



# ERNAKULAM BRANCH

OF SOUTHERN INDIA REGIONAL COUNCIL (SIRC) OF  
THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA (ICAI)

Vol: XII Issue No: 118

## INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

### 71<sup>st</sup> ANNUAL FUNCTION



ICAI Ernakulam Branch has been adjudged as the All India Best Branch Award for the year 2020 and All India Second Best Branch for SICASA , Ernakulam Branch. The managing committee members of the branch received the award from Shri (CA) Arun Singh, Hon'ble MP (Rajya Sabha) in the presence of CA. Atul Kumar Gupta, Hon'ble President of ICAI at the 71st Annual function of the Institute held on 9th February 2021 at Hotel Leela Ambience, Gurugram.

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# Chairman's Message



My Dear Colleagues and Friends in Profession,

With a sense of accomplishment and satisfaction that I write this message. Ernakulam Branch of ICAI is honored with the All-India Best Branch Award under the Large Category for our overall performance for the year 2020. Our SICASA is also honored with the Second- Best SICASA Branch Award at the national level. We are receiving this honor of National Best Branch Award for the 8<sup>th</sup> time in the 54-year history of the Branch. These awards give us more joy and happiness since these awards signify our performance during the covid-19 pandemic year and it is received at a time when we are recovering from the aftermath of the pandemic covid-19.

I don't have enough words to express my thanks to all my fellow mc members, colleagues and office staff, who were instrumental in achieving this great honor. I would like to place on record with gratitude the great support extended by our leader CCM CA Babu Abraham Kallivayalil and RCM CA Jomon K George in making the year meaningful and joyful.

## **397th Council of ICAI**

The first fortnight of January was very hectic with supporting the conduct of the 397th National Council of ICAI at Kumarakom Lake Resort Kottayam. It was after a period of 15 years that a National Council meeting is held in Kerala. 30 out of the 40 Council Members including President and Vice President and their families were present during the Council. CCM Babu Abraham Kallivayalil Sir was in charge of the council. The entire managing committee along with Branch office staff were there to support Babu Sir and ICAI Staff by making all the logistical support and arrangements for the proper conduct of the Council right from the moment everyone landed at Kochi Airport till they return after the Council.

## **Interactive Meeting with President and Vice President**

The highlight of the month was the visit of our Honora-

ble President CA Atul Kumar Gupta and Honorable Vice President CA Nihar N Jambusariya to the Branch on 8th January. It was a visit to be written in red letters in the history of the branch as it was the first time the President and Vice President of ICAI together is visiting the branch. The meeting was organised as a physical meeting, the second since the outbreak of pandemic. The President and Vice President interacted with the invited senior members and students during the meeting. The meeting was also attended by CCM CA Babu Abraham Kallivayalil, CCM M P Vijayakumar, CCM Rajendra Kumar and Immediate Past Chairman and Member SIRC CA Jomon K George. Big thanks to CCM CA Babu Abraham Kallivayalil Sir for helping us to organise the interactive meeting within a short time.

## **Release of Directory & Launching of Website**

During the interactive meeting, Honorable President CA Atul Kumar Gupta launched the website of the branch, revamped as per the revised guidelines of Regional Affairs of ICAI and the Branch level Website of Blood Donor Forum. Honorable Vice President of ICAI CA Nihar N Jambusaiya released the members directory of the branch.

## **CPE Programme:**

At the branch level, it was refreshing that we could undertake Sub-Regional Conference on January 16 and 17th. SIRC Chairman CA D C Jain was the Chief Guest at the inaugural ceremony and inaugurated the Conference. Immediate Past Chairman and Member SIRC CA Jomon K George and SIRC Member CA Revathi Reghunandan were also present on the occasion. CA Shankararayanan V from Chennai, CA P M Veeramani, CA Deepak Kumar from Chennai, CA Anand Jangid from Bangalore and Adv Manish Tyagi from Bangalore were the resource persons of the Conference. The participants attended were highly appreciative of all the sessions. Apart from the sub-regional conference, another very useful cpe session was on 'Succession Planning Through Will'. The session was handled by two eminent lawyers of Kerala High Court Adv. Basil Mathew & Adv. Ninan John and it was very well appreciated by all.



### GST & MSME Help Desk

As per the directions of the GST & Indirect Taxes Committee of ICAI, the branch has set up the GST & MSME Help Desk on 16th January, 2021 at the branch premises. The GST & MSME Help Desk will function from 10 am to 2pm on every Saturdays. A panel of experts on GST /MSME from the branch will be there to resolve the queries of the public.

