

# THE MONTHLY MAGAZINE FROM CASC

**GST UPDATES**



**TRANSFER PRICING PERSPECTIVE**



**RECENT JUDGEMENTS**



**DIRECT TAXES**



**VOLUME-4**

**ISSUE-6**

**JUNE 2025**



# CASC BULLETIN

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## INDEX

Subject	Author	Page No.
Recent Judgments in VAT / CST / GST	CA. V.V. Sampathkumar	10
Case Laws - GST	CA. Vijay Anand	21
Centralized Procurement Models - Transfer Pricing Perspective	Nithya Srinivasan Nitya Joseph	39
Recent Judgements in Direct Taxes	CA. P. Arumugaraj	58

Date	Topic	Speaker
12.06.2025 (Thursday)	Leveraging AI for Company Law Compliance	CA. Aravindh Khandavadevelu
26.06.2025 (Thursday)	Partnerships & LLPs - Income Tax Nuances	CA. M.A. Abhinayaa

Shri G.Narayanaswamy CA Study Circle Meetings will be at 6.30 p.m. and will be preceded by fellowship over High Tea at 6.00 p.m

**CASC Annual Members are requested to renew their  
subscription for 2025 - 2026**

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## EDITORIAL

*“Determination powered by knowledge can overturn any obstacle”*

*– Dr.A P J Abdul Kalam, Bharat Ratna*

Dear Professional Colleagues,

### **India poised to become 4<sup>th</sup> Largest Economy amid global qualms**

India set to become the world’s **fourth largest economy** by the end of FY 2025-26 by achieving **USD 4 Trillion** economy in nominal GDP terms, by overtaking Japan, according to IMF’s World Economic Outlook report. In last 11 years, India’s GDP has more than doubled and has also jumped six places from 10<sup>th</sup> to 4<sup>th</sup> position. India remains the fastest growing major world economy with a GDP growth rate of **6.2% for 2025** by outpacing US (3.8%), Germany (3.9%), and Japan (2.8%). In a world of increasing global economic uncertainties, and amidst geopolitical conflicts and tariffs wars, it is astounding that India is able to maneuver in current turbulent times.

### **SC Ruling on pre-deposit of GST Appeal a major relief**

The SC has ruled in the case of **Yasho Industries vs Union of India** allowing the taxpayers to utilize the ITC balance in Electronic Credit

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Ledger (ECL) to make pre-deposit of 10% for filing GST appeals. It is indeed a welcome decision in the right direction by removing ambiguity around the use of ITC for appeal pre-deposits, reinforcing taxpayers' right to leverage ITC balances, upholding the core objective of the GST law of enabling seamless credit flow and mainly improving the liquidity of the taxpayers, especially MSMEs. Let us hope that the Government would not make any amendment in the law to nullify the decision.

### **Due Date for filing ITR extended by CBDT for AY 2025-26**

The CBDT is in process of revamping ITR schema /utilities for the AY 2025-26 so as to bring simplicity, transparency and accurate reporting for TDS credits and other transactions. Hence, it has issued a **Circular No 6 of 2025** dated 27-05-2025 extending the due date for filing ITRs on 31<sup>st</sup> July 2025 to 15<sup>th</sup> September 2025. It is laudable for such proactive initiative step taken by the CBDT in issuing such circular well in advance for the benefit of the taxpayers and tax professionals. Let us hope that new ITR schema /utilities for the AY 2025-26 would not create any new issues while filing the ITRs online. Further, such extension of time limits would benefit the taxpayers by giving them additional time for making

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investments in specified bonds/schemes for availing tax benefits under the Act.

## **Remission of Duties and Taxes on Exported Products Scheme reinstated by DGFT**

As a much welcome move, the DGFT has notified that the benefits of tax refund scheme –Remission of Duties and Taxes on Exported Products (**RoDTEP**) will be reinstated to Export Oriented Units (EoU), Advance Authorisations (AA) holders and units in Special Economic Zones (SEZs) from **1st of June 2025**. Earlier, such benefit of the scheme was available to them only till 31st December 2024 and was not extended. This would definitely enhance the competitiveness of the Indian Exporters in the global markets and would definitely boost the GDP growth.

## **Appeal**

We, at Chartered Accountants Study Circle, request members to contribute articles for the bulletin and you may contact the editorial board regarding the same. We have been regularly conducting technical programmes every month. Members are requested to attend the programmes conducted by CASC and are also requested

to send their suggestions and / or value additions to the services provided by CASC including this Bulletin. The same can be sent as hard copy to the office of the CASC or emailed to [admin@casconline.org](mailto:admin@casconline.org) or any of the members of the Management Committee of the CASC. Any member interested in using the CASC platform for addressing our members on technical topics may kindly feel free to contact us by way of email at [admin@casconline.org](mailto:admin@casconline.org).

For and on behalf of the Editorial Board

*Balaji V*

Balaji V

**GLIMPSES FROM SHRI.G.NARAYANASWAMY CA STUDY CIRCLE MEETING HELD ON 08.05.2025**

**SPEAKER : Mr. S. MOHAMMED KADER ABDULLAH**

**TOPIC - FEMA - CAPITAL ACCOUNT AND CROSS BORDER TRANSACTIONS**



**GLIMPSES FROM SHRI.G.NARAYANASWAMY CA STUDY CIRCLE MEETING HELD ON 29.05.2025**

**SPEAKER : CA.S. RAMESH**

**TOPIC - PREPARATION OF FINANCIAL STATEMENTS FOR NON-CORPORATE ENTITIES**



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### ANNOUNCEMENTS

1. The copies of the material used by the speakers and provided to CASC for distribution, for the regular meetings held twice in a month is available on the website and is freely downloadable.
2. Earlier issues of the bulletin are also available on the website in the "News" column.  
The soft copy of this bulletin will be hosted on the website shortly.

### READER'S ATTENTION

You may please send your Feedback / Contributions / Queries on Direct Taxes, Indirect Taxes, Company Law, FEMA, Accounting and Auditing Standards, Allied Laws or any other subject of professional interest to [admin@casconline.org](mailto:admin@casconline.org)

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## RECENT JUDGEMENTS IN VAT / CST / GST

### Order issued without Application of Mind:

Ld Government Advocate appearing for the respondent submitted that in the present case, initially a show cause notice was issued on 13.10.2023, for which a reply was filed by the petitioner. However, she fairly admitted that the said reply was not at all considered by the respondent while passing the impugned order. She would also admit that in this case, no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order and hence, she requests this Court to pass appropriate orders. The Court held that the said impugned assessment order was passed by the respondent, in non-application of mind, without considering the reply filed by the petitioner and set aside the orders with certain directions to both parties. **M/s.Smart Shapers Vs. The Deputy State Tax Officer II, Arumbakkam Assessment Circle, W.P.No.10517 of 2025 Dated : 27.03.2025**



**CA. V.V. SAMPATHKUMAR**

**Input Tax Credit** : Petitioner submitted that one of the issues involved is with regard to the ITC claim made, which is barred by

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limitation in terms of Section 16 (4) of the CGST Act, 2017. Ld counsel for the petitioner, the said issue was already dealt with by this Court in W.P.Nos.25081 of 2023, etc, whereby, this Court, vide common order dated 17.10.2024, had quashed the impugned order passed by the Department. In such view of the matter, this Court quashed the impugned order only the aspect of aforesaid issue pertaining to Section 16(4) of GST Act. As far as other issues are concerned, this Court is inclined to set aside the impugned order dated 30.06.2023 passed by the respondent and remanded the matter back to AO with certain directions. **Arumugam Rajagopal Vs.1.The Assistant Commissioner, Tirupur Division, Tirupur 641 603 2.The Branch Manager, Axis Bank Limited, Veerapandi, Tiruppur 640 605 W.P.No.4668 of 2025 Dated : 28.03.2025**

