E-Journal

Taxation Latest Case Law
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Summary: Goods and Services Tax Case Laws

1. **Intermediary Issue: Punjab and Haryana High Court**
   Case: IDP Education India (P.) Ltd. vs. Union of India
   CWP Nos.18774 and 29033 OF 2024

- The Punjab and Haryana High Court held that where the assessee provided student placement assistance to a foreign entity (IDP Australia) under a bi-partite agreement, it could not be treated as an "intermediary" under the IGST Act, 2017, since the services were rendered only to the foreign entity and not between three contracting parties.

- Relying on earlier favourable rulings of the Bombay and Rajasthan High Courts in the assessee's own case, the Court ruled that such supply qualifies as export of services, and accordingly quashed the show cause notice and GST demand raised by the authorities under section 13(8)(b) of the IGST Act.

2. **Parallel Recovery on Sanctioned Refund Held Illegal: Orissa High Court**
   Case: Auroglobal Comtrade Pvt. Ltd. vs. Joint Commissioner, Goods and Service Tax and Central Excise & Ors.

- The Orissa High Court has quashed recovery proceedings initiated under Section 73 of the CGST Act for a ₹14 crore refund already sanctioned and upheld in appeal, holding that such parallel action amounts to an impermissible "overstep" of jurisdiction and violates principles of res judicata, estoppel, and natural justice; the Court ruled that an administrative review order cannot override or reopen a concluded quasi-judicial appellate decision, and that initiating fresh recovery proceedings to nullify a binding appellate order was arbitrary, without jurisdiction, and legally untenable, thereby affirming the finality of the appellate order.

3. **Are Liquidated Damages For Breach Or Delay In Contracts Taxable Under GST?**
   Case: M/s Krazybee Services Pvt. Ltd. v. Additional Director, DGGI, BZU
   Case Number: WRIT PETITION NO. 16471 OF 2024

- The Karnataka High Court has held that liquidated damages recovered for breach or delay in contractual obligations are purely compensatory in nature and do not constitute "consideration" for any supply under the CGST Act, thereby quashing the show cause notice issued against the assessee.

- The Court found that compensation paid by a Lending Service Provider to a non-banking financial company under a Master Service Agreement squarely falls within Paragraphs 7.1 to 7.1.6 of Circular No. 178/10/2022 dated 03.08.2022, read with Sections 73 and 74 of the Indian Contract Act, 1872, which clarify that such amounts are not exigible to GST.

- Rejecting the department's argument that similar transactions with other entities attracted GST under different nomenclature, the Court ruled that mere existence of other taxable transactions cannot justify taxing liquidated damages expressly excluded by the Circular, and accordingly allowed the writ petition.

4. **Can Input Tax Credit Be Denied to a Genuine Buyer for a Supplier's GST Default?**
   Case: Sahil Enterprises v. Union of India
   Case Number: WP(C) No.688 of 2022

- Tripura High Court held that although Section 16(2)(c) of the CGST Act, 2017 is constitutionally valid, it cannot be mechanically applied to deny Input Tax Credit (ITC) to a bona fide purchaser who has paid GST to a registered supplier and complied with all statutory requirements, merely because the supplier failed to deposit the tax with the Government.

- Reading down the provision, the Court ruled that denial of ITC is justified only in cases involving non-bona fide, collusive, or fraudulent transactions, observing that expecting buyers to ensure a supplier's tax payment is "asking the impossible" and would lead to arbitrary and disproportionate consequences violative of Article 14.

- On facts, finding the transactions genuine and free from collusion, the Court set aside the demand and directed grant of ITC of ₹1.11 crore to the petitioner.

