



**THE INSTITUTE OF CHARTERED  
ACCOUNTANTS OF INDIA**  
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**ERNAKULAM BRANCH**

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# NEWSLETTER

**ICAI**



**WORLD FORUM  
OF ACCOUNTANTS** | **31<sup>ST</sup> JAN - 2<sup>ND</sup> FEB 2025**  
**NEW DELHI, INDIA**

*Accountability Meets Innovation (AI): For A Sustainable Planet*



  
**Yashobhoomi**  
*New Delhi*



# Message

"All blessings belong to the Almighty.

" Don't blame the dark; instead, light a lamp."

Dear Senior Members, Members, and Students,

Greetings from the Ernakulam Branch of SIRC of ICAI!

In our relentless pursuit of knowledge and professional excellence, we believe in being the light that illuminates the path for others and ourselves. As we step into the future with optimism and resolve, we are thrilled to share highlights of the impactful activities and initiatives undertaken recently.

Professional Development Programs

## 1. CPE Seminar on GSTR 9 & 9C Compliance (25.11.2024)

A focused session at ICAI Bhawan, Ernakulam, provided practical guidance for filing GSTR 9 and 9C without complications. With 172 members in attendance, CA. Deepa Praveen's expertise was truly enlightening.

## 2. Workshop on AI for Excellence – The CA GPT Navigator (29.11.2024)

Hosted at The Surya Hotel, Angamaly, this workshop explored the transformative applications of AI in the profession. With insights from CA. Rathinagiri Subbiah and CA. Karthikeya Dinesh Shenoy, 99 participants left inspired to embrace innovation.

## 3. Certification Courses on AICA – Level 1

Two dynamic batches of the AICA certification course were conducted at the branch in November, empowering members with cutting-edge technological skills essential for the future.

## Career Counseling Initiatives

Our branch remains committed to guiding and inspiring the youth towards the rewarding career of Chartered Accountancy:

- Conducted 7 career counseling programs across Bhavan's Vidyalayas and Jain University, engaging over 800 students and introducing them to the possibilities of our profession.
- Participated in the Mini DISHA Higher Studies Expo at St. George HSS, Kattappana, reaching out to around 4,000 students from 40 higher secondary schools in Idukki.

## Student Activities

In addition to these professional initiatives, our branch hosted various student-oriented activities in November. These events were aimed at fostering knowledge, collaboration, and enthusiasm among CA aspirants. The robust participation of students and their insightful interactions during these sessions showcased their dedication and readiness to excel in the profession. These activities underline our commitment to nurturing the future of Chartered Accountancy.

## Other Program

One-Day Workshop on GST Audit in Construction Sector & Works Contract Services (07.11.2024)

This comprehensive workshop held at the Office of the Chief Commissioner, IS Press Road, Ernakulam, illuminated GST complexities in Real Estate Projects, Joint Development Agreements, Works Contracts, and financial analysis. We were privileged to have esteemed speakers such as CA. V. Srinivasan, CA. N.K. Bharath, and CA. Aravind Thangam share their expertise with 75 attendees

## Gratitude and Invitation

We extend our heartfelt gratitude to the speakers, coordinators, and members whose tireless efforts and support made these events a grand success. Your involvement keeps the flame of learning and service alive, guiding us to new horizons.

As we move forward, let us continue to "light the lamp" of knowledge, collaboration, and excellence. We invite you to actively participate in upcoming events, ensuring that together, we grow stronger and brighter as a professional community.

Warm regards,

ICAI Ernakulam Branch

**Ernakulam Branch Committee**

## CPE Seminar on Essential Guide to File GSTR 9 & 9C : Compliance without Complications



## CPE Workshop on Ai for Excellence: The CA GPT Navigator



## CPL- Intra Branch Cricket Tournament



## Certificate Course on AI First Batch at Ernakulam



## Certificate Course on AI Second Batch at Ernakulam



### Career Counselling at Bhavans Adarsha Vidhyalaya, Kakkanad



### Career Counselling at Bhavans Newsprint Vidhyalaya



### Career Counselling at Bhavans Varuna Vidhyalaya, Thrikkakara



### Career Counselling at Bhavans Vidhya Mandir, Elamakkara



### Career Counselling at Bhavans Vidhya Mandir, Eroor



### Career Counselling at Bhavans Vidhya Mandir, Giri Nagar



## Career Counselling at DISHA Higher Studies Expo, Kattappana



## Career Counselling at Jain University





# Reported Judicial Decisions

CA. P. M. Veeramani FCA

**Statute: Income Tax Act – Sec.35D, 36(1) (vii), 37(1), 194 A – various disallowances**

**Decision in favour of : Assessee (partly)**

**Title : City Union Bank Ltd vs ACIT**

**Citation: 112 ITR Trib 337**

**Bench: ITAT Chennai**

The corporate social responsibility expenses had been incurred by the assessee as per mandate of section 135 of the 2013 Act. Therefore, the assessee was not entitled to deduction