**Appeal filing Manually** : The first appeal filed by the petitioner came to be returned by the first respondent on the ground that the Appeal has not been filed through online but has been filed manually. The learned counsel submitted that the since the order-in-original passed by the third respondent dated 03.06.2024 was not reflected on the GST Portal, the petitioner was not in a position to file Appeal through Online and filed the same manually, and

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hence, prayed for setting aside the impugned proceedings. The respondents also fairly submitted that following the direction issued by this Court in W.P.No.24785 of 2024 vide order dated 29.08.2024, the present WP could be disposed of on the same lines. Following the said earlier direction issued by this Court, the present WP was allowed and the Impugned order was set aside. The Appellate Authority/first respondent was directed to take up the Appeal, which was filed manually by the petitioner on 29.08.2024 on record and pass appropriate orders on merits and in accordance with law, after providing sufficient opportunity to the petitioner, within 6 months from the date of receipt of a copy of this order. **M/s. Laya Tech Pvt. Ltd., Vs. 1. The Deputy Commissioner (ST) (GST) (Appeal), Erode & Salem, Erode-638 001 2.The State Tax Officer (INT), Roving Squad III, Tiruppur. W.P.No.9759 of 2025 DATED: 28.03.2025**

**Opportunity of hearing:** Petitioner submits that the SCN dated 25.11.2024, followed by reminders dated 31.12.2024, 25.01.2025 and 01.02.2025 were issued alleging certain discrepancies. Since the petitioner could not file its reply, the respondent passed the impugned assessment order dated 24.02.2025, demanding tax along

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with interest and penalty for the Assessment Year 2020-2021. Further, submitted that with respect to the same assessment year already another assessment order was passed by another assessment officer and the same has been challenged before this Court in W.P.No.2538 of 2025 and the said writ petition is pending. While so, the order impugned herein has been passed by another assessment officer and therefore the same is not sustainable. The observed that it is settled law that violation of principles of natural justice is a failure of due process. If any order is passed against the petitioner with demand, that order has to be passed after giving an opportunity of personal hearing to the petitioner otherwise, it will amount to depriving the interest of the petitioner and the same amounts to violation of principles of natural justice. In the case on hand, the impugned order came to be passed without hearing the petitioner. Hence, this Court is of the view that the impugned order passed is in violation of principles of natural justice and it is just and necessary to provide an opportunity to the petitioner to establish their case on merits and set-aside the impugned orders and issued directions. **M/s.Vino Construction Vs The State Tax Officer, Sathyamangalam Jurisdiction, Erode. W.P.No.11313 of 2025 Dated: 28.03.2025**

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**Revision order:** Proper officer passed the impugned order dt.23.01.2023 and in the rectification order dt.13.03.2023. The petitioner submitted that the original order and rectification order were set aside by the second respondent and the matter was sent back to the 1st respondent to pass the revisional order after granting an opportunity of personal hearing to the petitioner. Subsequently, the 1st respondent called for some documents from the petitioner and the same was duly produced. However, till date, the 1st respondent had neither provided the opportunity of personal hearing nor passed the revisional order. Hence, this WP. Ld Special GP confirmed the submissions made by the petitioner and requested this Court to pass appropriate orders. Considering the submissions made by the Ld counsel for the petitioner and in view of the order dated 23.11.2023 passed by the 2nd respondent, this Court directs the 1st respondent to pass the revisional order, after providing the opportunity of personal hearing to the petitioner, within a period of 6 weeks from the date of receipt of copy of this order with other directions. **M/s.Shree Agencies Vs.1.Assistant Commissioner (ST), Peddunaickenpet Assessment Circle, 2.Deputy Commissioner (ST),GST Appeal, Chennai 1,Chennai-6 W.P.No.10823 of 2025**  
**Dated : 27.03.2025**

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**Returns:** The Ld Counsel to the Petitioner submitted that in terms of Section 74 of the GST Act, the respondent can make the best judgement assessment order within 5 years from the end of financial year, for which the registered person is liable to file the annual returns. In such view of the matter, since the present issue is pertaining to the Financial Year 2023-2024, the said period of 5 years to make the best judgement assessment order will start on 01.01.2024 and end on 31.12.2029. Therefore, if the best judgement assessment order is passed by the respondent on 31.12.2029, the time limit, for filing the returns, will be available to the petitioner up to 30.01.2030. Hence, said counsel contended that since the assessment orders were made by the respondent at the earliest point of time, the legal right of the petitioner to file the returns cannot be taken away from them. Further it was submitted that the present petitions have been squarely covered by the order passed in W.P.No.34770 of 2023, whereby this Court, vide order dated 14.12.2023, had condoned the delay in filing the returns. The limitation of 30 days period prescribed u/s 62(2) of the Act appears to be directory in nature and if the Assessee was not able to file the returns for the reasons, which are beyond his control, certainly the said delay can be condoned and thereafter, the Assessee can be permitted to file the

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returns after payment of interest, penalty and other charges as applicable. Considering the submissions made by the petitioner and in view of the order passed by this Court in W.P.No.34770 of 2023, this Court condoned the delay in filing the returns and issued other directions. **M/s.Solutions Online Vs. Assistant Commissioner (ST), Velandiyapalayam Assessment Circle, Coimbatore W.P.Nos.10766, 10816, 10831 & 10834 of 2025 Dated: 27.03.2025**

**Registration cancellation:** Respondent issued a show cause notice on 06.04.2024, proposing the cancellation of the GST registration for non-filing of returns for a continuous 6 months, and subsequently passing an order of cancellation on 08.05.2024. The petitioner came to know of the cancellation of the GST registration only in the last week of December 2024. Petitioner promptly remitted the late fee payment on 03.01.2025. Ld Government Advocate (Taxes) submitted that the petitioner did not file returns for a continuous 6 months, which led to the passing of the impugned order and also that the petitioner has not paid the tax dues and that revocation of the cancellation of registration will be considered only upon payment of all dues and filing of all returns. The Court issued orders for the restoration of the GST registration is subject to and conditional upon

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fulfilling the conditions which includes that the respondent shall take suitable steps by instructing GST Network, New Delhi to make suitable changes in the architecture of the GST Web portal to allow the petitioner to file the returns and to pay the tax/penalty/fine, within a period of 4 weeks from the date of receipt of a copy of this order etc . and the petitioner is directed to file returns till date, if not filed, together with tax dues with interest and the late fee fixed within 4 weeks from the date of restoration of GST Registration of the petitioner etc. **M/s.Carrywings Lines Private Limited, Vs.The Assistant Commissioner, Kilpauk Assessment Circle-Zone II, W.P.No.10839 of 2025 Dated : 26.03.2025**

**Hearing:** Impugned order came to be passed against the petitioner, behind their back, as the respondent-Department has not taken any steps to serve any notices/communications through any physical mode of service, particularly, by RPAD, and made it available only in the GST Portal, which the petitioner was not aware, and only when the petitioner's Accountant informed the petitioner about the second reminder notice dated 06.08.2024, the petitioner came to know of the impugned assessment proceedings, and though reply was filed by the petitioner dated 16.08.2024, the impugned order

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came to be passed by then. Thus, the respondent passed the impugned order without affording any opportunity of hearing to the petitioner, which is nothing by an ex parte order, as the same suffers from violation of principles of natural justice. This Court set aside the proceedings and issued certain other orders/directions.