5. **Does physical/offline service override GST portal upload for determining effective communication and limitation?**
   Bench: Allahabad High Court
   Case: Bambino Agro Industries Ltd vs. State of Uttar Pradesh
   WRIT TAX Nos.1286, 2399, 2707, 2722, 2783, 3098, 3101, 3103, 3927, 3928, 3938, 4625, 7362 of 2025

- The Allahabad High Court held that while service of show cause notices and orders by upload on the GST Common Portal or electronic dispatch is legally valid under Section 169 of the CGST/UPGST Acts, the effective "communication" for purposes of limitation under Section 107 depends on actual or constructive communication of contents to the assessee.

- Since the GSTN does not generate acknowledgements showing when an assessee actually retrieves or downloads electronic communications, no conclusive inference can be drawn as to the date of service under the IT Act, 2000, and therefore, where communication is effected both electronically and physically.

- The date of offline/physical service shall ordinarily prevail for computing limitation, unless the contrary is proved, with the burden lying on the revenue, consequently, appeals claiming timeliness from the date of actual physical communication deserve presumption in favour of the assessee, and revenue authorities are advised to continue reliable physical modes of service to avoid disputes.

6. **Karnataka High Court directs Revenue to grant refund of accumulated ITC where assessee is not an 'intermediary'**
   Case: Bluefish Pharmaceuticals (P.) Ltd. vs. Union of India
   WRIT PETITION NO. 19351 OF 2024

- The Karnataka High Court held that an assessee providing research and development (R&D) and business support services directly to its foreign parent company was not acting as an "intermediary" under the GST law and, therefore, qualified as an exporter of services. Since the services were exported under a Letter of Undertaking (LUT) without payment of IGST.

- The assessee was entitled to a refund of accumulated/unutilized input tax credit (ITC) under Section 54 of the CGST/KGST Acts.

- The Court quashed the rejection of the refund claim by the department and the appellate authority, and directed the Revenue to grant the refund along with applicable interest within the prescribed time.

7. **Is the GST refund limitation under Section 54 mandatory or merely directory**?
Case: **Celebrity Structures India** (**P**.) **Ltd**. **vs**. **Assistant Commissioner of Central Tax**, **Bengaluru**
WRIT PETITION NO. **24053 OF 2023**

- The Karnataka High Court held that the limitation period for filing GST refund claims under Section 54 of the CGST/KGST Acts is directory, not mandatory, in circumstances similar to those already settled by precedent.

- The petitioner's refund application was partly rejected solely on the ground of limitation, despite the petitioner having agreed to crediting the refund to the electronic credit ledger instead of cash.

- Relying on its earlier ruling in **Merck Life Science** (**P**.) **Ltd**. **v**. **UOI**, the Court observed that such procedural timelines cannot defeat substantive refund rights where facts are identical.

- Since limitation was the only basis for rejection, the impugned orders were quashed and the matter was remanded to the department for reconsideration of the refund claim on merits.

8. **Madras High Court Quashes General Penalty Where Specific GST Late Fee Already Imposed**
Case: **Tvl R P G Traders vs**. **State Tax Officer**
W.**P**.(**MD**) **No**. **35398 of 2025**

- The Madras High Court held that when an assessee is already subjected to a specific late fee under Section 47 of the CGST/TNGST Acts for failure to file GST annual returns, the imposition of an additional general penalty under Section 125 is impermissible.

- The Court clarified that Section 125 applies only in cases where no specific penalty is prescribed for a contravention.

- Since the department had already levied a late fee under Section 47, the general penalty under Section 125 was set aside.

- The Court also modified the late fee amount from Rs.1.5 lakh to Rs. 75,000, granting partial relief to the assessee.

9. **Refund of Statutory Pre-Deposit Is a Vested Right After Appeal Success**: **Supreme Court**
Case: **State of Jharkhand vs**. **BLA Infrastructure** (**P**.) **Ltd**.
SLP (**CIVIL**) **Diary No**. **56452 OF 2025**

- The Supreme Court held that once an assessee's appeal against a GST demand is allowed, refund of the statutory pre-deposit becomes a vested right and cannot be denied.

- The Court clarified that such refund is governed by Section 107(6) read with Section 115 of the Jharkhand GST Act (and corresponding CGST provisions), and not by Section 54, which deals with general refund claims.