The month of January also witnessed other activities like Study Circle Meeting, Student Activities, Republic Day Celebrations, Online Coaching Classes, Mandatory Courses, CSR Activities etc.

With the new year, election of new office bearers to ICAI as well as to Regions and Branches have started. I would be demitting my office as the Chairman of ICAI Ernaku-

lam Branch with the election of the new Chairman of our Branch this month. I will be leaving the Office of the Chairman with the feeling that I could rise to your expectations and do justice to my duty as the Chairman of ICAI Ernakulam Branch, in the midst of the pandemic covid-19.

I hope that you will continue to extend your wholehearted support to the new Chairman and I am sure that the Branch will scale further heights under his stewardship.

I wish you and your families the very best in future!

With Warm Regards and Love

CA Roy Varghese  
Chairman, ICAI Ernakulam Branch.

## BRANCH ACTIVITIES January 2021

### CPE MEETINGS

Virtual Sub Regional Conference of SIRC of ICAI was organized on 16th and 17th January, 2021. CA. Dungar Chand U Jain, Chairman, SIRC of ICAI inaugurated the conference. CA. Jomon K George, Past Chairman, SIRC of ICAI and CA. Revathi Raghunathan, Member, SIRC of ICAI addressed at the inaugural session. The technical sessions on "Updates on GST", "Faceless assessments, appeals and challenges", "Excel tips and utilities for professionals", "Leveraging data analytics in Forensic Engagements" and "FEMA and Recent Developments" was deliberated at the conference. CA. Shankaranarayanan V, Chennai, CA. P.M. Veeramani, CA. Deepak Kumar, Chennai, CA. Anand P Jangid, Bengaluru, Adv. Manish Tyagi, Bengaluru were the speakers.



CA. Dungar Chand U Jain  
Chairman, SIRC of ICAI



CA. Jomon K. George  
Past Chairman, SIRC of ICAI



CA. Revathi Raghunathan  
Member, SIRC of ICAI



CA. Roy Varghese  
Chairman, Ernakulam Branch



CA. P.M. Veeramani,  
Ernakulam



CA. Shankara Narayanan V  
Chennai

Virtual CPE meeting on "Succession Planning through will" was organized on 28th January, 2021. Adv. Basil Mathew and Adv. Ninan John, Advocates, High Court of Kerala were the speakers.

### STUDY CIRCLE MEETING

A Study Circle Meeting was organized on 27th January, 2021 in physical mode on the topic "Banning of unregulated deposit schemes". CA. Prashant Mohan was the speaker.

### OTHER ACTIVITIES

[Interactive physical meeting with the Hon'ble President and Hon'ble Vice President at ICAI Bhawan, Ernakulam](#)

A physical interactive meeting was organized at the branch on 8th January, 2021 with Hon'ble President of ICAI CA Atul Kumar Gupta and Hon'ble Vice President CA. Nihar N Jambusaria. CA. Roy Varghese, Chairman welcomed the gathering. Hon'ble President of ICAI CA Atul Kumar Gupta and Hon'ble Vice President CA. Nihar N Jambusaria and CA. Babu Abraham Kallivayalil, Central Council Member of ICAI addressed the gathering at the interactive meeting. CA. K. V. Jose proposed vote of thanks. The members and students interacted with the Hon'ble President. The physical meeting at ICAI Bhawan, Ernakulam was arranged as per COVID-19 protocol for members and students. 80 persons participated.



### Launch of revamped website of the branch

CA. Atul Kumar Gupta Hon'ble President of ICAI launched the revamped website of the branch on 8th January, 2021. The branch website was revamped as per the revised guidelines of Regional Branch Affairs of ICAI.

### Launch of website of Blood Donation Forum

CA. Atul Kumar Gupta Hon'ble President of ICAI launched the website of Blood Donation Forum on 8th January, 2021.



Those who wish to donate blood can register in this website.

### Release of Ernakulam Branch members Directory 2019-2022



CA. Nihar N Jambusaria, Hon'ble Vice President of ICAI released the Ernakulam Branch Members' Directory 2019-2022 on 8th January, 2021. The directory is published only once in a period of 3 years (period 2019-2022) with 5000 copies. It is a comprehensive source of useful information about 2380 Chartered Accountants in the Ernakulam Jurisdiction and it is widely used not only by CAs, but also by all officials of the Income Tax Department, GST (State and Central) Departments, Office of the Registrar of Companies, banks, insurance companies, consulting firms and other government and professional organizations.

