E-Journal

Taxation
Latest Case Law
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- Direct & Indirect Tax Judgments
- Key Takeaways and Analysis



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Summary: Goods and Services Tax Case Laws

1. **GSTAT Bengaluru: GSTR-2A vs. GSTR-3B Mismatch Alone Cannot Conclusively Prove Wrong ITC; Proper Verification Required**
   Case: M/s. Peekay Industries v. Commissioner of Commercial Taxes, Karnataka
   Tribunal: GST Appellate Tribunal, Bengaluru Bench
   Appeal No.: APL/34/BUR/2026
   Order Date: 03 September 2026

- The GSTAT held that a difference between ITC reflected in GSTR-2A and ITC claimed in GSTR-3B may justify scrutiny and verification, but it cannot, by itself, be treated as conclusive proof that ITC was wrongly availed. The underlying transactions, reconciliation and supporting records must be properly examined.

- The dispute related to FY 2019-20, where the Department initially proposed an IGST mismatch of ₹82,701. However, the final demand was shifted to CGST and SGST of ₹25,587 each, resulting in a total demand of ₹1,11,882 including interest and penalty. The assessee contended that there was no excess CGST/SGST ITC and that its reconciliation had not been properly considered.

- The Tribunal found serious factual and procedural inconsistencies in the assessment. The CGST/SGST liability was never proposed in the SCN, the authority did not properly explain the change from IGST to CGST/SGST, and the reconciliation filed by the assessee dealt only with IGST. The Tribunal also held that GSTR-2A is not conclusive evidence of wrongful ITC and that invoices, books, purchase records, electronic credit ledger and supplier compliance require examination.

- Accordingly, GSTAT set aside both the adjudication order and the first appellate order and remanded the matter for fresh, reasoned adjudication. The remand is strictly confined to the original SCN, with directions to verify the reconciliation, invoices, books of account, electronic credit ledger and supplier compliance, and to give the assessee a proper opportunity to present supporting documents.

2. **Can telecommunication towers be treated as immovable property and denied ITC under Section 17(5)(d) of the CGST Act?**
   Case: Commissioner, CGST Appeal-1, Delhi Etc. v. Bharti Airtel Ltd.
   Court: Supreme Court of India
   Case No.: SLP (C) Nos. 22060-22062 of 2025; Review Petition (C) Nos. 10422-10424 of 2026
   Judgment Date: 19.08.2026

- The Supreme Court held that there was no error apparent on the face of the record in its earlier order concerning the classification of telecommunication towers. The towers do not satisfy the test of permanency and are not “attached to earth”; hence, they are to be treated as movable property.

- The telecommunication towers can be dismantled and moved and are not erected with an intention of conferring permanency. Their placement on concrete bases is merely to protect them from natural forces and does not make them immovable property.

- Since the towers are movable property, they do not fall within the scope of Section 17(5)(d) of the CGST Act as immovable property. Therefore, denial of input tax credit on this ground cannot be sustained.

- The Supreme Court found no merit in the Revenue's review petitions and dismissed them, thereby affirming the earlier decision in favour of Bharti Airtel. The ruling therefore supports eligibility of ITC in respect of such telecommunication towers, subject to other statutory conditions.

3. **Can limitation for filing a GST appeal be computed from the rectification order instead of the original order**?
   Case: **Kanan International** (**P**.) **Ltd**. **v**. **Union of India**
   Court: **Gujarat High Court**
   Case No.: **R/Special Civil Application Nos**. **1116**, **1117**, **1119**, **1128**, **1129**, **1147**, **1148** & **1169 of 2025**
   Judgment Date: **13**.**08**.**2026**

- The Gujarat High Court held that where a rectification application under Section 161 of the GST Act is filed within the prescribed period and is subsequently decided by a reasoned order, the limitation for filing an appeal under Section 107 has to be reckoned from the date of the rectification order, and not from the original adjudication order.

- The petitioners' GST refund claims were initially rejected and, after remand and fresh adjudication, were again rejected on 03.10.2022. They filed rectification applications within 90 days on 02.01.2023, which were rejected by reasoned orders dated 14.09.2023. Appeals challenging both orders were thereafter filed on 11.01.2024.

- The Court observed that the Appellate Authority wrongly calculated limitation from 03.10.2022 without considering the validly filed rectification application. Since the rectification application was filed within time and decided on merits, limitation was required to be considered from 14.09.2023. However, if the appeal was still beyond the permissible period even from that date, it could be rejected as time-barred.

- Accordingly, the High Court quashed the orders rejecting the appeals on limitation and remanded the matters to the Appellate Authority to decide the appeals afresh on merits after giving the petitioners an opportunity of hearing, within 12 weeks.

4. **Can a private bidder claiming the right to collect market fees from a municipal market avail GST exemption meant for municipal functions?**
   Case: S. Thiruvenkadam v. Commissioner of Municipal Administration
   Court: Madras High Court
   Case No.: W.P. No. 29338 of 2024
   Judgment Date: 23.06.2026

- The Madras High Court held that GST exemption available to local authorities for municipal functions cannot be claimed by a private bidder who commercially exploits the right to collect market fees through a public auction. The petitioner was not himself a local authority performing a municipal function.

- The petitioner's father had successfully bid for the right to collect fees from a weekly market for 2018-2021. During COVID-19, the markets remained closed and the Government granted certain lease/rental waivers. The petitioner sought refund of the proportionate lease amount and security deposit, contending that market-fee collection was GST-exempt.

- The Court held that the circular relied upon by the petitioner concerned services rendered by local authorities in discharge of functions under Article 243W. Here, the right was obtained through auction for commercial exploitation and the tender conditions specifically required payment of Central and State taxes.

- Since GST and Income-tax dues remained unpaid, the COVID-period waiver could not be claimed as a matter of right. The High Court therefore refused the refund of lease amount and security deposit and dismissed the writ petition in favour of the Revenue.

5. **Can a best-judgment GST assessment be treated as withdrawn when the taxpayer subsequently files the return and pays tax, interest and late fee?**
   Case: Siva Electricals v. Assistant Commissioner of State Tax
   Court: Andhra Pradesh High Court
   Case No.: W.P. No. 17618 of 2026
   Judgment Date: 03.07.2026

- The Andhra Pradesh High Court held that a best-judgment assessment under Section 62 of the CGST Act is deemed to be withdrawn when the taxpayer subsequently files the pending return and pays the applicable tax, interest and late fee, even if the return is filed beyond the original 30-day period.

- The petitioner failed to file its GSTR-3B for January 2023 within the prescribed time, resulting in an assessment order dated 17.04.2023 raising a GST demand of ₹12,61,060. Thereafter, the petitioner filed GSTR-1 on 11.05.2023 and GSTR-3B on 29.05.2023, paying the entire tax along with interest and late fee.

- Following its earlier decision in Brothers Engineering and Errectors Ltd., the Court held that the assessment order stands deemed withdrawn once the return is filed,

whether within or beyond the prescribed period, provided the applicable late fee is paid. The fact that the petitioner had also discharged the tax and interest supported the relief.

- Accordingly, the High Court allowed the writ petition and declared the assessment order dated 17.04.2023 as deemed withdrawn. The Department was restrained from initiating or continuing recovery of the tax and dues raised under that assessment order.

6. **Can general penalty under Section 125 of the GST Act be imposed in addition to late fee for delayed filing of annual returns**?
   Case: **Tvl. Factorial Industries v. State Tax Officer**
   Court: **Madras High Court**
   Case No.: W.P. No. 31095 of 2026
   Judgment Date: **17.08.2026**

- The Madras High Court held that while late fee for delayed filing of annual returns can be sustained, a general penalty under Section 125 cannot be imposed additionally once late fee has already been levied for the same default.

- The petitioner challenged the order imposing both late fee and penalty for non-filing of annual returns. The annual return had been delayed by 712 days, for which the authorities had imposed the applicable late fee as well as a general penalty.

- Relying on its earlier decision in Ms. Kandan Hardware Mart, the Court reiterated that imposing a general penalty under Section 125 after imposing late fee for the same default is impermissible. However, the Court found no ground to interfere with the late fee imposed for the 712-day delay.

- Accordingly, the writ petition was partly allowed and the impugned order was set aside only to the extent it imposed the general penalty. The late fee remained payable, making the decision partly in favour of the assessee

7. **Can the authorities curb fraudulent GST registrations obtained by misusing the PAN and Aadhaar details of innocent persons**?
   Case: **Neha v. Union of India & Ors.**
   Court: **Delhi High Court**
   Case No.: W.P.(C) No. 12210 of 2026 & W.P.(C) No. 6218 of 2026
   Order Date: **01.09.2026**

- The Delhi High Court took serious note of allegations that fraudulent GST registrations were being obtained using the PAN and Aadhaar details of innocent persons, resulting in substantial tax liabilities against persons having no connection with such businesses. The Court observed that such malpractice has reportedly been rampant since implementation of the CGST Act.