- Consequently, the High Court's reliance on Section 54 was unnecessary. Since the pre-deposit is made as a statutory condition for filing an appeal, neither the State nor the Centre can retain the amount after the assessee succeeds.

- The Supreme Court directed that the pre-deposit be refunded along with interest in accordance with law, ruling in favour of the assessee.

10. **Calcutta High Court Bars Appellate Authority from Enhancing GST Liability on New Grounds**
Case: **Lakshmi Narayan Shah vs. State of West Bengal**
WPA No. 6227 of 2025

- The Calcutta High Court held that an Appellate Authority cannot enhance an assessee's tax liability by introducing a new issue that was never part of the original adjudication proceedings, without giving prior notice and an opportunity of hearing as mandated under the second proviso to Section 107(11) of the CGST/WBGST Acts.

- In this case, while the adjudicating authority had raised demand only on short payment of outward supplies, RCM liability, and ITC reversal, the Appellate Authority, in appeal, annulled the ITC reversal but unlawfully enhanced the tax by adding alleged excess zero-rated supplies to taxable turnover based solely on GSTR-3B data, ignoring corrections in GSTR-9 and GSTR-9C.

- The Court held that such enhancement was beyond the scope of appeal and showed non-application of mind, set aside the appellate and rectification orders to that extent, and remanded the matter for fresh consideration limited to the enhancement issue, in favour of the assessee.

11. **Karnataka High Court**: **Software Services to Foreign Parent Not 'Intermediary'; GST Refund Denial Quashed**
Case: **Informatica Business Solutions (P.) Ltd. vs. Assistant Commissioner of Central Tax**
Writ PETITION No. 25357 OF 2025

- The Karnataka High Court held that software development, support and customer services provided directly to its US parent company, cannot be treated as an "intermediary" under GST law, and therefore its services qualify as zero-rated exports.

- Relying on the service agreement, consistent past refund sanctions under both pre-GST and GST regimes, and earlier judicial precedents, the Court quashed the refund rejection order and computation sheet for April–June 2024, which had denied refund on the ground of intermediary services.

- The Court directed the tax authorities to grant the refund of Rs. 2.24 crore along with applicable interest within six weeks, reaffirming that mere provision of back-end or support services to a foreign parent does not amount to intermediary services under the IGST Act.

12. **Is a writ petition maintainable against a Section 74 GST order when a statutory appeal remedy exists? Supreme Court Decided**
Case: Super Service Point vs. Union of India
SLP Appeal (C) No(s). 38643 OF 2025

- The Supreme Court dismissed as withdrawn the Special Leave Petition filed against a Gujarat High Court order which had declined to entertain a writ petition challenging a **consolidated GST demand order passed under Section 74** for the period July 2017 to March 2022, holding that the petitioner had an efficacious alternative remedy of appeal under Section 107 of the CGST/GGST Act.

- The petitioner had argued that separate orders should have been passed for each period covered by the consolidated show cause notice, but the High Court, relying on **Asstt. Commissioner v. Commercial Steel Ltd.**, refused to exercise writ jurisdiction.

- Before the Supreme Court, the petitioner sought liberty to pursue the statutory appeal, which was granted, and the SLP was accordingly dismissed as withdrawn, with the decision going in favour of the revenue.

13. **Is Assignment of Leasehold Rights in Land a Taxable Supply of Service under GST?**
Answered by Bombay High Court in Aerocom Cushions (P.) Ltd. vs. Assistant Commissioner (Anti-Evasion), CGST & CX, Nagpur-1
WRIT PETITION NO. 2145 OF 2025

- The Bombay High Court held that the assignment by sale and transfer of 95-year leasehold rights in a plot allotted by MIDC to a third party is a transfer of benefits arising from immovable property and not a "supply of service" under Section 7 of the CGST/MGST Acts.