The assessee had deducted the difference between the market price and the price at which the option was exercised by the employees and hence the employees stock option scheme expenses were allowable deduction under section 37(1) of the Act

If interest payment to trusts and institutions are exempt under sections 11 and 12, it was for the declarants to obtain the necessary certificates under section 197 of the Act, from the Assessing Officer and produce them before the assessee for compliance as otherwise the disallowance of interest was in order. Form 15G/Form 15H not applicable where income exceeded basic exemption limit

If the claim of the assessee was correct, that it had utilised the qualified institutional placements proceeds for the purpose of extension of existing business, the assessee

was eligible for claiming deduction towards expenditure incurred on qualified institutional placements allotments. AO to verify and allow the claim

The bad debts written off relating to non-rural advances was not required to be adjusted against provision for bad and doubtful debts allowed under section 36(1) (viiia) of the Act and thus, the Assessing Officer was to recompute the deduction in respect of write off of non-rural debts without any adjustment to credit balance in the provision for bad and doubtful debts account in respect of rural advances. In deciding whether a particular branch was a rural branch or not, the population of the 2011 census should be considered because the data was officially available with the bank while deciding the branches as rural branches or urban branches.

According to rule 6ABA of the Rules, 1962, for the purpose of clause (viiia) of subsection (1) of section 36, an aggregate average advance made by the rural branches of a scheduled bank shall be computed by taking into account the amount of advances made by each rural branch as outstanding at the end of the last day of each month comprised within the previous year. The Assessing Officer had erred in computing the deduction, by considering only the incremental advances made by rural branches as against the

aggregate average advances made by rural branches as outstanding at the end of the financial year.

Excess cash, stale drafts and branch suspense account could not be treated as income of the assessee, because according to the Reserve Bank of India guidelines the amount should be transferred to the Depositors Education and Awareness Fund

Automated teller machines are akin to computer and computer software and are eligible for higher depreciation at 60 per cent.

Interest accrued on NPA accounts not liable for tax on accrual basis as the decision of the hon'ble Supreme Court in the case of Vasisth Chay Vyapar Ltd. is subsequent to the decision in the case of Southern Technologies Ltd. Therefore the decision of the hon'ble Supreme Court in the case of Vasisth Chay Vyapar Ltd. shall prevail over the decision of Southern Technologies Ltd..

**Statute: Income Tax Act – Sec.70(2) – Set off STCL**

**Decision in favour of : Assessee**

**Title : J S Capital LLC vs ACIT**

**Citation: 206 ITD 142**

**Bench: ITAT Mumbai**

The assessee claimed short-term capital gain (STCG) on the sale of derivatives

taxable at rate of 30 per cent and during the year, the assessee had also claimed short-term capital loss (STCL) taxable at rate of 15 per cent and claimed set off. In addition to that, the assessee had also claimed brought forward STCL taxable at the rate of 15 per cent to set off against the balance STCG earned on sale of derivatives, which the AO did not approve. Held, under the provisions of section 70(2), STCL arising from any asset can be set off against STCG arising from any other asset under a similar computation made irrespective of different rate of tax.

**Statute: Income Tax Act – Sec.80G – Restriction not attracted**  
**Decision in favour of : Assessee**  
**Title : ACIT vs RD TATA Trust**  
**Citation: 71 CCH 42**  
**Bench: ITAT Mumbai**

Restriction of deduction to 10% of gross total income under section 80G(4) is not attracted for donations made to units falling under 80G(2)(iiif). Deduction u/s 80GGA clubbed by assessee in ITR along with 80G as there was no row in ITR to show the same and deduction was correctly reflected in the computation of income, the deduction cannot be denied on the ground that it was not claimed in the return.

