation has expired?**
   Case: Sri Chongtham Manabandra Singh vs. Union of India
   Court: Gauhati High Court
   Writ Petition: WP(C) No. 3000 of 2026
   Judgment Date: 10.06.2026

- The Gauhati High Court held that where GST registration has been cancelled for non-filing of returns, the taxpayer may still be permitted to seek restoration by approaching the competent authority, provided all pending returns are furnished and the outstanding tax, interest, penalty and late fee are paid in terms of the proviso to Rule 22(4) of the CGST Rules.

- In the present case, the petitioner's GST registration was cancelled after he failed to file GST returns for a continuous period of six months. The petitioner submitted that the default occurred due to miscommunication with his tax consultant and that the prescribed time for filing an application for revocation had already expired. He further stated that the pending GST returns had been updated and expressed readiness to comply with all statutory requirements under Rule 22(4).

- The High Court observed that the issue was squarely covered by its earlier decision in Dhirghat Hardware Stores v. Union of India, wherein it was held that cancellation of GST registration entails serious civil consequences and that, if the taxpayer is willing to furnish all pending returns and discharge the entire tax liability along with applicable interest, penalty and late fee, the competent authority should consider restoration of registration in accordance with law.

- Accordingly, the Court permitted the petitioner to approach the concerned authority within 60 days seeking restoration of GST registration. It directed that, upon compliance with the requirements of the proviso to Rule 22(4), the authority shall consider and restore the registration expeditiously. The Court further directed that the limitation period under Section 73(10) shall be computed from the date of the judgment (except for FY 2024-25, where computation shall be governed by Section 44), subject to payment of all outstanding tax, interest, penalty and late fee.

2. **Can GST proceedings validly continue against a deceased taxpayer where the legal heir failed to inform the Department about the death?**
   Case: Sampoornam vs. Assistant Commissioner (ST) (FAC) / Commercial Tax Officer
   Court: Madras High Court
   Writ Petition Nos.: W.P. Nos. 29744 & 29747 of 2025
   Judgment Date: 08.06.2026

- The Madras High Court held that where the Department was not informed about the death of the registered person, issuance of notices and passing of assessment orders in the name of the deceased cannot be faulted merely on that ground. However, since the impugned assessment orders were passed ex parte, they were liable to be set aside and remanded for fresh adjudication on merits after granting an opportunity to the legal heir.

- In the present case, the assessee had died on 01.05.2020, but the legal heir failed to intimate the Department about the death. Thereafter, DRC-01A intimations, DRC-01 show cause notices and assessment orders under Section 74 were issued in the name of the deceased in relation to alleged ITC mismatch for FY 2017-18 and delayed filing of GSTR-9 for FY 2019-20. The legal heir challenged the proceedings contending that invocation of Section 74 was invalid and that the proceedings initiated against a deceased person were without jurisdiction.

- The High Court observed that the responsibility to intimate the death of the assessee rested upon the legal heir. It further held that even if proceedings under Section 74 were ultimately found to be unsustainable, the proceedings could still continue under Section 73 in view of Section 75(2), the statutory extensions granted under Section 168A, and the limitation extensions ordered by the Supreme Court during the Covid-19 period. The Court also reiterated that under Section 93, the legal heir remains liable to discharge the tax, interest and penalty payable by the deceased assessee, even where the business has been discontinued.

- Accordingly, the Court set aside the ex parte assessment orders and remanded the matters to the adjudicating authority for fresh adjudication, subject to the petitioner depositing 10% of the disputed tax within 30 days and filing replies along with supporting documents. The adjudicating authority was directed to pass fresh speaking orders within three months, and the attachment of the petitioner's bank account was directed to stand vacated upon compliance with the Court's directions.

3. **Can criminal prosecution under the Bharatiya Nyaya Sanhita be initiated for delayed deposit of GST or TDS when the GST Act provides a complete statutory mechanism?**
   Case: Tanveer Asharaf vs. State of U.P.
   Court: Allahabad High Court
   Application u/s 528 BNSS No.: 18970 of 2026
   Judgment Date: 22.05.2026

- The Allahabad High Court held that where the allegation is confined to delayed or non-deposit of GST/TDS without any allegation of embezzlement, forgery, dishonest misappropriation or wrongful gain, prosecution under Section 316(5) of the Bharatiya Nyaya Sanhita is not maintainable. The GST Act is a complete code providing for interest, penalty, adjudication, prosecution and compounding of such contraventions, and recourse to the general penal law is impermissible in such circumstances.

- In the present case, the applicant, a Gram Panchayat Secretary, was prosecuted under Section 316(5) of the Bharatiya Nyaya Sanhita for alleged delayed deposit of GST/TDS deducted from payments relating to Gram Sabha development works during FY 2017-18. Although the deducted amount was subsequently deposited into the Government account, an FIR, charge sheet and summoning order were issued under the Bharatiya Nyaya Sanhita based on a complaint before the Lokayukta.

- The High Court observed that Sections 50, 51, 122, 125, 126 and 138 of the GST Act constitute a comprehensive statutory framework governing delayed payment, tax deduction at source, penalties, adjudication and prosecution. Since the allegations did not disclose any independent criminal offence such as cheating, forgery or criminal misappropriation, the authorities could not bypass the special provisions of the GST Act and invoke the general penal provisions of the Bharatiya Nyaya Sanhita. The Court further held that the alleged default related to FY 2017-18, whereas Section 316(5) of the Bharatiya Nyaya Sanhita came into force much later. Therefore, the substantive penal provisions of the BNS could not be applied retrospectively.

- Accordingly, the High Court quashed the FIR, charge sheet, summoning order and all consequential criminal proceedings against the applicant under Section 316(5) of the Bharatiya Nyaya Sanhita. However, it clarified that the competent authorities would be at liberty to initiate appropriate proceedings under the U.P. GST Act, 2017, in accordance with law.

4. **Can Input Tax Credit be denied merely because the foreign supplier's invoice is addressed to another GST registration, and can cross-charge of common input services be made without obtaining ISD registration?**
   Case: Intertek India (P.) Ltd. vs. Assistant Commissioner of Central Taxes and Central Excise
   Court: Kerala High Court
   Writ Petition: WP(C) No. 30075 of 2024
   Judgment Date: 08.06.2026

- The Kerala High Court held that Input Tax Credit cannot be denied merely because the foreign supplier's invoice was issued in the name of another GST registration of the same company, where the taxpayer had discharged GST under the reverse charge mechanism, issued a valid self-invoice under Section 31(3)(f), and fulfilled all the statutory conditions prescribed under the CGST Act and Rules. A self-invoice issued for reverse charge supplies is a valid tax-paying document for claiming ITC.

- In the present case, the petitioner had multiple GST registrations across different States. During the period from July 2017 to March 2019, its foreign parent company provided IT and support services, and the invoice was raised in the name of the Delhi unit. However, the Kerala unit paid the consideration, discharged GST under the reverse charge mechanism, issued a self-invoice, availed ITC and thereafter cross-charged the proportionate value and credit to other State registrations. The Department denied ITC of ₹1.31 crore and also alleged that the petitioner had

illegally distributed ITC without obtaining registration as an Input Service Distributor (ISD).

- The High Court observed that under Sections 9(3), 16 and 31(3)(f) of the CGST Act read with Rule 36 of the CGST Rules, the relevant document for availing ITC in reverse charge transactions is the self-invoice issued by the recipient and not the invoice issued by the foreign supplier. Since the petitioner had paid the consideration, discharged tax under reverse charge and issued the prescribed self-invoice, it qualified as the "recipient" under Section 2(93) and was legally entitled to ITC. The Court further held that, prior to the amendment brought by the Finance Act, 2024, Section 20 merely enabled distribution of ITC through the ISD mechanism and did not make ISD registration mandatory. Therefore, cross-charging common input services to distinct registrations without ISD registration during the relevant period was legally permissible, particularly when the transactions were revenue neutral and caused no loss to the exchequer.

- Accordingly, the Court quashed the adjudication order to the extent it denied ITC of ₹1.31 crore and held that the petitioner had illegally distributed ITC without ISD registration. Consequently, the corresponding tax demand and equal penalty were also set aside as being legally unsustainable.

5. **Can limitation for filing a GST appeal be computed from the date of upload on the GST portal even when the order is physically communicated later?**
   Case: State of Uttar Pradesh vs. Bambino Agro Industries Ltd.
   Court: Supreme Court of India
   SLP (Civil) Diary No.: 11683 of 2026
   Order Date: 29.05.2026

- The Supreme Court has issued notice and stayed the operation of the Allahabad High Court's judgment which had held that although service of notices and orders through the GST Common Portal or electronic mode is a valid mode of service under Section 169 of the CGST Act, the effective "communication" for computing limitation may, in appropriate cases, be reckoned from the date of actual or constructive communication through the physical/offline mode.

- The controversy arose from the Allahabad High Court's interpretation that while uploading notices and orders on the GST portal satisfies the statutory requirement of service, the limitation for filing an appeal under Section 107 should commence only from the date on which the taxpayer actually or constructively receives knowledge of the contents of the order. The High Court had further observed that where both electronic and physical communication exist, the date of offline/physical communication may prevail for determining limitation.

- Aggrieved by the above findings, the State of Uttar Pradesh preferred a Special Leave Petition before the Supreme Court challenging the interpretation adopted by the

High Court regarding the concept of "effective communication" under Section 169 of the CGST Act read with the provisions of the Information Technology Act, 2000.