- Since the transaction had no nexus with the petitioner's business and was not undertaken in the course or furtherance of business.

- Relying on the **Gujarat High Court's ruling in Gujarat Chamber of Commerce and Industry v. UOI**, the Court ruled that such transactions are not liable to GST, as the essential element of a taxable supply was absent, and accordingly quashed the demand notice issued under Section 74(1) against Aerocom Cushions (P.) Ltd.

14. **Can the extended limitation for fake-entity ITC be used for all GST demands? Can the HC restrict its scope?**
Ansered by Calcutta High Court in Silverton Metals (P.) Ltd. vs. Joint Commissioner, Central Tax, Haldia CGST & CX Commissionerate (WPA No.10056 of 2025)

- Calcutta High Court held that where a show cause notice (SCN) specifically invoked the extended period of limitation only for irregular ITC availed on the basis of invoices issued by non-existent entities (covered by alert circulars), such extended limitation could not prima facie be applied to other, unrelated GST demands raised in the same notice.

- Since the invocation of the extended period was expressly confined to fake-entity ITC, other claims could not automatically benefit from the longer limitation period.

- Pending a final hearing of the tax authorities, the Court restrained the department from recovering any amount pursuant to the order-in-original, especially as a major part of the demand appeared to be time-barred.

15. **Can GST Dues of One Company Be Recovered from Another Solely Due to a Common Director?**
Case: Ramms India (P.) Ltd. vs. Deputy Commissioner of Commercial Taxes (AUDIT)

- The Karnataka High Court held that merely having a common director is not a valid ground to lift the corporate veil and recover GST dues of one company from another, as each company is a separate juristic entity.

- In this case, the show-cause notice and adjudication order under Section 73 of the CGST Act were issued only against XRMPL, yet the tax department recovered Rs. 24.73 lakh from the bank account of Ramms India (P.) Ltd. through Form GST DRC-13.

- The Court ruled such recovery to be illegal since Ramms India was neither the noticee, nor a garnishee, nor liable for XRMPL's dues, and corporate veil cannot be pierced merely because both companies shared a director.

16. **Can a GST Refund for Zero-Rated Exports Be Rejected Solely for Delayed LUT Filing?**
Case: Prime Perfumery Works vs. Assistant Commissioner of Central Tax

- The Karnataka High Court held that rejection of IGST refund on zero-rated exports solely for non-furnishing of LUT/Bond prior to export is unsustainable when a valid CBIC Circular permits ex post facto acceptance of LUT based on facts and refund purposes.

- In this case, the assessee exported goods during FY 2022–23 and claimed refund of IGST, but the claim was rejected under Rule 96A only because LUT/Bond was not furnished before export, despite the assessee relying on Circular F. No. 349/47/2017-GST dated 15.03.2018.

- The Court observed that the Circular clearly allows post-export LUT filing and that the department itself had permitted such filing earlier, hence the refund rejection without considering the Circular was illegal and the matter was remanded for fresh consideration in accordance with law.

17. **Can A Single Assessment Order Cover Multiple Assessment Years Under GST?**
Case: Shirdi Sai Enterprises vs. Deputy Assistant Commissioner of State Tax

- The **Andhra Pradesh and Telangana High Court** held that a single composite assessment order covering multiple assessment years is impermissible under the GST law.

- In this case, the assessee's registration had been cancelled w.e.f. 08.02.2021 and a single assessment order was passed for three separate years, namely 2018-19, 2019-20 and 2020-21.

- Relying on the decision in **SJ Constructions v. Assistant Commissioner**, the Court set aside the composite order and remanded the matter to the assessing authority to pass separate assessment orders for each assessment year individually.

18. **Can the GST Department Issue a Single/Composite Show Cause Notice for Multiple Financial Years involving Different Issues?**
Explained by Himachal Pradesh High Court
Case: Ekta Enterprises v. State of Himachal Pradesh

- The Himachal Pradesh High Court held that where different financial years involve different subject matters, issuance of a composite pre-notice intimation in Form DRC-01A and a composite show cause notice in Form DRC-01 is not legally sustainable under the GST law.