- In view of the seriousness of the issue, the Court had earlier sought assistance from Senior Counsel Tarun Gulati, who submitted suggestions for preventing misuse of PAN and Aadhaar. The suggestions included mandatory facial recognition, video-based identity verification, recording IP/device details and physical verification of business premises.

- Other proposed safeguards included real-time sharing of GST registration data with the Income-tax Department, immediate alerts to PAN holders, PAN-Aadhaar mismatch risk parameters, verification of the Aadhaar holder's knowledge of the proposed business and flagging of sudden increases in turnover.

- The Court granted a final opportunity to the Commissioner, CGST, Commissioner, DGST and Commissioner of Delhi Police to devise an effective solution to the problem, warning that otherwise it would be constrained to pass appropriate and effective orders. The matters were directed to be listed on 08.09.2026.

8. **Can an appeal before the GSTAT be required to comply with a pre-deposit condition introduced after the original adjudication order?**
   Case: M/s PVCON Engineering Co. v. CGST and Central Excise, Bhopal & Ors.
   Court: Supreme Court of India
   Case No.: SLP (C) No. 28059 of 2026
   Order Date: 07.09.2026

- The petitioner contended that the requirement of pre-deposit for filing an appeal before the GSTAT was introduced only with effect from 01.10.2025, whereas the Show Cause Notice and Order-in-Original in its case were issued on 26.07.2024 and 03.10.2024 respectively. It was therefore argued that pre-deposit could not be made a condition for pursuing the appeal.

- The petitioner also raised a separate challenge that the Show Cause Notice had not been issued by the proper officer. The Supreme Court, after hearing the parties, issued notice on the petition.

- In the meantime, the Supreme Court permitted the petitioner to file an appeal before the GSTAT and directed that the appeal be entertained without insisting on any pre-deposit. This permission, however, was expressly made subject to the final outcome of the SLP.

- The matter was directed to be tagged with SLP (Civil) Diary No. 28833 of 2026. Importantly, the Court's order is an interim arrangement permitting the appeal without pre-deposit and does not finally decide the issue of retrospective applicability of the pre-deposit requirement.

9. **Can failure to disclose interest income be treated as "misreporting" warranting 200% penalty under Section 270A?**
   Case: Tasneem Feroz Nalwalla v. Income-tax Officer
   Court: ITAT Mumbai Bench 'E'
   Case No.: ITA No. 618 (Mum.) of 2026
   Assessment Year: 2020-21
   Order Date: 20.08.2026

- The ITAT held that mere under-reporting of income does not automatically amount to "misreporting" under Section 270A. The higher 200% penalty can be imposed only where the Revenue establishes the specific circumstances of misreporting prescribed under Section 270A(9).

- The assessee had failed to disclose interest income of ₹14,02,525, which was detected by the Department through information available on the Insight Portal and subsequently verified from banks. The Assessing Officer treated it as misreporting and levied penalty of ₹4,85,178, being 200% of the tax payable on the under-reported income.

- The Tribunal noted that the assessee was a Non-Resident, had entrusted her tax compliance to an accountant, had limited technological knowledge and was unaware of electronic notices. She subsequently paid the entire additional tax of ₹2,42,589 along with interest of ₹3,06,821. Though these circumstances did not erase the under-reporting, they were relevant in deciding whether the more serious charge of deliberate misreporting was established.

- Accordingly, the ITAT upheld the penalty for under-reporting, but rejected the 200% penalty for misreporting and directed the Assessing Officer to restrict it to 50% of the tax payable on the under-reported income under Section 270A(7). The assessee's appeal was therefore partly allowed.

10. **Can the same GST officer who conducts an audit also adjudicate the tax demand arising from that audit?**
    Case: Sali Basavaraj v. State of Karnataka
    Court: Karnataka High Court
    Case No.: W.P. No. 107171 of 2026 (T-RES)
    Judgment Date: 29.08.2026

- The Karnataka High Court held that where the **same officer conducts the GST audit**, **issues the show-cause notice and thereafter passes the adjudication order**, the adjudication violates principles of natural justice, particularly in a non-fraud demand proceeding under Section 73.

- In the present case, Respondent No. 5 had conducted the audit under Section 65 of the KGST Act and subsequently issued the Section 73 notice and passed the adjudication order dated 30.03.2026. The petitioner challenged the proceedings on the ground that the same officer had undertaken both audit and adjudication.

- Relying on its earlier decision in **Rajapur Minerals**, the Court held that the admitted fact of the same officer conducting both proceedings warranted interference. The Court therefore quashed the adjudication order and directed that the matter be assigned to a **different proper officer** for fresh adjudication.

- The proceedings will recommence from the stage of the taxpayer's reply to the show-cause notice, with liberty to file an additional reply and documents. The new officer must provide an adequate opportunity of hearing and pass a fresh order in accordance with law.

11. **Can a GST demand be confirmed on grounds and tax heads different from those specified in the Show Cause Notice?**
Case: M/s Peekay Industries v. Commissioner of Commercial Taxes, Karnataka
Court: Goods and Services Tax Appellate Tribunal, Bengaluru Bench
Case No.: APL/34/BUR/2026; GST.AP.No.877/24-25
Order Date: 03.09.2026

- The GSTAT held that although a GSTR-2A/GSTR-3B mismatch can justify scrutiny and verification, the final demand must remain within the grounds and tax heads specifically proposed in the Show Cause Notice. A demand confirmed on an entirely different basis, particularly under tax heads never proposed in the SCN, violates Section 75(7) of the CGST Act.

- In the present case, the ASMT-10, DRC-01A and DRC-01 proposed excess ITC of ₹82,701 only under the IGST head. However, the adjudication order completely changed the basis and confirmed ₹51,174 as excess ITC under CGST and SGST (₹25,587 each), based on a separate "Excess of 2018-19 claimed in 2019-20" working. The taxpayer was never put to notice of any CGST/SGST liability before adjudication.

- The Tribunal found that the authority had not explained why it abandoned the original IGST computation or how the CGST/SGST figures were derived. More importantly, Section 75(7) specifically prohibits confirmation of demand on grounds other than those specified in the notice. Thus, the Order cannot travel beyond the SCN either in the quantum or in the grounds/tax heads of demand. The Tribunal also held that mere GSTR-2A/GSTR-3B difference is not conclusive proof of wrongful ITC without verification of underlying records.

- Accordingly, the Tribunal did not sustain the confirmed demand and remanded the matter to the Adjudicating Authority for fresh adjudication after proper verification of the reconciliation, invoices and books of account. The case therefore reinforces an important principle: the adjudication order must be confined to the case made out in the SCN; a new ground or a different tax head cannot be introduced for the first time in the final order.

12. **Can GST jurisdictional objections be raised before the High Court when the statutory appeal remedy is available?**
Case: RPP Infra Projects Ltd. v. Union of India
Court: Delhi High Court
Case No.: W.P.(C) Nos. 10852, 10853 & 10861 of 2025
Judgment Date: 16.09.2026

- The Delhi High Court held that DGGI officers had jurisdiction to investigate and issue a common SCN against RPP Infra Projects Ltd., despite its GST registrations being administratively assigned to State authorities in Karnataka, Tamil Nadu and Telangana. DGGI officers appointed under Notification No. 14/2017-CT possess powers exercisable throughout India, particularly where the investigation concerns an alleged cross-State invoice chain.

- The dispute arose from a common SCN issued to 95 noticees concerning alleged ITC passed through a chain of invoices without corresponding supplies. The impugned order confirmed ITC demands of ₹2.62 crore (Karnataka), ₹10.57 lakh (Tamil Nadu) and ₹2.94 crore (Telangana), along with interest and penalties. The petitioner challenged both DGGI jurisdiction and the allocation of adjudication to Delhi North.

- The Court also rejected the objection that Delhi North lacked adjudication jurisdiction. Under Notification No. 02/2022-CT and Circular No. 169/01/2022-GST, a common SCN involving multiple Commissionerates was to be adjudicated based on the noticee having the highest tax demand; here, the highest demand in the SCN was against Disha Traders, Delhi, making Delhi North the designated authority. The later 2024 allocation did not change this position.

- Importantly, the High Court did not decide the merits of the ITC demands. It held that issues concerning the petitioner's documents, genuineness of supplies, applicability of Circular No. 171/03/2022-GST, Section 74 and penalties could be effectively examined in the statutory appeal under Section 107. The writ petitions were therefore disposed of, with four weeks granted to file appeals along with pre-deposit; if filed within that period, the appeals would not be rejected on limitation.

