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GST UPDATES



RECENT JUDGEMENTS



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

India - US Tariff War - 50% on select Exports - Impact and Roadmap!!

The recent escalation in the **India-US tariff war**, with the US imposing a **50% tariff on select Indian exports**, citing India's continued purchases of Russian oil, marks a seismic shift in Indian Global trade dynamics.

The blow falls heavily on **textiles and garments, gems & jewellery, seafood (shrimp), and auto components** – sectors that are both labour-intensive and strategically important for India's export basket. The fallout is immediate: exporters face order cancellations, margin compression, and an uphill battle to remain competitive in the U.S. market. The Economists estimate that the impact could shave off **0.5% from India's GDP growth** in FY25, while also reducing forex earnings and slowing momentum in MSME-led clusters that rely on U.S. demand.

The Government has moved quickly with **relief measures** designed to provide breathing space:

-
- **Import duty exemption on cotton till Dec 2025** to lower input costs for the textile sector.
 - **Interest subvention and export credit support schemes** to ease the financing burden on MSMEs.
 - **Fiscal reliefs and GST tweaks** to bring down the effective cost structure of exporters.

However, these interventions help cushion immediate pain but not a permanent cure. The real answer lies in reimagining India's export playbook. The Government is therefore accelerating efforts to:

- **Diversify export destinations: EU, Gulf, ASEAN, Africa, and other high-potential geographies.** Specifically on textiles, dedicated outreach programmes in 40 countries through a "targeted approach", positioning India as a "reliable supplier of quality, sustainable, and innovative textile products.
- **Fast-track FTAs:** Ongoing negotiations with **13 countries including the U.K.** are being pushed as a priority to secure stable and tariff-friendly access.

-
- **Promote domestic demand:** A parallel push to encourage Indians to “buy Indian” is intended to create an internal buffer market for goods currently export-focused.

If India can translate its trade diplomacy, supply-chain recalibration, and domestic demand push into action, the crisis could become a springboard and India would emerge stronger, more self-reliant, and less exposed to geopolitical trade headwinds. Every crisis leads to an opportunity; Let’s hope that this current situation brings a change in the trade dynamics with our bilateral trades more diversified than reliant on specific destination country

Income-tax Act, 2025 has come into force

The new Direct taxes law, Income-tax Act, 2025 received the Presidential assent on 21st August, 2025 and would come into force from 1st April 2026 replacing the existing Income-tax Act, 1961.

The new Act spans over 600 pages, 536 sections, 23 chapters and 16 schedules. The new Act aims at simplification of tax provisions, removal of redundant sections, and keep pace with the evolving

technology and economic environment. Most of the provisions and rules remain unchanged in the new Act with change in Section numbers with removal of explanations and provisos.

The notable changes in the new Act are introduction of the concept of “tax year”, broader definition of Virtual Digital Assets (VDA), right to access digital data during search, broadening the definition of “undisclosed income” to include VDA, reforms in tax recovery, appeal, reference to DRP processes etc. All the stakeholders and more importantly the tax professionals must now remember the new sections under the new Act.

However, the real success of this new Act lies in the way it would be administered by the Department. Further, one should expect significant litigations on transitional provisions defined under section 536 of the Act, in the way the new sections to be interpreted by the Department and the Tribunals/Courts.

GST 2.0 – Is it a Diwali Bonanza or Pataka??

When the Prime Minister, in his **Independence Day** address, hinted at “**next-generation GST reforms**” as a **Diwali gift**, expectations

naturally has soared. A simplified two-tier structure of 5% for merit goods and 18% for standard goods – with a 40% slab on luxury and sin products – would replace the current four-tier grid of 5%, 12%, 18% and 28%. Add to this, a possible exemption for certain life and health insurance categories, and the package looks like a festive bonanza indeed.

Although the intention seems to boost more consumption and create economic activity/growth, it could lead to unintended consequences as consumers may defer purchases on few segments like automobiles, home appliances etc till Diwali hoping to benefit from reduced tax rates. This could dent domestic consumption and shrink GST collections in Q2 of FY25. The Government, through the GST Council, has onerous task of balancing the economic impetus and the buoyant GST collections which assist the State Governments' welfare schemes. Equally worrisome for businesses is the risk of inverted duty structures and consequent Input tax credit accumulation, ITC restrictions/denial for few sectors, transitional credit issues etc could dent the intended positive spirit.

The GST Council is meeting on September 3rd and 4th amidst the above expectations and the announcements would be keenly watched by the entire industry stakeholders and the general public.

High Court Nudges GST Department on “Qualified Consultants”

The Madras High Court in *Chandrasekaran vs ACST* (W.P. No. 30638 of 2025) has issued an unusual direction: the GST department should issue circular urging taxpayers to engage only “qualified consultants.” Such direction arose after a taxpayer suffered demand purely because an irrelevant reply had been filed by an unqualified advisor. However, the GST Act itself, already defines “authorised representatives” under section 116—ranging from relatives and employees to advocates, CAs, cost accountants, company secretaries, and even retired tax officials. If these are lawful representatives, the question arises as to how one would test “qualification”? Who will draw that line—CBIC, GST Council, or GST authorities? And will such a directive hold force across India, or remain effective only in the State of Tamil Nadu? While the Court’s empathy for taxpayer is understandable, whether the solution lies in issuance of such circular is a question to ponder.

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 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.

For and on behalf of the Editorial Board

Balaji V

Balaji V

Member Editorial Board

GLIMPSES FROM SHRI G.NARAYANASWAMY CA STUDY CIRCLE MEETING HELD ON 14.08.2025

SPEAKER - CA.D.PRIYANKA MEHTA

TOPIC - LATEST DEVELOPMENTS IN TAX AUDIT REGULATIONS



GLIMPSES FROM SHRI G.NARAYANASWAMY CA STUDY CIRCLE MEETING HELD ON 28.08.2025

SPEAKER - CS.R.SUCHARITHRA

TOPIC - ANNUAL FILINGS 2025



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RECENT JUDGEMENTS IN VAT / CST / GST

Lack of opportunity: Sending notice by uploading in portal is a sufficient service, but, the Officer who is sending the repeated reminders, inspite of the fact that no response from the petitioner to the show cause notices etc., the Officer should have applied his/her



CA. V.V. SAMPATHKUMAR

mind and explored the possibility of sending notices by way of other modes prescribed in Section 169 of the GST Act, which are also the valid mode of service under the Act, otherwise it will not be an effective service, rather, it would only fulfilling the empty formalities. Merely passing an ex parte order by fulfilling the empty formalities will not serve any useful purpose and the same will only pave way for multiplicity of litigations, not only wasting the time of the Officer concerned, but also the precious time of the Appellate Authority/Tribunal and this Court as well. When there is no response from the tax payer to the notice sent through a particular mode, the Officer who is issuing notices should strictly explore the possibilities of sending notices through some other mode as prescribed in Section 169(1) of the Act, preferably by way of RPAD, which would ultimately achieve the object of the GST Act. Therefore,

this Court finds that there is a lack of opportunities being provided to serve the notices/orders etc., effectively to the petitioner. **M/s.Auro Tech Transformers, Vs. State Tax Officer (ST), Cuddalore Town Assessment circle, W.P.No.22732 of 2025 Dated : 24.06.2025**

Entry Tax: Hon'ble Division Bench in the decision reported in [2010] 28 VST 356 (Mad) (Sri Balakrishna Transport Vs Commercial Tax Officer, Tambaram I Assessment Circle, Chennai) held that if no returns have been filed by the assessee, the assessing officer cannot proceed to make any best judgment assessment or pass an assessment order. In the instant case also the appellant did not file any return for the imported vehicle during the relevant assessment years. The question that calls for consideration is whether merely because the appellant had paid the amount, the Writ Petitions should have suffered dismissal. As rightly pointed out by the learned Additional Government Pleader, the appellant herein filed W.P(MD)No.593 of 2008 calling upon the authorities not to demand entry tax for the petition mentioned vehicle. The said writ petition was dismissed on 01.03.2019. Likewise, W.P(MD)No.314 of 2009 filed by the appellant herein to declare the entry tax act as ultra

vires the Constitution of India as null and void was also dismissed on 25.08.2021. In view of the dismissal of these earlier writ petitions, the appellant chose to pay the entry tax when it was demanded by the respondent. Since the goods in question are liable to be levied with entry tax, payment of the tax amount cannot be held to be illegal. Since the appellant himself had voluntarily made such payment, the question of refund does not arise. The Writ appeals are dismissed. **M/s.Vinoth Shipping Services, Vs.The Assistant Commissioner (ST) (FAC), W.A(MD)Nos.1638 to 1640 of 2024 DATED: 23.06.2025**