- In this case, the department issued a single DRC-01A and DRC-01 covering FYs 2017-18 to 2023-24, without considering the taxpayer's reply to the pre-notice intimation, despite the demands across years being based on different issues.

- The Court quashed the composite intimation, show cause notice, and all consequential orders, holding that separate intimations and separate SCNs are mandatory for each year, while granting liberty to the department to initiate fresh proceedings in accordance with law within the prescribed limitation period.

Summary: Income Tax Case Laws

1. **Delhi High Court upholds Benami Act proceedings where 'reason to believe' was backed by tangible material**
   Case: Shyamsundar Sharma vs. ACIT/Initiating Officer, Benami Prohibition Unit-2, Delhi
   W. P. (C) no. 17000 of 2025

- The Delhi High Court upheld initiation of proceedings under the Prohibition of Benami Property Transactions Act, 1988, holding that the Initiating Officer had sufficient material to form a valid "reason to believe" that the assessee was a benamidar, where Excel sheets recovered during an income-tax search revealed bogus expense transactions and were corroborated by statements of beneficial owners; rejecting the assessee's writ challenge that he was unconnected due to name discrepancies, the Court found that his identity was clearly established from the seized data and statements, and therefore the show-cause notice under section 24(1) and consequential attachment were valid and not liable to interference in writ jurisdiction, deciding the case in favour of the Revenue.

2. **ITAT's Stay Power Is Incidental to Appellate Jurisdiction: Jammu & Kashmir and Ladakh High Court**
   Case: J&K Yateem Foundation vs. Income Tax Appellate Tribunal & Anr
   Case No.: WP(C) No. 2118/2025

- The Jammu & Kashmir and Ladakh High Court has held that the ITAT possesses the power to grant a stay of an order under appeal even in the absence of any outstanding tax demand, and that refusal to entertain a stay application on the ground of lack of jurisdiction is legally untenable; setting aside the ITAT's rejection of the stay sought by J&K Yateem Foundation against cancellation of its registration under Section 12A/12AB, the Court reiterated, relying on ITO v. M.K. Mohammed Kunhi, that the power to grant interim relief is incidental and ancillary to appellate jurisdiction under Section 254 of the Income Tax Act, remitted the matter to the Tribunal to decide the stay afresh in accordance with law, and clarified that the merits of the appeal and stay were left open.

3. **Section 54 LTCG Exemption Not Defeated by Prior Demolition of House: Madras High Court**
   Case: C. Aryama Sundaram v. The Commissioner Of Income Tax, Chennai
   Case Number: TCA Nos. 1161, 1163, 1164 and 1162 of 2009

- The Madras High Court held that exemption under Section 54 of the Income Tax Act, 1961 cannot be denied merely because the residential house standing on the land was demolished prior to its sale, so long as the transfer of the property took place subsequently and the assessee reinvested the resulting long-term capital gains in a new residential house within the statutory time limits.

- The Court clarified that Sections 54 and 54F are independent provisions with distinct conditions, and Section 54(2) (deposit in Capital Gains Account Scheme) is not mandatory where the assessee has directly reinvested the gains within the period prescribed under Section 54(1).

- Since the transfer occurred in March 1999 and the assessee purchased a residential house in New Delhi on 30.01.2001, within one year of transfer, the exemption was valid. Rejecting the

Revenue's argument that demolition in 1995 extinguished the character of a "residential house," the Court ruled that the relevant consideration is the nature of the asset transferred and timely reinvestment, thereby entitling the assessee to Section 54 exemption.

4. **Can a Husband's Foreign Income Be Automatically Converted to INR for Maintenance**?
   Case Number: **CRL.REV.P. 768/2023**
   Case: **MRS DEVIKA JAIN versus SIDHARTH JAIN**

- The Delhi High Court held that a wife cannot claim maintenance by mechanically converting a husband's foreign earnings into Indian currency without considering surrounding facts.