- Accordingly, the Supreme Court condoned the delay, issued notice in the Special Leave Petition and directed that the operation of the impugned judgment of the Allahabad High Court shall remain stayed till the next date of hearing. The legal issue regarding the commencement of limitation for GST appeals based on electronic versus physical communication will now be authoritatively decided by the Supreme Court.

6. **Can an unsigned GST assessment order in Form GST DRC-07 be treated as a valid order and validly served on the taxpayer**?
Case: **AMR Vision vs**. **Assistant Commissioner**, **Central Goods and Service Tax**
Court: **Andhra Pradesh High Court**
Writ Petition No.: **10393 of 2025**
Judgment Date: **16.06.2026**

- The Andhra Pradesh High Court held that an assessment order issued without the signature of the Assessing Officer is invalid and unenforceable. The statutory requirement of authentication under the CGST Act and Rules cannot be dispensed with, and an unsigned order does not constitute valid service under the GST law.

- In the present case, the petitioner challenged a Summary of Order in Form GST DRC-07 dated 03.09.2024 relating to the period July 2017 to March 2018 on the ground that the assessment order did not bear the signature of the Assessing Officer. During the hearing, the Government Pleader admitted that the impugned assessment order was indeed unsigned. Although the writ petition was filed after some delay, the petitioner contended that an unsigned order could not be treated as having been validly served.

- The High Court relied upon its earlier decisions in A.V. Bhanoji Row, SRK Enterprises and SRS Traders, as well as the Madras High Court's decision in Tvl. Deepa Traders, and reiterated that the signature of the Assessing Officer is an indispensable requirement for a valid assessment order. The Court observed that Rule 26 of the CGST Rules mandates proper authentication of electronic notices and orders, and an unsigned order cannot be treated as valid service. Consequently, the delay in approaching the High Court became irrelevant since there was, in the eyes of law, no valid service of the assessment order.

- Accordingly, the Court set aside the impugned Summary of Order in Form GST DRC-07 and granted liberty to the Department to undertake a fresh assessment after issuing notice and passing a duly signed assessment order. It further directed that the period from the date of the impugned assessment order till the date of receipt of the High Court's order shall be excluded while computing the period of limitation.

7. **Can a single Show Cause Notice under Section 74 cover multiple financial years to overcome limitation**?
   Case: **State Bank of India vs**. **Commercial CGST** & **CE**, **SLG Commissionerate**
   Court: **Calcutta High Court**
   Writ Petition: **WPA No**. **433 of 2026**
   Judgment Date: **30**.**06**.**2026**

- The Calcutta High Court held that a single or composite Show Cause Notice under Section 74 of the CGST Act cannot be issued by clubbing multiple financial years. Each financial year constitutes a separate unit for the purpose of limitation, and the statutory time limit cannot be enlarged by combining several assessment years in one notice.

- In the present case, the State Bank of India was issued a composite Show Cause Notice covering the financial years 2018-19 to 2023-24 alleging short payment of IGST on inter-branch transactions. The petitioner furnished detailed replies along with calculation worksheets, invoice-wise details and copies of all relevant invoices, and specifically objected to the issuance of a single notice for multiple financial years. Ignoring these objections, the adjudicating authority confirmed an IGST demand of ₹5.48 crore along with interest and an equivalent penalty under Section 74.

- The High Court observed that Section 74(10) prescribes a separate limitation period for each financial year based on the due date for furnishing the annual return of that particular year. Reading Sections 2(106) and 74 harmoniously, the Court held that the expression "any period" refers to the relevant tax period and does not authorise issuance of a consolidated notice spanning multiple financial years. The Court further held that clubbing assessment years was an indirect attempt to revive demands that had already become time-barred, which is impermissible in law. It also reiterated that where a notice suffers from an apparent jurisdictional defect, the existence of an alternative appellate remedy does not bar the High Court from exercising its writ jurisdiction.

- Accordingly, the Court quashed the composite Show Cause Notice dated 25.06.2025 and the consequential Order-in-Original dated 12.12.2025 as being without jurisdiction. However, it granted liberty to the Department to initiate fresh proceedings strictly in accordance with law, without expressing any opinion on the merits of the allegations.

8. **Can an appeal against cancellation of GST registration be rejected solely on the ground of limitation**?
   Case: **Bandigisab Maheboobsab Bijapur vs**. **Assistant Commissioner**
   Court: **Karnataka High Court**
   Writ Petition No.: **108239 of 2025** (**T**-**RES**)
   Judgment Date: **05**.**11**.**2025**

- The Karnataka High Court held that where an appeal against cancellation of GST registration has been rejected solely on the ground of limitation, the taxpayer should

be granted an opportunity to file a fresh appeal and have it decided on merits, following the principles laid down in its earlier decisions.

- In the present case, the petitioner's GST registration was cancelled after the Proper Officer found the reply to the Show Cause Notice unsatisfactory. Aggrieved by the cancellation order, the petitioner preferred an appeal under Section 107 of the CGST Act. However, the Appellate Authority rejected the appeal solely on the ground that it was filed beyond the prescribed period of limitation, without examining the merits of the case.

- The High Court observed that the issue was squarely covered by its earlier judgment in R M Chougule and Associated v. Assistant Commissioner, wherein it had permitted delayed appeals against cancellation of GST registration to be entertained in the interest of justice. The Court reiterated that where the dispute relates to cancellation of registration, the taxpayer should be afforded an opportunity to pursue the statutory appellate remedy instead of being non-suited on a technical ground of delay.

- Accordingly, the Court set aside the impugned appellate order and permitted the petitioner to file a fresh appeal within four weeks. It further directed the Appellate Authority to decide the appeal on merits without rejecting it on the ground of limitation, while clarifying that all other contentions of the parties would remain open for consideration.

9. **Can an appeal under Section 107 of the CGST Act be entertained despite delay where the taxpayer demonstrates genuine reasons in the peculiar facts of the case**?
   Case: **Yallappa R. Patil vs. Assistant Commissioner of Commercial Taxes**
   Court: **Karnataka High Court**
   Writ Appeal No.: 100608 of 2025 (T-RES)
   Judgment Date: **25.09.2025**

- The Karnataka High Court held that although a taxpayer should ordinarily pursue the statutory appellate remedy under Section 107 of the CGST Act, in exceptional and peculiar facts, the Appellate Authority can be directed to entertain the appeal without raising any objection as to limitation where genuine reasons for the delay are established.

- In the present case, the appellant challenged the order of the Single Judge, which had dismissed the writ petition and relegated the petitioner to avail the statutory remedy of appeal. During the hearing of the writ appeal, the appellant submitted that the delay in filing the appeal was due to genuine reasons explained in the writ petition and requested that an opportunity be granted to pursue the first appeal against the order cancelling GST registration dated 22.07.2019 and the subsequent adjudication order dated 13.08.2024.

- The High Court observed that, having regard to the peculiar facts and circumstances of the case, the order of the Single Judge did not warrant interference. However, considering the genuine explanation offered for the delay, the interests of justice required that the petitioner be permitted to avail the statutory appellate remedy without being non-suited on the ground of limitation. The Court clarified that the relief was granted only in the peculiar facts of the case and should not be treated as a precedent for other matters.

- Accordingly, while affirming the order of the Single Judge, the Court permitted the petitioner to file appeals under Section 107 against the impugned orders within four weeks and directed the Appellate Authority to take the appeals on record without raising any objection regarding limitation. The writ appeal was accordingly disposed of.

10. **Can a taxpayer engaged in renting of immovable property claim Input Tax Credit on works contract services and construction expenses incurred for constructing the building that is subsequently let out, merely because the property is used for taxable renting services?**
Case: RMZ Infinity (Chennai) (P.) Ltd. vs. Joint Commissioner of CGST & Central Excise, Chennai
Court: Madras High Court
W.P. No.: 14847 of 2025
Judgment Date: 08.06.2026

- The Madras High Court held that Input Tax Credit on works contract services, construction materials, input services and capital goods used for constructing an immovable property intended for renting is specifically blocked under Sections 17(5)(c) and 17(5)(d) of the CGST Act. The Court further held that a rented building does not qualify as "plant or machinery" for claiming ITC in the facts of the case, and therefore the denial of ITC, along with interest and penalty, was legally valid.

- The petitioner, engaged in leasing and renting commercial properties, initially refrained from availing ITC. After the Orissa High Court's decision in Safari Retreats, it informed the department of its intention to claim ITC and sought approval. Despite receiving no approval, it availed ITC of about ₹103.45 crore on construction-related procurements and later reversed approximately ₹89.08 crore under protest. The department issued a common show cause notice under Section 74 covering multiple tax periods, denied the ITC, demanded interest and imposed an equivalent penalty.

- The High Court observed that the Supreme Court had subsequently reversed the Orissa High Court's decision in Safari Retreats, thereby removing the very basis on which the petitioner claimed ITC. It held that Section 17(5)(c) and (d) expressly prohibit ITC on construction of immovable property, the petitioner had also availed the credit beyond the limitation prescribed under Section 16(4), and mere prior intimation to the department without statutory approval did not create any vested right or negate suppression. The Court further held that invocation of the extended

limitation period and issuance of a common show cause notice for multiple tax periods under Section 74 were legally sustainable.