13. **Can blocked ITC be used for making the pre-deposit for filing a GST appeal?**
Case: Tvl Nualco (P.) Ltd. v. Office of the Assistant Commissioner (ST)
Court: Madras High Court
Case No.: W.P. No. 28502 of 2026
Judgment Date: 28.08.2026

- The Madras High Court held that although ITC in the electronic credit ledger can ordinarily be used for liabilities including the appellate pre-deposit under Section 107, such utilisation is not permissible when the credit ledger has been blocked under Rule 86A. Section 49(4) does not create an absolute right to utilise blocked ITC.

- The petitioner's ITC was blocked in relation to purchases from Vetrivel Traders after an inspection allegedly found no physical stock at the supplier's premises and the supplier was treated as a "bill trader". The petitioner challenged the blocking and sought to use the blocked ITC for the pre-deposit required to file an appeal under Section 107.

- The Court observed that Rule 86A permits blocking where there are recorded reasons to believe that ITC has been fraudulently availed or is ineligible. Such blocking is provisional and can continue for a maximum of one year. Since reasons for blocking had been recorded in the impugned notice, the restriction could not be bypassed merely by relying on Section 49(4).

- However, the Court noted that the petitioner had already applied for unblocking under Rule 86A(2). The respondent was therefore directed to consider that request expeditiously; if rejected, a speaking order must be passed within one month after giving a reasonable opportunity of hearing.

14. **Can an assessee file a GSTAT appeal without pre-deposit where the demand arose before the pre-deposit amendment?**
Case: PVCON Engineering Co. v. CGST and Central Excise, Bhopal
Court: Supreme Court of India
Case No.: SLP (C) No. 28059 of 2026
Order Date: 07.09.2026

- The Supreme Court issued notice on the assessee's challenge concerning the requirement of pre-deposit for filing an appeal before GSTAT. In the interim, the Court permitted the assessee to file the appeal before GSTAT and directed that it be entertained without pre-deposit, subject to the final outcome of the SLP.

- The petitioner, a GST-registered construction contractor, was proceeded against for alleged irregular availment of ITC for the relevant periods. A Show Cause Notice was issued on 26.07.2024 and the Order-in-Original was passed on 03.10.2024. The petitioner contended that the amendment prescribing the pre-deposit requirement came into effect only from 01.10.2025.

- The petitioner also challenged the validity of the proceedings on the ground that the Show Cause Notice had not been issued by the proper officer. The underlying High Court decision had directed the assessee towards the statutory GSTAT remedy, observing that issues concerning natural justice and jurisdiction could be examined by the Tribunal rather than through writ jurisdiction.

- The Supreme Court therefore issued notice and, pending consideration of the SLP, granted interim relief by allowing the petitioner to approach GSTAT without making the pre-deposit. However, this permission is expressly subject to the final outcome of the SLP, and the matter has been tagged with M.M. Traders v. State of U.P.

15. **Can parallel GST proceedings by State and Central authorities be barred under Section 6(2)(b) of the CGST Act?**
Case: Krishna Industries v. Commissioner of Central Goods and Services Tax
Court: Delhi High Court
Case No.: W.P.(C) No. 4897 of 2025
Judgment Date: 18.09.2026

- The Delhi High Court held that Section 6(2)(b) of the CGST Act bars subsequent proceedings only when they concern the same subject matter, i.e., the same liability, deficiency or contravention. Merely because the assessee, financial year and ITC amount are common does not by itself establish that the proceedings are on the same subject matter.

- The petitioner had earlier faced State GST proceedings under Section 73 concerning ITC claimed from M.R. Enterprises for FY 2017-18. Subsequently, DGGI and CGST authorities initiated proceedings under Section 74 alleging fraudulent availment of ITC through invoices not supported by actual supply of goods. The Central proceedings involved ITC of ₹6.12 lakh.

- The Court observed that the Central proceedings were based on separate intelligence and investigation concerning alleged bogus transactions and fraudulent ITC. Although there was a factual connection with the earlier State proceedings, the petitioner failed to establish that the same contravention had already been adjudicated. Different GSTINs of M.R. Enterprises in the Central proceedings were also a relevant circumstance.

- The writ petition was dismissed, holding that the Central proceedings were not prima facie barred by Section 6(2)(b). However, the Court expressly left all other issues open, including genuineness of transactions, fraud, non-supply of goods, non-consideration of reply and duplication of liability, and permitted the petitioner to pursue the statutory appeal under Section 107.

16. **Can GST authorities search an advocate's office and seize his computer despite advocate-client privilege?**
Case: Puneet Batra v. Union of India
Court: Delhi High Court
Case No.: W.P.(C) No. 11021 of 2025
Judgment Date: 18.09.2026

- The Delhi High Court held that advocate-client privilege does not create an absolute bar against a search under Section 67 of the CGST Act where there is prima facie material suggesting that the advocate himself may be involved in the affairs under investigation. The search of the advocate's cabin, forming part of the authorized premises, was therefore not rendered illegal merely because he was an advocate.

- The GST Department had searched the premises of Bass Legal LLP on 25.07.2025 under Section 67(2), during which documents relating to Martkarma Technology Pvt. Ltd. and a CPU from the petitioner's cabin were seized. The petitioner contended that the CPU contained privileged and confidential information belonging to MTPL and other clients and challenged the search and seizure.

- The Court held that privilege protects confidential client communications and does not attach to a particular physical location. At the same time, unrelated third-party client data continues to receive protection. The Court had therefore imposed safeguards for examination of the CPU, including cloning the data, giving a copy to the petitioner and restricting the Department to material relevant to the investigation.

- The writ petition was dismissed as the Court found no statutory infirmity in the search authorization or seizure. However, the Department was directed to use the cloned data and confine examination to material relevant to the investigation, without accessing unrelated client information. The Court specifically clarified that the judgment does not dilute the general protection available to genuinely privileged advocate-client communications.

17. **Can a DGGI composite GST show-cause notice be adjudicated by a common authority having pan-India jurisdiction**?
Case: **Katyani Exports v**. **Union of India**
Court: **Delhi High Court**
Case No.: **W**.**P**.**(C) 10607**, **10609**, **10613**, **10614**, **10718**, **10670**, **10720** & **10721 of 2025**
Judgment Date: **16**.**09**.**2026**

- The Delhi High Court held that Notification No. 2/2017, as amended by Notification No. 2/2022, validly confers pan-India jurisdiction on specified officers to adjudicate DGGI notices. The subsequent circulars do not confer jurisdiction but merely provide an administrative mechanism for identifying the Common Adjudicating Authority in composite SCNs involving multiple noticees.

- The case arose from a DGGI investigation into an alleged large-scale fraudulent IGST refund/ITC racket involving 146 noticees. The Department alleged a multi-layer chain of fake invoices without actual movement of goods, through which fraudulent ITC was passed to exporter/end-user entities and used for tax discharge and IGST refunds. SCNs were issued under Section 74 and demands, interest and penalties were subsequently confirmed.

- The Court rejected the argument that the "highest amount of demand" criterion amounted to impermissible sub-delegation. It held that the criterion is objective, quantifiable and uniformly applicable, with a rational nexus to ensuring one consistent adjudication of a composite SCN arising from one investigation. The circular merely selects one officer from among officers already vested with pan-India jurisdiction.

- The Court also held that appeals against an order passed by the Common Adjudicating Authority lie before the Commissioner (Appeals) having jurisdiction over the Commissionerate where that authority is posted. Since the jurisdictional challenge failed, the remaining issues on merits, evidence and natural justice were left open for the statutory appellate remedy under Section 107. The writ petitions and pending applications were accordingly disposed of in favour of the Revenue.

18. **Can GST registration be denied solely because the taxpayer cannot file old returns whose statutory filing period has already expired**?
Case: **Eclipse Hospitality LLP vs**. **Superintendent of Central Excise**, **Chennai South Commissionerate**
Court: **Madras High Court**
Case No.: **W**.**P**. **No**. **25429 of 2026**
Judgment Date: **14**.**07**.**2026**

- The Madras High Court held that where the statutory time for filing the pending GST returns had already expired and no notification extending the time had been issued, the taxpayer could not be compelled to perform an impossible act. Therefore, rejection of a fresh GST registration solely on the ground of non-filing of such returns was held unsustainable.

- The petitioner's earlier GST registration had been cancelled on 16.05.2022. When it applied for fresh registration on 08.06.2026, the application was rejected primarily because returns up to the date of cancellation had not been filed. The petitioner contended that the prescribed period for furnishing the relevant returns had already expired under Section 37 and that the returns could no longer be filed.

- The Court examined Section 37 and noted that the prescribed time limit had long since lapsed and the Revenue could not point to any notification extending the period under the first proviso. In these circumstances, the Court held that the petitioner could not be required to comply with a condition that had become legally impossible to perform.

- Accordingly, the rejection order was set aside and the matter was remanded for reconsideration. The petitioner was permitted to file a fresh registration application, which the authorities must consider subject to fulfilment of the other statutory registration conditions and after providing a reasonable opportunity of hearing. The Court clarified that this order would not affect any independent proceedings relating to the period during which the petitioner had carried on business.