Opportunity of personal hearing: No opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. It was submitted by the learned counsel for the petitioner that the petitioner is willing to pay 25% of the disputed tax amount to the respondent. In such view of the matter, this Court set aside the impugned order dated 19.08.2024 passed by the respondent with certain directions. **Ms Sunil Enterprises Vs. The Deputy Commercial Tax Officer, Saidapet South Iii, Chennai South, W.P.No.21381 of 2025 Dated : 18.06.2025**

Rectification: The petitioner filed the rectification petition under Section 161 of the TNGST Act, 2017 before the respondent and the same was rejected vide order dated 13.02.2025. Thereafter, the petitioner filed an appeal before the 2nd respondent on 27.02.2025 and the same was rejected by the 2nd respondent on the ground of delay. Therefore, left with no other alternative the petitioner is before this Court challenging the impugned assessment order. The Ld GP, amongst others, submitted that the request made by the petitioner may be considered subject to terms. However, in the interest of justice and in order to provide an opportunity to the petitioner to substantiate its case, this Court passed directions to the both parties and granted opportunity to petitioners' subject to complying with the directions. **M/s. Elgi Sauer Compressors Ltd. Vs. 1. State tax Officer / Commercial tax officer, Singanallur South Circle, 2. Deputy Commissioner (CT) Singanallur South Circle, Writ Petition No.21423 of 2025 DATED: 18.06.2025**

Condonation of Delay: Since the petitioner's accountant failed to reply to the show cause notice impugned assessment order came to be passed and due to the ill health of the petitioner, the petitioner could not file appeal within time. Considering the aforesaid facts

and in view of the settled proposition of law that when substantial justice is pitted against technical consideration, credence should be given to the substantial justice, this Court set aside the impugned order passed by the 1st respondent dated 25.02.2025 with directions and condone the delay of 34 days in filing the Appeal before the 1st Respondent. **M/s.Priya Belt Traders Vs.1. The Deputy Commissioner (Appeal), Trichy and Vellore (GST),2. The State Tax Officer-1, Panruti Rural, Cuddalore, W.P.No.21437 of 2025 Dated : 18.06.2025**

Lack of opportunity: The impugned show cause notice was uploaded on the GST Portal Tab. According to the petitioner, the petitioner was not aware of the issuance of the show cause notice issued through the GST Portal within time and the original of the said show cause notice was not furnished to them. In such circumstances, this Court view that the impugned assessment order came to be passed without affording any opportunity of personal hearing to the petitioner, confirming the proposals contained in the show cause notice. That apart, though the petitioner has sought time to file reply, the respondent without considering the same has passed the impugned order. There is a lack of opportunities being provided to serve the notices/orders etc., effectively to the petitioner. Hence,

this Court set-aside the impugned order with terms. **M/s.Green Impex Vs..The Deputy Commercial Tax Officer (ST) Gudiyatham (West) Assessment Circle W.P.No.13043 of 2025 DATED : 08.04.2025**

Condonation of delay: According to the petitioner, due to ill health of the Petitioner and also since the petitioner's consultant failed to inform her about the impugned proceedings, there is a delay of 288 days in filing the Appeal. This Court viewed that the reasons assigned by the petitioner for the delay in filing the appeal appears to be genuine. Hence, set aside the impugned order passed by the 1st respondent dated 28.03.2025 and condone the delay of 288 days in filing the Appeal before the 1st Respondent with directions.

Mrs.T.Porkodi, Vs.1. The Deputy Commissioner (CT), GST Appeal Chennai- I, 2. The Deputy State Tax Officer ~ I, (ST), Avadi Assessment Circle, Writ Petition No.20516 of 2025 DATED : 13.06.2025

Violation of principles of natural justice: At the time of cancellation, the petitioner provided their e-mail id for future communication. When such being the case, all the communications should have been sent to the e-mail id provided by the petitioner. However, the

respondent had failed to do so. Under these circumstances, the impugned order came to be passed by the respondent without providing any opportunity of personal hearing, which is a clear violation of principles of natural justice. **M/s.Legend Agro Chemicals LLP, Vs. Assistant Commissioner, Arispilayam Circle, W.P.No.23274 of 2025 Dated : 27.06.2025**

Notification issued u/s 8(5) of the CST Act: The question that arose is whether the benefit of exemption under the provisions of the Tamil Nadu Value Added Tax (TNVAT) Act, 2006 would enure for exemption under Section 8(2) of the Central Sales Tax (CST) Act, 1956. It is clear that unless a specific notification has been issued under Subsection (5) to Section 8 of the CST Act, only General Notification issued under the Tamil Nadu Value Added Tax (TNVAT) Act, 2006 will apply to the interstate transactions by applying Subsection (2) to Section 8 of the CST Act. Since there is no notification issued under Section 8(5) of the CST Act, the conditions of Section 8(5) of the CST Act will not apply to the facts of the case. Consequently, the petitioner is entitled to the benefit of exemption under Notification No.II(1)/CTR/30(a-2)/2007 (TNGG Extraordinary/March 23, 2007 [G.O.Ms.No.79, Commercial Taxes and Registration (B2) Department] dated 23.03.2007 with

consequential relief. **M/s. Shri Chakra Agencies, Vs. State Tax Officer, Attur (Town) Circle Writ Petition No.10348 of 2022 DATED : 24.06.2025**

Non-providing the opportunity: This Court is of the view that the Officer concerned always has to apply his mind while passing the order and non-providing the opportunity before passing the order is a waste exercise. That apart, while passing the assessment order, the Officer has to very conscious on the order to check whether notice has been sent and service has been completed and also provided opportunity to the taxpayer to establish their case. The Officer has to clearly record the reasons in the order. Further, when the taxpayer sought repeated adjournments, in those situation, the Officer can consider giving more time and also record the same in the order. Further, without providing the time, the Officer passing the order and challenging the same, the taxpayer approaching the Court of law stating that no opportunity was granted and therefore the order is in violation of principles of natural justice. As stated supra, it is the waste exercise of the Officer and based on the order of this Court, if any, the Officer again have to redo the entire exercise in similar way. In several occasion, this Court noticed that after accepting the reply, the Officer has simply recorded that the reply

was not accepted and also recorded that documentary evidence was not produced by the taxpayer. The Officer should have to explicitly mention what are the documents required and a demand has to be made by the Officer for production of documents from the taxpayer at the time of personal hearing. Thus, often, this Court noticed that without disclosing those things, the Officer is passing the order violating the principles of natural justice, which would not only vitiate the entire process, but also the loss for the exchequer. **Jakam Sekar Ranjith Vs. The Assistant Commissioner (ST) (FAC), Hosur (South) III assessment circle, Writ Petition No.15133 of 2025 DATED : 28.04.2025**

Writ petition: The issues raised by the petitioner are with regard to the factual aspects and the same cannot be adjudicated by this Court. Now, the only recourse available to the petitioner is to address their grievances by way of filing an appeal before the concerned Appellate Authority. In such view of the matter, this Court dismissed the present petition by granting the liberty to the petitioner to file an appeal against the assessment order. Stating so, this writ petition is dismissed. **M/s.Buhari Holdings Private Limited Vs. The Assistant Commissioner ST Nungambakkam Assessment Circle W.P.No.22293 of 2025 Dated : 23.06.2025**

Exemption in CST Act : The petitioner submitted that the issue involved in this Writ Petition is no longer res integra, as, it has been already been dealt with by this Court in W.P.No.14092 of 2022, dated 18.12.2024, wherein, in an identical issue, it is held that the sale of medicinal herbs made by the taxpayer, which were all exempted from payment of tax under the Tamil Nadu Value Added Tax Act regime 2006 is applicable for the CST regime as well. The learned counsel also produced the copy of the said order for reference of this Court and prays that the benefit of the said order may extended to the petitioner herein as well. Ld Special Government Pleader for respondent also fairly conceded that the issue involved in the Writ Petition is covered by the decision relied on by the petitioner. Considering the fact that the legal issue involved in the Writ Petitions has already been dealt with by this Court in Writ Petition No.14092 of 2022, this Court disposed of the present Writ Petitions on the same lines. **M/s.Samy Traders Vs The State Tax Officer, Attur (Town) Circle W.P.No.28271 of 2022 DATED : 10.06.2025**