- The Court clarified that interim maintenance is not a mathematical exercise and often involves estimation based on available material, lifestyle indicators, and earning capacity, without a roving inquiry at the interim stage.

- While affirming the husband's sacrosanct duty to maintain his wife, the Court ruled this does not require mirroring or equalising his entire income.

- In cross petitions against a Family Court order of ₹50,000 per month, amid rival claims about the husband's high foreign salary and the wife's employability, the Court enhanced interim maintenance to ₹1,00,000 per month, payable from the application date with adjustments for amounts already paid.

5. **Can net profit be enhanced or reassessments sustained without incriminating material**?
   Case: **Rakesh Kumar Pandey vs. A.C.I.T (ITAT Lucknow)**
   IT Appeal Nos. 347 to 353, 398, 399, 402, 405, 460 (Lkw) of 2025 and Ors.

- ITAT held that, in the absence of any incriminating or distinguishing material found during search, the Assessing Officer could not mechanically estimate a higher net profit by rejecting audited books under section 145, nor could post-search disclosures in later years be blindly applied to earlier years, thereby upholding the relief granted by the Commissioner (Appeals).

- The Tribunal further ruled that reopening of completed assessments under sections 147/148 based merely on the deeming fiction in the Explanation to section 148, without any seized material relatable to the relevant years, was invalid and liable to be annulled.

- On merits, it deleted additions made on account of unexplained investments based on DVO valuation for two years, remanded one year for limited verification, upheld deletion of addition for a genuine gift from father, struck down ad hoc sustenance of agricultural income additions without reasons, sustained disallowance of section 80C housing loan deduction, upheld allowance of section 54F exemption after factual verification, and remanded certain business disallowances for fresh adjudication—largely deciding issues in favour of the assessee.

6. **Does a Belated Deposit of TDS Erase Criminal Liability Under the Income Tax Act?**
   Case: Dr Manoj Khanna v. Income Tax Office
   Case Number: CRL.M.C. 7461/2025

- The Delhi High Court has held that subsequent or belated deposit of TDS does not extinguish criminal liability under Section 276B of the Income Tax Act, 1961, and dismissed a Managing Director's plea to quash criminal proceedings arising from delayed TDS deposits exceeding ₹2.09 crore for FY 2017–18.

- The Court clarified that unless the statute expressly grants immunity, later payment cannot absolve prosecution, that pleas of financial difficulty or "reasonable cause" are triable defences not examinable at the quashing stage, and that company directors, particularly a Managing Director, cannot evade liability by shifting blame when sanction records them as responsible officers, thereby upholding the summoning order.

7. **Hyderabad ITAT Allows Full Section 54 Deduction Despite Non-Deposit in CGAS**
   Case: Nitin Bhatia vs. Income-tax Officer Ward 12 (1)
   IT Appeal No. 1472 (Hyd) of 2025
   Assessment year 2018-19

- The Hyderabad ITAT held that where an assessee reinvests capital gains from the sale of a residential house into the purchase of a new residential house within the two-year period prescribed under Section 54(1) of the Income-tax Act, 1961, the full deduction under Section 54 cannot be denied merely because the unutilized amount was not deposited in the Capital Gain Accounts Scheme (CGAS) before the due date under Section 139(1).

- The Tribunal clarified that Section 54(2) applies only when the substantive condition of reinvestment under Section 54(1) is not fulfilled, and since the assessee had complied with the main requirement by purchasing a new house within the stipulated time, the entire exemption was allowable in favour of the assessee.

8. **Are donations to political parties always tax-exempt? II Can such donations be treated as unexplained cash credits under Section 68?**
   Case: Public Political Party vs. Deputy Commissioner of Income-tax, Central
   IT APPEAL Nos. 2982 to 2985 & 2966 (Del) of 2025 AND OTHERS
   Assessment years 2015-16 TO 2022-23

- The Delhi ITAT held that while a registered but unrecognized political party must strictly comply with Section 13A conditions (such as maintaining audited books, timely filing of returns, and proper disclosure of contributions) to claim exemption, failure to do so merely makes the voluntary donations taxable.