- Accordingly, the Madras High Court dismissed the writ petition, upheld the denial of ITC of ₹103.45 crore, sustained the demand of interest and equal penalty under Section 74, affirmed the validity of joint adjudication for multiple tax periods, and granted liberty to the petitioner to file a statutory appeal against the Order-in-Original.

11. **Can GST authorities demand CGST/SGST with interest and penalty where IGST has already been paid under the wrong tax head on the very same transaction**?
Case: **GR Tech Services** (**P**.) **Ltd**. **vs**. **Assistant Commissioner of Commercial Taxes**
Court: **Karnataka High Court**
Writ Petition No.: **15670 of 2026** (**T**-**RES**)
Judgment Date: **03**.**06**.**2026**

- The Karnataka High Court held that where a registered person has paid IGST on a transaction initially treated as an inter-State supply, which is subsequently found to be an intra-State supply, the authorities cannot mechanically demand CGST/KGST along with interest and penalty without first considering adjustment or refund under Section 77 of the CGST Act read with Rule 92 of the CGST Rules.

- In the present case, the petitioner supplied goods/services to Larsen & Toubro Ltd., which had units in both Chennai and Bengaluru. Initially, invoices were raised to the Chennai unit and IGST was paid. On subsequently realizing that the supplies were actually made to the Bengaluru unit, the petitioner discharged CGST/KGST liability by filing revised returns. During audit, the Department observed that tax had been paid under the wrong head and advised the petitioner to seek refund of the IGST. However, the refund application was rejected, the appeal was dismissed on the ground of limitation, and a demand along with interest and penalty was confirmed through adjudication proceedings and Form GST DRC-13.

- The High Court observed that Section 77(2) specifically provides that where IGST is paid on a transaction subsequently held to be an intra-State supply, the registered person is not liable to pay tax or interest again. Relying upon the decision of the Kerala High Court in Saji S. v. Commissioner, State GST Department, the Court held that Rule 92 contemplates adjustment of the amount already paid before raising any further demand. Since the adjudicating authority had failed to consider these statutory provisions and had directly fastened tax, interest and penalty upon the petitioner, the impugned orders could not be sustained.

- Accordingly, the Karnataka High Court quashed the adjudication order, the appellate order and the consequential demand in Form GST DRC-13, and remanded the matter to the original authority for fresh consideration in accordance with Section 77 of the

CGST Act and Rule 92 of the CGST Rules after examining the claim for adjustment/refund of the tax already paid.

12. **Can an unsigned GST assessment order be treated as valid merely because it was uploaded on the GST portal and the taxpayer approached the Court after a delay**?
Case: **Marella Siva Narayana vs**. **Assistant Commissioner of State Tax**
Court: **Andhra Pradesh High Court**
Writ Petition No.: **13473 of 2026**
Judgment Date: **16**.**06**.**2026**

- The Andhra Pradesh High Court held that an assessment order issued without the signature of the Assessing Officer is invalid in law. The absence of the mandatory signature cannot be cured by the provisions relating to mistakes or service under the CGST Act, and an unsigned order cannot be treated as having been validly served on the taxpayer.

- In the present case, the petitioner challenged the Summary of Order in Form GST DRC-07 dated 22.11.2025 for the period April 2021 to March 2022 on the ground that the assessment order did not bear the signature of the Assessing Officer. During the hearing, the State also admitted that the impugned assessment order was unsigned. Although the writ petition had been filed after some delay, the petitioner contended that an unsigned order could not amount to valid service under the GST law.

- The High Court relied upon its earlier Division Bench decisions in A.V. Bhanoji Row , SRK Enterprises and SRS Traders , and reiterated that the signature of the Assessing Officer is an indispensable requirement for a valid assessment order. The Court further observed that Rule 26(3) of the CGST Rules contemplates that an unsigned electronic order does not amount to valid service. Consequently, since there was no valid service of the assessment order, the delay in approaching the High Court was held to be immaterial.

- Accordingly, the Court set aside the impugned Summary of Order dated 22.11.2025 and granted liberty to the Department to conduct a fresh assessment after issuing notice and passing a duly signed assessment order. It further directed that the period from the date of the impugned assessment order till the date of receipt of the High Court's order shall stand excluded while computing the period of limitation.

13. **Can the Proper Officer Impose Penalties under Section 122 while Adjudicating a Show Cause Notice under Section 74**?
Case: Sunil Chauhan, Proprietor of Shree Chem India vs. Principal Commissioner of CGST, Delhi North
Court: Delhi High Court
Writ Petition: W.P.(C) No. 8412 of 2026
Judgment Date: 09.07.2026

- The Delhi High Court held that the Proper Officer adjudicating proceedings under Section 74 of the CGST Act is competent to impose the consequential penalties under Section 122 in the same adjudication proceedings. The CGST Act does not contemplate separate adjudication proceedings solely for the purpose of imposing penalties where such liability arises from the very same show cause notice.

- In the present case, the petitioner, a proprietor engaged in the business of trading agro-chemical products, was issued a Show Cause Notice alleging mis-declaration, undervaluation and clandestine clearance of taxable goods for the period FY 2018-19 to 2022-23, resulting in a proposed demand of GST amounting to ₹5.51 crore, along with interest and penalties. The adjudicating authority confirmed the demand under Section 74, imposed an equivalent penalty, and further levied penalties under Sections 122(1)(ii) and 122(3)(e) of the CGST Act. The petitioner challenged the order before the High Court contending, inter alia, that the adjudicating authority lacked jurisdiction to impose penalties under Section 122 in proceedings under Section 74.

- The High Court observed that the issue was no longer res integra in view of the Allahabad High Court's decision in Patanjali Ayurved Ltd. v. Union of India, wherein it was held that the Proper Officer deciding proceedings under Sections 73 or 74 is also empowered to impose the consequential penalties prescribed under Section 122. The Court further noted that Explanation 1(ii) to Section 74 read with Rule 142 of the CGST Rules envisages culmination of all consequential proceedings arising from the same show cause notice before the same adjudicating authority. Therefore, there was no jurisdictional error in imposing penalties under Section 122 along with the tax demand under Section 74.

- The Court also rejected the petitioner's other contentions relating to alleged non-consideration of the reply under Section 74(9), denial of personal hearing under Section 75(4), reliance upon statements allegedly recorded under coercion, and denial of cross-examination. It held that these issues involved disputed questions of fact and appreciation of evidence, which are matters falling within the jurisdiction of the statutory appellate authority under Section 107 of the CGST Act and do not warrant interference under Article 226 of the Constitution.

- Accordingly, the Delhi High Court dismissed the writ petition on the ground of availability of an efficacious alternate remedy, while granting liberty to the petitioner to file a statutory appeal under Section 107 of the CGST Act. The Court further directed that the period spent in prosecuting the writ petition shall be excluded while computing the limitation period for filing the appeal.

14. **Can the Constitutional Validity of Section 69 of the CGST Act, Empowering GST Authorities to Arrest, Be Reopened?**
Case: Rakesh Kumar vs. Union of India
Court: Supreme Court of India
Writ Petition: Writ Petition (Criminal) No. 439 of 2024
Judgment Date: 29.06.2026

- The Supreme Court held that the constitutional validity of Section 69 of the CGST Act, 2017, which empowers GST authorities to arrest persons accused of specified GST offences, can no longer be challenged as the issue already stands concluded by the binding three-Judge Bench decision in Radhika Agarwal v. Union of India (2025).

- In the present case, the petitioner primarily challenged the constitutional validity of Section 69 of the CGST Act, contending that the provision conferring arrest powers upon GST officers was unconstitutional. The petitioner sought appropriate relief by invoking the writ jurisdiction of the Supreme Court.

- The Supreme Court observed that the legal validity of Section 69 had already been conclusively upheld by a three-Judge Bench in Radhika Agarwal v. Union of India, wherein the Court had sustained the constitutional validity of the provision. Since the issue was no longer res integra, the Court held that the present writ petition was squarely governed by the said binding precedent.

- Accordingly, the Supreme Court disposed of the writ petition in terms of its earlier judgment in Radhika Agarwal v. Union of India, and vacated the interim order, if any, passed during the pendency of the proceedings.

15. **Can Input Tax Credit be Denied Solely Because the Supplier's GST Registration was Cancelled Retrospectively?**
Case: Tvl. Fathima Traders vs. Deputy Commercial Tax Officer, Chennai
Court: Madras High Court
Writ Petition Nos.: W.P. Nos. 22419, 22420 & 22422 of 2023
Judgment Date: 12.06.2026

- The Madras High Court held that Input Tax Credit (ITC) cannot be denied solely on the ground that the supplier's GST registration was cancelled retrospectively, particularly when the supplier was registered at the time of the transactions and the assessing authority failed to examine the genuineness of the supplies.

- In the present case, the petitioner challenged assessment orders dated 05.06.2023 whereby ITC was denied only because the supplier's GST registration had been cancelled retrospectively with effect from 01.07.2017. The petitioner contended that the supplier was a registered person when the supplies were made and relied upon the earlier decision of the Madras High Court in Engineering Tools Corporation. The Revenue argued that certain invoices were issued after the effective date of cancellation and that the petitioner had failed to establish the genuineness of the supplies.