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CASE LAWS - GST

1. GST - REFUND OF ZERO RATED SUPPLY - NO DISENTITLEMENT TO CLAIM CREDIT ON THE GROUND THAT CERTIFICATE OF REGISTRATION DOES NOT CONTAIN DETAILS OF SERVICES WHICH ARE BEING SUPPLIED



CA. VIJAY ANAND

In *Alstom Transport India Ltd. v. Addl. Commr. of CT (Appeals)*, Guntur 2025(98) GSTL 5/(2025) 30 Centax 23 (AP), the petitioner is engaged in the manufacture and supply of railway equipment and supply of engineering services for Metro Projects and, from June, 2019, had commenced supply of zero rated services, being engineering services for metro projects, to customers who were outside India on payment of IGST which were also reflected in the monthly returns filed by the petitioner. Thereafter, the petitioner filed refund claims, being unutilized input tax credit, arising out of IGST paid on export of services during the period March, 2020 to June, 2020 and for the period June, 2019 to February, 2020 which were rejected by the adjudicating authority (on the ground that the assessee is

registered only for supply of goods and as such cannot claim refund of tax for supply of services) and sustained by the first appellate authority against which a writ petition was filed before the high court which observed as under:-

1. The certificate of registration is given to the registered person. There is only one registration certificate that is given to a person undertaking supply of goods or services falling under Section 22 or Section 24 of the CGST Act. In fact, Section 25(2) of the CGST Act itself stipulates that only one registration would be given to a person, in relation to a State or Union territory. The proviso also allows separate registration where a person has multiple places of business in the State or Union territory. However, such separate registration would be subject to the conditions.
2. A perusal of the provisions would lead to a conclusion that non-mention of the categories of supply being undertaken by the applicant/ registered person, in the application form, cannot preclude grant of refund to such persons. By extension, the petitioner would be entitled to a refund, in relation to zero rated services, once the petitioner is a registered person. The petitioner

would not be precluded from claiming such refund on the ground that the certificate of registration does not contain the details of the services which are being supplied.

Hence, the writ petitions were allowed setting aside the orders of rejection of refund as well as the appellate orders with a direction to the adjudicating authority to refund the input tax credit claimed by the petitioner, subject to verification of the claim and quantum of the claim. There shall be no order as to costs.

2. GST - REFUND REJECTION DUE TO NON TRANSMISSION TO ICEGATE - NOT SUSTAINABLE

In Commr. of Customs, Tuticorin v. Vedanta Ltd. 2025(98) GSTL 91/(2025) 28 Centax 204 (Mad.), the facts are as under:-

- a. The assessee is engaged in the manufacture of copper anodes, cathodes and continuous copper rods for both domestic sale and exports.
- b. During August 2017, the respondent had exported goods under 71 Shipping Bills covering 512 invoices. An IGST of Rs.9,42,39,026/- (Rupees Ninety four crores forty two lakhs thirty nine thousand and twenty six only) were paid against such

exports. Out of the bills and 512 invoices, the goods covered in 61 shipping bills and 442 invoices underwent a revision in price subsequent to the export necessitating the issuance of 7 debit notes.

- c. The differential IGST was paid upon such revision and the assessee had also in 2018 cancelled the 7 debit notes and issued a debit note for each invoice where the price had undergone a revision. These notifications were reflected in Table-9 of June 2018.
- d. The assessee filed a claim for refund of Rs.94,42,35,026/- out of which partially was refunded and the major amount rejected due to unavailability of details in the system designated by the Customs (ICEGATE) against which a writ petition was preferred before the Single Bench of the high court which holding that as per Rule 96(2), the details of the relevant export invoices are to be transmitted electronically through the common portal maintained by the GSTN to the system designated by the Customs (ICEGATE) and the said system has to transmit electronically to the system maintained by GSTN, a confirmation that the said invoices have been exported out of India.

On a further appeal before the Divisional Bench, it was observed as under:

1. The glitch of the matter is that while the assessee has been sanctioned IGST refund in respect of goods covered against 71 Shipping Bills covered by 512 invoices, the balance refund was not sanctioned on the ground that particulars of the said different duty paid had not been transmitted to the ICEGATE (designated system maintained by the Customs) from the GSTN portal.
2. There have been glitches in the transmission of data from ICEGATE to the GSTN portal and vice-versa and also taking cognizance of the fact that GST was a new law and errors were committed by exporters, which was hampering the sanctioning of the refund, the CBIC has issued various Circulars laying down the alternate mechanism for interface with the officers, to resolve the mismatches and process the refund claims.
3. One such instruction was issued on 24.10.2018, wherein it has been recorded that CBIC has been receiving representation where refund scroll has been generated for a much lesser IGST amount than what was paid against the goods exported, which could

broadly have happened due to error made by exporter/CHA in declaring IGST in the Shipping Bill or typographical mistake by the Customs officer.

4. In respect of all such cases where IGST refunded is less than what has been paid, it was clarified that the directorate of systems had provided a facility in the ICES for processing and sanctioning of eligible IGST refund.
5. In the instant case on hand, the assessee under cover of letters dated 07.01.2019 and 19.02.2019, had requested the Commissioner of Customs, Tuticorin (appellant herein) to apply the CBIC instruction dated 24.10.2018 and disburse the IGST paid on the exported goods to the tune of Rs.2,02,94,956/-.
6. While things be so, since the Customs did not take any action qua the requests made before them, the assessee preferred a writ petition before this Court wherein sought a direction to the respondent for transmitting the data with regard to the IGST paid on goods exported to the Customs ICEGATE portal and to facilitate refund of the IGST paid in light of the Circular No.40/2018-Customs within a prescribed time frame.

-
7. The assessee exports goods on payment of IGST and when the writ petitioner claims refund of such tax. In the pre GST regime, the statute used the version "Rebate". Under the GST regime it is termed as 'refund'. It is general principle of law that goods only ought to be exported and not taxes.
 8. While claiming the rebate on export, as long as the substantive compliance and the factum of export is not in dispute. The procedural requirements should be interpreted liberally as it is a beneficial scheme as hold in Ford India (P.) Ltd. v. Asstt. CCE 2011 (272) E.L.T. 353 (Mad.).
 9. It is also relevant that the aforesaid principle that Circular No. 40/2018-Customs has been issued, which has been applied by the Hon'ble Bombay High Court in the case of Venus Jewel v. Union of India 2024 (84) G.S.T.L. 305 (Bom.) = 2024 (388) E.L.T. 536 (Bom.) = (2024) 17 Centax 195 (Bom.) wherein it has been held that merely due to non-compatibility of the data between the two portals, refund cannot be denied.
 10. It is settled law laid down by the Hon'ble Apex Court in the case of CCE v. Ratan Melting & Wire Industries [2008 (231) E.L.T. 22 (S.C.)] that Circulars issued by the CBIC are binding on the Department.

-
11. In view thereof as well it was not open to the Appellant to have disregarded the Circular dated 24.10.2018 and thereby sit on the respondent's refund.
 12. It is cardinal principle of law that only goods are to be exported and not taxes, relying on TMA International (P.) Ltd. v. Union of India 2020 (35) G.S.T.L. 22 (Del.).
 13. In view thereof as well, inasmuch as there is no dispute as to the fact that the goods were exported and that respondent had paid the disputed amount of IGST, refund of which has been claimed, it was incumbent upon the appellant to have refunded the same forthwith.

Hence, the Division Bench did not find any reason to interfere with the decision of Single Judge.

3. GST - INADVERTANT ERRORS IN GSTR-1 AND CONSEQUENTIAL ERRONEOUS PAYMENT OF IGST UNDER CGST & SGST HEADS - RIGHT TO CORRECT MISTAKES IN THE NATURE OF CLERICAL OR ARITHMETCAL ERROR FLOWS FROM RIGHT TO DO BUSINESS SHOULD NOT BE DENIED UNLESS THERE IS A GOOD JUSTIFICATION THEREFOR

In Principal Chief Commr. of GST & CE, Chennai v. Deepa Traders 2025(98) GSTL 189/(2025) 29 Centax 384 (Mad.) the petitioner has, in respect of the returns for a few months during the period 2017-18, committed certain errors due to inadvertent carelessness on the part of a part-time accountant as under:-

- i. Recipients GSTIN/name has been wrongly mentioned.
- ii. The invoice number/date have been wrongly mentioned.
- iii. Supply details were correctly supplied in GSTR 3 and tax duly remitted. However, some of the invoice wise details have been omitted to be reported in Form GSTR 1.
- iv. IGST was inadvertantly remitted under the heads SGST and CGST.