### 397th ICAI Council Meet

397th ICAI Council Meet was organized at Kumarakom Lake Resort, Kottayam from 9th to 11th January, 2021. The Ernakulam branch Committee members and staff provided full support of the programme by co-ordinating the entire logistics, accommodation, seminar hall and other arrangements required for the Council Members and their family and has made the guests feel at home.



### GST & MSME Help Desk

As per the directions received from the GST & Indirect Taxes Committee of ICAI the branch has set up the GST & MSME Help Desk on 16th January, 2021. The GST & MSME Help Desk will function from 10 am to 2pm on Saturdays. A panel of experts on GST / MSME from the branch will be there to resolve the queries. We are giving wide publicity of the help desk set up at the branch.

### MC members attended Video Conference organized by ICAI HO as a part of WE CARE project

The Managing Committee Members of the branch attended a Virtual Interactive Meeting on 18th January, 2021 organised by the ICAI HO, as part of WE CARE project, for augmenting the funds of CABF and to get in touch with

Senior members of the Institute above 75 years of age coming under Branch jurisdiction.

### CA examination - November 2020 (Cycle II) January - February 2021

The November 2020 (Cycle II) CA examinations was conducted from 21st January, 2021. The exam will be concluding on 7th February, 2021.

### Republic Day Celebrated

The branch has celebrated the 72nd Republic Day. Flag was hoisted by Chairman CA Roy Varghese. Members and students witnessed the flag hoisting ceremony.



### CSR Activity

As a part of the Distribution of TV sets project of Ernakulam Branch of ICAI one more TV was distributed on 23rd January, 2021 to Mr. Ashwin V B of 10th Standard studying at S K H S, Kodakara and to Mr. Abhinav V B (brother of Ashwin) 7th Standard studying at J U P S, Pandaloor, Nellai . The TV was of great helpful for the students to view the online classes organized by the District Education Department, Government of Kerala.

### STUDENTS ACTIVITIES

Industrial visit to M/s Intrans electro components pvt. Ltd on 09.01.2021

Ernakulam branch of SICASA conducted an Industrial Visit to INTRANS ELECTRO COMPONENTS PVT. LTD. is an Electrical equipment manufacturing Private Limited Company, providing the entire range of High Tension 11KV equipment's for the Industries and other commercial establishments.

The products manufactured are Cast Resin Transformers, Unitised Sub Stations, Load Break switch Metering Panels, Epoxy Current Transformers, Potential Transformers and epoxy moulded components. The company has a rich heritage of 25 years and is a leading brand in the Kerala Market. The products are manufactured under stringent quality control standards. The visit conducted under the guidance of CA. Allen Joseph, Chairman Ernakulam Branch of SICASA and CA. Salim A, Member SICASA Ernakulam Branch and accompanied by 27 students participated.

Study tour to Pachamama art café, Aluva on 10.01.2021

Ernakulam Branch of SICASA conducted a study tour to Pachamama Art Café on 10.01.2021. This is a very laid back and beautiful art cafe in the heart of Aluva. It is located on the

shores of river Periyar, which gives customers a breath taking view to savour, while enjoying good food and soulful music. The riverfront view is serene and the art rooms which have all these paintings and writings are really soulful. It's an alternative music and art cafe. One can listen to music in a relaxed, non intrusive environment and have a close interaction with nature by the banks of river Periyar. The place has a laid-back vibe with great views of sunset overlooking a picturesque city landscape. Their art gallery is for every art lover. The geodesic dome provides ta soulful place for meditation, music and inspiration in general. 27 students participated.

Online classes were arranged for students due to the outbreak of Coronavirus – Covid – 19 : In view of the outbreak of Coronavirus – Covid – 19 throughout the country ICAI the branch, we have arranged online classes for the students of Intermediate (Foundation Route), Intermediate Direct Entry students Foundation for November, 2020 and Intermediate Direct Entry Students November 2021 through google meet app.