**Statute: Income Tax Act – Sec.119 – Genuine Hardship**  
**Decision in favour of : Assessee**  
**Title : Pankaj Kailash Agarwal vs ACIT**  
**Citation: 464 ITR 65**  
**Bench: Bombay HC**

No assessee would stand to benefit by filing a delayed claim more so, where an assessee would get a tax advantage or benefit by way of deduction under section 80IC. The fact that an assessee has realized that he would pay more tax if he did not get the benefit of deduction under section 80IC would be a "genuine hardship". The order passed by CBDT under section 119 is quashed.

**Statute: Income Tax Act – Sec.143 – Deceased Assessee**  
**Decision in favour of : Assessee**  
**Title : Bhavanaben K Punjani vs PCIT**  
**Citation: 206 ITD 30**  
**Bench: ITAT Rajkot**

Where assessee expired while assessment

order was being framed, in absence of any specific statutory provision under Income tax law which would require legal heirs to intimate department about death of assessee, assessment order could not be held to be valid only for reason that legal heirs of deceased assessee had not informed about death of assessee, and thus such invalid assessment order could not be revised by taking recourse to section 263 proceedings.

**Statute: Income Tax Act – Sec.148 – Enquiry / Personal Hearing**  
**Decision in favour of : Revenue**  
**Title : Satguru Sai Extrusion Private Ltd vs UOI**  
**Citation: 463 ITR 714**  
**Bench: Bombay HC**

Conducting of an enquiry under section 148A(a) with respect to the information received and providing a personal hearing under section 148 A(b) are not mandatory before issue of notice under section 148. Notice under section 148 could not be quashed for the above reasons.

**Statute: Income Tax Act–Sec.148 – Personal Hearing**  
**Decision in favour of : Assessee**  
**Title : Winsome Highrise Private Ltd vs UOI**  
**Citation: 464 ITR 101**  
**Bench: Calcutta HC**

Passing order under section 148A(d) without either rejecting or recording any reason on assessee request for personal hearing is denial of natural justice and hence the notices and order under section 148A(d) set aside and remanded back to AO to pass fresh order and offering personal hearing to the appellant.

**Statute: Income Tax Act – Sec.148 , 151 – Wrong approval**  
**Decision in favour of : Assessee**  
**Title : Twylight Infrastructure Private Ltd vs ITO**  
**Citation: 463 ITR 702**  
**Bench: Delhi HC**

There was no dispute although three years had elapsed from the end of the relevant assessment year, the approval was sought from authorities specified in clause (i), as against clause (ii) of section 151. Hence

the notices and orders in the writ petitions were liable to be quashed on the ground that there was no approval of the specified authority, as indicated in section 151(ii) of the Act.

**Statute: Income Tax Act – Sec.220 – Enhanced demand -IBC**  
**Decision in favour of : Assessee**  
**Title : Sree Metaliks Ltd vs PCIT**  
**Citation: 464 ITR 144**      **Bench: Orissa HC**

On the date on which the resolution plan was approved by the National Company Law Tribunal, all claims stood frozen, and no claim, which was not a part of the resolution plan under IBC, would survive. Hence the income tax demand stood frozen by the operation of the moratorium under the Code. No enhanced claim could be made against the assessee. The enhanced charge of interest amounting under section 234A, under section 234B and under section 234C of the Income-tax Act, 1961 while giving to order of the tribunal did not survive.

**Statute: Income Tax Act–Sec.251 – Dismissal of Appeal**  
**Decision in favour of : Assessee**  
**Title : Meda Raja Kishor Raghuram Reddy**  
**Citation: 205 ITD 715**  
**Bench: ITAT Panaji**

CIT(A) has to decide appeal on merit by passing a speaking order and does not have any power to dismiss appeal for non-prosecution.

**Statute: Income Tax Act – Sec.270A – No misreporting**  
**Decision in favour of : Assessee**  
**Title : Parulben Vijaykumar Patel vs ITO**  
**Citation: 71 CCH 48**  
**Bench: ITAT Ahmedabad**

Once the sale consideration is reported in Form No. 26AS on the Government website and the amount of sale consideration has not been challenged / disputed by the Department and taxes has been withheld on such sale consideration by the purchaser of property under Section 194-IA of the Act, then, in our view, this is not case of misrepresentation or suppression of facts. Accordingly, looking into the instant facts, we are of the considered view that this is not a fit case for levy of penalty under Section 270A of the Act.