- It does not automatically render them "unexplained cash credits" under Section 68 once their nature as donations is established. Instead, such receipts are to be taxed as "income from other sources" under Section 56(1).

- Since evidence showed that the party was only earning commission for routing donations, the Tribunal directed the Assessing Officer to tax only 6% of the total donations as commission income and delete the addition made under Section 68, granting partial relief to the assessee.

9. **Mumbai ITAT: No Bogus Purchase Without Incriminating Evidence**
   Case: Kalpataru Projects International Ltd v. Deputy Commissioner of Income Tax
   Case Number: ITA No.5962/MUM/2025

- Mumbai Bench of the ITAT quashed a Rs. 2.70-crore reassessment holding that purchases cannot be branded as bogus solely on the basis of employee statements recorded nearly a decade later and post-facto field inspections, in the absence of any incriminating material found during search.

- The Tribunal noted that the questioned purchases (2013–2017) were linked to genuine construction projects whose revenues were already accepted by the tax department, that employees were not expected to recall old vendor details, and that vendors being untraceable years later did not invalidate past transactions.

- Criticising the CIT(A) for sustaining an ad-hoc 12.5% disallowance despite factual findings in favour of the assessee, the ITAT held such partial disallowance under Section 37(1) to be legally unsustainable, and deleted the entire addition for AY 2013-14, extending the same relief to AYs 2014-15, 2015-16 and 2017-18.

10. **Bengaluru ITAT Upholds Rs. 772 Cr Business Loss Claim of Flipkart Arm Instakart**
    Case: Instakart Services Private Limited vs. The Assistant Commissioner of Income Tax
    Case Number: ITA No.496/Bang/2025

- The Bengaluru Bench of the ITAT has allowed claim of Rs. 772.25 crore in business losses for AYs 2016–17 to 2018–19, rejecting the Revenue's allegation of artificial loss creation and profit shifting.

- The Tribunal held that heavy losses in the initial years of a start-up, driven by infrastructure build-up, competitive pricing, and market expansion, are commercially justified and cannot be disallowed merely due to lack of immediate profitability.

- It found no evidence of under-charging Flipkart, accepted ESOP expenses as legitimate employee compensation, and upheld manpower cost deductions supported by proper documentation and banking trails.

- The ruling reinforces that genuine business losses incurred in the ordinary course of operations cannot be recharacterised as notional income without concrete evidence.

11. **Foreign Tax Credit Allowed in Year of Indian Taxation Despite Timing Mismatch: ITAT Mumbai**
    Case: Bank of India vs. Assistant Commissioner Income-tax
    IT Appeal No. 1397 and 1549 (MUM) OF 2023
    Assessment Year 2013-14

- The Mumbai ITAT held that where a resident bank had paid foreign taxes in an earlier year on overseas branch income but could not claim Foreign Tax Credit (FTC) due to losses in India, it is entitled to claim such FTC in the later year when the corresponding foreign income is actually taxed in India after set-off of reduced brought-forward losses.

- The Tribunal clarified that India, as the state of residence, is obliged to eliminate double taxation irrespective of timing mismatches, and the benefit applies to both treaty and non-treaty countries, subject to the cap that FTC cannot exceed the Indian tax liability on such foreign income.

- The matter was remitted to the Assessing Officer to verify the correct quantum of domestic tax. Additionally, the Tribunal ruled in favour of the assessee on Section 14A disallowance where shares were held as stock-in-trade, and held that MAT under Section 115JB was not applicable to corresponding new banks for AY 2013–14.