## Congratulations for elected as



CA. Gopinatha G  
President,  
Kerala Finance Arts Society



CA. Jomon K George,  
Secretary, KMA &  
Treasurer, RSC, Kadavanthra



CA. K.P. Paulson  
President,  
YMCA, Ernakulam



CA. Sen George  
Treasurer,  
YMCA, Ernakulam

# Reported Judicial Decisions

Direct Tax

CA. P.M. Veeramani FCA



Statute: Black Money Act  
Sec.43 – Penalty for not reporting bank accounts  
Decision in favour of : Revenue

Title : Thomas Mathew vs ITO

Citation: 426 ITR 438 Bench: Kerala HC

As per Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015, assessee is required to report foreign assets owned in schedule FA to the income tax return. Failure to do attracts penalty under section 43 of the Act. As per proviso to said section no penalty shall be levied in respect of an asset being one or more bank accounts having an aggregate balance which does not exceed a value equivalent to five hundred thousand rupees at any time during the year. The assessee had furnished the said details in the revised return which was filed physically since it was out of time, but the AO levied penalty for non-disclosure. The appellant instead of filing an appeal against the levy of penalty

has approached the court for cancellation of penalty. Since the court cannot exercise the role of an appellate authority, the petition is dismissed giving liberty to the assessee to file appeal against the levy

Statute: Income Tax Act  
Sec.2(47), 45, 70 – Reduction of capital  
Decision in favour of : Assessee

Title : Carestream Helath Inc vs DCIT

Citation: 193 DTR Trib 41 Bench: ITAT Mumbai

Reduction of capital by a company amounts to transfer under section 2(47), as extinguishment of rights, and therefore, the loss arising on cancellation of its shares in its subsidiary pursuant to reduction in capital is allowable as long term capital loss eligible to be carry forward to subsequent years.



Statute: Income Tax Act  
 Sec.12AA(3) – Specific finding required  
 Decision in favour of : Assessee

Title : CIT vs Mumbai Metropolitan Region Development Authority

Citation: 193 DTR 347 Bench: Bombay HC

No finding was recorded by DIT(E) that the activities are not genuine or are not carried out in accordance with objects. Mere mention that the activities are hit by proviso to section 2(15) would not lead to automatic cancellation of registration. Benefit of indexation is provided by the statute and hence there cannot be any mala fide intention that could be attributed to the assessee in claiming the long term capital loss

Statute: Income Tax Act  
 Sec.28(i) – Software park – business income  
 Decision in favour of : Assessee

Title : PCIT vs Khivraj Motors Private Ltd

Citation: 193 DTR 205; 427 ITR 113  
 Bench: Madras HC

By no stretch of imagination, could a software park developed with special facilities and amenities for software companies be described or believed to be a property created for earning rental income as income from house property; rental income was assessable as business income entitled for deduction under section 80IA(4)(iii)

“we would have imposed costs on the assessing authority for not following the binding precedents of the court, but at the repeated request of learned counsel for the Revenue, we are making it cost easy for the appellant Revenue with the hope that the Revenue will understand the ratios of the judgments clearly and apply the same in its letter and spirit truthfully”

Statute: Income Tax Act  
 Sec.36(1)(iii) – Interest as part of inventory  
 Decision in favour of : Assessee

Title : DCIT vs Thermo King India Private Ltd

Citation: 82 ITR Trib SN 42 Bench: ITAT Bangalore

Inventory held by the assessee were current assets and hence the requirement of capitalizing the interest does not arise, as the proviso to section 36(1)(iii) mandates capitalization of interest only in respect of capital asset purchased out of borrowed funds. The method of valuation of inventory adopted was in accordance with AS 2. Interest expenses were deductible as claimed

Statute: Income Tax Act  
 Sec.44AD – No addition based on bank statements  
 Decision in favour of : Assessee

Title : Thomas Eapen vs ITO  
 Citation: 193 DTR Trib 270 Bench: ITAT Cochin

Where return of income is accepted on presumptive basis under section 44AD, no addition under section 68 or 69A could be made based of deposits in bank statement

Statute: Income Tax Act  
 Sec.56(2)(viib) – Agricultural property not covered  
 Decision in favour of : Assessee

Title : Prem Chand Jain vs ACIT  
 Citation: 82 ITR Trib 522 Bench: ITAT Jaipur

Section 56(2)(vii)(b) referred to immovable property. The provisions of section 56(2)(vii)(c) referred to any property, other than immovable property. The meaning of the term “property” had been defined in Explanation (d) to section 56(2)(vii) to mean capital asset of the assessee. namely. immovable property being land or building or both. All immovable properties of any nature were not covered in the definition of property. Therefore, where agricultural land would not qualify as falling in the definition of capital asset, the provisions of section 56(2)(vii)(b) could not be invoked. Where it was determined by the Assessing Officer that the agricultural land would not fall in the definition of capital asset, the difference between the District Level Committee value and sales consideration could not be brought to tax under the provisions of section 56(2)(vii)(b) of the Act and relief was to be granted to the assessee.