19. **E-Way Bill Expiry Alone Cannot Justify 200% GST Penalty: Calcutta High Court**
Case: Ratnaka Enterprises v. State of West Bengal
Court: Calcutta High Court
Case No.: WPA No. 24249 of 2024
Judgment Date: 10.09.2026

- The Calcutta High Court held that imposition of penalty at 200% of tax under Section 129(1A) of the WBGST Act merely because the e-way bill had expired during transit was unsustainable where the material on record showed that the only lapse was non-extension of the e-way bill and there was no other established violation.

- The goods were being transported under an e-way bill which remained valid up to midnight of 01.10.2023. The petitioners contended that the delay in reaching the destination occurred due to traffic restrictions imposed by the police and circumstances beyond their control, and that there was no intention to evade tax.

- The Court took judicial notice of the documents filed with the writ petition and found that the entire penalty related only to the expiry/non-extension of the e-way bill. Following the Division Bench decision in Hindusthan Biri Leaves, the Court held that imposing a 200% penalty in such circumstances violated principles of natural justice, particularly where there was no material demonstrating any mala fide intention or tax evasion.

- Accordingly, the authorities were directed to refund the recovered penalty of ₹12,77,812 to the petitioners. The petitioners were directed to apply for refund within two weeks, and the amount was ordered to be refunded forthwith, preferably within ten weeks from the application. The writ petition was disposed of without entering into the broader merits of the case.

20. **CGST Section 6(2)(b): Earlier CGST SCN Can Preclude Subsequent SGST Proceedings, but Different Proceedings Are Not Barred**
Case: Shub Conductors LLP v. Joint Commissioner, Central Tax, GST Delhi East
Court: Delhi High Court
Case No.: W.P.(C) No. 4126 of 2025
Judgment Date: 05.08.2026

- The Delhi High Court held that the bar under Section 6(2)(b) of the CGST Act applies where proceedings are initiated by the Central and State authorities on the same subject matter, but in the present case the CGST proceedings were initiated first. The Section 74 SCN was issued on 22.03.2023, whereas the SGST notices relied upon by the petitioner were issued only subsequently. Therefore, the statutory bar was not attracted.

- The petitioner also relied upon an earlier order dated 06.09.2022, by which proceedings relating to goods seized during a search for want of invoices had been

dropped. The Court held that this was a distinct proceeding under Section 67(7), whereas the subsequent order dated 11.01.2025 followed a detailed investigation, Section 74 SCN and consideration of the petitioner's reply concerning alleged wrongful ITC and tax evasion. Hence, the two proceedings could not be treated as parallel adjudication of the same subject matter.

- The Court further held that although availability of an alternative statutory remedy does not absolutely bar a writ petition, exercise of writ jurisdiction remains a matter of judicial discretion. Since the Court found no jurisdictional infirmity under Section 6(2)(b) and no other exceptional circumstance, the petitioner could not bypass the statutory appeal mechanism merely by characterising the dispute as a pure question of law.

- Accordingly, the writ petition was disposed of by relegating the petitioner to the statutory appellate remedy under Section 107 of the CGST Act. The Court, however, protected the petitioner against limitation prejudice by directing that the period spent pursuing the writ petition would be excluded while computing the limitation for filing the appeal.

21. **Pre-Deposit for Penalty-Only GST Appeals: SCNs Issued Before 01.10.2025 Cannot Be Subjected to New Pre-Deposit Requirement**
Case: Aakash Gupta v. Goods and Services Tax Appellate Tribunal
Court: Delhi High Court
Judgment Date: 14.09.2026

- The Delhi High Court held that where penalty-only Show Cause Notices (SCNs) were issued before 01.10.2025, the subsequent amendment introducing a pre-deposit requirement for appeals cannot be applied retrospectively. The appellate right available in respect of proceedings initiated by such earlier SCNs remains governed by the legal position existing when the proceedings commenced.

- The Court noted that the issue was already covered by its earlier decision in Gaurav Jain v. Joint Commissioner (Appeals-II), CGST Delhi Zone, where it was held that the amended pre-deposit requirement could not apply to penalty proceedings arising from SCNs issued before 01.10.2025. The Court relied upon the principle laid down by the Supreme Court in Hoosein Kasam Dada (India) Ltd. v. State of Madhya Pradesh.

- Importantly, the Court clarified that the protection is not dependent upon whether the appeal is a first appeal or a second appeal. Since the SCNs in the present batch of nine writ petitions were issued before the amendment introducing the pre-deposit requirement, the subsequent amendment could not curtail the petitioners' existing appellate right by imposing a new financial condition.

- Accordingly, the Delhi High Court disposed of the writ petitions and directed the GST Appellate Tribunal (GSTAT) to permit the petitioners to file their respective appeals

without insisting upon pre-deposit, where the proceedings involve penalty alone. The decision was therefore rendered in favour of the assessees.

22. **ITC on Construction for Lease Requires Reconsideration after Safari Retreats: Madras High Court**
Case: Esnp Property Builder and Developers (P.) Ltd. v. State Tax Officer
Court: Madras High Court
WP NOS. 21432, 21433 & 22392 OF 2026
Judgment Date: 28.08.2026

- The Madras High Court held that the authorities were required to reconsider the petitioner's ITC claim on inputs used for construction of immovable property intended to be leased or licensed, in light of the Supreme Court's judgment in Safari Retreats (P.) Ltd. The Supreme Court had clarified that construction intended for sale, lease or licence cannot be regarded as construction on the taxable person's "own account" for the purpose of Section 17(5)(d).

- The petitioner had challenged assessment orders denying ITC on construction-cum-leasing services. Although the petitioner specifically relied upon Safari Retreats, the assessing authority held that "own account" included construction for ownership, control and capitalization irrespective of subsequent leasing, and treated the subsequent lease as a separate outward supply.

- The Court held that these findings had been recorded without properly considering the ratio of the Supreme Court judgment. Since the factual issue was whether the construction was undertaken for leasing purposes, the proper officer was required to examine the applicability of Safari Retreats before deciding the ITC claim. The assessment orders were therefore set aside and remanded for fresh consideration after granting the petitioner an opportunity of hearing.

- Separately, the Court held that recovery from the petitioner's electronic cash and credit ledgers was contrary to Rule 142B because the mandatory FORM GST DRC-01D intimation and seven-day payment period had not been provided. Since the underlying assessment orders were also set aside, the Department was directed to re-credit/refund the amounts debited from the electronic ledgers within two weeks.

23. **GSTAT: GSTR-2A Mismatch Alone Cannot Justify ITC Denial Without Proper Reconciliation and Verification**
Case: M/s Peekay Industries v. Commissioner of Commercial Taxes, Karnataka
Court: GST Appellate Tribunal, Bengaluru Bench
Appeal No.: APL/34/BUR/2026 / GST AP No. 877/24-25
Order Date: 03.09.2026

- The GSTAT held that an ITC mismatch between GSTR-2A and GSTR-3B cannot, by itself, justify confirmation of tax liability without properly examining the assessee's reconciliation, invoices, books of account and electronic credit ledger. In the present

case, the authorities had not satisfactorily established that the conditions for availing ITC under Section 16(2) had actually been breached.

- The dispute related to FY 2019-20, where the Department initially identified a mismatch of ₹82,701 under the IGST head. However, the final assessment shifted the demand to CGST and SGST, confirming tax of ₹51,174, interest of ₹40,708 and penalty of ₹20,000. The Tribunal noted that neither the adjudicating authority nor the first appellate authority adequately explained how the liability shifted between the tax heads.

- The Tribunal further held that Section 16(2)(aa) had no application to FY 2019-20 and that Rule 36(4) and CBIC Circular Nos. 183/2022-GST and 193/2023-GST had to be applied according to their respective periods. The period April 2019 to 8 October 2019 and the period 9 October 2019 to March 2020 required separate examination. Interest and penalty also could not independently survive since the underlying tax liability itself required fresh determination.

- Accordingly, GSTAT set aside both the assessment order and the appellate order and remanded the matter for fresh adjudication strictly within the scope of the original SCN. The Department was directed to conduct invoice-wise/supplier-wise verification, examine the books and credit ledger, reconcile the conflicting workings and give the assessee an effective hearing. Importantly, the fresh order cannot enhance the demand beyond the amount or grounds specified in the SCN and must be passed within twelve weeks.

24. **Allahabad High Court**: **Parallel BNS Prosecution Cannot Proceed Where Same Conduct Is Already Governed By GST Special Law**
Case: **Kapil Chugh v. State of U.P.**
Court: **Allahabad High Court**
Application: **Application U/S 528 BNSS No. 30925 of 2026**
Order Date: **11.08.2026**

- The Allahabad High Court held that where the genesis of the allegations is GST non-payment and the same conduct is already being dealt with under the CGST/UPGST Acts, initiation or continuation of parallel criminal proceedings under the Bharatiya Nyaya Sanhita (BNS) for the same factual conduct is impermissible. The Court relied upon Sections 4 and 5 of the BNSS, observing that offences under a special enactment are to be investigated and dealt with in the manner prescribed by that special law. Accordingly, the BNS FIR, charge-sheet and cognizance proceedings against the applicant were set aside.