# RECENT ADVANCE RULINGS UNDER GST AND JUDICIAL DECISIONS ON INDIRECT TAXES AND OTHERS



Indirect Tax

## RECENT ADVANCE RULINGS UNDER GST

CA. P. J. Johney FCA

**Statute: GOODS AND SERVICES TAX**  
**Decision in Favour of: NOT APPLICABLE**  
**Title: M/S. K A SUJIT CHANDAN**  
**Citation: KAR ADRG 32/2024 Dated 02.07.2024**  
**Bench/Court: KARNATAKA AUTHORITY FOR ADVANCE RULING**

M/s K A SUJIT CHANDAN (herein after referred to as 'Applicant'), No. 30, 4th Cross, 2.4 Main Road, Kengeri Satellite Town, Bengaluru-560009, having GSTIN 29AJGPS8502G2ZW, have filed an application for Advance Ruling under Section 97 of CGST Act, 2017, read with Rule 104 of the CGST Rules 2017 and Section 97 of KGST Act, 2017 read with Rule 104 of KGST Rules 2017, in form GST ARA-01 discharging the fee of Rs.5,000/- each under the CGST Act KGST Act.

The Applicant states that they have rented out a building to the Department of Social Welfare, Government of Karnataka situated at No. 30, 4th Cross, 2nd main road, Kengeri Satellite town Bengaluru and the same is used by Department of Social Welfare to run hostel for boys.

The applicant has sought advance ruling on the below mentioned questions viz,  
 1. Whether rent received from the Department of Social Welfare is taxable or not?

The Applicant states that they have rented out a building to the Department of Social Welfare, Government of Karnataka to run boys' hostel. The Applicant states that services provided to department of social welfare, Government of Karnataka is exempted and this service is also covered under article 243W of the Constitution (Public Service).

As per discussion and findings, at the outset we would like to make it clear that the provisions of CGST Act, 2017 and the KGST Act, 2017 are in pari-materia and have the same provisions in like matter and differ from each other only on a few specific provisions. Therefore, unless a mention is particularly made to such dissimilar provisions, a reference to the CGST Act would also mean

reference to the corresponding similar provisions in the KGST Act.

The Applicant states that they have rented out a building to the Department of Social Welfare, Government of Karnataka and this building is used for Scheduled Tribe boys' hostel. The Applicant has provided a copy of the agreement which states that the building is taken on rent to run Scheduled Tribe welfare Department's hostel and the same is signed by the Applicant as well as Assistant Director, Department of Social Welfare, Bengaluru south taluk.

The Applicant states that services provided to Department of Social Welfare, Government of Karnataka is exempted as this service is covered under article 243W of the Constitution as per entry No. 3 of Notification 12/2017 Central Tax (Rate) dated 28th June 2017. The said Entry reads as under:

"Pure Services (excluding works contract service or other composite supplies involving any goods) provided to the Central Government, State Government or Union territory or local authority by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution."

From the above said entry of the notification it is observed that, in order to claim exemption on supply of services as per the entry mentioned supra, two conditions should be satisfied:

i. Pure Services (excluding works contract service or other composite supplies involving any goods) provided to the Central Government, State Government or Union territory or local authority.

ii. by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution."

As per the first condition, the applicant has rented out the building to Scheduled Tribe

welfare Department which is a department of Government of Karnataka. Thus, the Applicant is providing services to State Government and hence the first condition is satisfied.

Under 243G- Powers, authority and responsibilities of Panchayats subject to the provisions of this Constitution the Legislature of a State may, by law, endow the Panchayats with such powers and authority and may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon Panchayats, at the appropriate level, subject to such conditions as may be specified therein, with respect to

- (a) The preparation of plans for economic development and social justice
- (b) The implementation of schemes for economic development and social justice as may be entrusted to them including those in relation to the matters listed in the Eleventh Schedule.

Under 243W. Powers, authority and responsibilities of Municipalities, etc Subject to the provisions of this Constitution, the Legislature of a State may, by law, endow

- (a) the Municipalities with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law, may contain provisions for the devolution of powers and responsibilities upon Municipalities, subject to such conditions as may be specified therein, with respect to:
  - (i) the preparation of plans for economic development and social Justice;
  - (ii) the performance of functions and the implementation of schemes as may be entrusted to them including those in relation to the matters listed in the Twelfth Schedule;

The Applicant has rented out the building to Scheduled Tribe welfare Department to run Scheduled Tribe welfare Department's hostel. This is in relation to the function entrusted to a panchayat under article 243G

of the constitution which is covered by 27th entry of 11th schedule which says Welfare of the weaker sections, and in particular, of the Scheduled Castes and the Scheduled Tribes. Thus, the second condition is also fulfilled.