12. **Can the ITAT order refund of unlawfully recovered tax? What happens when recovery leads to double taxation during rectification?**
Case: TLG India (P.) Ltd. vs. Assistant Commissioner of Income-tax
SA No. 120 (MUM) OF 2025 / Assessment Year 2021-22

- ITAT held that where a rectification order under section 154 eliminated the tax demand, any tax recovered during the pendency of the rectification application amounted to unlawful and double recovery.

- The ITAT ruled that under section 254 of the Income-tax Act, 1961, it has the power to direct the refund of such wrongly recovered tax, thereby granting relief in favour of the assessee.

13. **Can an Eight-Minute Delay in ITR Filing Justify Disallowance of Carry-Forward of Huge Business Losses?**
Case: Sikkim Ferro Alloys Ltd. vs. Central Board of Direct Taxes

- The **Bombay High Court** held that a mere eight-minute delay in filing the income tax return should be condoned where strict application of the law would cause grave hardship to the assessee.

- In this case, although the tax audit report was uploaded at 11:44 p.m. on 31-10-2018, the return was filed at 12:08 a.m. on 01-11-2018 due to portal slowness and the CA's workload, leading to denial of carry-forward of business losses of about Rs. 21.33 crore under section 80.

- The Court quashed the CBDT's rejection of condonation and directed that the eight-minute delay be condoned, holding that such a minor delay should not deprive the assessee of substantial statutory benefits.

14. **Can Addition u/s 69 in an Unabated Assessment Be Sustained Solely on the Basis of a Third-Party WhatsApp Chat Without Any Incriminating Material?**
Case: ACIT, Cen. Cir.-2(3), Ahmedabad vs. Anuradha Shivkumar Gogia (ITAT Ahmedabad)

- The Ahmedabad ITAT held that in an unabated assessment year, no addition under section 69 can be made in proceedings under section 153A unless it is based on incriminating material found during the course of search.

- In the present case, the Assessing Officer made addition alleging payment of on-money solely on the basis of a WhatsApp chat retrieved from the mobile phone of a third party, which was neither seized from the assessee nor connected with the assessee's land

transaction, and no evidence of cash payment or unaccounted investment was found during search.

- The Tribunal ruled that such uncorroborated third-party digital chats or documents, unrelated to the assessee and unsupported by independent enquiry or incriminating material, cannot form the basis of addition in completed assessments, rendering the addition unsustainable both on jurisdiction and on merits.

15. **Can an Employee Be Denied TDS Credit if the Employer Fails to Deposit it with the Government?**
Case: Ajay Kumar Goel vs. Deputy Commissioner of Income-tax

- The Kolkata Bench of the ITAT held that once tax is deducted at source from an employee's salary, the employee is deemed to have paid tax to that extent and cannot be denied TDS credit merely because the employer failed to deposit the deducted amount with the Government.

- In this case, although the employer deducted TDS from the assessee's salary, the same was not deposited, leading the Assessing Officer to deny TDS credit and raise a demand for Assessment Year 2024-25.

- The Tribunal ruled that in view of Sections 199 and 205 of the Income-tax Act, the employee cannot be made to suffer for the employer's default, and the Assessing Officer was directed to grant full credit of TDS as claimed by the assessee.

16. **Can Assessment Be Reopened Solely on Insight Portal Information About Cash Deposits Without Supporting Material? Answered by Supreme Court**
Case: Income-tax Officer vs. O3 Developers (P.) Ltd.

- The **Supreme Court** dismissed the SLP and upheld the High Court's view that reassessment proceedings cannot be initiated merely on the basis of information available on the Insight Portal regarding cash deposits, without any supporting material.

- In the present case, the Assessing Officer issued a reopening notice alleging unexplained cash deposits and accommodation entries based solely on Insight Portal inputs, without referring to any concrete evidence or material establishing a live nexus between the information and escapement of income.

- The Court held that such reopening amounted to a fishing and roving inquiry, and in the absence of tangible material to form a bona fide belief of income escaping assessment, the reassessment notice was invalid and liable to be quashed.