- The case arose from allegations concerning M/s Siddhi Vinayak Exports, including alleged use of forged documents, bogus invoices and wrongful availment/passing on of ITC. GST proceedings had already been initiated, including proceedings under Section 74 of the CGST/UPGST Acts, with substantial demands raised through DRC-07 orders. The Department subsequently lodged an FIR under various BNS provisions alleging offences arising from the same factual matrix. The applicant also relied upon

an earlier GST adjudication order in which proceedings against him had been dropped/exonerated for want of direct evidence.

- The State opposed the application, contending that the matter involved a serious economic offence involving bogus transactions, fake ITC and non-existent firms, and relied upon earlier decisions including State of West Bengal v. Naryan K. Patodia and Govind Enterprises v. State of U.P. to argue that the presence of independent criminal offences could justify police investigation. The Court also considered the Supreme Court's decision in Radhika Agarwal v. Union of India, which explains that the GST laws are not a complete code in every respect and that general procedural law may apply where it is not expressly or impliedly excluded.

- However, on the facts of the present case, the High Court found that the undisputed genesis of the matter was GST non-payment and that proceedings had already been initiated under the special GST enactments. Applying Sections 4 and 5 of the BNSS and the principles laid down in the precedents considered by the Court, it held that the same conduct could not be subjected to a parallel BNS prosecution. Consequently, the entire proceedings in Case No. 4648 of 2026, including the charge-sheet dated 10.06.2026 and cognizance order dated 17.06.2026, were set aside qua Kapil Chugh, and the application under Section 528 BNSS was allowed.

25. **Delhi High Court**: **GST Proceedings Can Be Initiated Against Legal Representative After Assessee's Death Under Section 93 of CGST Act**, **But Liability Is Limited To The Deceased's Estate**
Case: **Jaiwanti v. Union of India**
Court: **High Court of Delhi**
Writ Petition: **W.P.(C.) No. 7254 of 2025**
Order Date: **25.09.2026**

- The Delhi High Court held that Section 93 of the CGST Act expressly permits tax, interest or penalty attributable to a deceased assessee to be determined even after his death. The Court rejected the argument that the words "is determined after his death" mean that proceedings must necessarily have been initiated during the deceased's lifetime. Where the business is discontinued, Section 93(1)(b) permits recovery from the legal representative, but only out of the estate of the deceased and only to the extent that the estate is capable of meeting the liability. The Court also clarified that Section 93 is not an independent penal provision against the legal representative.

- The dispute arose from a DGGI investigation concerning alleged fraudulent availment/passing of ITC and IGST refunds on invoices without corresponding supply of goods. The deceased, Mr. Ankit Dabas, died on 06.05.2021. Thereafter, on 31.07.2024, the Department issued an SCN to his wife, Mrs. Jaiwanti Dabas, in her capacity as legal representative, proposing penalty under Section 122(3)(a) and appropriation of ₹15.40 lakh which had been deposited during the investigation and placed in a fixed deposit. The petitioner challenged the post-death proceedings, the

constitutional validity of Section 93(1)(b), and the continued retention of the ₹15.40 lakh.

- The Court rejected the constitutional challenge to Section 93(1)(b), holding that the provision does not treat the legal representative as the person who committed the alleged contravention. It merely preserves the deceased's fiscal liability and permits satisfaction of that liability from the estate, subject to the statutory conditions. The Court also emphasised that the legal representative must receive an effective opportunity of hearing and must be allowed to contest the alleged contravention, the statutory basis and the amount proposed. The inability of the legal representative to provide information personally known only to the deceased cannot itself be treated as an admission.

- However, the Court did not finally uphold the penalty or the Department's right to retain the ₹15.40 lakh. The Order-in-Original itself contained contradictory clauses—one clause imposed a ₹1.50 lakh penalty on the petitioner, while the succeeding clause stated that no penalty was being imposed and also contained inconsistent directions regarding appropriation of ₹15.40 lakh. The Court left the merits, service of SCN, proof of contravention, satisfaction of Section 93(1)(b), computation of penalty and effect of the conflicting clauses open for statutory appeal. The petitioner was granted four weeks to file an appeal under Section 107.

- Separately, regarding the ₹15.40 lakh, the Court held that merely describing the amount as voluntarily deposited during investigation does not give the Department an indefinite right to retain it. The Department was directed to provide, within three weeks, a complete account of the amount, including its present status, fixed-deposit details, interest earned and any withdrawal/appropriation, along with the precise statutory provision and order authorising its retention. After giving the petitioner an opportunity of hearing, the competent authority must pass a reasoned decision; any amount for which no subsisting lawful basis of retention or appropriation is established must be released along with the interest actually earned.

26. **Delhi High Court**: **Section 6(2)(b) CGST Act Does Not Bar Separate Proceedings Where The Subject Matter Is Different**
Case: **Vertilink Media Solutions (P.) Ltd. v. Anti Evasion Branch**
Court: **High Court of Delhi**
Writ Petition: **W.P.(C.) No. 13077 of 2026**
Order Date: **25.09.2026**

- The Delhi High Court held that the bar under Section 6(2)(b) of the CGST Act against parallel proceedings applies only when the proceedings initiated by two GST authorities relate to the "same subject matter." The mere fact that the assessee, financial period or certain transactions are common does not, by itself, establish identity of subject matter. In the present case, the DGGI proceedings concerned alleged fraudulent availment of ITC without actual supply of goods/services under Section 74, whereas the subsequent Delhi GST proceedings concerned determination of the correct tax liability and denial of ITC under Section 16(2)(c) for non-payment of

tax by suppliers under Section 73. Accordingly, the Court held that Section 6(2)(b) was not attracted.

- The dispute related to the period April 2019 to March 2020. DGGI had earlier issued a common SCN dated 31.03.2023 to 45 noticees, including the petitioner, alleging fraudulent availment of ITC without actual supply. While those proceedings were pending, the Delhi proper officer issued a separate SCN dated 29.05.2024 under Section 73 alleging that the petitioner had not declared its correct tax liability and had availed ITC from suppliers who had not discharged the corresponding tax liability. The subsequent order dated 29.08.2024 denied such ITC and created a demand of ₹10,57,75,250 against the petitioner.

- The Court further held that the subsequent conclusion of the DGGI proceedings did not automatically extinguish the liability determined in the separate Delhi GST proceedings. In the DGGI matter, the principal noticee, M/s Zee Entertainment Enterprises Ltd., paid the tax along with applicable interest and penalty, pursuant to which proceedings against the co-noticees, including the petitioner, were treated as concluded under Explanation 1 to Section 74. However, this only meant that no tax, interest or penalty was recovered from the petitioner in the DGGI proceedings. It did not retrospectively invalidate an independent proceeding based on a different statutory provision and different subject matter.

- The petitioner also relied upon Section 75(13) of the CGST Act, contending that it could not be subjected to penalty twice for the same act or omission. The Court rejected this contention because the petitioner could not demonstrate that any tax, interest or penalty had actually been imposed upon it in the earlier DGGI proceedings. Merely being named as a co-noticee in the earlier SCN was insufficient to invoke the statutory protection against double penalty; a prior penalty imposed upon the petitioner for the same act or omission had to be established.

- Independently, the High Court dismissed the writ petition on the ground that the petitioner had an efficacious statutory remedy of appeal against the order dated 29.08.2024 but failed to avail it within the prescribed period. The order was passed in August 2024, whereas the writ petition was filed only in August 2026. The Court held that the subsequent filing of a rectification application could not extend or revive the limitation period for challenging the original adjudication order, and the petition consequently suffered from unexplained delay and laches. The writ petition was therefore dismissed, while leaving the petitioner free to pursue any remedy available in law against the pending rectification proceedings.

Summary: Income Tax Case Laws

1. **Can an assessee be denied TDS credit merely because the employer deducted tax but failed to deposit it with the Government?**
   Case: Avni Dogra v. Assistant Commissioner of Income-tax
   Court: Delhi High Court
   Case No.: W.P.(C) No. 5630 of 2026
   Judgment Date: 19.08.2026

- The Delhi High Court held that where TDS has actually been deducted from an employee's salary, the assessee cannot be blamed for the employer's failure to deposit the deducted tax with the Government. The assessee cannot be deprived of legitimate TDS credit on account of the deductor's default.

- The assessee, an employee of erstwhile Kingfisher Airlines, had TDS of ₹14,65,787 deducted from salary. However, since the employer did not deposit the TDS, credit was not granted and an intimation under Section 143(1) raised a demand of ₹19,06,310 for AY 2011-12.