Statute: Income Tax Act  
56(2)(viic) – Share allotted for business transfer  
Decision in favour of : Assessee

Title : Ravi Jalan vs ITO  
Citation: 193 DTR Trib 175 Bench: ITAT Kolkatta

When the assessee is allotted shares as consideration for transfer of business, the question of valuation of those shares by invoking section 56(2)(viic) does not arise

Statute: Income Tax Act  
Sec.69A – Source for jewellery  
Decision in favour of : Assessee

Title : N.Roja vs ACIT  
Citation: 184 ITD 329 Bench: ITAT Cuttack  
CBDT instruction 1916 dated 11.5.1996 stipulates quantity of jewellery found during search which would generally be held by family members of an assessee belonging to an ordinary hindu household. Unless Revenue shows anything to the contrary it is to be presumed that source of jewellery to the extent stated in above instruction stands explained

Statute: Income Tax Act  
Sec.153 – No time limit for limited remand  
Decision in favour of : Revenue

Title : CIT vs Astra Zeneca Pharma India Ltd  
Citation: 426 ITR 586 Bench: Karnataka HC

The order of remand was issued to give effect to the findings of the Tribunal. Neither had the order of assessment been set aside nor had the AO been directed to carry out fresh assessment. The order passed by the Tribunal was a remand on a limited issue. Therefore, the provisions of section 153(3) applied to the facts of the case and the Tribunal committed an error of law in holding that the order passed by CIT(A) was under 153(2A) . The order was not barred by limitation

Statute: Income Tax Act  
Sec.201(1) – Penalty for failure of TDS  
Decision in favour of : Revenue

Title : Popular Dealers vs ITO (TDS)

Citation: 426 ITR 450 Bench: Kerala HC

Penalty for failure to deduct tax at source by the firm and demand raised on the managing partner is for and on behalf of all the partners. Such a demand did not in any way amount to a conclusion that the claim against other partners had been given up, since the liability of the partners is joint and several.

Statute: Income Tax Act  
Sec.254 – Power of Tribunal  
Decision in favour of : Remand

Title : Sarvodaya Mutual Benefit Trust vs PCIT

Citation: 427 ITR 153 Bench: Madras HC

The methodology adopted by the Tribunal by taking a different view , while passing the order was incorrect, since there was already a decision in favour of the assessee. In such a situation, firstly, if the decision was per incuriam, a finding to such effect had to be given and secondly, the court or the Tribunal could refuse to follow the decision by distinguishing it on the factual matrix. If for reasons other than these two reasons, the court or the Tribunal was of the view that the decision rendered earlier was not acceptable to it, then the option was to refer it to a larger Bench of the court or the Tribunal. [The matter was remanded to the Tribunal.]

Statute: Income Tax Act  
Sec.263 – 'service' of order not required  
Decision in favour of : Revenue

Title : Jaidurga Minerals vs Principal CIT

Citation: 81 ITR Trib SN 67 Bench: ITAT Cuttack

Principal CIT had passed the order within two years from the end of the financial year in which the assessment order was passed. According to the provisions of section 263(2) there is no mention about 'service' of the order but only that the shall be 'made'. Hence, the revision order is valid even though served on the assessee later



# RECENT ADVANCE RULINGS UNDER GOODS AND SERVICES TAX JUDICIAL DECISIONS ON INDIRECT TAXES

Indirect Tax

CA.P.J.Johney FCA

## A. RECENT ADVANCE RULINGS UNDER GST

Statute: Goods and Services Tax  
Decision in favour of: Department

### **Title: Tata Coffee Limited, In RE**

D. P. Nagendra Kumar and M. S. Srikar (Members)

Citation: [2020] 82 GSTR 482 (AAAR)  
Bench/Court: [Before the Appellate Authority for Advance Ruling], (Goods and Services Tax, Karnataka)

Engaged in Business of Coffee/Tba/Pepper Plantation - Identifies Excessive Trees in Plantation, Cuts Down as Part of Its Shade Management Policy to Protect Coffee Bushes and Transports Timber/Wood to Government Timber Depots as Mandated By Provision of Forest Act-Government Timber Depots Sell Timber Through Auction Process and Proceeds Given to Appellant- Acts in Capacity of Agent-Transaction of Depositing of Timber By Appellant in Government Timber Depots Amounts to Supply of Service- Value of Supply to be Determined in Terms of Rule 29 of Rules-Time of Supply-Date of Issue of Invoice Which Will be At Time of Removal of Timber By Appellant to Depot-Supervisions Charges Is Consideration For Supply of Services of Being Custodian of Timber Till Sale and Measurement Classification of Timber, Etc., Rendered By Depot as Agent and Liable to Tax-Central Goods and Services Tax Rules, 2017, R. 29-Central Goods and Services Tax Act (12 of 2017), Ss. 7, 12, 15 ; Sch. I, Cl. 3-Karnataka Forest Act, 1963 (5 of 1964), S. 104a-Karnataka Forest Rules,1969, R. 127a.