- The High Court observed that the respondent had admitted that the supplier's registration was cancelled only by an order dated 06.12.2022, while most of the transactions had taken place much earlier. The Court held that the assessing authority ought to have examined whether the supplies were genuine by verifying documents such as tax invoices, e-way bills, lorry receipts, delivery challans, proof of

payment and other supporting evidence, instead of rejecting the ITC claim solely because of the retrospective cancellation of the supplier's registration.

- Following its earlier decision in Engineering Tools Corporation v. Assistant Commissioner (ST), the Court held that retrospective cancellation of a supplier's registration, by itself, is not a valid ground to deny ITC. The decisive factor is whether the recipient establishes the genuineness of the underlying transactions through relevant documentary evidence.

- Accordingly, the Madras High Court set aside the impugned assessment orders and remanded the matter to the assessing authority for fresh consideration. The Court directed the authority to provide the petitioner with a reasonable opportunity of hearing, examine all relevant documents relating to the supplies, and pass a fresh order within three months.

16. **Can Show Cause Notices under Section 74 be Challenged Merely Because They Do Not Contain Detailed Reasons for Invoking the Extended Limitation Period**?
Case: **Fastenex** (**P**.) **Ltd**. **vs**. **State Tax Officer**
Court: **Madras High Court**
Writ Petition Nos.: **W**.**P**. **Nos**. **35967**, **35970**, **35974** & **35976 of 2024 and connected matters**
Judgment Date: **08**.**06**.**2026**

- The Madras High Court held that a Show Cause Notice issued under Section 74 of the CGST Act is not invalid merely because it does not expressly set out detailed reasons for invoking the extended period of limitation. If the foundational or jurisdictional facts are discernible from prior proceedings such as scrutiny, audit, inspection, DRC-01A or other communications, the invocation of Section 74 is valid.

- The Court further held that if fraud, wilful misstatement or suppression of facts is ultimately not established, proceedings initiated under Section 74 need not fail. Instead, they can be converted into proceedings under Section 73, thereby preserving the tax demand while excluding the penal consequences associated with Section 74.

- The Court also upheld the validity of consolidated Show Cause Notices covering multiple tax periods, observing that neither Section 73 nor Section 74 prohibits issuance of a common notice for more than one financial year. Accordingly, a composite SCN cannot be quashed solely on this procedural ground.

- Applying these principles, the High Court dismissed the writ petitions challenging the Show Cause Notices in cases where sufficient jurisdictional facts had already been communicated through earlier proceedings and directed the assessees to submit their replies before the adjudicating authority. However, in cases where the basis for invoking the extended period was absent, the Court directed that the proceedings continue only under the normal limitation period under Section 73.

17. **Can GST Authorities Compel a Taxpayer to Pay CGST and SGST Again and Then Claim Refund When Tax was Mistakenly Paid under the IGST Head?**
Case: SYA Homes vs. Assistant Commissioner (ST)
Court: Madras High Court
Writ Petition No.: W.P. No. 23463 of 2026
Judgment Date: 07.07.2026

- The Madras High Court held that where a registered person inadvertently paid the entire GST liability under the IGST head instead of apportioning it between CGST and SGST, and the tax liability had already been discharged within the prescribed time, the authorities could not compel the taxpayer to pay CGST and SGST afresh and thereafter claim refund of the IGST amount.

- The Court observed that Section 19 of the IGST Act, Section 77 of the CGST Act and Rule 89(1A) apply only where a transaction initially treated as an inter-State supply is subsequently held to be an intra-State supply, and not to cases of mere payment under the wrong tax head.

- The High Court held that once the entire tax liability stood discharged under the IGST head, the assessee could not be penalised for a procedural error in head-wise allocation. Instead, the amount already paid should be appropriated towards the CGST and SGST liabilities without insisting on a fresh payment followed by a refund claim.

- Accordingly, the Court directed the GST authorities to appropriate the IGST payment towards the CGST and SGST heads within 30 days of the assessee's application and set aside the conflicting portion of the rectification order.

18. **Can Delay Beyond the Outer Time Limit under Section 107(4) of the CGST Act be Condoned if the Assessment Order was Already Communicated?**
Case: Sri Balaji Metallics (P.) Ltd. vs. Commissioner of CT & GST
Court: Supreme Court of India
SLP (C) No.: 22223 of 2026
Judgment Date: 02.07.2026

- The Supreme Court issued notice in the Special Leave Petition challenging the Orissa High Court's decision, which had held that where an assessment order was admittedly communicated to the assessee on the very date it was passed, the limitation period for filing an appeal under Section 107 commenced from that date and delay beyond the statutory outer limit could not be condoned.

- The assessee had contended that the order under Section 73 was not communicated earlier and that the limitation period should run from the actual date of communication. However, the High Court found that the assessee had itself admitted in its appeal that the order had been communicated on the date of its passing, leaving no scope to compute limitation from any later date.

- The High Court further held that once the appeal was filed beyond the maximum condonable period prescribed under Section 107(4), the appellate authority had no statutory power to condone such delay, as the legislature had expressly restricted the power of condonation beyond the prescribed outer limit.

- Since the Supreme Court has only issued notice and the matter is pending adjudication, no final view has yet been expressed on the correctness of the High Court's judgment. The appeal will be considered on the next date of hearing.

19. **Can GST Recovery Proceedings be Sustained When the Show Cause Notice and Adjudication Order were Uploaded Only in the 'Additional Notices and Orders' Tab?**
Case: Raju Ghosh vs. State of West Bengal
Court: Calcutta High Court
Writ Petition No.: WPA No. 13917 of 2026
Judgment Date: 16.07.2026

- The Calcutta High Court held that where the Show Cause Notice and adjudication order were uploaded only under the GST portal tab "Additional Notices and Orders", resulting in the taxpayer being unaware of the proceedings, the consequent recovery from the Electronic Credit Ledger and related orders violated the principles of natural justice.

- The Court observed that the petitioner had sought an adjournment, but the request was not reflected in the adjudication order. Since the ex parte order was also uploaded only under the "Additional Notices and Orders" tab, the petitioner was deprived of an effective opportunity of hearing before adverse action was taken.

- The High Court rejected the State's contention that the matter had attained finality because the petitioner had already filed an appeal. It held that procedural irregularities and denial of natural justice justified interference, particularly when the entire disputed tax had already been recovered from the Electronic Credit Ledger.

- Accordingly, the Court quashed the adjudication order, appellate order and consequential recovery notices, and remanded the matter to the adjudicating authority for fresh adjudication after granting the petitioner a proper opportunity of personal hearing, without expressing any opinion on the merits of the case.

20. **Can Uploading GST Notices and Orders Only in the "Additional Notices and Orders" Tab Trigger the Limitation Period for Filing an Appeal?**
Case: Luxmi Traders vs. Union Territory of Chandigarh and Others (Lead Case) along with connected matters
Court: Punjab and Haryana High Court
Case No.: CWP-27139-2025 (O&M) and connected writ petitions
Judgment Date: 21.07.2026

- The Punjab and Haryana High Court held that merely uploading a Show Cause Notice or Order-in-Original in the "View Additional Notices and Orders" tab on the GST portal does not amount to valid service under Section 169 of the CGST Act. Since the GST Common Portal has not been specifically notified under Section 146 for service of notices and orders, such uploading does not trigger the limitation period for filing an appeal.

- The petitioners contended that they never received the Show Cause Notices or Orders through any prescribed mode of service. The Department had only uploaded the documents in the "Additional Notices and Orders" tab without attaching them to any email or serving them by post, resulting in ex parte orders and loss of the statutory right to appeal.

- The Court observed that the email sent by the GST portal merely intimates that a document has been uploaded and does not contain the actual notice or order. It also noted that the "Additional Notices and Orders" tab is difficult to locate and resembles a "treasure hunt," making it unreasonable to presume that taxpayers have been effectively served.

- Holding that valid service had not been effected, the High Court ruled that limitation for filing an appeal could not commence merely because the notice or order was uploaded on the portal. The Court accepted the petitioners' challenge on this issue and clarified that, in the absence of a proper statutory notification or prescribed mode of service, such portal uploads cannot be treated as effective service under the CGST Act.

21. **Can GST be Levied on Assignment of Leasehold Rights in an Industrial Plot Along with the Building Constructed Thereon?**
Case: Union of India vs. Gujarat Chamber of Commerce and Industry
Court: Supreme Court of India
SLP (Civil) Diary No.: 33270 of 2025
Judgment Date: 21.07.2026

- The Supreme Court dismissed the Revenue's Special Leave Petition against the Gujarat High Court's judgment holding that GST is not leviable on the assignment of leasehold rights in an industrial plot along with the building constructed thereon. Such assignment amounts to transfer of benefits arising from immovable property and does not constitute a "supply" under Section 7 of the CGST Act.

- The Gujarat High Court had held that when a lessee assigns its leasehold rights in an industrial plot to a third party for a lump-sum consideration, the assignee merely steps into the shoes of the original lessee. The transaction represents a transfer of rights in immovable property rather than a taxable supply of goods or services.

- The Supreme Court observed that an identical issue had already been decided in Assistant Commissioner (Anti Evasion) v. Aerocom Cushions (P.) Ltd., where the

Revenue's Special Leave Petition was dismissed. Following the same precedent, the Court found no reason to interfere with the Gujarat High Court's decision.

- Accordingly, the Supreme Court dismissed the Special Leave Petition and allowed the Gujarat High Court's ruling to attain finality, reaffirming that GST is not payable on the assignment of leasehold rights in such circumstances.