These errors committed during the initial period of GST when the assessee was unfamiliar with the procedures and the newness in the system itself that had resulted in the commission of these errors. These errors were brought to the notice of the assessee only in December, 2019. The tax liability has been met in full based on the turnover reported and it is only the correction of

the errors that is sought, to enable proper reconciliation of the petitioner-s returns and annexures with those of the third parties.

On a writ petition, the Learned Single Judge, relying on judgment of Sun Dye Chem v. Asstt. Commissioner (ST) 2021 (44) G.S.T.L. 358 (Mad.) and Pentacle Plant Machineries (P.) Ltd. v. Office of the GST Council 2021 (52) G.S.T.L. 129 (Mad.), permitted the benefit of rectification of errors as there was no mala fides attributed to the assessee as the errors were clearly inadvertent and that the rectification would, in fact, enable proper reporting of the turnover and input tax credit to enable claims to be made in an appropriate fashion by the assessee (respondent herein) and connected assessees.

On an appeal before the Divisional Bench, it was observed as under:

1. The Bombay High Court, in Aberdare Technologies (P.) Ltd. v. CBDT & Customs 2024 (89) G.S.T.L. 6 (Bom.) = (2024) 21 Centax 227 (Bom.) , allowed the assessee to amend/rectify the form GSTR 1. The SLP filed by the Revenue against this decision was dismissed by the Supreme Court holding that Time lines should be realist as lapse/defect invariably is realized when input tax credit is denied to the purchaser when benefit of tax paid is

denied and that the purchaser is not at fault, having paid the tax amount but suffers because he is denied benefit of tax paid by him consequent to which he has to make double payment.

2. As held by the Apex Court, human errors and mistakes are normal, and errors are also made by the Revenue. The right to correct mistakes in the nature of clerical or arithmetical error is a right that flows from the right to do business and should not be denied unless there is a good justification and reason to deny benefit of correction. Software limitation itself cannot be a good justification, as software is meant to ease compliance and can be configured.

Therefore, the revenue's appeal was dismissed.

4. REFUND OF IGST ON EXPORTS - OMISSION OF RULE 96(10) W.E.F.08.10.2024 - PROSPECTIVE EFFECT & NOT RETROSPECTIVE APPLICATION BUT APPLIES TO PROCEEDINGS AS ON DATE OF OMISSION

In Addwrap Packaging Pvt. Ltd. v. Union Of India 2025 (98) G.S.T.L 241/(2025) 31 Centax 274 (Guj.), the petitioner is engaged in the business of manufacture, supply/export of

conductors and Optical Fiber Ground Wires(OPGW) and exports substantial quantity of finished goods manufactured to its customers spread across the world.

The petitioners have made rebate/refund claim of IGST paid on goods and services exported out of India under Rule 96 for entitlement of refund of the petitioners u/s 54(3) of the CGST Act r.w. section 16 of the IGST Act

Notification No. 54/2018 has been made applicable prospectively providing that from 9.10.2018 onward, bar on claiming refund of IGST would apply in all cases where the registered person himself avails IGST exemption benefit under the scheme of Advance Authorisation, EPCG scheme and the same would not apply when supplier to the registered person avails the said benefit.

Though it is not in dispute nor any grievance is raised, in order to complete the chronology, Rule 96(10) was amended *vide* Notification no. 16/2020 dated 23.3.2020 whereby explanation was inserted with retrospective effect from 23.10.2017 which explains that bar provided under Rule 96(10)(b)

shall not be attracted where the registered person has availed the basic customs duty exemption under the scheme but discharged the IGST as part of the customs duty on imported inputs or capital goods.

In view of above amendment made in Rule 96(10), though the petitioners have paid IGST on the exports made during the period after 01.07.2017 on bona fide belief that the petitioners are entitled to claim the refund in terms of section 54 r.w. section 16 of the IGST Act, refund claims were filed on the input tax credit on input of capital goods and input services procured from the domestic market by the petitioners to manufacture the exported goods or services.

However, the authorities denied the claim of refund on the entire input tax credit availed by the petitioners on procurement of input, input services or capital goods from the domestic market as the petitioners have taken benefit of notifications for procurement of some of the material either under Advance Authorisation License or under the merchant export or as per the notification in Rule 96(10) on the ground that the petitioners were exporting finished goods on payment of IGST and availing

benefit of refund in terms of Rule 96(10) despite availing the benefit of Notifications mentioned in the said Rule. The revenue authorities therefore initiated the proceedings for recovery of the refund already paid to the petitioners for alleged violation of Rule 96(10) on the ground that erroneous refund has been paid to the petitioners where raw materials were imported under Advance Authorisation scheme by the petitioners on some of the products which were procured under the said Scheme. SCNs were issued to demand tax even on the refunds already granted, against which writ petition was filed before the high court which observed as under:-

1. On coming into force of the Rule 96(10), the refund claims of the petitioners for IGST paid on export of goods or services were denied even if the petitioners had utilised only a small portion of the inputs imported without payment of custom duty under Advance Authorisation License. Being aggrieved, the petitioners have challenged vires of Rule 96(10) in this group of petitions.
2. The GST Council in its 54th meeting recommended to omit Rule 96(10), Rule 89(4A) and Rule 89(4B) prospectively to simplify and expedite the procedure for refund in respect of exports

considering the difficulties being faced by the exporters due to the restrictions in respect of refund on exports in cases where benefits of specified concessional/exemption notification is availed on the inputs which was followed by the issuance of Notification No.20/2024-Central Tax dated 8th October, 2024 whose sub-rule (2) of Rule 1 provides “save as otherwise provided in these rules, the Rules shall come into force on the date of their publication in the Official Gazette”.

3. Wrt to the issue as to whether Rule 96(10) has been omitted, would be applicable retrospectively as if such rule has never been in existence, it is required to be examined as to whether omission of Rule 96(10) was curative, and remedial or not and whether the date from which the amendment has been operative would decide the issue of applicability of Rule 96(10) from the said date or not.
4. Rule 96(10) of the CGST Rules has been recommended to be omitted by GST Council prospectively to remove the difficulties of the exporters in claiming refund of the IGST paid on export of goods on account of four exemption notifications from payment of duty for importation of the inputs utilised for manufacture of goods to be exported.

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5. Sub-rule(2) of Rule 1 of the Rules, 2024 clearly stipulates that the rules save as otherwise provided in the said rules, shall come into effect on the date of the publication in the Official Gazette i.e 8th October, 2024.
 6. Reliance placed by the petitioners on decision of Hon'ble Apex Court in case of CIT-I Ahmedabad v. Gold Coin Health Food Pvt. Ltd. (2008) 9 SCC 622 to examine the circumstances under which the amendment was brought in existence and the consequences of the amendment will have to be taken care of while deciding the issue as to whether the amendment was clarificatory or substantive in nature and whether it will have retrospective effect or it was not so.
 7. Reliance placed on behalf of the petitioners in case of CIT, Kolkatta v. Calcutta Export Company (2018) 16 SCC 686 as to whether omission of Rule 96(10) by Rules, 2024 is curative in nature and therefore, should be applied retrospectively *i.e.* from the date of insertion of the said rule from 9th October, 2018 is also required to be applied to the facts of the case because the Rules, 2024 clearly stipulates for applicability from the date of publication in Official Gazette in consonance with the

recommendation of the GST Council to omit Rule 96(10) of the CGST Rules, 2017 prospectively.

8. It cannot be said that omission of Rule 96(10) is curative or remedial because, by omission it affects substantive rights of the assessee to claim refund of IGST paid on export of goods when duty free inputs are utilised. If the omission of Rule 96(10) is to be applied with retrospective effect, the Rules, 2024 would have stipulated but even the GST Council has recommended omission of Rule 96(10) with prospective effect. Such recommendation is binding upon the Government.
9. Therefore, reliance placed on behalf of the petitioners on various case laws to canvass the proposition that omission of Rule 96(10) is curative and remedial and therefore, cannot be applied retrospectively.
10. The next question that arises is whether Notification No.20/2024 whereby Rule 96(10) of the CGST Rules has been omitted with effect from 8th October, 2024 would be applicable to the proceedings including this group of petitions which are pending before the Court or any other proceedings which are pending before the respondents or not.