- The Court relied upon its earlier decision in Satwant Singh Sanghera v. ACIT and held that although the Department may take action against the deductor for non-deposit of TDS, the employee cannot be made to suffer for the employer's default. The Court also rejected the objection regarding territorial jurisdiction, as the assessee's Assessing Authority was in Delhi when the return was filed and the writ petition was instituted.

- Accordingly, the writ petition was allowed and the Section 143(1) intimation was quashed to the extent of non-grant of credit for TDS deducted by Kingfisher Airlines. The relief is confined to the TDS amount actually deducted; any other independent demand remains unaffected.

2. **Can reassessment be sustained when a charitable/educational trust had already applied more than 85% of its income, even after the proposed disallowances?**
   Case: Ahmedabad South Indian Association Charitable Trust v. Deputy Commissioner of Income-tax
   Court: Gujarat High Court
   Case No.: R/Special Civil Application No. 9731 of 2024
   Judgment Date: 03.08.2026

- The Gujarat High Court held that reassessment was not justified where the assessee-trust continued to satisfy the 85% application requirement under Section 10(23C)(vi), even after considering the proposed disallowances. The trust had applied 96.01% of its receipts, while even the Revenue's computation showed application of 86.92%.

- The trust had originally filed a Nil-income return and its exemption under Section 10(23C)(vi) was accepted in scrutiny assessment. Subsequently, reassessment was

initiated alleging issues relating to trustee remuneration, gratuity, staff welfare, scholarships/fee waivers and university sponsorship, with aggregate disallowances of about ₹3.02 crore.

- The Court observed that even if the entire disputed amount of ₹3.02 crore was excluded from the amount applied by the trust, its application of income remained above the statutory 85% threshold. Therefore, there was no escapement of taxable income, and the trust had also demonstrated through documentary evidence that the disputed amounts would not affect its taxable position.

- Accordingly, the High Court quashed the reassessment notice, the order under Section 148A(d), and the reassessment order dated 06.03.2026. The Court also noted that the Assessing Officer had passed the reassessment order despite an interim restraint, and held that the Revenue could use Section 264 to revoke or set aside such an order rather than rely on the absence of a portal functionality.

3. **Can the entire amount reported in Form 26AS be treated as commission income when the assessee claims that part of it represents trade discount**?
   Case: **Sri Balaji Shopping World v. Income-tax Officer**
   Court: **ITAT Chennai Bench 'C'**
   Case No.: **IT Appeal No. 1964 (CHNY) of 2026**
   Assessment Year: **2023-24**
   Order Date: **05.08.2026**

- The ITAT held that the entire gross receipts reflected in Form 26AS cannot automatically be treated as commission income. The real nature of the underlying transaction has to be examined, and Form 26AS by itself is not conclusive regarding the character or taxability of a receipt.

- The assessee, an authorised BSNL dealer providing mobile recharge services, explained that BSNL's trade discount on recharge vouchers was netted off in its books, whereas Form 26AS reflected the gross amount. The Assessing Officer nevertheless treated the entire Form 26AS receipts of about ₹76.39 lakh as commission income and made an addition of about ₹48.09 lakh.

- The Tribunal found that the assessee had furnished a detailed reconciliation and invoice-wise details showing the face value, discounted purchase price and margin on recharge vouchers. The difference substantially matched the trade discount allowed by BSNL, and the Revenue produced no material to discredit this reconciliation. Therefore, absence of a revised TDS certificate or rectification of Form 26AS could not by itself justify rejection of the claim.

- Accordingly, the ITAT deleted the addition made by the Assessing Officer and sustained by the CIT(A), holding that the trade discount could not be treated as commission merely because the gross amount was reported in Form 26AS. The assessee's appeal was allowed in full.

4. **Can cash deposits from recorded business sales be treated as unexplained income under Section 68 and subjected to the special tax rate under Section 115BBE?**
   Case: Bridge Medisales (P.) Ltd. v. Income-tax Officer
   Court: ITAT Mumbai Bench 'B'
   Case No.: ITA Nos. 5004 & 5412 (Mum.) of 2026
   Assessment Year: 2018-19
   Order Date: 21.08.2026

- The ITAT held that where an assessee is carrying on an established business, sales are recorded in the books and bank accounts are duly disclosed, cash deposits cannot automatically be treated as unexplained income merely because complete item-wise reconciliation with sales is not available. However, a reasonable estimated addition may be sustained for the unreconciled portion.

- The assessee, a pharmaceutical wholesaler, explained that cash deposits of ₹1.46 crore represented collections from retailers against recorded sales of about ₹17.27 crore. The Assessing Officer treated the entire deposits as unexplained under Section 68, but the CIT(A) found no evidence that the deposits came from any source other than business receipts and restricted the addition to 10%, i.e. ₹14.68 lakh.

- The Tribunal upheld the 10% estimated addition because the assessee had failed to completely establish the nexus between individual deposits and corresponding sales. At the same time, the Revenue had not established that the sustained amount represented income from any independent or undisclosed source.

- Importantly, the ITAT held that the estimated addition of ₹14.68 lakh could not be subjected to the special tax rate under Section 115BBE, since there was no finding that it represented unexplained income from an undisclosed source. Thus, both appeals were dismissed, with the addition sustained but without application of Section 115BBE.

5. **Can a genuine loan from a sister be treated as unexplained investment, and can the difference between purchase price and stamp duty value be taxed without examining an earlier agreement?**
   Case: Deepa Brijesh Singh v. Income-tax Department
   Court: ITAT Mumbai Bench 'D'
   Case No.: IT Appeal No. 1982 (Mum.) of 2026
   Assessment Year: 2015-16
   Judgment Date: 13.08.2026

- The ITAT held that the addition of ₹3,20,499 under Section 69 was not justified where the assessee had furnished her sister's PAN, loan confirmation and bank statement showing receipt through banking channels, and the AO could not identify any defect or discrepancy in these documents. The addition was therefore deleted.

- The assessee had also purchased a property for a price lower than its stamp duty value. The AO made an addition of ₹14.60 lakh under Section 56(2)(vii)(b). The assessee contended that an MOU/agreement had been executed in March 2014, with ₹1.50 lakh paid and substantial rights/possession arising at that time, while the final sale deed was executed in December 2014.

- The Tribunal found that the CIT(A) had not properly appreciated the factual position and relevant documents. It therefore remanded the property issue for fresh examination of the March 2014 MOU, payment details, possession/part performance, applicability of Sections 56(2)(vii)(b), 2(47) and Section 53A of the Transfer of Property Act, and the Supreme Court ruling in Sanjeev Lal v. CIT.

- The CIT(A) was further directed to independently examine all documents and factual aspects, rather than merely relying on the AO's remand report, and provide the assessee an effective opportunity of hearing. Thus, the loan addition was deleted, while the ₹14.60 lakh property-related addition was remanded for fresh adjudication; the appeal was partly allowed and partly allowed for statistical purposes.

6. **Can Section 147A retrospectively validate Section 148 reassessment notices issued by jurisdictional AOs instead of through faceless automated allocation?**
   Case: Jyoti Sareen v. Union of India and others (Lead Case) along with connected writ petitions
   Court: Punjab and Haryana High Court, Chandigarh
   Case No.: CWP No. 15791-2024 (O&M) and connected cases
   Judgment Date: 10.09.2026

- The Punjab & Haryana High Court declared Section 147A of the Income-tax Act unconstitutional and directed that it be struck down. The Court held that the retrospective provision, which sought to validate issuance of Section 148 notices by jurisdictional AOs notwithstanding the faceless regime, could not override the existing statutory framework under Section 151A and the scheme framed thereunder.

- The dispute arose from numerous reassessment notices issued under Section 148 by jurisdictional Assessing Officers. In the lead case, the petitioner received a Section 148 notice for AY 2020-21, which had been issued by her jurisdictional AO. The earlier High Court judgment had quashed such notice for violating Section 151A and the 29.03.2022 faceless reassessment scheme, but the Supreme Court remanded the matter after introduction of Section 147A.

- The High Court held that the Section 151A scheme expressly covers issuance of Section 148 notices and requires them to be issued through randomized automated allocation and in a faceless manner. Therefore, a jurisdictional AO cannot issue such notice merely because concurrent jurisdiction had otherwise been conferred; the statutory scheme must be followed in the prescribed manner.

- Consequently, the Court not only struck down Section 147A as unconstitutional but also set aside the impugned Section 148 notices, since they were not issued through randomized automated allocation and the faceless mechanism mandated by Section 151A and the 29.03.2022 scheme. All connected writ petitions were allowed accordingly.