Statute: Goods and Services Tax  
Decision in favour of: Department

### **Title: Parker Hannifin India PVT. LTD., In RE**

Harish Dharnia and Dr. Ravi Prasad M. P. (Members)

Citation: [2020] 82 GSTR 389 (AAR)  
Bench/Court: [Before the Authority on Advance Rulings], (Goods and Services Tax, Karnataka)

Goods and Services Tax-Classification- Air Filter, Oil Filter, Fuel Filter, Etc., For Use By /in Indian Railways and Supplied Directly to Indian Railways-Classifiable Under Hsn Heading 8421-Classification shall not Alter on Account of Supply By Distributor to Railways-Karnataka Goods and Services Tax Act (27 of 2017).

Statute: Goods and Services Tax  
Decision in favour of: Department

### **Title: Rotary Club of Mumbai Western Elite, In RE**

B. Timothy and A. A. Chahure (Members)

Citation: [2020] 82 GSTR 431 (AAR)  
Bench/Court: [Before the Authority for Advance Ruling] (Goods and Services Tax, MAHARASHTRA)

Goods and Services Tax-Supply of Goods and Ser-



vices-Applicant, Rotary Club of Mumbai Western Elite-Membership Fees-Liability-Contributions Received Against Membership Fees Is Towards Convenience of Members and Pooled Together For Paying Various Expenses not Only Administrative Expenses- Transaction By Applicant to Its Members Supply of Goods/Services-Liable to Goods and Services Tax-Maharashtra Goods and Services Tax Act (43 of 2017)

## B. JUDICIAL DECISIONS ON INDIRECT TAXES

**Statute:** Goods and Services Tax

**Decision in favour of:** Assessee

**Title:** Shri Venkateshvara Logistics Fleet Owners And Transport Contractors Vs Assistant Commissioner of Central Tax and Central Excise, Customs and Service Tax, Bijapur Division, Vijayapur

Nataraj Rangaswamy J

**Citation:** [2020] 81 GSTR 343 (KARN)

**Bench/Court:** In the Karnataka High Court - Kalaburagi Bench

Goods and Services Tax-Detention of Goods and Vehicle Authorized Representative Appearing Before Authorities and Handing Over Correct E-Way Bill and Invoice and Goods and Vehicle Released After Payment of Tax and Penalty- Proceedings Concluded- Subsequent Detention of Same Consignment on Ground Supplier not Existing At Registered Address-Subsequent Interception and Detention not Done By Proper Officer Authorized in Prescribed Form Nor Seizure Order in Prescribed Form-Subsequent Interception and Detention not Legal-Fraudulent Issue of Invoice By Supplier to Avail of Input Tax Credit- Proceeding Against Supplier-Department not Justified in Seizing Perishable Goods in Transit, Especially When Goods Had Suffered Tax and Penalty-Central Goods and Services Tax Act (12 of 2017), S. 67.

**Statute:** Goods and Services Tax

**Decision in favour of:** Assessee

**Title:** Guru Shoe Components and Company V. Goods and Services Tax Council (GST COUNCIL), New Delhi and Others

DR. ANITA SUMANTH J.

**Citation:** [2020] 81 GSTR 358 (MAD)

**Bench/Court:** [In the Madras High Court]

Goods and Services Tax- Transition Period - Migration - Input- Tax Credit-Petitioner-Existing Dealer not Received Provisional User Id From Gstn and Proceeded to Utilise Id Using Random Units Admittedly, Defective- Business Conducted During Period July 1, 2017 to August 21, 2017 Using That Id and Credit Earned-Petitioner Applying For New Registration and Was Granted on August 22, 2017>Returns Filed Seeking to Claim Credit of Input Tax Earned For Earlier Period-not Successful- Writ Petition-Direction to Appropriate Authority to Issue Necessary Recommendations For Migration /Transition of Credit Available in Account of R2 and R2 to Issue Necessary Intimation to Petitioner Permit-Ting It to Access Portal and Upload Forms-Puducherry Goods and Services Tax Act (6 of 2017), S. 139.