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11. “omission” would be included in the interpretation of word “repeal” and hence omission of Rule 96(10) with effect from 8th October, 2024, would amount to repeal without any saving clause, relying on the decisions in Fibre Boards Private Limited, Bangalore v. CIT, Bangalore & Rayala Corporation (P) Ltd. and M.R. Pratap v. Director of Enforcement, New Delhi (1992) 2 SCC 412 .
12. General Clauses Act, 1897 is largely based on the English Interpretation Act, 1889 and according to such law, the effect of repealing a statute was to obliterate it completely from the records of Parliament as if it had never been passed, except for the purpose of those actions, which were commenced, prosecuted and concluded while it was an existing law. Therefore, repeal without any saving clause would destroy any proceeding whether or not yet begun or whether pending at the time of enactment of the repealing Act and not already prosecuted to a final judgment so as to create a vested right.
13. It appears that the recommendations of the GST Council to omit Rule 96(10) prospectively would apply to all the pending

proceedings and cases, relying on the decision in Mathew M. Thomas and others v. Commissioner (1992) 2 SCC 543. However, the contention on behalf of the Revenue that the petitioners have filed these petitions challenging the validity of Rule 96(10) cannot be said to be pending proceedings is without any basis because the petitioners have also challenged the show cause notices as well as orders-in-original passed by the respondents by invoking Rule 96(10) for rejecting the refund claims of the petitioners and therefore, it can be said that these petitions are nothing but pending proceedings before the Court which has not achieved finality when the Notification No.20/2024 came into force with effect from 8th October, 2024.

14. By Notification No.20/2024 Rules, 2024 have been notified and Rule 96(10) has been omitted with prospective effect. This would give rise to three situations, firstly, whether the same would be applicable retrospectively, or secondly, prospectively or thirdly, same would be applicable prospectively but also to “pending proceedings”. As discussed, Rule 10 of Rules, 2024 is applicable prospectively and the same also would be applicable to pending proceedings.

15. Therefore, Notification No.20/2024 dated 8th October, 2024 would be applicable to all the pending proceedings/cases meaning thereby that Rule 96(10) would stand omitted prospectively but applicable to pending proceedings/cases where final adjudication has not taken place.

Consequently, it was held that the omission of Rule 96(10) would apply to all the proceedings/cases/petitions which are pending for adjudication either before this Court or before the respondent adjudicating authority and no further proceedings are required to be carried forward and petitioners would be entitled to maintain refund claims of IGST paid on export of goods.

5. GST - SCRUTINY NOTICE ISSUED U/S 61 - COMPETENT OFFICER ISSUED NOTICE COMPARING THE MARKET PRICE VIZ. THE PRICE AT WHICH ASSESSEE SOLD - NEGATED BY HIGH COURT

In Sri Ram Stone Works v. State of Jharkhand 2025(98) GSTL 424/(2025) 30 Centax 196 (Jhar.), the petitioners are mining lessees/dealers engaged in the business of sale of stone boulders, stone-chips, etc. to various customers and are registered for GST.

Notices were issued to petitioners u/s 61 alleging that petitioners have sold stone-boulders/stone chips at a price lesser than the prevalent market price and as to why proceeding u/s 73/74 be not initiated against them for which some replied stating that Notices u/s 61 could be limited to the extent of discrepancy occurring in the returns, and, issuance of notices by comparing taxable value of supply disclosed by Petitioners in their returns with that of market price of goods, are is beyond the scope of Section 61. Notwithstanding the same, subsequent notices in Form GST ASMT-10 were again issued which were challenged by way of writ petitions before the high court which held as under:-

1. Notices u/s 61 have been issued to writ petitioners and instead of pointing out discrepancies in the returns filed by writ petitioners, the competent officer has embarked upon an exercise of comparing the price at which Petitioners have sold their stone-boulders/stone-chips with that of prevalent market price and, thereafter, accordingly, issued notices to writ petitioners asking them to show cause as to why appropriate proceedings for recovery of tax and dues be not initiated against them.

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2. Notices issued comparing the particulars at which petitioners have sold their goods with that of prevalent market price, is wholly without jurisdiction and beyond the scope of Section 61 when it is settled law that unless transactions of sale are shown to be sham transactions or the mere fact that the goods were sold at a concessional rate/rate less than market price would not entitle the Revenue to assess the difference between the market price and the price paid by the purchaser as transaction value.
 3. Consequently, notices issued u/s 61 to the respective writ petitioners are wholly without jurisdiction and are, accordingly liable to be quashed/set aside.

Hence, the writ petitions were allowed to the extent indicated above and impugned notices issued u/s 61 were quashed and set aside.

6. GST -SCN ISSUED U/S 74 EVEN WHEN THERE WAS NO SUPPRESSION OF FACTS - NOT SUSTAINABLE

In *Netgear Technologies India Pvt. Ltd. v. CCGST, Delhi North* 2025(98) GSTL 456/(2025) 28 Centax 432 (Del.), the high court

in the case of the same petitioner in an earlier case held that since the respondent-Department had not taken any steps to obtain a stay against a favourable Order-in-Appeal, the petitioner would be entitled to a refund in terms of the said appellate order and that the department cannot simply ignore an appellate order and refuse benefits merely because it intends to challenge it in the future.

Subsequently, the department sanctioned the refund in terms of the aforesaid orders. However, thereafter an SCN was issued u/s 74 for the same tax period denying refund against which a writ petition was filed before the high court which observed as under:-

1. SCN, issued u/s 74, fails to lay in place any clear allegations of collusion, misstatement or wilful suppression of facts. It rather rests on the allegation that the sanction of refund appears to be erroneous in light of the incorrect conclusion that the activities undertaken by the petitioner amounted to an export of services. The SCN only baldly alleges that the petitioner misstated and suppressed facts leading to the passing of the order by the appellate authority.

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2. The SCN merely observes that the petitioner wrongfully claimed a refund by misrepresenting that the transactions in question would constitute an export of services. The SCN also asserted that the services provided by the petitioner were intermediary services with the place of supply being in India and thus disentitling it from claiming a refund without any specific allegation of fraud, wilful misstatement or suppression against the petitioner.
 3. Consequently, there is no jurisdiction as assumed by the department. In *Parity Infotech Solutions (P.) Ltd. v. Govt. of National Capital Territory of Delhi* 2023 (75) G.S.T.L. 329 (Del.) = (2023) 7 Centax 169 (Del.) 2023 SCC OnLine Del 1436, it was held that a SCN u/s 74 can only be issued when the proper officer has specific reasons to believe that tax had been short-paid, not paid, erroneously refunded or Input Tax Credit had been wrongly availed or utilized due to fraud, wilful misstatement or suppression of facts to evade tax.
 4. It is pertinent to note that Section 74 uses the expression “by reason of” and thus being indicative of the power conferred by that provision being liable to be invoked only if it be found that the assessee had indulged in acts constituting fraud, wilful misstatement or suppression of facts in order to evade tax.

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5. The employment of the phrase “by reason of” is demonstrative of the legislative intent of the power conferred by Section 74 being available to be wielded only if the availing of benefits under the Act is seeded by or founded upon acts amounting to fraud, wilful misstatement or suppression.
 6. It is equally important to bear in mind that an allegation of fraud, wilful misstatement or suppression of facts cannot be used as a matter of rote or rest on a mere incantation of the language employed by that section. It would ultimately have to be tested on facts which are found or discovered by the respondents and which would be demonstrative of the charge which is laid.
 7. In *Parity Infotech Solutions (P.) Ltd. v. Govt. of National Capital Territory of Delhi* 2023 (75) G.S.T.L. 329 (Del.) = (2023) 7 Centax 169 (Del.) 2023, it was also found that the SCN merely reproduced the statutory language of Section 74 without any tangible material or independent reasoning to support the allegation of fraud or misstatement consequent to which the SCN was held to have been issued mechanically and held to be wholly unwarranted.