7. **Can the period granted to an assessee for replying to a Section 148A(b) notice be excluded while computing the limitation under Section 149?**
   Case: Sunil Bhalla v. Deputy Commissioner of Income-tax
   Court: Supreme Court of India
   Case No.: SLP (C) No. 31342 of 2026
   Judgment Date: 08.09.2026

- The Supreme Court dismissed the SLP and declined to interfere with the Delhi High Court's decision holding that the time or extended time granted to an assessee to respond to a Section 148A(b) notice is required to be excluded while computing the limitation under Section 149.

- In the case, the Section 148A(b) notice was issued on 28.03.2024, initially requiring a reply by 08.04.2024. The assessee sought adjournment on 05.04.2024, and the hearing was deferred to 15.04.2024. A further adjournment was sought on 15.04.2024, but was declined, and that date was treated as the deemed date of filing the reply.

- Applying the fifth and sixth provisos to Section 149, the High Court excluded the relevant period from computation and treated 15.04.2024 as the deemed reply date. Consequently, the Assessing Officer was entitled to the additional period prescribed under the sixth proviso, and the order under Section 148A(d) and notice under Section 148 issued on 16.04.2024 were held to be within limitation.

- The Supreme Court, after considering the record, found no ground to interfere with the High Court's judgment and accordingly dismissed the SLP. Thus, the limitation computation upheld by the High Court, including exclusion of the time granted to the assessee for responding to the Section 148A(b) notice, remains undisturbed.

8. **Can a reassessment be sustained when the Income-tax Officer lacks the prescribed pecuniary jurisdiction?**
   Case: Mayur Govindbhai Patel v. Income-tax Officer
   Court: ITAT Mumbai Bench 'D'
   Case No.: IT Appeal Nos. 833 & 834 (Mum.) of 2026
   Assessment Year: 2011-12
   Judgment Date: 08.09.2026

- The ITAT held that where a non-corporate assessee in a metropolitan city had returned income exceeding ₹20 lakh, an Income-tax Officer could not assume jurisdiction contrary to CBDT Instruction No. 01/2011. Such lack of pecuniary

jurisdiction goes to the root of the assessment and renders the reassessment proceedings unsustainable.

- The assessee had declared income of about ₹31.5 lakh for AY 2011-12. Despite the prescribed ₹20 lakh monetary limit for ITOs in metro cities, the ITO issued notice under Section 148, rejected the assessee's objections and completed reassessment under Sections 147/143(3). The assessment also included a Section 68 addition of about ₹14.03 crore, besides other disallowances.

- On the Section 68 addition, the CIT(A) had deleted the entire amount after obtaining a remand report from the AO. The AO had examined the additional evidence furnished by the assessee and had not recorded any adverse finding. The Tribunal found that the Revenue produced no contrary material to disturb the CIT(A)'s findings.

- Accordingly, the ITAT quashed the entire reassessment order dated 27.12.2017 on the ground of lack of pecuniary jurisdiction, also noting the defect in the Section 143(2) notice issued by an officer without valid jurisdiction. The assessee's appeal was allowed and the Revenue's appeal was dismissed.

9. **Can reassessment beyond 3 years be sustained where the actual escaped income is below ₹50 lakh?**
   Case: Joint Commissioner of Income-tax (OSD) v. Ramesh Kumar
   Court: ITAT Delhi Bench
   Case No.: IT Appeal Nos. 243 to 251 (DDN) of 2026 & CO Nos. 5 to 13 (DDN) of 2026
   Assessment Years: 2014-15 to 2022-23
   Order Date: 01.09.2026

- The ITAT held that for AYs 2014-15 to 2018-19, reassessment notices issued beyond three years were without jurisdiction because the actual income escaping assessment was only the profit embedded in the alleged unaccounted purchases, which was below the statutory ₹50 lakh threshold under Section 149. The notices under Section 148 were accordingly quashed.

- The assessee, a mustard-oil trader, was linked to digital "Sanjeev Tally" data found during a search on Ravinder Oil Group, allegedly showing unrecorded cash sales and corresponding purchases by the assessee. The AO treated the entire alleged purchases as unexplained investment under Section 69B, while also separately computing the profit element.

- For AY 2022-23, the Tribunal held that the assessment could not have been framed directly under Section 143(3), since incriminating material relating to the assessee had been found during the search. The AO was required to follow the Section 148/147 procedure; consequently, the assessment was held void ab initio and quashed.

- On merits for AYs 2019-20 to 2021-22, the Tribunal held that the entire alleged unaccounted purchases could not be added when the AO himself accepted that the goods would have been sold and had separately computed the profit. Only the profit embedded in such purchases was taxable. The Revenue's appeals were dismissed, while the assessee's cross-objections were partly allowed.

10. **Can mere registration of a redevelopment agreement trigger tax under Section 56(2)(vii)(b)?**
Case: Pushpendra Prakash Dharmawat v. Assessing Officer
Court: ITAT Mumbai Bench 'K'
Case No.: IT Appeal No. 5267 (Mum.) of 2026
Assessment Year: 2017-18
Order Date: 27.08.2026

- The ITAT held that Section 56(2)(vii)(b) applies only when the assessee actually "receives" the specified immovable property. Mere registration of an agreement for a building proposed to be constructed cannot, by itself, be treated as receipt of the land or building contemplated by the provision.

- The assessee and his mother were existing tenants in a building proposed for redevelopment. Under the original arrangement, part of the new premises was to be received against surrender of tenancy rights, while an additional 297 sq. ft. was separately agreed to be purchased for ₹24.60 lakh. A subsequent agreement dated 22.12.2016 allotted a flat of about 468 sq. ft.; the AO taxed the ₹4.44 lakh difference between the consideration of ₹33.52 lakh and stamp-duty value of ₹37.96 lakh.

- The Tribunal held that the area attributable to surrender of pre-existing tenancy rights had to be distinguished from the additional area purchased for monetary consideration. It further observed that Section 56(2)(vii)(b) is a deeming provision and cannot be extended to a mere right to obtain a future flat. The Tribunal relied on its earlier decision in ACIT v. Ashok Narendra Mehta.

- Since the assessee submitted that the building had still not been constructed and no flat or possession had been received even by 2026, the matter was remanded only for limited factual verification. If the AO finds that no flat or other immovable property was actually received, the ₹4.44 lakh addition under Section 56(2)(vii)(b) cannot survive merely because the agreement was registered.

11. **Can reassessment be widened to tax a new issue discovered during reassessment, even when no addition is made on the original ground?**
Case: Papu Ram v. Assistant Commissioner of Income-tax
Court: Rajasthan High Court
Case No.: D.B. Civil Writ Petition No. 6502 of 2023
Assessment Year: 2018-19
Judgment Date: 15.09.2026

- The Rajasthan High Court held that under the Explanation to amended Section 147, the Assessing Officer can assess or reassess any issue relating to escaped income that subsequently comes to his notice during reassessment proceedings, even if no addition is ultimately made on the income that formed the basis of the original reassessment. A fresh proceeding under Section 148A is not required for such subsequently noticed income.

- Reassessment of the assessee's proprietary concern, Dara Construction Company, was initially initiated for AY 2018-19 on information that GVPREL Dara Joint Ventures had paid ₹16.64 crore to the assessee. During the reassessment, the AO issued a show-cause notice regarding further escaped income based on material received during search proceedings. The final order dated 31.03.2023 made an addition on the basis of this search material, although no addition was made on the original ground.

- The Court examined the amended Section 147 and held that the Explanation deliberately enlarges its scope by permitting the AO to consider subsequently discovered escaped income without separately following Section 148A. The expression "any issue" is not confined to material already available when reassessment commenced; material coming from an outside source, including search proceedings, can also enlarge the reassessment.

- The Court also held that where reassessment proceedings are already pending, the Revenue has two available courses in relation to search material: it may widen the pending reassessment or independently initiate proceedings under the prescribed search-related mechanism. Merely choosing one of these courses does not make the proceedings illegal. The writ petition was therefore dismissed.

12. **Can 100% addition of bogus purchases be sustained when the Tribunal restricts the disallowance to 6%?**
Case: **Principal Commissioner of Income-tax v. Dinesh Jain**
Court: **Gujarat High Court**
Case No.: **R/Tax Appeal Nos. 1057 and 1058 of 2024**
Assessment Years: **2007-08 and 2008-09**
Judgment Date: **11.11.2025**

- The Gujarat High Court upheld the Tribunal's decision restricting the disallowance of bogus purchases to 6%, instead of the 100% addition made by the Assessing Officer. The Court noted that similar departmental appeals involving accommodation entries from the Bhanwarlal Jain Group had already been dismissed where a 6% disallowance was sustained.

- The assessee was found to have obtained non-genuine purchase bills of about ₹38.51 crore from the Bhanwarlal Jain Group. The assessment was reopened under Sections 143(3) and 147 and the entire ₹38.51 crore was added as bogus purchases. The CIT(A) upheld the addition, but the ITAT subsequently restricted the disallowance to 6%.