**M/s.SKS India Engineering, Vs. The Deputy State Tax Officer, Oragadam Assessment Circle, Chennai - 123. W.P.No. 10305 of 2025 DATED : 26.03.2025**

**ITC and Fake Invoices:** show cause notices were issued alleging that the petitioner was in receipt of the Inward supplies from the non-existent taxpayer (were in issuance of fake invoices/without actual supply) for the year 2023-24. Input Tax Credit was blocked by the respondents. According to the petitioner, the transactions of inward supplies from the suppliers are bona fide. Since the ITC was blocked by the respondents, the petitioner was unable to operate his business transactions. Hence, this WPs. Ld Government Advocate (Taxes) submitted that the petitioner's reply to the said SCN would be considered by the respondents and pass orders, after affording an opportunity of personal hearing to the petitioner, within a time frame that may be stipulated by this Court and further contented

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that, since the petitioner have dealt with fake invoices, the respondent authority have blocked the ITC. Hearing rival submissions, the Hon'ble Court issued the following directions: (i) Respondents are directed to consider the reply filed by the petitioner along with the documentary evidence and issue a 7 days clear notice by fixing the date for personal hearing to the petitioner. (ii) If the respondent-Authority comes to the conclusion that the petitioner's case is not pertaining to fake invoices, the respondents are directed to consider the request of the petitioner, for unblocking of Input Tax Credit. (iii) The abovesaid exercise shall be completed within 5 weeks from the date of receipt of a copy of this order. **P Murugan, Tiruvallur. Vs 1. The Commercial Tax Officer, Poonamallee, Kancheepuram. 2.The State Tax Officer, Poonamallee Assessment Circle, Kancheepuram. WP Nos.10525 & 10531 of 2025 DATED: 09.04.2025**

**Violation of principles of Natural Justice :** It was submitted that the impugned order dated 13.08.2024 came to be passed by the respondent in violation of principles of natural justice. Further, the petitioner is willing to pay 25% of the disputed tax amount to the respondent. Hence, prayer was made to this Court to grant an

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opportunity to the petitioner to present their case before the respondent by setting aside the impugned order. the Ld Government advocate has fairly admitted that no opportunity of personal hearing was provided to the petitioner subsequent to the filing of reply. The Court set aside the impugned order dated 13.08.2024 with certain directions that includes the remanding of the matter to the respondent for fresh consideration on condition that the petitioner shall pay 25% of disputed tax amount to the respondent within a period of four weeks from today (27.03.2025) and the setting aside of the impugned order will take effect from the date of payment of the said amount. **Venkatesan Padma Vs. Commercial Tax Officer, Kancheepuram Assessment Circle, W.P.No.10763 of 2025**  
**Dated : 27.03.2025**

*(The Author is a Chennai based Chartered Accountant in Practice. He can be reached at [vvsampat@yahoo.com](mailto:vvsampat@yahoo.com))*

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## CASE LAWS - GST

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### 1. GST - ASSESSMENT OF DEAD PERSONS - NOT SUSTAINABLE



**CA. VIJAY ANAND**

In *Upmanyu Kattha Industries v. State of U.P.* 2025(95) GSTL 4/(2025) 26 Centax 387 (All.), the proprietor of the Petitioner-firm died on 25.12.2023 and on an application made, the registration with the GST was cancelled on 16.02.2024 with effect from 31.01.2024. However, the notice was issued on 12.02.2024 and reminders were issued on 23.07.2024, 24.08.2024 and 09.09.2024 and ultimately, an ex parte assessment was passed on 20.09.2024. On a writ petition, the high court observed as under:

1. The proprietor - Shri Shishir Awasthi had died on 25.12.2023, before the issuance of the show cause notice dated 12.02.2024 and the subsequent reminders, which were also issued, apparently, after the effective date of cancellation of the registration in the name of the proprietor is 31.01.2024 and in those circumstances, the assessment essentially has been made against a dead person and therefore, the same could not be sustained.

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2. However, the Petitioner has succeeded as an heir as well as a proprietor of the said firm and has prayed for being afforded opportunity of hearing in this regard.

Hence, the impugned order was set aside and the department was at liberty to issue a fresh show cause notice to the Petitioner-firm with Mrs. Mallika Awasthi as its proprietor and legal heir of late Shri Shishir Awasthi and take appropriate proceedings in accordance with law.

## **2. GST - EXCESS STOCK FOUND DURING SEARCH - SECTION 73, 74 TO APPLY AND NOT SECTION 130**

In *Dee Control and Electric Pvt. Ltd. v. AC, Grade-2* 2025(95) GSTL 19/(2025) 26 Centax 399 (All.), the Petitioner is engaged in the business of manufacturing, trading and services of transformer as well as other electric parts and primarily, the supply of the Petitioner is to the government sector. The business premises of the Petitioner was surveyed/inspected u/s 67 on 25.10.2018 by Special Investigation Branch (S.I.B.) and on the basis of eye estimation, it was alleged that the excess stock of material was found and on the said basis, proceedings were initiated u/s 130. On a writ petition, the high court observed as under:

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1. It is not in dispute that the survey was made on the business premises of the Petitioner by the S.I.B. on 25.10.2018 and on the said survey, it was alleged that the excess stock was found, pursuant to which the proceedings were initiated.
  2. In *Dinesh Kumar Pradeep Kumar v. Addl. Commissioner* (2024) 21 Centax 358 (All.) = 2024 (89) G.S.T.L. 239 (All.), it was held that Section 35(6) makes it clear that proper officer is empowered to determine the taxes payable and while determining the said tax payable he is bound to determine the same in accordance with the provisions of Sections 73 & 74 of the Act and that even if excess stock is found, the proceedings under section 130 of the UPGST Act cannot be initiated.
  3. Furthermore, in *M/s Maa Mahamaya Alloys Pvt. Ltd.* (2023) 6 Centax 62 (All.)/2023 (73) G.S.T.L. 612 (All.) and in the case of *M/s Metenere Limited* 2021 (52) G.S.T.L. 12 (All.), it was held that the entire exercise resorted to under Section 130 of the GST Act for assessment/ determination of the tax and the penalty is neither stipulated under the Act, nor can be done in the manner in which it has been done, more so, in view of the fact that the department itself had undertaken the exercise of quantifying the tax due, by taking recourse under Section 74.

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Hence, the impugned order was set aside and the petitions were allowed.

**3. GST - DUE DATE FOR SUBMISSION OF ANNUAL RETURNS IN GSTR9 & GSTR 9C COULD NOT MADE AND THE RETURNS WERE FILED BELATEDLY ON 13.03.2023 - BENEFIT OF WAIVER OF PENALTY UNDER THE AMNESTY SCHEME WAS DENIED BECAUSE THE ASSESSEE HAS FILED RETURNS PRIOR TO THE ISSUANCE OF AMNESTY NOTIFICATION - SET ASIDE**

In R.T.Pharma v. UOI 2025(95) GSTL 169/(2025) 27 Centax 131 (H.P.), the Petitioner is engaged in the business of manufacturing and sale of medicines and filed the GSTR 9 return alongwith reconciliation statement in form GSTR 9C belatedly on 13.03.2023 whereas the due date was 07.02.2020 owing to instability and financial distress. The adjudicating authority confirmed the demand of penalty overlooking the Petitioner's claim for leniency on account of CBIC Notification No. 07/2023, dated 31.03.2023 for waiver of late fee in excess of Rs. 20,000/-. On a writ petition, the high court observed as under:

1. It is evident that the intention of the Government is not to harass the assessee, who come forward to file their return for the

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assessment years mentioned in the notification within the stipulated period.

2. Thus, it would imply that the benefit would extend to the Petitioner as well, who filed the return although belatedly on 13.03.2023, which is before the cut off date mentioned in the above notification.
3. It would be unjust to deny the benefit to the Petitioner merely because the Petitioner filed the return prior to the issuance of the amnesty notification dated 31.03.2023, which confined to amnesty only to those who filed the return between 01.04.2023 and 30.06.2023.
4. The intention of the government in issuing the aforesaid notification was to encourage filing of returns consequent to which the Petitioner ought to be entitled to the benefit of notification dated 31.03.2023.

Hence, the impugned order was set aside and the case was remanded back to the third respondent with a direction to pass fresh order on merit by extending the benefit of notification dated 31.03.2023.