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8. The Allahabad High Court has, in HCL Infotech Ltd. v. Commissioner, Commercial Tax 2024 (90) G.S.T.L. 233 (All.) = (2024) 23 Centax 71 (All.) 2024 SCC OnLine All 5769, further clarified that in order to invoke the extended time period of five years under Section 74 of the Act, the SCN must clearly set out the specific acts of commission or omission on the basis of which an opinion may be formed that benefits had been claimed “by reason of” fraud, misstatement or suppression of facts.
9. Arising out of the above, the impugned SCN for a tax period that had already been assessed by the GST authorities or to countenance the SCN as operating as a fetter on the grant of refund which was affirmed and recognised by the Court cannot be sustained and that a claim for refund cannot be legally or justifiably stalled by the adoption of circuitous means as the present.

Hence, the writ petition was allowed and the impugned SCN was quashed and set aside.

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RECENT JUDGEMENTS IN DIRECT TAXES

1. Reference to special audit without satisfying condition u/s. 142(2A) is arbitrary:

Rama Devi Vs DCIT (ITAT Hyderabad)
ITAT Hyderabad held that reference to special audit u/sec.142(2A) of the Act dated



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31.12.2018 without satisfying the conditions provided therein, is arbitrary, illegal and void abinitio. Accordingly, final assessment order is quashed.

2. AO's Application of Rule 8D Valid for Exempt Dividend Income:

ITAT Upholds ¹ 15 Lakh Disallowance. The Tribunal upheld the disallowance of Rs. 15,00,327 under Section 14A read with Rule 8D of the Income Tax Act, 1961 and affirmed the Assessing Officer's application of Rule 8D for expenses related to exempt dividend income

The Ahmedabad Bench of the Income Tax Appellate Tribunal (ITAT) has upheld the disallowance of Rs. 15,00,327 made by

the Assessing Officer (AO) under Section 14A read with Rule 8D of the Income Tax Rule, 1962, for the Assessment Year (AY) 2017-18. Vadilal International Private Limited (assessee), a company engaged in providing trademarks and copyrights for the brand “Vadilal,”

3. Bank Account Opened Fraudulently in Assessee’s Company, AO adds Rs. 15 cr as Protective Addition:

ITAT Deletes Addition. The tribunal found the assessee’s explanation credible, citing the FIR filed, legal action taken, and the limited scale of the liquor retail business, which made it improbable for the assessee to handle 15 crore in 14 days

The Amritsar Bench of Income Tax Appellate Tribunal (ITAT) deletes 15 crore protective addition after finding that a bank account was fraudulently opened in the name of the assessee, who has no knowledge about the account. Mandeep Singh,appellant-assessee, was engaged in retail trading of foreign liquor under a State Excise license. Based on information that 15 crore.

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4. ITAT condones 234-day delay in filing Income Tax Appeal due to Missed Email Communication because of Accountant's resignation:

A taxpayer successfully appealed an ex-parte reassessment order that was issued because important communications went to an old mail address.

The Ahmedabad bench of the Income Tax Appellate Tribunal (ITAT) has condoned the 234 days delay in filing the income tax appeal due to the accountant's resignation. It was found that the former accountant's email was used for communications for which the assessee missed crucial information, leading to an ex parte appellate order. The appellant assessee, Aditya Pothouse challenged.

5. Denial of Foreign Tax Credit merely due to delay in filing Form 67 not justifiable:

ITAT Hyderabad held that denial of credit for Foreign Tax Credit merely due to delay in filing of Form 67 not justified as Form 67, although belatedly, was filed before the AO passed order u/s 143(3) of the Act. Accordingly, appeal allowed.

The post Denial of Foreign Tax Credit merely due to delay in filing Form 67 not justifiable.

6. CIT(A) cannot Reject Additional evidence u/r 46 A of Income Tax Rules against unexplained Investment Merely because of non-furnishing before AO: ITAT:

The Chennai bench of the Income Tax Appellate Tribunal (ITAT) allowed the assessee to furnish the additional evidence under rule 46 A of the Income Tax Rules, 1962 before the Assessing Officer (AO), as the Commissioner of Income Tax (Appeal) (CIT(A)) had added the value of an immovable property Rs.30,00,000 as unexplained investment due to the assessee's failure

7. Notice for reassessment u/s. 148 issued beyond surviving time limit is time-barred: Gujarat HC:

Nanda Kishore Ravula Vs ADIT (International Tax) (ITAT Hyderabad) ITAT Hyderabad held that denial of credit for Foreign Tax Credit merely due to delay in filing of Form 67 not justified as Form 67, although belatedly, was filed before the

AO passed order u/s 143(3) of the Act. Accordingly, appeal allowed. Facts- The assessee, an individual, filed his original return of income for the A.Y.2020-21 on 15.12.2020. Subsequently, the assessee filed revised return of income on 30.03.2021 and claimed Foreign Tax Credit (“FTC”) of Rs.21,57,343/- Gujarat High Court held that reopening of assessment by issuance of notice under section 148 issued beyond the surviving time limit as prescribed under Income Tax Act read with TOLA is barred by limitation. Accordingly, notice is quashed and writ petition allowed.

The post Notice for reassessment u/s. 148 issued beyond surviving time limit is time-barred: Gujarat HC

8. Penny Stock Transactions Found Genuine: ITAT Deletes ¹ 1 Cr Addition Relying on SEBI Report and Sister Case Precedent:

In a significant ruling, the Income Tax Appellate Tribunal (ITAT) Mumbai has set aside additions made under sections 68 and 69C of the Income Tax Act against taxpayer Asha Himmat Bhadra. The case revolved around the sale of shares in

M/s. Splash Media (now Luharuka Media & Infra Ltd.), which the Income Tax Department had deemed a “penny stock,” leading to substantial additions to the assessee’s income for the Assessment Year 2011-12. *Asha Himmat Bhadra Vs DCIT (ITAT Mumbai)*.

9. AO cannot Make Addition on Bogus Purchases without Rejecting Books or Reported Sales :

ITAT says such Addition Legally Unsustainable. *Rajendra Shangari Vs DCIT (ITAT Kolkata)* Income Tax Appellate Tribunal (ITAT) Kolkata bench has ruled in favor of assessee *Rajendra Shangari*, stating that an Assessing Officer (AO) cannot make additions to income based on alleged bogus purchases without first rejecting the assessee’s books of account or disputing reported sales. The Tribunal’s decision effectively deletes an addition of Rs. 38,46,188/- made by the AO for the assessment year 2018-19.

10. Unsubstantiated Expenses: ITAT Ahmedabad Reduces Disallowance to 10%:

Raj Quarry Vs DCIT (ITAT Ahmedabad) Income Tax Appellate Tribunal (ITAT) Ahmedabad has significantly reduced the ad-hoc disallowance of business expenses for Raj Quarry for Assessment Year 2014-15, restricting it to 10% of the claimed amount. The Tribunal found that the Assessing Officer (AO) and the Commissioner of Income Tax (Appeals) [CIT(A)] had failed to provide sufficient justification for the higher disallowances, especially when the assessee was already reporting a loss.

11. ITAT Delhi Upholds Lease Rental Income as House Property: Applied Consistency Rule

ACIT Vs IHDP Globals Pvt Ltd (ITAT Delhi) Income Tax Appellate Tribunal (ITAT) Delhi has dismissed an appeal filed by the Assistant Commissioner of Income Tax (ACIT) against IHDP Globals Pvt Ltd for the Assessment Year 2017-18. The Tribunal's decision upholds the ruling of the Commissioner of Income Tax (Appeals) that rental income generated by the company from leasing out a property should be taxed under the head "Income from House Property" rather than "Profits and Gains from Business and Profession."

12. Interest to Partners Allowable Despite No Active Business: ITAT Cochin:

Muthoot Bankers Vs ITO (ITAT Cochin) Income Tax Appellate Tribunal (ITAT), Cochin Bench, has ruled in favor of Muthoot Bankers, a finance and money lending firm, allowing a deduction of Rs. 5,00,000 for interest paid to its partners for the Assessment Year 2006-07. The Tribunal's decision, pronounced on June 13, 2025, sets aside the previous orders of the Assessing Officer (AO) and the Commissioner of Income-tax (Appeals) [CIT(A)], who had disallowed the interest payment.

13. Income Tax Section 147/144B Order Appealable, Writ Not Maintainable: Calcutta HC:

yashree Finvest Private Limited Vs ITO (Calcutta High Court) The Calcutta High Court has dismissed a writ petition filed by Ayashree Finvest Private Limited, challenging an order dated February 18, 2025, passed under Section 147 read with Section 144B of the Income Tax Act, 1961, for the assessment year 2016-17. The petitioner argued that their submitted documents were not considered by the Faceless Assessing Unit. Additionally, a show-cause notice, issued due to an alleged failure by the petitioner's accountant, could not be responded to.