22. **Can GST be Levied on Affiliation Fees Paid by Colleges to Universities?**
Case: Surendera Group of Institutions vs. Union of India
Court: Rajasthan High Court
Case No.: D.B. Civil Writ Petition No. 7287 of 2026
Judgment Date: 10.07.2026

- The Rajasthan High Court held that GST is not leviable on affiliation fees paid by colleges to universities. Grant of affiliation is a statutory and regulatory function, does not constitute a "supply" under the CGST Act, and affiliation services are exempt under Entry 66 of Notification No. 12/2017-Central Tax (Rate).

- The petitioner-college challenged the demand of GST raised by Bikaner Technical University on affiliation fees paid for the academic sessions 2018-19 to 2022-23. The Court noted that the issue had already been conclusively decided in Rajasthan Technical University v. Union of India, wherein levy of GST on affiliation fees was held to be illegal.

- The Court reiterated that affiliation fees are not consideration for any taxable activity. Universities perform statutory functions relating to regulation, affiliation, examinations and conferment of degrees, and such services fall within the exemption provided under Entry 66(a) and Entry 66(b)(iv) of Notification No. 12/2017-CT (Rate).

- Accordingly, the High Court set aside the GST demand and directed the GST authorities to refund any GST collected on the affiliation fees within four months. If the refund is delayed, interest at 7% per annum shall be payable from the date of payment until the date of refund.

23. **Delhi High Court: 10% Pre-Deposit under Amended Section 107(6) Not Applicable to Appeals Arising from SCNs Issued Before 01.10.2025**
Case: Gaurav Jain & Anr. v. Joint Commissioner (Appeals-II), CGST Delhi Zone & Anr.
Citation: W.P.(C) 8414/2026
Judgment Date: 31 July 2026

- The Delhi High Court held that the amended proviso to Section 107(6) of the CGST Act, effective from 01.10.2025, requiring a mandatory pre-deposit of 10% of the penalty in penalty-only cases, is prospective and does not apply where adjudication proceedings commenced before the amendment through a Show Cause Notice (SCN).

- The Court observed that the right of appeal is a substantive and vested right which crystallizes on the commencement of the lis, i.e., the issuance of the SCN, and carries with it the appellate conditions existing on that date. A subsequent amendment imposing a more onerous pre-deposit requirement cannot be applied unless the legislature expressly or by necessary implication provides for retrospective operation.

- The Court held that the amended proviso adversely altered the "appellate package" available to the petitioners by introducing, for the first time, a mandatory 10% pre-deposit in penalty-only cases. Since the SCN had been issued on 25.06.2025, before the amendment came into force, the earlier appellate regime continued to govern their appeals.

- The Court further clarified that although the Appellate Authority has no statutory power to waive or reduce a valid pre-deposit requirement on grounds of financial hardship, such issue did not arise in the present case because the amended proviso itself was held inapplicable. Consequently, the constitutional challenge to the amendment was left open for consideration in an appropriate case.

- Accordingly, the writ petition was allowed, and the Court directed the Appellate Authority to entertain the petitioners' appeals without insisting upon the 10% pre-deposit of the disputed penalty. The period during which the writ petition remained pending was excluded for limitation purposes, and the petitioners were granted four weeks to file their appeals.

24. **Department Cannot Treat the Same Services as "Exports" for One Period and "Intermediary Services" for Another Without Any Material Distinction**
Case: **Cvent India (P.) Ltd. v. Assistant Commissioner of CGST, Punjab & Haryana High Court**
Citation: **CWP No. 22461 of 2023**
Judgment Date: **21 July 2026**

- The Punjab & Haryana High Court held that where the GST Department has consistently treated a taxpayer as an exporter of services and granted refund of unutilized Input Tax Credit (ITC) for identical services during earlier and subsequent periods, it cannot deny refund for an intervening period by classifying the same services as "intermediary services" in the absence of any material showing a distinction in the nature of services.

- The petitioner, an information technology and IT-enabled services provider rendering services to its overseas parent company in the USA, claimed refund of unutilized ITC for the period January 2019 to March 2019 as zero-rated export of services. The Department rejected the refund by treating the petitioner as an intermediary under Sections 2(13), 2(6) and 13(8)(b) of the IGST Act, despite having granted refunds for the periods June 2018 to December 2018, April 2019 to December 2019 and January 2020 to March 2020 on identical facts.

- The Court observed that the Department failed to produce any material demonstrating that the services rendered during the disputed period were different from those rendered during the periods for which refund had already been sanctioned. Following its earlier decision in Corning Technologies India (P.) Ltd., the Court held that adopting inconsistent stands in respect of identical services was arbitrary, discriminatory and violative of the principle of consistency.

- Accordingly, the High Court allowed the writ petition, set aside the appellate order rejecting the refund claim, and directed the Department to release the refund along with the applicable interest within four weeks from the date of uploading of the judgment.

25. **GST Registration Cannot Be Cancelled Solely for Filing NIL Returns**: **Uttarakhand High Court**
Case: **Snowline Travel Ventures LLP v. Commissioner**, **State Goods and Services Tax**
Citation: **Writ Petition (M/B) No. 593 of 2026**
Judgment Date: **23 July 2026**

- The Uttarakhand High Court held that GST registration cannot be cancelled solely on the ground that a registered person has been filing NIL returns for several months. Section 29(2) of the CGST Act does not contemplate cancellation of registration merely because NIL returns have been furnished.

- The petitioner challenged the Show Cause Notice and the cancellation order, both of which were founded exclusively on the allegation that the petitioner had been filing NIL returns for the last several months. It was contended that filing NIL returns is not one of the statutory grounds prescribed under Section 29(2) for cancellation of registration.

- The Court agreed with the view taken by the Andhra Pradesh High Court in Kali Shankar Enterprises v. Additional Commissioner and observed that, in the absence of any other statutory breach, filing NIL returns alone cannot justify cancellation of GST registration. Since the Department relied only on this ground, the action was held to be unsustainable in law.

- Accordingly, the High Court quashed both the Show Cause Notice and the cancellation order passed under Section 29 of the CGST Act and allowed the writ petition in favour of the assessee.

26. **Delay in Filing GST Appeal Can Be Condoned in Writ Jurisdiction Where Assessee Remained Unaware of Portal Upload of Order**: **Rajasthan High Court**
Case: **Bhagwati Industries v. Union of India**
Citation: **D.B. Civil Writ Petition No. 11651 of 2026**
Judgment Date: **20 July 2026**

- The Rajasthan High Court held that although the Appellate Authority has no power to condone delay beyond the statutory period prescribed under Section 107 of the CGST Act, the High Court, in exercise of its writ jurisdiction, can condone such delay where the assessee was prevented from filing the appeal due to circumstances beyond its control.

- The petitioner challenged the inability to file an appeal against the Order-in-Original as the GST portal showed the appeal to be time-barred. The delay was attributed to lack of knowledge of the GST portal and appellate procedure, non-communication of the adjudication order except through portal upload, closure of business, financial distress, and complete dependence on tax professionals for GST compliances.

- The Court observed that refusal to adjudicate the appeal on merits would cause grave prejudice to the petitioner when the delay had occurred for bona fide reasons beyond its control. Relying on its earlier decisions in M.R. Traders, Molana Construction Company, Man Singh Tanwar and RPC PSIPL JV, the Court reiterated that such delays deserve to be condoned in writ jurisdiction to advance substantial justice.

- Accordingly, the High Court condoned the delay in filing the appeal and directed the Appellate Authority to entertain and decide the appeal on merits, provided it is filed within 30 days from the date of uploading of the Court's order. The Court also left open the challenge to the constitutional validity of Section 107(4) of the CGST Act for consideration in an appropriate case.

27. **Unsigned GST Assessment Order without DIN Is Inherently Invalid: Andhra Pradesh High Court**
Case: Modern Engineers and Contractors v. Deputy Assistant Commissioner (ST)
Citation: Writ Petition No. 19677 of 2026
Judgment Date: 20 July 2026

- The Andhra Pradesh High Court held that an assessment order issued without the signature of the Assessing Officer and without a Document Identification Number (DIN) suffers from an inherent defect. Such defects are not curable under Sections 160 or 169 of the CGST Act, rendering the assessment order invalid and liable to be set aside.

- The petitioner challenged the summary assessment order on the ground that it neither bore the signature of the Assessing Officer nor contained a DIN. The Department opposed the writ petition on the ground of delay, contending that the order had been served by uploading it on the GST portal under Section 169(1)(d). The petitioner, however, asserted that the order had never been communicated through the conventional modes of service.

- The Court relied upon its earlier decisions in A.V. Bhanoji Row, SRK Enterprises, SRS Traders, Cluster Enterprises and Sai Manikanta Electrical Contractors, reiterating that

absence of the Assessing Officer's signature or DIN is a fundamental defect which cannot be validated through the provisions relating to procedural irregularities or service of notices. While acknowledging practical difficulties arising from the GST portal, the Court observed that such patent irregularities warranted interference in writ jurisdiction.

- Accordingly, the High Court set aside the impugned assessment order and remanded the matter to the Assessing Officer for fresh adjudication after granting the petitioner an opportunity of hearing. The relief was made subject to the petitioner depositing 30% of the disputed tax within six weeks, with the period during which the writ petition remained pending directed to be excluded for the purpose of limitation.