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#### **4. GST - PROVISIONAL ATTACHMENT OF DEMAT ACCOUNT OF DIRECTOR WHO HAD RESIGNED FROM THE DELEQUENT COMPANY MUCH EARLIER - NOT SUSTAINABLE**

In *Rajeev Jugalkishor Mundra v. Cr. Of GST, Maharashtra 2025(95) GSTL 191/(2025) 27 Centax 133 (Bom.)* the Petitioner was appointed as a nominee/non-executive director of Vistaar Logistic Pvt. Ltd. (“the company”) on 25 February 2016. By letter dated 18 March 2019, he resigned as a director due to personal reasons. On 20 March 2019, the board resolved to accept the Petitioners’ resignation, which was communicated to the Petitioner on the same day. The company also filed form DIR-12 with the Ministry of Corporate Affairs regarding the acceptance of the Petitioners’ resignation. The department has attached/frozen the Petitioners’ Demat accounts of the Petitioner vide communications dated 22 February 2024 and 20 June 2024 on the ground that the company has defaulted in the payment of GST dues. On a writ petition, the high court observed as under:

1. The provisional attachment of the Petitioners’ Demat accounts by resorting to the provisions of Section 83 was not justified as the same were not warranted without minimum compliance with principles of natural justice and fair play, given the peculiar circumstances of this case.

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2. Nothing on record suggests that proceedings have been initiated under Chapters XII, XIV or XV.
  3. The impugned action would not pass the muster of law laid down in *Prasanna Karunakar Shetty v. State of Maharashtra* – (2024) 17 Centax 418 (Bom.).
  4. At least prima facie, if the Petitioner is held liable after the action in terms of Section 89, which will essentially involve compliance with principles of natural justice and fair play, only then could action for attachment/freezing of the Petitioner's demat accounts have been initiated.

Hence, the writ petition was allowed and the department was allowed to withdraw the earlier attachment communications with a liberty to initiate fresh proceedings after granting the Petitioner full opportunity before any action is taken based upon the same.

## **5. GST - ASSESSMENT ORDER WITHOUT DIN - INVALID**

In *Raam Autobahn India Pvt. Ltd. v. AC, Visakhapatnam* 2025(95) GSTL 194/(2025) 27 Centax 114 (A.P.), the Petitioner was served with an assessment for the periods July, 2017 to

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September, 2017 which was challenged by the Petitioner before the high court on various grounds, including the ground that the said proceedings did not contain a DIN number. The high court observed as under:

1. The question of the effect of non-inclusion of DIN number on proceedings, under the G.S.T. Act, came to be considered by the Hon'ble Supreme Court in the case of Pradeep Goyal v. Union of India & Ors 2022 (63) G.S.T.L. 286 (S.C.) wherein it was held that an order, which does not contain a DIN number would be non-est and invalid.
2. In M/s. Cluster Enterprises v. The Deputy Assistant Commissioner (ST)- 2, Kadapa 2, 2024 (88) G.S.T.L. 179/(2024) 20 Centax 523 (A.P.), it was held that non-mention of a DIN number would mitigate against the validity of such proceedings.
3. In Sai Manikanta Electrical Contractors v. The Deputy Commissioner, Special Circle, Visakhapatnam 24 (88) G.S.T.L. 303/(2024) 20 Centax 236 (A.P.), it was also held that non-mention of a DIN number would require the order to be set aside.

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4. Consequently, the non-mention of a DIN number in the order, which was uploaded in the portal, requires the impugned order to be set aside.

Hence, the petition was allowed and the impugned order was set aside with liberty to conduct fresh assessment, after giving notice to the Petitioner and assigning a DIN number to the said order.

**6. GST - ALLOCATION OF ITC INVOLVING FRAUD - DENIAL OF CROSS EXAMINATION - VIOLATION OF PRINCIPLES OF NATURAL JUSTICE**

In *Nishad K.U. v. JC, CT&CE, CGST, Kochi 2025(95) GSTL 196/ (2025) 27 Centax 48 (Ker.)* the assessee was issued with an order u/s 74 against which he approached the single member bench of the high court alleging a serious infraction of the principles of natural justice, insofar as there was a failure to accede to his request for cross-examination of persons, whose statements were obtained during the enquiry and which were relied upon by the authority while passing the order of penalty. The department's contention before the learned Single Judge that under the scheme of the CGST Act, there is no mandate for

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granting permission to cross-examine the witnesses whose statements were obtained by the proper officer in a proceedings for imposition of tax was brushed aside and the Learned Single Judge took the view that the principles of natural justice had been violated since the authorities had denied the right to cross-examine the persons, who had given statements against the writ Petitioner relying on the *Andaman Timber Industries v. Commissioner of Central Excise, Kolkata-II* [(2016) 15 SCC 785]. On a review petition, the Division Bench observed as under:

1. The question of maintainability of the writ petition, despite the existence of an alternate remedy, is no longer *res integra*. The Supreme Court in *Commissioner of Income Tax & Ors v. Chhabil Dass Agarwal* [2014 (1) SCC 603], formulated four exceptional cases wherein a writ court can entertain a writ petition, despite the availability of an alternate remedy. The cover cases where the statutory authority has (a) not acted in accordance with the provisions of the enactment in question, or (b) in defiance of the fundamental principles of judicial procedure, or (c) has resorted to invoke the provisions which are repealed, or (d) when an order has been passed in total violation of the principles of natural justice.

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2. In the present case, the writ petition was preferred alleging that while passing the impugned order, the proper officer did not grant an opportunity to the Petitioner to cross-examine the witnesses, whose statements were relied on by him. Therefore, the writ petition was perfectly maintainable despite the existence of an alternative remedy.
  3. The proper officer recorded the statements of the persons who had deposed against the assessee and their statements were relied on by the proper officer in arriving at a tentative finding against the Petitioner. Thus, the entire basis for the formation of an opinion of guilt against the Petitioner was the statements of third parties recorded by the proper officer. If the writ Petitioner was to prefer an effective representation against the proposals in the notice, he had to know the basis of the allegations against him and test the evidence used against him. It was therefore imperative for the proper officer to have granted the opportunity of cross-examination to the Petitioner.
  4. As regards the contention of the appellants that it is not the requirement of law to provide an opportunity to cross-examine the witnesses since it is not an integral part of the principles of

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natural justice, it is now settled law that in every quasi-judicial proceedings, the rule of natural justice has to be followed. The rule of natural justice is the tenet of every adjudication proceedings, a violation of which renders the proceedings void. When courts are called upon to decide the validity of quasi-judicial proceedings on the ground of violation of principles of natural justice, it cannot shut its eyes and adopt a pedantic approach and hold that unless the said principle is specifically extended under plenary legislation or the rules framed under it, the insistence of the principles is not mandatory.

5. In *Krishnadatt Awasthy v. State of M.P. and Others* [2025 SCC Online 179], a three Judge Bench of the Supreme Court held that a breach of the principles of natural justice strikes at the fundamental core of procedural fairness, rendering the decision invalid unless exceptional circumstances justify such deviation. The Court went on to hold further that the denial of natural justice at the initial stage can not be cured at the appellate stage. On an extensive consideration of the various precedents, the Court also held that the principles of natural justice are the cornerstone of justice, ensuring that no person is condemned unheard.

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6. In *Ayaaubkhan Noorkhan Pathan v. State of Maharashtra* [(2013) 4 SCC 465], the Supreme Court considered the question as to whether a request for cross-examination of the witnesses would form part of the principles of natural justice. The Court was considering the question in the context of verification of a caste certificate by the scrutiny committee constituted under the State law to go into the caste status of a particular employee. The Court held that nonextension of an opportunity to cross-examine the witnesses would vitiate the decision of the scrutiny committee, since the same was violative of the principles of natural justice.
  7. In *Ajay Saraogi v. Union of India* [2024 (136) GSTR 330], while considering the question as to whether the right of cross-examination is imbibed under the provisions of the Customs Act, 1962 a Division Bench of the Calcutta High Court held that the Customs Act, 1962 does not prohibit the application of the principles of natural justice.
  8. In *Union of India & Another v. Tulsiram Patel* [1985 (3) SCC 398] a Constitution Bench of the Supreme Court considered the scope of the principles of natural justice and held that a Rule framed under Article 309 cannot altogether exclude the principles of natural justice and if it does, then it is ultra vires.