14. Bombay HC Quashes Reassessment Notices as Income Already Taxed Substantively in Prior Year:

Sai Shiridi Constructions Vs ITO (Bombay High Court) Bombay High Court, in a ruling concerning Sai Shiridi Constructions versus the Income Tax Officer (ITO), has quashed reassessment notices issued under Section 148 of the Income-Tax Act, 1961, for assessment years (AY) 2008-09 and 2009-10. The court found that the Income Tax Department lacked a valid 'reason to believe' that income had escaped assessment, as the disputed amount had already been subjected to tax in a subsequent assessment year.

15. 12A Registration Sent Back to CIT(E) Due to Technical Lapse: ITAT Bangalore:

Karnataka State Diploma in Nursing Examination Board Vs CIT (Exemptions) (ITAT Bangalore) The Income Tax Appellate Tribunal (ITAT), Bangalore Bench, has remanded a case involving "Karnataka State," a society engaged in nursing education, back to the Commissioner of Income Tax (Exemptions) [CIT(E)]. The society had appealed the CIT(E)'s order dated December 27, 2024, which cancelled its registration granted under Section 12AB of the Income Tax Act, 1961.

16. Division Bench Allows Income Tax Appeal Despite Delay; Limitation Not a Bar:

Mukul Mahanta Vs Union of India & Ors. (Calcutta High Court) Hon'ble Division Bench granted Liberty to file appeal, the same shall not be rejected on the grounds of Limitation and for the Judgement relied by the Ld. Single bench not applicable in the present case, and held that for this reason, the appellant should not be non-suited and the Division bench granted Liberty to file statutory appeal. The Petitioner approached Writ Court after 2 years of 148A(d) order and after 1.5 years of 147 order.

17. No Section 271(1)(c) Penalty for Section 54F exemption claim with conflicting views:

DCIT Vs Sahil Vachani (ITAT Delhi) New Delhi: The Income Tax Appellate Tribunal (ITAT) Delhi has recently considered an appeal filed by the Income Tax Department against an order from the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi. The core issue revolves around the deletion of a penalty amounting to Rs. 1,45,59,592/- levied under Section 271(1)(c) of the Income Tax Act, 1961. This penalty

was initially imposed on Sahil Vachani (the assessee) for allegedly furnishing inaccurate particulars of income related

18. Adoption of Percentage Completion Method not justified as Project Completion Method accepted in earlier years:

Vyapti Enterprise Vs ITO (ITAT Ahmedabad) ITAT Ahmedabad held that addition by adopting Percentage Completion Method cannot be sustained as department already accepted Project Completion Method in earlier years. Accordingly, appeal allowed and addition set aside. Facts- The assessee is a partnership firm engaged in the business of real estate developments. AO held that percentage completion method is to be adopted in the assessee's case

19. No addition towards unexplained cash credit u/s. 68 post rejection of books of accounts:

Sahyog Construction Vs ACIT (ITAT Ahmedabad) ITAT Ahmedabad held that once the books of accounts stood rejected under section 145(3) of the Income Tax Act and profits estimated, there cannot be addition on account of unexplained cash credit

u/s. 68. Accordingly, appeal allowed. Facts- The solitary issue raised in the above grounds relates to addition made to the income of the assessee u/s.68 of the Act amounting to Rs.6,58,43,000/- being unexplained cash credit.

20. No tax leviable in India for salary income for services rendered in China:

Sivakarthish Raman Vs ACIT (ITAT Chennai) ITAT Chennai held that salary income for services rendered in China is not taxable in India. Accordingly, benefit of exemption under Article 15(1) of the DTAA between India-China. Thus, order set aside and appeal allowed. Facts- The assessee, an employee of BMW India Private Limited (BMW India) was on an assignment/secondment to BMW Brilliance Automotive Limited (BMW China) during the FY 2021-22 and was rendering services/exercising employment with BMW China in China during this period.

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SECTION 144C VS SECTION 153: SUPREME COURT SPLIT ON DRP TIMELINES

1. Background

The litigation arose from assessments of the Shelf Drilling¹ group, non-resident assessee engaged in offshore drilling services for ONGC. The assessee, being “eligible assessee” within the meaning of Section 144C(15)(b), were subjected to the special assessment procedure involving the Dispute Resolution Panel (DRP).



Mr. ESHAAN SINGAL

In earlier proceedings, the Assessing Officer (AO) had completed assessments under Section 143(3) read with Section 144C after DRP directions. These were later set aside by the Income Tax Appellate Tribunal (ITAT) for de novo adjudication.

On remand, the AO issued draft assessment orders under Section 144C on 28 September 2021 – just before the extended limitation date of 30 September 2021, as per the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 (“TOLA”).

¹Assistant Commissioner of Income Tax (International Taxation) & Ors. v. Shelf Drilling Ron Tappmeyer Ltd. & Ors. – 2025 INSC 946

The assessee approached the Bombay High Court, contending that:

- The final assessment orders could not be passed after 30 September 2021 because the outer limitation under Section 153(3) had expired.
- The entire DRP process under Section 144C must be completed within the limitation period of Section 153(3).

The High Court accepted this view, relying on its earlier decision in *Roca Bathroom Products Pvt. Ltd.* (Madras High Court)², holding that Section 144C procedure does not extend the limitation in Section 153.

The Revenue challenged the decision before the Supreme Court.

2. Statutory Framework

2.1 Section 153 – Time Limits for Assessment

Section 153 of the Income-tax Act prescribes the maximum period within which assessments, reassessments, and recomputations must be completed.

² Commissioner of Income Tax vs. Roca Bathroom Products Pvt. Ltd., 2022 SCC Online Madras 8777

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- **Section 153(1):** Governs time limits for regular assessments.
 - **Section 153(3):** Governs time limits for fresh assessments pursuant to appellate or revisional orders (e.g., orders under Sections 250, 254, 263, or 264). For remand cases after 1 April 2019, the limit is 12 months from the end of the financial year in which the appellate/revisional order is received.

The Explanation to Section 153 specifies certain periods to be excluded in computing this limitation – notably, there is **no express exclusion** for the DRP process under Section 144C.

2.2 Section 144C - Reference to Dispute Resolution Panel

Section 144C lays down a special assessment procedure for “eligible assesseees” – principally foreign companies and cases involving Transfer Pricing adjustments. The key features are:

- **Section 144C(1):** AO must first forward a draft assessment order to the eligible assessee.
- **Section 144C(2):** Assessee may accept the variations or file objections before the DRP within 30 days.

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- **Section 144C(4):** If variations are accepted or no objections filed, AO must pass the final order within one month of the end of the month in which acceptance is received or objection period expires.
 - **Section 144C(12):** DRP must issue directions within 9 months from the end of the month in which the draft order is forwarded.
 - **Section 144C(13):** AO must pass the final order within one month from the end of the month in which DRP's directions are received.

Significantly, subsections (1), (4), and (13) contain **non-obstante clauses** overriding Section 153.

3. Analysis of the Supreme Court's Reasoning

3.1 Revenue's Contentions

- Section 144C is a self-contained code for eligible assesseees, with timelines independent of Section 153.
- The non-obstante clauses indicate Parliament's intent to give precedence to Section 144C timelines over Section 153.

-
- If Section 153(3)'s 12-month limit applied to the entire DRP process, the AO would be left with virtually no time to complete proceedings after remand, rendering the process unworkable.

3.2 Assessee's Contentions

- Section 153 provides the *outer limit* for final orders, even for eligible assessees.
- In absence of express statutory exclusion, DRP timelines must be subsumed within Section 153.
- Parliament, when amending Section 153 in 2016 (post-introduction of Section 144C), did not carve out DRP cases – indicating no legislative intent to extend the limitation.

3.3 1st Opinion – Justice Satish Chandra Sharma

- Section 153(3)'s 12-month limit applies only to passing the **draft** order in DRP cases.
- Subsequent DRP timelines (directions + final order) operate in addition to this period, due to the overriding effect of subsections (4) and (13) of Section 144C.

-
- Harmonious interpretation requires recognising Section 144C as a special procedure with its own independent timelines.
 - The High Courts' view in *Roca Bathroom Products* and the impugned Bombay HC judgment was set aside.