28. **Portal-Only Service of GST Notices after Cancellation of Registration Is Invalid: Uttarakhand High Court**
Case: M/s Vandana Distributers v. Commissioner of the State GST
Citation: Writ Petition (M/B) No. 401 of 2026
Judgment Date: 21 May 2026

- The Uttarakhand High Court held that where a taxpayer's GST registration had already been cancelled before issuance of the Show Cause Notice, service of the Show Cause Notice and adjudication order only by uploading them on the GST portal is not valid service under Section 169 of the CGST Act. Consequently, the entire adjudication and appellate proceedings based on such defective service are liable to be quashed.

- The petitioner contended that after cancellation of its registration, it had no reason to keep checking the GST portal and, therefore, remained unaware of the Show Cause Notice and the adjudication order, both of which were uploaded only on the portal. The appeal against the adjudication order was subsequently dismissed as barred by limitation.

- The Court relied upon its earlier decision in Raj Shekhar Pandey and the Allahabad High Court judgments in Ahs Steels and Katyal Industries, observing that while portal upload is one of the prescribed modes of service, it cannot be treated as the exclusive mode where the taxpayer's registration already stood cancelled. In such cases, the Department is required to adopt an effective mode of service and also comply with the requirement of granting an opportunity of personal hearing under Section 75(4).

- Accordingly, the High Court quashed the adjudication order as well as the appellate order and granted liberty to the Revenue to proceed afresh from the stage of the Show Cause Notice. The Court further directed that, if requested, the petitioner shall be afforded a personal hearing in accordance with Section 75(4) of the CGST Act.

Summary: Income Tax Case Laws

1. **Can entire bogus purchases and estimated profit on corresponding sales both be added when the sales are duly recorded in the books of account?**
   Case: Principal Commissioner of Income-tax (Central) vs. Center Point Gems (P.) Ltd.
   Court: Gujarat High Court
   Tax Appeal Nos.: R/Tax Appeal Nos. 403, 404, 417, 418 & 419 of 2026
   Judgment Date: 09.06.2026

- The Gujarat High Court held that where the Assessing Officer treats purchases as bogus but does not dispute the corresponding sales or establish any suppression of sales, the addition should be confined only to the profit element embedded in the alleged bogus purchases. No separate addition can be made on the corresponding sales in the absence of evidence that such sales are bogus or suppressed.

- In the present case, the assessee companies were subjected to reassessment based on investigations relating to alleged accommodation entries. The Assessing Officer treated the entire purchases from certain entities as bogus and added the same under Section 69. The Commissioner (Appeals) restricted the addition to 2% of the alleged bogus purchases, observing that no finding had been recorded by the Assessing Officer that the corresponding sales were bogus. The Tribunal subsequently enhanced the disallowance to 6% of the alleged bogus purchases but rejected the Revenue's plea for making any further addition on the sales transactions.

- The High Court observed that the entire sales had already been recorded in the books of account and the Revenue had failed to produce any material to establish that the sales were either bogus or suppressed. Once the profit element on the alleged bogus purchases had already been brought to tax by estimating 6% of such purchases, making a further addition on the recorded sales would amount to double taxation without any supporting evidence. The Court also noted that the Assessing Officer himself had neither made any addition with reference to the sales nor recorded any finding that the sales were non-genuine.

- Accordingly, the Gujarat High Court upheld the Tribunal's order restricting the addition to 6% of the alleged bogus purchases and declined to permit any further addition on the corresponding sales. The Revenue's appeals were dismissed as being devoid of merit.

2. **Can an order under Section 148A(d) and the consequential notice under Section 148 be sustained when the Assessing Officer denies the assessee a personal hearing despite repeated requests?**
   Case: Pinnacle Enterprises (P.) Ltd. vs. Assistant Commissioner of Income-tax

Court: **Calcutta High Court**
Writ Petition: **WPA No. 19538 of 2025**
Judgment Date: **21.05.2026**

- The Calcutta High Court held that passing an order under Section 148A(d) without granting a personal hearing, despite repeated requests by the assessee, amounts to a gross violation of the principles of natural justice. Consequently, the order under Section 148A(d) and the consequential notice under Section 148 are liable to be quashed.

- In the present case, the petitioner received a show cause notice proposing reopening of the assessment under Section 148A and repeatedly requested a personal hearing to explain the alleged discrepancies. Although a notice dated 27.03.2025 was issued, the petitioner contended that it was not a notice for personal hearing. Ignoring the repeated requests, the Assessing Officer passed an order dated 28.06.2025 under Section 148A(d) and simultaneously issued a notice under Section 148 for reassessment.

- The High Court observed that the statutory scheme under Section 148A, read with the applicable CBDT Guidelines, contemplates providing an effective opportunity of hearing before reopening an assessment. Relying on its earlier Division Bench decision in Nitin Agarwal v. ITO, the Court reiterated that failure to grant a personal hearing, particularly when specifically sought by the assessee, constitutes a clear breach of natural justice and vitiates the entire reopening proceedings.

- Accordingly, the Court quashed the order passed under Section 148A(d) and the consequential notice issued under Section 148, and remanded the matter to the Assessing Officer with a direction to grant the petitioner a personal hearing, permit filing of additional documents, and thereafter pass a fresh reasoned order in accordance with law. The Court also clarified that if the petitioner failed to appear on the scheduled date of hearing, the Assessing Officer would be at liberty to proceed in accordance with law.

3. **Can an assessment be sustained where the scrutiny notice under Section 143(2) is not issued in the format prescribed by the CBDT?**
Case: **Kusum Lata Agarwal vs. Income-tax Officer**
Court: **ITAT Lucknow Bench (SMC)**
IT Appeal No.: 603 (LKW) of 2025 (Assessment Year: 2017-18)
Judgment Date: **08.05.2026**

- The ITAT Lucknow held that issuance of a notice under Section 143(2) in the format prescribed by the CBDT is a jurisdictional requirement. A scrutiny notice issued in violation of the binding CBDT Instruction dated 23.06.2017 is invalid in law and cannot confer jurisdiction upon the Assessing Officer to proceed with the assessment.

- In the present case, the assessee's return for AY 2017-18 was selected for complete scrutiny under CASS on account of abnormal cash deposits during the demonetisation period. The Assessing Officer issued a notice under Section 143(2), restricted the assessee's cash sales, treated cash deposits of ₹34.59 lakh as unexplained under Section 68, and completed the assessment under Section 143(3). The NFAC upheld the addition. Before the Tribunal, the assessee raised an additional legal ground contending that the scrutiny notice had not been issued in the revised format mandated by CBDT Instruction F. No. 225/157/2017/ITA.II dated 23.06.2017.

- The Tribunal observed that the additional ground raised a pure question of law going to the root of the assessment and was therefore maintainable notwithstanding the assessee's participation in the assessment proceedings. It further held that paragraph 3 of the CBDT Instruction expressly mandated that all scrutiny notices under Section 143(2) must be issued only in the revised format. Since the impugned notice was admittedly not issued in the prescribed format, it suffered from a jurisdictional defect which could not be cured under Section 292B. Consequently, the notice was held to be invalid and incapable of conferring jurisdiction upon the Assessing Officer.

- Accordingly, the Tribunal quashed the notice issued under Section 143(2) along with the entire consequential assessment proceedings. Having granted relief on the jurisdictional issue, it held that the grounds challenging the addition on merits had become academic and partly allowed the assessee's appeal.

4. **Can capital gains be postponed to the next assessment year merely because most of the sale consideration and possession were received later, or restricted on the basis of a subsequent family settlement?**
   Case: Raju Jamnadas Babani vs. Deputy Commissioner of Income-tax
   Court: ITAT Hyderabad Bench 'B'
   IT Appeal Nos.: 2058 & 2059 (Hyd.) of 2025 (Assessment Year: 2016-17)
   Judgment Date: 10.06.2026

- The ITAT Hyderabad held that where a registered agreement for sale of an immovable property is executed during the relevant previous year, the transfer is complete for the purposes of Section 2(47), and the resultant capital gains are taxable in that assessment year itself. The subsequent receipt of sale consideration or handing over of possession does not postpone the year of taxability.

- In the present case, the assessee sold a flat at Bandra, Mumbai through a registered agreement dated 28.03.2016 for a consideration of ₹3.75 crore. He contended that only ₹15 lakh was received during AY 2016-17, while the balance consideration and possession were handed over in the succeeding year, and therefore the capital gains were taxable in AY 2017-18. The assessee further claimed that under a Memorandum of Family Settlement executed on 06.04.2016, he was entitled to only 25.65% of the sale consideration and that only such proportion of the capital gains could be assessed in his hands.

- The Tribunal observed that execution of the registered sale agreement on 28.03.2016 conclusively established the transfer of the capital asset under Section 2(47), and neither deferred receipt of consideration nor subsequent delivery of possession could alter the year of taxability. It further noted that the registered sale agreement unequivocally described the assessee as the absolute owner and sole vendor of the property, while the other family members were merely confirming parties with no right, title or interest in the property. Accordingly, a subsequent family settlement could not reduce the assessee's liability to capital gains tax arising from the completed transfer.

- Accordingly, the Tribunal upheld the assessment of the entire long-term capital gains in the hands of the assessee for AY 2016-17 and rejected the claim that only 25.65% of the gains were taxable. However, it directed the Assessing Officer to grant credit in AY 2016-17 for the taxes paid, collected or deducted in AY 2017-18 in respect of the same transfer transaction, and dismissed the assessee's appeals subject to this direction.