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9. Supreme Court held as above despite the second proviso to Article 311(2) being deleted by the Constitution (Forty Second Amendment) Act, 1976. Thus, even if the plenary legislation or the subordinate legislation does not provide for the extension of the principles of natural justice, the same has to be read into the provisions.

Hence, the writ appeal was dismissed by the Division Bench of the High Court.

## **7. GST - EXPORT OF ZERO RATED GOODS - COMPENSATION CESS PAID - ELIGIBLE FOR REFUND**

In *Crystal Overseas v. UOI* 2025(95) GSTL 371/(2025) 27 Centax 106 (Bom.), the Petitioner is engaged in the business of exporting beverages out of India. The Petitioner had purchased the said beverages from local manufacturers. The supply of certain beverages attracts GST as well as Compensation Cess u/s 8 of the Compensation Cess Act. Thus, the Petitioner had purchased the beverages on the payment of GST and Compensation Cess. Thereafter, the Petitioner made exports of the said beverages under LUT (Letter of Undertaking).

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The Petitioner filed a Refund Application (under Rule 89) of the accumulated input tax credit for the period of April 2021 vide RFD-01 dated 11th June 2021 claiming refund of the accumulated ITC on account of zero rated supply made under LUT along with the compensation for which the adjudicating authority denied the refund of the compensation cess part alone and this was also sustained by the first appellate authority. On a writ petition, the high court observed as under:-

1. It appears that the authority has got confused by equating composition Levy with Compensation Cess. Composition Levy is something that is covered under Section 10 of the CGST Act. Compensation Cess on the other hand is leviable under Section 8 of the Compensation Cess Act. This apart, since Compensation Cess is not specifically mentioned in the definition of “input tax”, the same has been denied to the Petitioner.
2. This issue is squarely covered by two Circulars. The first Circular is dated 26th July 2017. In paragraph 8 of this Circular, it is made clear that the Exporter will be eligible for refund of Compensation Cess paid on goods exported by him (on similar lines as refund of IGST under Section 16(3)(b) of the IGST Act).

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This has been further made clear by a subsequent circular on 18th November 2019. Once again, by this Circular, in paragraph 42, it is made clear that a registered person making a zero rated supply under LUT may claim refund of unutilized credit including that of Compensation Cess.

3. From these Circulars, it is absolutely clear that the Petitioner is entitled to a refund even of Compensation Cess. Although these Circulars have been glossed over by the Adjudicating Authority, such refund has been denied because there is no provision for refund of Input Tax Credit other than those defined and included under Section 2(62) and Section 2(63) of the CGST Act, which does not include Compensation Cess.
4. This finding, and which is the only finding on which the refund is rejected, is wholly unsustainable in light of the clarifications issued by the aforesaid two Circulars referred above.

Hence, the impugned order as sustained by the First Appellate Authority were quashed and set aside and the Respondents were directed to grant the refund of Compensation Cess together with interest u/s 56 of the CGST Act within a period of four weeks.

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## **8. GST - ITC AVAILED UNDER CGST & SGST INSTEAD OF IGST - NO WRONG AVAILMENT**

In Maruthengal Moideen v. STO, KSGST Department, Malappuram 2025(95) GSTL 395/(2025) 27 Centax 102 (Ker.), Petitioner was ordered to pay an excess input tax credit availed by the Petitioner to the tune of Rs.2,00,219/- each, under the heads of CGST and SGST along with applicable interest and penalty owing to irregular availment instead of IGST and the Petitioner's request to rectify the same was dismissed consequent to which a writ petition was filed before the high court which observed as under:-

1. In Rejimon Padickapparambil Alex v. Union of India 2025 (93) G.S.T.L. 23 (Ker.) = (2024) 25 Centax 108 (Ker.) = 2024 KHC Online 7215, it was held that there can be no wrong availing of input tax credit when such credit, available in IGST, was availed under the heads CGST and SGST.
2. In this context, it needs to be mentioned that the electronic credit ledger has to be treated as a pool of funds, designated for different types of taxes such as IGST, CGST and SGST. The credit ledger represents a wallet with different compartments of funds.

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3. Since the Petitioner had availed credit under the CGST and SGST instead of IGST and utilised the same for payment of GST, the benefit of the decision in Rejimon Padickapparambil Alex's case (supra) is applicable to the Petitioner.
  4. The impugned orders having not considered the aforesaid legal proposition, are required to be set aside and a reconsideration be directed.

Hence, the impugned order was set aside and the matter was remanded back to the adjudicating authority to reconsider afresh bearing in mind the dictum laid down in Rejimon Padickapparambil Alex's case (supra).

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## CENTRALIZED PROCUREMENT MODELS - TRANSFER PRICING PERSPECTIVE

### 1. Introduction

Centralized Procurement activities usually fall within risk parameters for transfer pricing assessment and are widely scrutinized by tax authorities



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globally. On one hand, payments made to procurement entities located in low-tax jurisdictions often attract attention and may be viewed adversely with concerns about lack of economic substance. On the other hand, tax authorities at the procurement service provider's location may recharacterize the services as high value adding services and allocate a higher remuneration.

In this article, we explore the concept of centralized procurement in the context of transfer pricing, the key aspects to be considered in determining an arm's length remuneration for the same, the various procurement structures generally adopted by multinational enterprises ('MNEs'), how the activities are

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remunerated in accordance with the arm's length principle, global practices, as well as local and global jurisprudence covering this transaction.

## **2. What is centralized procurement?**

MNEs often centralize certain business functions of the Group, for operational efficiencies. One such function which is routinely centralised is the procurement activity. Procurement is a critical component in the value chain of any business and it encompasses all activities relating to sourcing and acquiring goods or services (core or non-core) required for the business operations.

Centralized procurement refers to procurement activities undertaken by an entity for one or more entities in the Group. Procurement may be centralized for various reasons, including combining the purchasing power across the MNE, reducing the administrative costs for the MNE, standardizing buying terms and making use of specialised experience required in handling such activities. Centralized Procurement often leads to cost savings for the Group entities, which could be attributed to the

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volume involved, efficient coordination of vendor and buyer requirements or reduction of administrative costs by aggregating purchase orders.

### **3. Transfer pricing considerations**

The United Nations Practical Manual on Transfer Pricing for Developing Countries extensively discusses the transfer pricing aspects relating to centralized procurement. While evaluating an appropriate remuneration for these activities from a transfer pricing viewpoint, three important various factors need to be taken into consideration: 1) the level of functions performed by the service provider 2) the nature of products sourced, and 3) the risks assumed while rendering these services.

#### *a) Level of functions performed*

The value added through centralized procurement activities varies, depending on the nature of activities performed and therefore, it must be assessed on a case-to-case basis. Broadly procurement functions can be divided into two main categories.

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## **Purchasing**

This is a relatively simpler role where the procurement company acts as a facilitator or coordinator. In a purchasing function, all the specifications regarding the products and required terms are provided by the associated enterprises and it does not involve extensive work in evaluating the vendors or scheduling the delivery of products. The purchasing company acts on the basis of the instructions provided by the associated enterprises and predominantly performs an administrative function relating to raising purchase orders and managing accounts payable.

## **Sourcing**

A sourcing function is complex and broader in terms of role. It is strategic and requires specialised expertise of the service provider. The activities involved would include collaborating with associated enterprises to determine specifications of products required, developing sourcing strategies, identifying vendors, understanding their capabilities, evaluating alternatives, scheduling delivery by working along with the vendors based on forecasts of goods required, performing quality control, managing vendor relationships.