3.4 2nd Opinion – Justice B.V. Nagarathna

- The absence of express exclusion in Section 153 means DRP procedure must fit within the overall limitation.
- The 1st view effectively rewrites the statute without legislative mandate.
- The High Courts' interpretation correctly preserved the finality and certainty intended by Section 153.

4. Conclusion

In *Shelf Drilling Ron Tappmeyer Ltd.* (2025 INSC 946), the Supreme Court delivered a **split verdict** on the interplay between Sections 144C and 153 of the Income-tax Act.

Justice Satish Chandra Sharma, in the 1st view to be tested by a larger bench, held that:

-
- Section 144C timelines operate independently of Section 153's limitation periods.
 - In DRP cases, the Assessing Officer may issue a draft assessment order within the Section 153(3) period and thereafter utilise the separate timeframes prescribed under Section 144C for DRP proceedings and the final assessment order.
 - This interpretation effectively extends the total time available to the Revenue in DRP matters beyond the nominal limit in Section 153, particularly benefitting post-remand assessments.

Justice B.V. Nagarathna dissented, holding that no such extension exists unless expressly stated in the statute.

Given the divergence, the matter has been referred to the **Chief Justice of India** for constitution of a larger bench for authoritative resolution.

5. Author's Opinion

In the author's view, the Supreme Court's 1st interpretation – that the timelines in Section 144C operate independently of the

limitation framework in Section 153 – is both legally sound and administratively necessary.

The Dispute Resolution Panel mechanism was conceived as a specialised, multi-stage process for eligible assesseees, designed to address complex and often high-value international tax and transfer pricing matters. It is not a mere procedural add-on to the regular assessment process; it is a complete code in itself. This is evidenced by the presence of non-obstante clauses in Section 144C(1), (4) and (13), which explicitly give precedence to the DRP procedure over Section 153's general timelines.

Attempting to subsume the DRP process within the rigid confines of Section 153(3) would, in practice, make the mechanism unworkable in remand situations. The Assessing Officer and DRP would be forced to conduct multiple stages – issuance of draft order, grant of 30 days for objections, detailed hearings, formulation of binding directions, and finally passing of the assessment order – in an impractically short period. Such compression increases the risk of defective proceedings, hurried adjudication, and eventual litigation, defeating the very object of the DRP.

The principle that special provisions override general provisions is well-settled in tax jurisprudence. Here, Section 144C is the special procedure and should prevail unless Parliament expressly provides otherwise. The 1st opinion reasoning thus harmonises legislative intent with administrative workability, ensuring that neither statutory timelines nor the integrity of the assessment process are compromised.

While concerns about prolonged assessments are understandable, the remedy lies in legislative fine-tuning of DRP timelines, not in judicially forcing them into a limitation framework never designed for such cases. The *Shelf Drilling* ruling therefore strikes the correct balance between due process and revenue protection.

It is also notable that this decision was delivered by a **two-judge bench with a split verdict**. In accordance with Supreme Court practice in such situations, the matter has been **referred to the Chief Justice of India** for constitution of a larger bench to finally settle the law on the interplay between Sections 144C and 153.

(The Author is an Article Assistant. He can be reached at eshaansingal@gmail.com)

EXCEL TIPS

TYPE FUNCTION



CA. DUNGAR CHANDU JAIN

The TYPE function is often overlooked by professionals, yet it can be extremely useful in auditing and data validation.

This function returns the type of value. It is useful, when the behavior of another function depends on the type of value in a particular cell.

Syntax

TYPE(value)

where **Value** (which is mandatory) can be any Microsoft Excel value, such as a number, text, logical value, and so on.

If value is	TYPE returns
Number	1
Text	2
Logical value	4
Error value	16
Array	64
Compound data	128

-
- **Type** is most useful when you are using functions that can accept different types of data, such as ARGUMENT and INPUT. Use TYPE to find out what type of data is returned by a function or formula.
 - You **cannot use Type to determine whether a cell contains a formula**. TYPE only determines the type of the resulting, or displayed, value. If value is a cell reference to a cell that contains a formula, TYPE returns the type of the formula's resulting value.

Examples of TYPE function outputs :

=TYPE(100) // returns 1 for numbers

=TYPE("apple") // returns 2 for text

=TYPE(TRUE) // returns 4 for logicals

=TYPE(3/0) // returns 16

=TYPE(NA()) // returns 16

=TYPE({1;2;3}) // returns 64

=TYPE(A1:C1) // returns 64

=TYPE(LAMBDA(x,x*x)) // returns 128

Practical Uses :

1. Detect Wrong Data Types in ERP Dumps

Often, amounts exported from Tally/SAP come as “Text” (look like numbers but don’t sum).

```
=IF(TYPE(A2)=2,"Text","Number")
```

2. Identify Errors Before Reporting

Useful in schedules to flag errors in formulas before final audit.

```
=IF(TYPE(B2)=16,"Check Error","OK")
```

3. Check for Logical Tests

When formulas return TRUE/FALSE, verify output type.

```
=IF(TYPE(D2)=4,"Logical Result","Other")
```

4. Data Validation (Audit Trail)

Use with FILTER to extract only “wrong type” cells (e.g., text where numbers are expected).

```
=FILTER(A2:A100, TYPE(A2:A100)=2)
```

The above formula returns all text values where numbers should be present.

	A	B	C	D
1		Values	Result	Formula Used
2		12345.05007	1	=TYPE(B2)
3		15-Aug-47	1	=TYPE(B3)
4		India	2	=TYPE(B4)
5		TRUE	4	=TYPE(B5)
6		#DIV/0!	16	=TYPE(B6)
7			16	=TYPE(15-Aug-47)
8			64	=TYPE({10,20,30})
9				

For the array and date as in above, you need to give array in the argument directly to the formula. You can get the return TYPE of value in text using the formula.

	A	B	C	D	E	F	G
1		Values	Result	Formula Used		Result	Formula Used
2		12345.05007	1	=TYPE(B2)		Number	=IF(TYPE(B2)=1,"Number",IF(TYPE(B2)=2,"Text",IF(TYPE(B2)=4,"Logical",IF(TYPE(B2)=16,"Error",IF(TYPE(B2)=64,"Array",IF(TYPE(B2)=128,"Function","Other"))))))))
3		15-Aug-47	1	=TYPE(B3)		Number	=IF(TYPE(B3)=1,"Number",IF(TYPE(B3)=2,"Text",IF(TYPE(B3)=4,"Logical",IF(TYPE(B3)=16,"Error",IF(TYPE(B3)=64,"Array",IF(TYPE(B3)=128,"Function","Other"))))))))
4		India	2	=TYPE(B4)		Text	=IF(TYPE(B4)=1,"Number",IF(TYPE(B4)=2,"Text",IF(TYPE(B4)=4,"Logical",IF(TYPE(B4)=16,"Error",IF(TYPE(B4)=64,"Array",IF(TYPE(B4)=128,"Function","Other"))))))))
5		TRUE	4	=TYPE(B5)		Logical	=IF(TYPE(B5)=1,"Number",IF(TYPE(B5)=2,"Text",IF(TYPE(B5)=4,"Logical",IF(TYPE(B5)=16,"Error",IF(TYPE(B5)=64,"Array",IF(TYPE(B5)=128,"Function","Other"))))))))
6		#DIV/0!	16	=TYPE(B6)		Error	=IF(TYPE(B6)=1,"Number",IF(TYPE(B6)=2,"Text",IF(TYPE(B6)=4,"Logical",IF(TYPE(B6)=16,"Error",IF(TYPE(B6)=64,"Array",IF(TYPE(B6)=128,"Function","Other"))))))))
7			16	=TYPE(15-Aug-47)			
8			64	=TYPE({10,20,30})			
9							



ABOUT OURSELVES

The Chartered Accountants Study Circle (Regd.)

During the middle of 1978 a handful of young chartered accountants, based on MADRAS (as it then was) met periodically to discuss matters of professional relevance and significance and to widen the knowledge exposure and skills. From a limited role of discussions on tax laws and corporate laws, we have become full fledged treasure-house of talent mobilization. More than two third of our speakers / Chief guests have made their first ever public Speech under our banner.

The organization is proud that many of its members have become men of great eminence including three of its members being occupants of coveted position of the President of the Institute of Chartered Accountants of India and a number of members have been serving in the Regional and Central Councils of ICAI, ICSI, Chambers of Commerce and other Bodies. The members of CASC are interspersed in the society and more particularly in practice and in the industry.

The membership of CASC is in the form of Life, Corporate and Annual Membership.

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