5. **Can prosecution for delayed deposit of TDS be sustained when the entire TDS along with interest was deposited before any departmental action and the delay was covered by the CBDT's prosecution guidelines?**
   Case: Magna Graphics (India) Ltd. vs. Commissioner of Income-tax (TDS)
   Court: Bombay High Court
   Criminal Writ Petition No.: 5088 of 2025
   Judgment Date: 08.05.2026

- The Bombay High Court held that prosecution under Sections 276B and 278B of the Income-tax Act is not sustainable where the assessee had deposited the entire TDS along with applicable interest before issuance of the show cause notice, there was no intention to evade payment, and the case did not satisfy the conditions prescribed in Clause 3.1 of the CBDT Circular dated 24.04.2008 for launching prosecution.

- In the present case, the assessee-company had deducted TDS during FY 2012-13 but failed to deposit it within the prescribed time due to lapses on the part of its erstwhile employees. On discovering the default, the company voluntarily deposited the entire TDS along with interest even before any departmental action was initiated. Nearly 40 months later, the Department issued a show cause notice proposing prosecution and subsequently launched criminal proceedings under Sections 276B and 278B against the company and its directors.

- The High Court observed that Section 278AA grants protection where the assessee establishes a reasonable cause for the default and that the CBDT Circular dated 24.04.2008 contemplates prosecution only where both the amount of TDS in default is ₹25,000 or more and the delay exceeds 12 months. In the present case, except for two minor instances involving TDS of ₹2,294 and ₹1,152, all deposits were made within 12 months and the entire liability with interest had already been discharged before issuance of the show cause notice. The Court further held that the complaint contained no specific allegations showing consent, connivance or neglect on the part

of the directors, nor had any of them been declared as the "principal officer" under the Act. Consequently, vicarious criminal liability under Section 278B could not be invoked.

- Accordingly, the Bombay High Court quashed the sanction order, the criminal complaint and the consequential criminal proceedings against both the company and its directors, holding that continuation of the prosecution would amount to an abuse of the process of law.

6. **Can additions for alleged bogus purchases be sustained merely because the supplier's GST registration was cancelled subsequently, despite the assessee producing complete documentary evidence and the books of account remaining undisputed?**
Case: ACIT vs. Bonlon Industries Ltd.
Court: ITAT Delhi Bench 'E'
ITA Nos.: 7987, 7988 & 7989 (Delhi) of 2025
Judgment Date: 03.07.2026

- The ITAT Delhi held that additions on account of alleged bogus purchases cannot be sustained where the assessee establishes the genuineness of transactions through invoices, GST returns, transport documents, stock records and banking evidence, the books of account are not rejected, and the corresponding sales are accepted. The Tribunal also held that penalty under Section 270A cannot survive once the quantum additions are deleted.

- The assessee, engaged in manufacturing and trading of non-ferrous metals, had entered into substantial purchase and sale transactions with RCI Industries & Technologies Ltd. The Assessing Officer treated the purchases as bogus on the basis of subsequent cancellation of the supplier's GST registration, alleged deficiencies in transport documents and limited responses received during reassessment, and made additions by estimating profit on purchases, gross profit on sales and GST components. The CIT(A), after examining the books of account, GST returns, invoices, stock registers, transport records, bank payments and the supplier's CIRP status, deleted all the additions.

- The Tribunal observed that the Assessing Officer had neither rejected the books of account nor disputed the sales, while the assessee had furnished complete documentary evidence establishing the movement of goods and payment through banking channels. It further noted that the supplier's GST registration was cancelled only in 2023, long after the relevant assessment years, and that the Assessing Officer failed to obtain information from the Resolution Professional despite the supplier being under insolvency proceedings. The Tribunal held that estimating 12.5% profit on purchases, making additions under Sections 69A and 69C and ad hoc GST additions were legally unsustainable. Since the quantum additions were deleted, the penalty imposed under Section 270A also had no legs to stand.

- Accordingly, the ITAT dismissed the Revenue's appeals, upheld the deletion of all additions made under Sections 69A and 69C, confirmed that the purchases and sales were genuine, and also upheld the deletion of the penalty levied under Section 270A.

7. **Can exemption under Section 54 be denied merely because construction of the new residential house was not completed within three years due to delay in approval of the building plan?**
   Case: Ramautar Saraf (HUF) vs. Income-tax Officer
   Court: ITAT Kolkata Bench 'D'
   IT Appeal No.: 2482 (Kol.) of 2025 (Assessment Year: 2016-17)
   Judgment Date: 20.01.2026

- The ITAT Kolkata held that exemption under Section 54 cannot be denied where the assessee has invested the capital gains in purchase of land and construction of a residential house within the prescribed period, merely because the construction was not completed within three years due to delay in approval of the municipal building plan. Completion of construction or approval of the building plan within the stipulated period is not a mandatory condition for claiming exemption under Section 54.

- In the present case, the assessee sold a residential house for ₹6.25 crore and earned long-term capital gains of about ₹5.48 crore. Out of the capital gains, the assessee invested approximately ₹2.80 crore towards purchase of a plot for construction of a residential house, paid architect fees of ₹5.72 lakh and deposited ₹2.60 crore under the Capital Gains Account Scheme. Although the assessee commenced construction within the prescribed period, the building plan was sanctioned by the Kolkata Municipal Corporation only after expiry of three years. The Assessing Officer disallowed the deduction of ₹2.86 crore under Section 54, which was affirmed by the CIT(A) on the ground that construction had not been completed within the statutory period.

- The Tribunal observed that Section 54 is a beneficial provision and requires only that the capital gains be invested towards purchase or construction of a residential house within the prescribed period. It held that investment in purchase of land for construction of a residential house qualifies for exemption under Section 54, and completion of construction is not a prerequisite. The Tribunal further held that delay in approval of the building plan by the municipal authorities cannot deprive the assessee of the exemption, particularly when construction had already commenced within the stipulated period and the capital gains had been duly invested.

- Accordingly, the Tribunal set aside the order of the CIT(A), directed the Assessing Officer to delete the addition of ₹2.86 crore, and allowed the assessee's claim for exemption under Section 54. It also observed that the question whether the construction was ultimately completed within the three-year window could, if required, be examined only in the relevant subsequent assessment year after expiry of the statutory period.

8. **Can TDS on Google AdWords Payments be Deducted under Section 194C instead of Section 194J?**
   Case: Deputy Commissioner of Income-tax vs. Head Digital Works (P.) Ltd.
   Court: ITAT Hyderabad Bench
   Appeal No.: I.T. Appeal No. 279 (Hyd.) of 2025
   Assessment Year: 2018-19
   Judgment Date: 19.06.2026

- The Hyderabad ITAT held that payments made for Google AdWords online advertising services are in the nature of advertising contracts covered under Section 194C of the Income-tax Act and not fees for technical services under Section 194J. Accordingly, deduction of TDS at 2% under Section 194C was held to be valid.

- In the present case, the assessee, engaged in operating an online gaming platform, purchased online advertising services under the Google AdWords Program from Google India Pvt. Ltd. and deducted TDS at 2% under Section 194C. During a survey under Section 133A, the Assessing Officer held that the AdWords platform involved sophisticated algorithms, real-time bidding, data analytics and technical processes, and therefore the payments constituted fees for technical services requiring deduction of TDS at 10% under Section 194J. Consequently, the assessee was treated as an assessee in default under Sections 201(1) and 201(1A).

- The Tribunal observed that Google AdWords is a standard, automated, self-service advertising platform where advertisers independently select keywords, budgets and advertisements, while keyword matching, ad ranking and publication are carried out automatically through Google's algorithms without any direct human intervention. The mere use of sophisticated technology does not amount to rendering managerial, technical or consultancy services, which are essential requirements for invoking Section 194J.

- The Tribunal further held that advertising contracts are specifically covered under Section 194C. Once the Legislature has expressly classified advertising under Section 194C, the Revenue cannot invoke the general provisions of Section 194J merely because the advertising is delivered through an electronic or technologically advanced platform. The Tribunal also relied upon CBDT Circular Nos. 714 and 715 clarifying that payments for advertising are covered under Section 194C.

- The Tribunal also noted that the Finance Act, 2020 reduced the TDS rate on fees for technical services (other than professional services) from 10% to 2% with the objective of reducing litigation arising from disputes between Sections 194C and 194J. Although the amendment applied prospectively, it reinforced the legislative intent to minimise such disputes. Accordingly, the Tribunal upheld the order of the CIT(A), deleted the demand raised under Sections 201(1) and 201(1A), and dismissed the Revenue's appeal.

9. **Can Registration under Section 12AB be Denied Merely Because the Trust Deed Permits Scholarships or Medical Assistance Outside India?**
Case: Bacha Kharshedji Mowdavala Charitable Trust vs. Commissioner of Income-tax (Exemptions)
Court: ITAT Mumbai Bench
Judgment Date: 20.05.2026

- The ITAT Mumbai held that registration under Section 12AB cannot be denied merely because the trust deed contains object clauses permitting scholarships or medical assistance outside India. The geographical restriction under Section 11 relates only to the availability of exemption and not to the grant of registration under Section 12AB. The Commissioner must examine only the objects of the trust and the genuineness of its activities.