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Considering the higher level of contributions involved in a sourcing function, it would warrant a higher compensation.

*b) Nature of products sourced*

An important factor to consider when assessing the value contributed by procurement activities is the type of goods or services procured and their significance to the company's operations. The goods/services purchased can be broadly categorised as core spend and non-core spend.

**Core spend**, also known as direct spend, are items that are converted or resold in the course of the business of the recipient associated enterprises and which are essential for carrying out the core business of the Group. Examples include raw materials/ semi-finished goods. **Non-core spend**, also known as indirect spend are goods and services that support the businesses of the recipient associated enterprises and are not themselves converted into a finished item or resold. Examples of the same could be office stationery, communication related expenses etc.

Non-core spend may not pose any significant risk for the service recipient since these items may be available from various sources and the prices would already be competitive. Hence the

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role of the procurement company in this regard would be limited to coordinating and aggregating the purchases within the Group. On the other hand, core spend would be specific to the business of the company and if it is in niche area, there would be specifications involved and the items would be available only from a few sources. As a result, the availability and pricing of core items would be associated with significant risks for the service recipient. The activities relating to core spend would therefore require expertise and skill from the procurement team.

Considering the higher value added and risks involved in connection with core spend, procurement activities for these items should generally earn higher returns when compared to non-core spend.

*c. Risks assumed*

The procurement company should be compensated in line with the level of risk it assumes. While the company may contractually bear various risks, it is important to evaluate whether it can control the risk and has the financial capacity to

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assume the risk. In case of a procurement company that buys and sells goods to the associated enterprises, inventory risk would be assumed. Hence the company needs to determine an appropriate purchasing strategy to minimise its inventory risk. However, if the goods are only procured and sold on a back-to-back basis where the procurement company only takes flash title, this risk is considerably reduced. Also, it needs to be evaluated which party is responsible for inventory management, determining purchase quantity etc. as that party would be the one controlling the inventory risk.

The Company may also assume price risk or volume risk, if it undertakes to provide goods at a certain price or of a certain volume to the associated enterprises. This risk would be minimised by negotiating similar terms with vendors

#### **4. Procurement structures**

Procurement entities are generally structured in either of the following ways

- **Purchasing or sourcing entities** – These are service providers that render procurement related services to associated

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enterprises, but the contract for purchase of goods/services is entered into directly between the associated enterprises and vendors. In this case, the procurement company does not take title to the goods.

- **Buy-sell companies** - These companies purchase the goods/services on behalf of the associated enterprises. Often, procurement companies only take flash title of goods, and delivery is directly made by the vendors to the associated enterprises.

## 5. Compensation structures and TP methods

Some of the commonly used compensation models for procurement activities are described below:

- **Cost plus model**- Under this model, all costs incurred in rendering the services are charged to the service recipient along with a mark-up. While applying this model, the suitability of a direct charge or indirect charge method would need to be evaluated. The Direct charge method can be used when the specific services and costs relating to a service recipient can be directly identified. Indirect charge method is more commonly

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used when services are rendered to multiple recipients, wherein cost allocation and apportionment methods are used as a basis for calculating an arm's length charge. Under this method, selection of reasonable allocation keys for costs allocation is a key point. While using the indirect charge method, it is important that similar services (eg: whether sourcing or purchasing) are identified and categorised together for the purpose of allocating the relevant costs.

The cost-plus methodology would be more suitable in connection with purchasing activities or for sourcing activities involving non-core spend. The Transactional Net Margin Method ('TNMM') would be an appropriate transfer pricing method in this case and a search for comparable companies undertaking such functions would need to be performed from public databases.

- **Commission based model** - In this model, the procurement company is remunerated based on a percentage on managed spend (i.e. the portion of a company's total spend that is managed by the procurement company)/total value of goods/services acquired. This remuneration structure typically translates to a

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higher compensation as against a cost-plus model and is therefore more suitable for sourcing activities, where greater value addition is involved. The Comparable Uncontrolled Price ('CUP') method would be ideal in this case and comparable commission rates would need to be identified from public domain. In practice, availability of commission rates for procurement activity may be limited, hence one could consider evaluating service agreements akin to sourcing as an alternative, if similar functions are performed.

- **Gain share** - This structure takes into account the cost reduction achieved by the procurement company while procuring goods and services and shares the savings between the procurement company and associated enterprises receiving the services. A Profit Split Method ('PSM') may be evaluated depending on the facts and circumstances.

The correct compensation structure should be carefully determined based on the functions performed and risks assumed by the procurement companies, as remuneration can vary significantly under different models. For example, a cost-plus model may result in a markup of 5-10% on costs incurred, whereas a

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commission-based model could yield remuneration of 1–3% on total managed spend, which, depending on the spend volume, might translate into substantially higher earnings.

In addition to the above pricing models, a return on value added costs (Berry ratio) could be evaluated in the case of buy-sell entities, only taking flash title of goods.

## **6. Discussion in OECD guidelines**

The OECD guidelines have discussed procurement activities in a few areas.

While mentioning about low value adding intra group services, in Para no.7.47 of the Guidelines, it is stated that “purchasing activities relating to raw materials or other materials that are used in the manufacturing or production process” would not qualify for the simplified approach relating to low value-adding intra-group services. Hence entities carrying out procurement activities for core components cannot opt for the simplified approach, since this activity relates to the core business of the Group.

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Additionally, the CbC report requires reporting of companies engaged in procurement activity. As per the OECD Country-by-Country Reporting: Handbook on Effective Tax Risk Assessment (2017), one of the potential tax indicators that could be derived from a CbC report is where a group has procurement entities located in jurisdictions outside its key manufacturing locations. While it is acknowledged that there can be good business reasons for the use of centralised procurement entities, there is also a risk that this can be used to reduce the level of taxable income in the jurisdictions where manufacturing occurs. Tax authorities are advised to understand the business reasons for use of a procurement entity before deciding that there is a transfer pricing risk.

## 7. Global practices

### Netherlands

The Dutch TP decree has a section which discusses intra-group procurement. According to it, the remuneration for procurement-related activities can range from a routine remuneration (based on the operational costs incurred, or compensation related to the

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purchase value) for activities of a routine nature to a transactional profit split-type remuneration if the activities can be considered a core function of the group. If, by centralising the purchasing activities, the group manages to realise higher discounts than before as a result of the increased purchase volume, the extra benefit should ideally not be allocated to the centralised purchasing office. Such a benefit must be allocated to the members of the group that enable the purchasing office to realise the extra discounts by their joint purchase volumes. Only where the extra discounts are realised by the specific knowledge and skills of the purchasing office, allocation of part of this to the purchasing office will be at arm's length. This concept has arisen out of the decision of the Supreme Court (judgment dated 23 April 2004, no. 39 542), which has been described subsequently.

### **Australia**

The Australian Taxation Office ('ATO') has laid down specific guidelines (Practical Compliance Guidelines) in relation to the TP compliance approach for centralized non-core procurement activities carried out by procurement 'hubs' to address issues relating to tax avoidance using offshore hubs. The ATO uses a

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hub risk framework, consisting of six risk zones, ranging from low risk to very high risk depending on the profits earned by the hub and other factors such as tax impact. This is used to self-assess a hub's compliance's risk. Based on the risk rating identified for the hub, the compliance approach would vary. The higher the risk rating, the higher the priority for review and higher is the level of analysis and supporting evidence required.

Non-core procurement hub arrangements (offshore procurement hubs that supply 'indirect' or 'non-core' goods or services to an Australian entity) are assessed as low risk and in the green zone where the hub profit is less than or equal to a 25% mark-up of hub costs. If the hub is rated as being in the green zone, the company can opt to minimise the transfer pricing documentation and compliance costs in relation to the hub. If the arrangement is outside of the green zone, there would be increased disclosure requirements including provision of additional data in relation to the hub on a yearly basis.