**Statute:** Value Added Tax

**Decision in favour of:** Assessee

**Title:** Cygnus Institute Of Gastroenterology V. State Tax Officer, HYDERNAGAR CIRCLE-III, Hyderabad and another

M. S. Ramachandra Rao and T. Amarnath Goud JJ.

**Citation:** [2020] 81 GSTR 361 (Telengana)

**Bench/Court:** [In the Telengana High Court]

Value Added Tax-Show-Cause Notice Proposing to Levy Additional Tax For Five Years and Giving Seven Days' Time to File Reply- Dealer Seeking Additional Time of Two Months to File Objections and Seek Legal Advice-Dealer's Request Reasonable One-State Tax Officer Proceeding to Pass Assessment Order-Violation of Principles of Natural Justice and Denial of Fair Opportunity to Dealer of Being Heard- Assessment Order Liable to be Set Aside and Matter Remitted to State Tax Officer to Pass Fresh Order in Accordance With Law – Telangana Value Added Tax Act (5 of 2005)

**Statute:** Goods and Services Tax

**Decision in favour of:** OBSERVATIONS

**Title:** Sudhir Kumar Aggarwal V. Directorate General of GST Intelligence

Brijesh Sethi J.



Citation: [2020] 81 GSTR 366 (Delhi)  
Bench/Court: [In the Delhi High Court]

Goods and Services Tax- Inquiry -Investigation-Of-ficers not Police Officers Conferred With Power to Summon Person to Give Evidence Or to Produce Document-Presence of Lawyer not Required During Examination of Person Summoned- Apprehension of Physical Assault Or Manhandling-No Inquiry Or Investigating Officer Has Right to Use Method not Approved By Law to Extract Information From A Witness Or Suspect.

**Statute: Goods and Services Tax**  
**Decision in favour of: Department**

**Title: Subhash Joshi and another V. Director General Of Gst Intelligence (DGGI) and Others**  
Prakash Shrivastava and Ms.vandana Kasrekar JJ.

Citation: [2020] 81 GSTR 373 (MP)  
Bench/Court: [In the Madhya Pradesh High Court - Indore Bench]

Goods and Services Tax-Search and Seizure-Procedure-Requirement of Presence of Witnesses- Assurance of Department That Procedure Would be Complied With-No Legal Requirement That Search Should be Conducted in Presence of Assessee's Lawyer-Central Goods and Services Tax Act (12 of 2017), S. 67-Code of Criminal Procedure, 1973, S. 100(4).

**Statute: Goods and Services Tax**  
**Decision In Favour Of: Assessee**

**Title: Hindustan Coca Cola Private Limited V. Assistant State Tax Officer, Kerala and another**  
AMIT RAWAL J.

Citation: [2020] 81 GSTR 381 (KER)  
Bench/Court: [In the Kerala High Court]

Goods and Services Tax-Detention of Goods-Movement of Goods From One State to Another-Question Arising as to Classification of Goods-Goods to be Released to Assessee and Inspecting Authority to Prepare Report and Submit It to Assessing Authority of Originating State For Action, If Deemed Appropriate, in Accordance With Law-Central Goods and Services Tax Act (12 of 2017), S. 129.

**Statute: Goods and Services Tax**  
**Decision in favour of: Assessee**

**Title:Mangla Hoist P.Ltd. V. Union of India and Others**

Ms. Hima Kohli And Subramonium Prasad JJ.

Citation: [2020] 81 GSTR 391 (Delhi)  
Bench/Court: [In the Delhi High Court]

Goods and Services Tax-Transitory Provisions-Input Tax Credit- Difficulties in Uploading Form Tran 1-Decision of Court in Brand Equity Treaties Limited V. Union of India [2020] 77 Gstr 390 (Delhi) Holding Time-Limit not Mandatory-Direction to Department to Publicise Judgment on Its Website and Open Portal to Enable Assesseees to Upload Form Tran 1-Central Goods and Services Tax Rules, 2017, R. 117.

**Statute: Goods and Services Tax**  
**Decision in favour of: Department**

**Title: Global Knitfab V. State Tax Officer and another**

J. B. Pardiwala and Bhargav D. Karia JJ.

Citation: [2020] 81 GSTR 405 (GUJ)  
Bench/Court: [In the Gujarat High Court]

Goods and Services Tax-Detention of Goods-Writs Under Constitution-Interim Order Directing Release of Vehicle and Goods Upon Assessee Paying Tax in Terms of Notice- Assessee Paying Tax and Getting Vehicle With Goods Released- Proceedings Pursuant to Notice Under Section 130 to Continue in Accordance With Law-Assessee to Make Good Its Case For Discharge of Show-Cause Notice-Central Goods and Services Tax Act (12 of 2017), S. 129