- The Tribunal further held that application of charitable income outside India, where permitted under Section 11(1)(c), does not render the trust ineligible for registration. Therefore, rejection of registration solely on the basis of an enabling clause in the trust deed contemplating activities outside India is legally unsustainable.

- On the issue of delay in filing Form 10AB, the Tribunal observed that where the trust had already been granted provisional registration and no defect was found in its objects, activities or supporting documents, a delay or incorrect clause selection in the application constitutes only a procedural lapse and not a substantive violation warranting rejection of registration.

- Accordingly, the Tribunal set aside the order of the CIT(E) and directed grant of registration under Section 12A/12AB by treating the application as validly filed, holding that technical procedural defects should not defeat genuine charitable institutions where their objects and activities are otherwise found to be bona fide.

10. **Can an Assessee be Treated as an Assessee in Default for Deducting TDS under Section 194C Instead of Section 194I?**
Case: Principal Commissioner of Income-tax vs. Jindal Saw Ltd.
Court: Delhi High Court
Appeal No.: ITA No. 437 of 2026
Judgment Date: 08.07.2026

- The Delhi High Court held that where the assessee has deducted the appropriate amount of tax at source, merely deducting TDS under Section 194C instead of Section 194I does not render the assessee an assessee in default under Sections 201/201A, nor can the expenditure be disallowed under Section 40(a)(ia).

- The Court observed that the Tribunal had already set aside the order passed under Sections 201(1) and 201(1A), holding that the assessee was not in default. Consequently, the Assessing Officer could not invoke Section 40(a)(ia) merely because the TDS was deducted under a different but relevant provision of the Act.

- On the issue of Minimum Alternate Tax, the High Court reiterated that disallowance made under Section 14A read with Rule 8D cannot be added back while computing book profits under Section 115JB, as such adjustment is not contemplated under Explanation 1(f) to Section 115JB. The Court followed its earlier decision in Pr. CIT v. Bhushan Steel Ltd.

- Accordingly, the Delhi High Court dismissed the Revenue's appeal and upheld the Tribunal's order in favour of the assessee on both issues relating to disallowance under Section 40(a)(ia) and computation of book profits under Section 115JB.

11. **Can Judges Continue to Claim Statutory Allowances under the New Tax Regime Despite Section 115BAC?**
Case: Delhi Tax Bar Association vs. Union of India
Court: Delhi High Court
Writ Petition No.: W.P.(C) No. 9365 of 2026
Judgment Date: 22.07.2026

- The Delhi High Court held, prima facie, that Sections 22D of the High Court Judges (Salaries and Conditions of Service) Act, 1954 and 23D of the Supreme Court Judges (Salaries and Conditions of Service) Act, 1958 override Section 115BAC of the Income-tax Act. The Court observed that these provisions exclude specified judicial allowances from the computation of salary income and are not in the nature of exemptions or deductions.

- The petition challenged the CBDT Office Memorandum dated 12.09.2025, which stated that judges opting for the new tax regime would lose the benefit of statutory allowances. The Court found that the issue required detailed consideration as the memorandum appeared to be contrary to the overriding statutory provisions governing judges' allowances.

- As an interim measure, the High Court permitted Judges of the Supreme Court and High Courts to file their income tax returns under the new tax regime by disclosing such allowances under the category "Receipts not in the nature of income" in the return utility.

- The Court further directed that returns filed in the above manner shall not be processed until further orders, thereby granting interim protection to affected judges pending final adjudication of the writ petition.

12. **Can Exemption under Section 54 be Claimed for Multiple Residential Houses When Multiple Residential Houses are Sold?**
Case: Pavan Kumar Agarwal vs. Deputy Commissioner of Income-tax
Court: ITAT Bangalore Bench
Appeal No.: ITA No. 1916 (Bang) of 2025
Judgment Date: 29.06.2026

- The ITAT Bangalore held that where an assessee sells multiple residential houses, exemption under Section 54 is available in respect of the capital gains arising from each residential house, provided the assessee purchases or constructs one residential house against each transfer. The Assessing Officer was not justified in restricting the exemption to only one residential house.

- The assessee had sold 17 residential flats and invested the entire long-term capital gains in the purchase of four residential houses and construction of one residential house. The Assessing Officer restricted the exemption under Section 54 to only one house, resulting in an addition of ₹5.89 crore, which was upheld by the CIT(A).

- The Tribunal held that Sections 45 and 48 require computation of capital gains separately for each capital asset. Since Section 54 does not provide for clubbing capital gains arising from multiple residential houses, the exemption cannot be restricted to one house merely because several residential houses were sold during the year. The Tribunal also clarified that the benefit of the first proviso permitting investment in two houses where capital gains do not exceed ₹2 crore applies with reference to the capital gain from a single residential house and not the aggregate gains from multiple houses.

- Accordingly, the ITAT allowed the assessee's appeal, held that investment in five residential houses against the sale of 17 residential flats satisfied the conditions of Section 54, and directed that the entire exemption claimed by the assessee be allowed.

13. **Cash Deposits Out of Regular Cash Sales Cannot Be Treated as Unexplained Money under Section 69A: ITAT Lucknow**
Case: Income-tax Officer v. Moti Lal and Sons
Citation: ITA No. 117 (LKW) of 2024
Judgment Date: 04 June 2026

- The ITAT Lucknow held that cash deposits made out of regular cash sales duly recorded in the books of account and reflected in the audited financial statements cannot be treated as unexplained money under Section 69A of the Income-tax Act. Where the disclosed sales turnover exceeds the amount of cash deposits and no defects are found in the books, addition under Section 69A is unsustainable.

- The assessee, a partnership firm engaged in wholesale trading of sugar, had disclosed a turnover of ₹2.14 crore in its audited financial statements. The Assessing Officer treated cash deposits of ₹1.11 crore as unexplained money under Section 69A, alleging that they were not reflected in the return. The assessee explained that the deposits represented regular business receipts from cash sales and furnished the cash book, sales register and bank statements in support.

- The Tribunal observed that the Assessing Officer had failed to examine the audit report and financial statements already available on record, which clearly demonstrated that the cash deposits were covered by the disclosed sales turnover. In

the absence of any finding that the books of account were defective or that the deposits exceeded the recorded sales, the deposits could not be treated as unexplained money.

- Accordingly, the Tribunal upheld the order of the CIT(A) deleting the addition under Section 69A and dismissed the Revenue's appeal, holding that procedural objections regarding additional evidence could not justify sustaining an otherwise unsustainable addition.

14. **Cash Found in Employees' Lockers Cannot Be Taxed under Section 69A When Sales Are Duly Recorded and Accepted: ITAT Delhi**
Case: Deputy Commissioner of Income-tax v. Gardenia Shelters (P.) Ltd.
Citation: ITA No. 8525 (Delhi) of 2025
Judgment Date: 27 July 2026

- The ITAT Delhi held that cash found in the lockers of employees cannot be treated as unexplained money under Section 69A where the assessee establishes that the cash represents sale proceeds of leftover construction material duly recorded in its books of account and GST returns. Once the sales are accepted by the Revenue and supported by stock records, Section 69A cannot be invoked.

- In the present case, cash of ₹2.99 crore was recovered from the lockers of two employees, who admitted that the cash belonged to the assessee-company. The assessee explained that the cash represented proceeds from the sale of leftover construction material, which had been duly recorded in the books, reflected in GST returns, and supported by invoices, ledger accounts, cash book entries and confirmations from the buyers.

- The Tribunal observed that the Revenue had accepted the sales and the profits arising therefrom without disputing the books of account or stock records. The absence of documents such as weighment slips or transport records could not outweigh the documentary evidence comprising recorded sales, GST compliance, buyer confirmations and audited accounts. In the absence of any material showing that the sales were bogus, the addition under Section 69A was unsustainable.

- Accordingly, the Tribunal upheld the order of the CIT(A) deleting the addition under Section 69A, dismissed the Revenue's appeal, and reaffirmed that once recorded sales backed by stock and accepted books explain the source of cash, such cash cannot be assessed as unexplained money.

15. **Mere Delay in Payment of Tax Does Not Amount to Wilful Evasion under Section 276C(2): Madras High Court**
Case: Madha Constructions and Properties (P.) Ltd. v. Assistant Commissioner of Income-tax
Citation: Crl. O.P. No. 15721 of 2023
Judgment Date: 09 July 2026

- The Madras High Court held that mere delay in payment of assessed tax does not constitute an offence under Section 276C(2) of the Income-tax Act unless there is a wilful attempt to evade payment of tax. Even though Section 278E permits a presumption of culpable mental state, prosecution cannot be sustained in the absence of circumstances indicating wilful default.

- In the present case, the assessee had paid the tax due on the original return of income. Subsequently, the Assessing Officer rectified an erroneous assessment order under Section 154 and reduced the tax demand. Although the assessee delayed payment of the revised demand due to financial difficulties, the outstanding amount was paid immediately upon receipt of the show cause notice. The Department nevertheless launched prosecution under Section 276C(2).

- The Court observed that Section 276C(2) is a penal provision requiring strict interpretation and that prosecution can be initiated only where the conduct of the assessee demonstrates a wilful attempt to evade payment of tax. Since there was no allegation of false entries, suppression of income, or any other act indicating an intention to evade tax, the Department had established only a delayed payment and not a wilful default.

- Accordingly, the High Court quashed the prosecution complaint, holding that compelling the assessee to face a criminal trial in the absence of any wilful attempt to evade tax would amount to an abuse of the process of law.