- The Tribunal considered the assessee's overall business figures and held that the entire purchase transaction could not be treated as taxable income; only the income component embedded in the disputed purchases could be brought to tax. Considering the facts, including the assessee's low gross-profit rate, it restricted the disallowance to 6%.

- The High Court found that the Tribunal's conclusion was based on the material and facts available before it and required no interference. Relying also on its earlier decisions in cases involving the same Bhanwarlal Jain Group, the Court held that no substantial question of law arose and dismissed both Revenue appeals without costs.

13. **Can an assessee claim the benefit of an earlier flat-booking agreement to avoid tax on the difference between purchase price and stamp-duty value?**
Case: June Alice Fernandes v. Income-tax Officer
Court: ITAT Mumbai
Case No.: IT Appeal No. 4071 (Mum.) of 2026
Assessment Year: 2017-18
Judgment Date: 31.08.2026

- The ITAT Mumbai held that the benefit of the provisos to Section 56(2)(vii)(b) can be claimed only where the earlier agreement actually fixes the consideration for the property ultimately transferred and the statutory payment condition is satisfied. A merely old booking with a different builder cannot be relied upon to substitute an earlier stamp-duty value.

- The assessee, a non-resident, purchased Flat No. 504 in the redeveloped "DLH Dream Tower" in 2016 for ₹97.65 lakh, whereas its stamp-duty value was ₹1.3075 crore. She claimed that the flat was allotted in lieu of a flat booked with the erstwhile builder decades earlier and therefore the stamp-duty value applicable on the earlier date should be considered.

- The Tribunal found that the 2016 agreement with the new developer specifically fixed the consideration at ₹97.65 lakh and that the earlier agreement related to a different flat in the old building. Further, the assessee could not establish that any part of the ₹97.65 lakh consideration had been paid through a non-cash mode before the relevant agreement. The alleged old payments therefore could not satisfy the proviso.

- Accordingly, the difference of ₹33.10 lakh between the stamp-duty value and actual consideration was sustained as income under Section 56(2)(vii)(b), and the assessee's appeal was dismissed. The Tribunal also distinguished the decision in Purvi Nihal Shah v. ITO relied upon by the assessee.

14. **Can the Revenue challenge a Tribunal's restriction of bogus-purchase disallowance to 6% when no substantial question of law arises?**
Case: Principal Commissioner of Income-tax v. Dinesh Jain
Court: Supreme Court of India
Case No.: SLP (Civil) Diary No. 26321 of 2026
Assessment Years: 2007-08 and 2008-09
Judgment Date: 07.09.2026

- The Supreme Court dismissed the Revenue's Special Leave Petition against the Gujarat High Court judgment, thereby leaving undisturbed the Tribunal's decision restricting the disallowance of bogus purchases to 6% of the disputed purchases. The Supreme Court found no good ground to interfere with the High Court's conclusion.

- The assessee had allegedly obtained non-genuine purchase bills of approximately ₹38.51 crore from the Bhanwarlal Jain Group. The Assessing Officer treated the entire amount as bogus purchases and added ₹38.51 crore to the assessee's income. The CIT(A) upheld the addition, but the ITAT, on further appeal, restricted the disallowance to 6% of the disputed purchases.

- The Gujarat High Court observed that similar departmental appeals concerning transactions with the Bhanwarlal Jain Group had already been dismissed where the Tribunal had adopted a 6% disallowance. It held that the Tribunal's conclusion was based on the material and facts available on record and that no question of law, much less a substantial question of law, arose warranting interference.

- The Supreme Court thereafter dismissed the Revenue's SLP after condoning the delay, finding no reason to entertain the challenge. Thus, the 6% disallowance determined by the Tribunal remains undisturbed in the assessee's case.

15. **Reassessment Barred By Limitation: ITAT Deletes ₹4 Lakh Disallowance under Section 80GGC**
Case: Ashok Kumar Chandela v. Income-tax Officer
Court: ITAT Amritsar Bench
Appeal No.: IT Appeal No. 859 (ASR) of 2025
Assessment Year: 2019-20
Judgment Date: 15.07.2026

- The ITAT held that the reassessment proceedings were barred by limitation where the alleged escaped income was below ₹50 lakh and the notice under Section 148 was issued after expiry of three years from the end of the relevant assessment year. For AY 2019-20, the statutory deadline expired on 31.03.2023, whereas the notice was issued on 12.04.2023.

- The assessee had claimed a ₹4 lakh deduction under Section 80GGC for a donation made to Rashtriya Samajwadi Party (Secular). The payment was made through banking channels and was supported by the political party's receipt and registration certificate. However, based on an Investigation Wing appraisal report arising from a

search concerning 23 RUPPs, the AO treated the donation as bogus and disallowed the entire ₹4 lakh.

- The assessee challenged both the merits of the disallowance and the validity of reassessment. The Tribunal noted that the alleged escaped income was only ₹6.54 lakh, comprising ₹2.54 lakh of alleged perquisite income and ₹4 lakh of alleged bogus donation, far below the ₹50 lakh threshold required under Section 149(1)(b) for extending reassessment beyond three years.

- Accordingly, the Tribunal held that the notice under Section 148 dated 12.04.2023 was time barred, rendering the entire reassessment proceedings invalid. The assessment and consequential disallowance under Section 80GGC were therefore quashed, and the assessee's appeal was allowed.

16. **Gujarat High Court**: **Mere Establishment Of Ownership Of Seized Cash Does Not Entitle Third-Party To Immediate Release**; **Section 132B Questions Referred To Larger Bench**
Case: **Dilavarsinh Harisinh Zala v. Principal Commissioner of Income-tax**
Court: **High Court of Gujarat**
Special Civil Application: **R/SCA No. 8681 of 2026**
Judgment Date: **24.09.2026**

- The Gujarat High Court considered whether cash of ₹5,68,37,500 seized from an Angadiya firm, M/s Prime Enterprise, could be released merely because proceedings under the Prohibition of Benami Property Transactions Act had been dropped after the authorities accepted the petitioner's ownership of the cash. The Court accepted that the Benami proceedings had conclusively recorded that the cash belonged to the petitioner and was not benami property. However, it held that establishing ownership did not by itself require release of the cash because the nature and source of the cash remained to be examined in the pending Income-tax assessment proceedings of the person from whose premises the cash was seized.

- The cash was seized on 10.05.2024 during a search under Section 132 of the Income-tax Act at the premises of M/s Prime Enterprise. The petitioner claimed that the cash belonged to him and had been kept with the Angadiya firm for safe custody. The Benami authority subsequently dropped the proceedings on 30.12.2025, expressly recording that ownership of the ₹5.68 crore cash had been established and that the cash was not benami property. The petitioner thereafter applied under Section 132B for release, contending that the statutory period of 120 days had expired and that he had no existing tax liability.
- The Court, however, drew an important distinction between ownership of the seized asset and determination of its nature and source for Income-tax purposes. Under Section 132B(1)(i), a person seeking release is required to make the application within the prescribed period and explain the nature and source of acquisition of the seized asset to the satisfaction of the Assessing Officer. The Court held that this requirement is substantive and not a mere procedural formality. In the present case,

the petitioner's application was filed after the prescribed 30-day period and did not explain the nature and source of the cash; therefore, the Court held that release could not be ordered merely on the basis of the finding recorded under the Benami Act.

- At the same time, the Court rejected the Revenue's contention that a third party can never seek release of assets seized from another person's premises. It held that the expression “person concerned” in Section 132B can include a person whose assets are seized from the possession of another person. Thus, the petitioner was legally entitled to make an application for release. However, such entitlement is subject to compliance with Section 132B, including disclosure of the nature and source of the asset and satisfaction of the Assessing Officer. The Court also observed that the Revenue could protect its interests through an appropriate undertaking/indemnity where necessary.

- The most significant aspect of the judgment concerns the 120-day release period under the Second Proviso to Section 132B(1)(i). The Court noted that earlier Gujarat High Court decisions, including Nadim Dilip Bhai Panjvani, Mitaben R. Shah and Ashish Jayantilal Sanghavi, had treated the 120-day requirement as requiring release where a valid application had been made. However, those decisions had not examined the effect of Section 132B(4), which provides for payment of interest by the Central Government on money retained beyond the prescribed period. The Court therefore held that the interaction between Section 132B(1), its two provisos, and Section 132B(4) required reconsideration.

- Accordingly, the Division Bench referred the following important questions to a Larger Bench: (i) whether release of seized assets becomes mandatory after 120 days where an application was validly filed within 30 days; (ii) whether assets must be released after 120 days even when tax liability has not yet been determined and the Assessing Officer has not decided the application; and (iii) whether an application that does not disclose the nature and source of the seized asset must nevertheless be considered and formally rejected, and whether failure to do so results in automatic release after 120 days. The Registry was directed to obtain appropriate orders from the Chief Justice.