The ATO also provides guidance to assist with the transfer pricing analysis if the risk rating is outside the green zone,

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which would help companies understand the enquiries and potential concerns that may arise from the ATO if the hub is subject to review.

## 8. Local jurisprudence

An important judgement concerning procurement activities in the Indian context was that of GAP International Sourcing (India) (P.) Ltd. ([2012] 25 taxmann.com 414 (Delhi)), where several key aspects were discussed.

Gap India was engaged in facilitating sourcing of apparel merchandise from India for its Group, with a pricing policy of cost plus 15%. The TPO, looking at the company's functional profile and other factors, rejected the said Arm's Length Price ('ALP') and held that commission at the rate of 5 per cent on FOB value of goods sourced by AE through Indian vendors was the appropriate PLI for determining ALP, which was also accepted by DRP. The ITAT held that:

- The assessee was only a low-risk procurement support service provider and no major business risks was borne by assessee.

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- Assessee's role, functions/activities etc. were limited to scrupulously following prescribed handbook/instructions and assessee had no authority to deviate from set policies of its parent group
  - In case of non-risk bearing procurement facilitating functions which were preordained by contract and handbook/instructions, appropriate PLI would be net profit/total cost and not certain percentage of FOB value of goods sourced by AE.
  - The arm's length principle requires benchmarking to be done with comparables in the jurisdiction of tested party and location savings, if any, would be reflected in the profitability earned by comparables. No separate/additional allocation is called for on account of location savings.
  - Tribunal accepted the remuneration model of assessee (i.e., Cost Plus mark-up) but the mark-up was revised to 32 per cent on cost.

For another assessment year, the said issue had reached the High Court as well as Supreme Court where the Revenue appeals were dismissed.

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This judgement emphasises the significance of the functional profile of the procurement company in determining the arm's length remuneration.

## 9. Global jurisprudence

The Dutch Supreme Court in its judgment dated 23 April 2004, no. 39 542 had adjudicated on allocation of profits resulting from centralizing procurement functions within a Group. A Belgian entity had been appointed by the Group to centralise the purchasing of raw materials. Its role involved negotiating the discounts on the basis of the estimated joint raw material requirements of the Group companies. The Group companies would conclude and actually sign the agreements with suppliers. For its services, the Belgian entity was remunerated with a part of the additional discount, which resulted from the stronger negotiation position obtained by centralising the demand for raw materials.

The tax authorities took the position that the profit claimed by a centralized purchasing office was not aligned with the functions performed and the risks assumed by the office.

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According to the tax authorities, profits derived from the realized discounts should be distributed to the members of the group (including a Dutch member) in proportion to their contribution of purchasing volume. The Supreme Court ruled in favor of the tax authorities. It was held that profits in excess of the operating costs of the centralized purchase office with a markup of 5%, should at arm's length be distributed to the members of the group in proportion to their contribution of purchasing volume.

## 10. Key takeaways

A proactive approach that compensates procurement activities in accordance with the arm's length principle, supported by strong documentation, is crucial for effectively justifying these transactions before tax authorities. Key documentation to maintain includes:

- Detailed Functions, Assets and Risks ('FAR') profile, outlining the activities undertaken by the procurement company
- Description of nature of products sourced and their importance to the business

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- The commercial rationale for appointing a procurement service company
  - Intercompany agreements specifying the roles, responsibilities, and risks of the procurement company and associated enterprises. Moreover, the conduct of the entities should correspond with the contracts
  - A robust benchmarking analysis to support the transfer pricing position.

From an Indian perspective, one may also need to evaluate the impact of Deemed International Transaction provisions, considering pricing and other terms are negotiated between the procurement company and third party vendors on behalf of the Associated Enterprise.

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## RECENT JUDGEMENTS IN DIRECT TAXES

1. ITAT Deletes Rs.96.62 Lakh Penalty, Rules Section 271(1)(c) Not Applicable on Estimated Additions



CA.P. ARUMUGARAJ

The Income Tax Appellate Tribunal (ITAT) Delhi Bench has deleted a penalty of Rs.96.62 lakh imposed on Delhi-based fabric trader Pawan Kumar Gupta, holding that concealment penalties under Section 271(1)(c) cannot be levied on income additions made purely on estimation basis.

2. Bombay High Court Dismisses Arrest warrant in 2019 Tax Evasion case

On May 16, 2025, a special court panel led by Justice Advait Sethna decided in favour of Arjun Rampal. They said the magistrate's order from April 2023 to issue a warrant was not justified. This case started because the Income Tax Department filed a complaint in 2019. They claimed that Rampal intentionally didn't pay his taxes for the financial year 2016-17, which is, as per Section 276C(2) of the Income Tax Act, an offence.

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Justice Sethna said that the accused in the crime case could be given bail, and the highest punishment for the crime was three years. The judge also said that the lower court didn't explain why it stopped Rampal from not appearing in person, even though he had a lawyer with him. The court said, "The issuance of the non-bailable warrant was neither warranted nor legally justified."

### Rampal's Legal Team Says Tax Evasion Claims Are Not True

Rampal's lawyer, Advocate Swapnil Ambure, said that the Income Tax Department's notice was invalid. He explained that Rampal had already paid all the taxes for the financial year 2016-17, although he paid late. Ambure said, "There was no tax evasion as the department claimed." He also said that the first notice in December 2019 and the warrant in April 2023 were unfair and had no real basis.

3. Interest on compensation and enhanced compensation is an accretion to the compensation itself and so covered under the head Capital Gains: Kerala HC

The Kerala High Court in the case of Anvar Ali Poolakkodan v. The Income Tax Officer has addressed a long-standing

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ambiguity regarding whether interest received on delayed or enhanced compensation on account of compulsory acquisition of land under the Land Acquisition Act (LAA) is to be treated as “Income from Other Sources” or as part of Capital Gains.

The case involved an assessee who had received enhanced compensation along with interest on delay payment as well as for interest on enhanced compensation for agricultural land acquired by the State. While the assessee shown the compensation and both the interest awarded by the Court under Section 28 of the LAA as income under the head “Capital Gains” and claimed exemption under Section 10(37), the Income Tax Appellate Tribunal has held that interest part on delay payment is tax as capital gain and interest on enhanced compensation should be tax under income from other source by relying on the amended provisions of Section 56(2) effective from 01.04.2010, held making it ineligible for exemption under Section 10(37).

However, the Kerala High Court disagreed with this interpretation and ruled that the interest received due to enhanced or delay compensation under Section 28 of the LAA must be viewed as an accretion to the compensation itself.

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Therefore, such interest retains the character of the compensation and is accordingly to be taxed under the head “Capital Gains.” Furthermore, the Court held that this interest does not fall within the definition of “interest” under Section 2(28A) of the Income Tax Act and hence, the provisions of Section 56 would not apply.

4. “Payable” in section 40(a)(ia) covers even cases where amount is paid & not restricted to amount payable: Jharkhand HC

The Jharkhand High Court in the case of CIT v. New Punjab Motor Transport [Tax Appeal No. 26 of 2016], dated 25.04.2025 has held that the word ‘payable’ occurring in section 40(a)(ia) not only covers cases where amount is yet to be paid but also those cases where amount has actually been paid

5. CPC Bengaluru’s Rs. 16 Lakh Addition Struck Down - ITAT Finds No Jurisdiction Under Section 143(1)

The assessee, Suman Sehrawat, declared a total income of <sup>1</sup> 17,23,160 for AY 2017-18, including <sup>1</sup> 30,00,000 received from M/s MSG AII Trading International Pvt. Ltd., offered under “Income from Other Sources.” A tax deduction of <sup>1</sup> 9,00,000 was made on this amount under Section 194B, as reflected in Form

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26AS. The assessee claimed expenses of <sup>1</sup> 16,04,850 related to the said income, classifying it as income from an organized adventure in the nature of trade/game.