**Statute: Writs Under Constitution**  
**Decision in favour of: Assessee**

**Title: Infosys Limited V. Deputy Commissioner (ST), STU-III, Hyderabad and another**

M. S. Ramachandra Rao and K. Lakshman JJ.

Citation: [2020] 81 GSTR 411 (Telengana)  
Bench/Court: [In the Telengana High Court]

Writs Under Constitution-Availability of Alternative Remedy - Assessment- Natural Justice- Assessment



Order Passed on Last Day For Making Assessment Though Show-Cause Notice A Year Earlier and Dealer Responded Thereto- Dealer Unable to File Online Response to Hearing Due to Technical Glitches and Requesting Postponement of Personal Hearing Due to Lock-Down-Proper Opportunity Denied to Dealer to Represent Its Case-Violation of Principles of Natural Justice-Dealer not Barred From Availing of Writ Jurisdiction-Order of Assessment Liable to be Set Aside and Matter Remanded to Assessing Authority For Consideration of Matter Afresh After Giving Personal Hearing to Dealer-Constitution of India,Art.226.

**Statute: Value Added Tax**

**Decision in favour of: Assessee**

**Title: Annugraha Food Supplies Private Limited v. State Tax Officer, Thiruparankundram Assessment Circle, Madurai**

C.v. Karthikeyan J

Citation: [2020] 81 GSTR 416 (MAD)

Bench/Court: [In the Madras High Court - MADURAI Bench ]

Value Added Tax - Assessment- Auditor's Report - Discrepancy Between Turnover Shown in Part B and Part C of Report- Dealer Willing to Produce Books-Direction For Assessment After Considering Books of Account to be Produced-Tamil Nadu Value Added Tax Act (32 of 2006), S. 22(2).

**Statute: Sales Tax**

**Decision in favour of: Assessee**

**Title: Shyam Textiles Limited V. Commissioner OF Comercial Taxes, Chepauk, Chennai and another**

Dr. Vineet Kothari and R. Suresh Kumar JJ.

Citation: [2020] 81 GSTR 419 (MAD)

Bench/Court: [In the Madras High Court]

Sales Tax-Rate of Tax -Commissioner-Clarification as to ate of Tax-Power to be Exercised After Discussion of Nature of Commodity, Evidence Adduced PY Dealer, Reasons For Holding Particular Rate of Tax Applicable-Order Passed in Form of Letter Without Application of Mind-not Sustainable- Assessment on

Basis of Clarification-Liable to be Set Aside- Commissioner to Reconsider Matter in Accordance With Law-Tamil Nadu General Sales Tax Act (1 of 1959), S. 28a.

Declared Goods - "Man-Made Fabrics" -Entry in State Act Dealing With "Textiles Imported Into India From Foreign Country" -No Grounds to Show How Entry in State Act Contrary to Entry in Central Act-Tamil Nadu General Sates Tax Act (1 of 1959), Sch. 1 Part E, Entry 22a-Central Sales Tax Act (74of1956), S.14(Vii).

**Statute: Goods and Services Tax**

**Decision in favour of: Assessee**

**Title: Namaskar Enterprise V. Commissioner of Goods and Services Tax**

Citation: [2020] 82 GSTR 447 (GUJ)

Vikram Nath C. J. and J. B. Pardiwala J.

Bench/Court: [In the Gujarat High Court]

Goods and Services Tax-Provisional Attachment-Order of Provisional Attachment of Bank Account-Attachment of Bank Account of Writ Applicant on August 2, 2019-Ceases to Have Effect After Bxpiry of One Year From Date of Order- Direction to Bank to Permit Applicant to Operate His Bank Account Forth With- Gujarat Goods and Services Tax Act (25 of 2017), S. 83.

**Statute: Value Added Tax**

**Decision in favour of: Assessee**

**Title: Global Engineers v. Comercial Tax Officer, Anna Nagar, Chennai and another**

M. S. Ramesh J.

Citation: [2020] 82 GSTR 463 (Mad)

Bench/Court [In the Madras HIGH Court]

Value Added Tax-Best Judgment Assessment- Condition Precedent-Notice Proposing Best Judgment Assessment - Assessment Made to Best of Judgment Without Proposal in Notice- Assessment not Sustainable-Assessing Officer Taking View Form H Defective-Ought to Return It to Dealer for Rectification Before Rejecting 1t-Tamil Nadu Value Added Tax Act (32 of 2006), Ss.19(2)(V), (5)(C), 27.