The ITAT Delhi Bench allowed the assessee's appeal, holding that the adjustment under Section 143(1)(a)(vi) was unjustified as the income was already disclosed in the return. It ruled that such adjustments cannot be made on debatable issues or assumptions, and TDS under Section 194B does not mandate taxation under Section 115BB. The addition of <sup>1</sup> 16,04,850 was deleted, reinforcing limits on automated assessment and ensuring procedural fairness.

## 6. ITAT Upholds Deletion of Bogus Purchase Addition for Pharma Co.

Mangalam Drugs & Organics Ltd., engaged in manufacturing bulk drugs and trading, filed its income tax return for AY 2011-12 declaring an income of <sup>1</sup> 56.14 lakh. The case was selected for scrutiny, during which the Assessing Officer (AO) added <sup>1</sup> 37.84 crore for alleged bogus purchases, <sup>1</sup> 51.80 lakh for excess depreciation, and <sup>1</sup> 0.99 lakh under Section 14A. The AO issued notices under Section 133(6) to 23 suppliers; 7 did not respond, and discrepancies were found in replies from 3 others. Based

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on this, purchases from 10 parties were treated as bogus. The assessee appealed to the CIT(A), who deleted the bogus purchase addition but upheld the others. The Revenue challenged this relief before the ITAT.

The ITAT Mumbai found that the assessee, Mangalam Drugs & Organics Ltd., had sufficiently discharged its onus by providing comprehensive documentary evidence to support the genuineness of its purchases. The Tribunal emphasized that the Assessing Officer neither rejected the books of accounts nor identified any discrepancies in sales, stock, or profit margins, which remained consistent with past years. It reiterated that mere non-response to notices under Section 133(6) or minor inconsistencies in third-party documents could not form the sole basis for treating purchases as bogus when the assessee had maintained transparency and cooperated fully during assessment and appellate proceedings. The Tribunal also rejected the Revenue's late attempt to introduce survey findings, noting these were not relied upon during earlier stages despite being available. Accordingly, the ITAT upheld the CIT(A)'s order and dismissed the Revenue's appeal, confirming that the addition of 37.84 crore was unwarranted.

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7. Immunity from penalty under section 270AA:

Hon Delhi HC in *Schneider Electric South East Asia (HQ) Pte. Ltd vs. ACIT International Taxation Circle 3 (1)(2)*, New Delhi observed that the notice initiating penalty did not specify the particular limb under which penalty notice was issued. The Court further observed that the mere reference to the word 'misreporting' by the Assessing Officer in the assessment order could not form the basis to deny immunity (from imposition of penalty and prosecution) where there was no mention as to how the ingredients of "misreporting" were satisfied.

8. It is the duty of AO to allow all lawful deductions, even if not expressly claimed by the assessee: SC

There are numerous rights which are there with the Taxpayer and also various duties assigned on the Assessing Officer. Vice versa is also true. Taxpayers do also have a duty and Assessing Officer also have a right conferred on them by the statute.

In Indian tax jurisprudence, it is a well-established principle that the Assessing Officer (AO), acting in a quasi-judicial capacity, must not take advantage of a taxpayer's ignorance or inadvertent

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mistakes. The AO's duty is to ensure that the correct amount of tax is assessed and collected - no more and no less - strictly in accordance with law

CIT v. Bharat General Reinsurance Co. Ltd. [(1971) 81 ITR 303 (Delhi HC)] - where it was held that the AO should not capitalize on a taxpayer's ignorance.

CIT v. Mahalakshmi Textile Mills Ltd. [(1967) 66 ITR 710 (SC)] - emphasizing that it is the AO's duty to allow all lawful deductions, even if not expressly claimed by the assessee.

Further reinforcing this principle is CBDT Circular No. 14(XL-35) dated 11.04.1955, which clearly states:

“The officers of the Department must not take advantage of the ignorance of an assessee as to his rights. It is one of their duties to assist a taxpayer in every reasonable way, particularly in the matter of claiming and securing reliefs and in ensuring that the taxpayer pays only the correct amount of tax and no more.”

In practice, however, while the legal and administrative standards are unequivocal, the ground reality can vary significantly. Therefore, notwithstanding the duties imposed on

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the Assessing Officer, taxpayers are well-advised to remain vigilant, informed, and proactive in asserting their lawful claims to safeguard their rights and avoid any unintended disadvantage.

9. Reassessment u/s. 148 untenable as mandatory requirement of 149(1)(b) not complied

Novo Nordisk India Private Limited Vs DCIT (Karnataka High Court) Karnataka High Court held that assumption of jurisdiction under section 147 of the Income Tax Act untenable since mandatory requirement of section 149(1)(b) of the Income Tax Act not complied. Accordingly, writ petition allowed and notice u/s. 148 quashed.

10. Reassessment proceedings u/s. 148 in absence of any new material not permissible: Bombay HC

Rubix Trading Pvt. Ltd. Vs ITO (Bombay High Court) Bombay High Court held that reopening of the assessment would be permissible without there being any new or additional material available to the Assessing Office. Accordingly, reassessment notice is set aside and writ petition is allowed.

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## 11. ITAT Dismisses Appeal of Urban Co-operative Credit Society for Improper Filing Against Penalty u/s 271D of Income Tax Act 1961

The Nagpur Bench of the Income Tax Appellate Tribunal (ITAT) dismissed the appeal filed by Shri Sant Gajanan Maharaj Urban Co-operative Credit Society for the assessment year 2018-19, arising from the penalty imposed under Section 271D of the Income Tax Act, 1961. The appeal, which contested the levy of a penalty amounting to <sup>1</sup> 63,52,742, was dismissed in limine as the assessee had sought withdrawal due to a filing before the wrong forum.

The Tribunal noted that the penalty was imposed by the JCIT under Section 271D of the Act, for contravention of the provisions of Section 269SS, which prohibits the acceptance of loans or deposits in cash exceeding the prescribed limit. The assessee, a co-operative credit society, had raised several grounds in its appeal, including arguments that transactions with its members did not constitute loans or deposits under Section 269SS, and that it acted under a bona fide belief in accepting cash from its members in a fiduciary capacity. However, given the subsequent realisation of the procedural error, the assessee sought to

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withdraw the appeal, clarifying that it had already filed the appeal before the CIT(A) in the prescribed manner. The Tribunal, comprising Shri V. Durga Rao, Judicial Member, and Shri K.M. Roy, Accountant Member, having considered the submission made by the parties, allowed for the withdrawal and dismissed the appeal without examining the merits of the case.

## 12. Suspicion cannot substitute evidence – No Addition under Section 69A in respect of cash of Rs. 1 Cr seized at Railway Station

In a high-stakes case, the Hon'ble ITAT Raipur in the case of DCIT vs. Shri Satish Kumar Agrawal, ITA No.28/RPR/2015 has ruled in favor of the assessee despite <sup>1</sup> 1 crore being seized at Howrah Railway Station by the GRP police.

The assessee, a director of Hind Energy & Coal Beneficiation Pvt Ltd and Hind Multi Services Pvt Ltd, demonstrated that the cash belonged to the companies.

He produced:

- Bank withdrawal proofs showing <sup>1</sup> 81 lakh and <sup>1</sup> 32 lakh drawn just days earlier,

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- Cash book entries reflecting advance imprest given to him,
  - Prior intimation letters dated 21.08.2009 submitted to the Income Tax Department about carrying cash for a property transaction in Kolkata.

The Tribunal firmly stated:

**Suspicion cannot substitute evidence.**

Where the nature and source are substantiated with proper documents, addition under Section 69A cannot survive.

Where an assessee offers a credible and documentary-backed explanation for cash found in possession – including source, purpose, and prior intimation to authorities – the burden shifts back to the Revenue. In absence of concrete material to disprove such explanation, additions merely based on doubts, improbabilities, or suspicion cannot be sustained under the Income-tax Act.

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