As per ruling;

1) Question 1: - Whether rent received from the Department of Social Welfare is taxable or not?

Answer:- The pure services provided by the Applicant to the State Government are exempted as per entry No. 3 of Notification No. 12/2017 Central Tax (Rate), dated 28th June 2017 and hence not taxable.

**Statute: GOODS AND SERVICES TAX  
Decision in Favour of: NOT APPLICABLE  
Title: M/s Uttar Pradesh Power  
Transmission Corporation Limited  
Citation: UP ADRG 04/2024 dated 12-06-  
2024  
Bench/Court: THE AUTHORITY FOR ADVANCE  
RULING IN UTTAR PRADESH**

M/s Uttar Pradesh Power Transmission Corporation Limited (UPPTCL), having registered office at Shakti Bhawan, 14-A, Ashok Marg, Lucknow, Uttar Pradesh-226020 (hereinafter referred as "the applicant") having GSTIN- 09AAACU8823E1Z9, have filed an application for Advance Ruling under Section 97 of the CGST Act, 2017 read with Rule 104 of the CGST Rules, 2017 and Section 97 of UPGST Act, 2017 read with Rule 104 of the UPGST Rules, 2017 in Form GST ARA-01 (the application form for Advance Ruling), discharging the fee of Rs. 5,000/- each under the CGST Act and the UPGST Act.

The Uttar Pradesh Power Transmission Corporation Limited (hereinafter referred to as "Applicant") was incorporated under the Companies Act, 1956 in the year 2006. UPPTCL has been entrusted with the business of transmission of electrical energy to various licensees within the State of Uttar Pradesh. Further, Government of Uttar Pradesh, in exercise of powers vested under Section 30 of The Electricity Act, 2003 vide notification No. 122/U.N.N.P/24-07 dated July, 18, 2007 notified UPPTCL as the state transmission utility of Uttar Pradesh. Further, UP Power Transmission Corporation Limited, has been incorporated with the main objective to acquire, establish, construct, take over, erect, lay, operate, run, manage, hire, lease, buy, sell, maintain, enlarge, alter, renovate, modernize, work and use electrical transmission lines and/or network through extra high voltage, high voltage and associated sub-stations, cables, wires, connected with transmission ancillary services, telecommunication and telemetering equipment in the State of Uttar Pradesh.

The applicant has sought advance ruling in the respect of the following question:

1. Whether in the given facts and circumstance, value of material and cost of execution work for installation of lines will be included in the value of supply for determination of taxable value under GST where all such cost are born by the recipient of service and the applicant charge only supervision charges.

The application for advance ruling was forwarded to Assistant Commissioner, Central Tax & Central Excise, Division-Lucknow vide letter dated 08.04.2024 to offer their comments/views /verification report on the matter. But no comments in the matter was offered.

The applicant was granted a personal hearing on 04.06.2024 which was attended by Shri Prakhar Gupta, CA, the authorized representative of the applicant during which he reiterated the submissions made in the application of advance ruling.

As per discussion and findings, at the outset, we would like to make it clear that the provisions of both the CGST Act and the UPGST Act are the same except for certain provisions. Therefore, unless mention specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the UPGST Act. Further for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST Act / UPGST Act would be mentioned as being under the 'CGST Act'.

The applicant being an electricity transmission company has an expertise in the area of 'installation/supervision of electricity lines. That whenever new electricity lines are to be installed or these lines are to be modified at the requirement of the customer, it is done at the cost of customer. In other words, the entire cost is ultimately born by the customers. It is known as 'Deposit work'. That the applicant is required to build, maintain and operate the electricity distribution/transmission system. The system so developed is accounted for as fixed assets in the books of account of the applicant. That the UPPTCL is exclusive liable and responsible for modification/alteration/extension of the transmission infrastructure. It is for this reason that deposit work is to be executed under the supervision of the UPPTCL only. The deposit works is carried out at the behest of the consumer via two modes: First, where entire works with material are arranged by customer and the installation work is done by contractor hired by the customers. The applicant's role is to supervise the work, for which they charge 15% towards their fee. Entire cost is incurred by the UPPTCL and such cost including applicable GST is recovered from the consumer. As per the current practice, the UPPTCL is computing GST on the total estimate of expenditure.

In the second method, entire material and installation work is arranged by the applicant and work is carried out by the vendors under the supervision of the applicant and such cost including GST is recovered from the consumer.

Here the applicant has sought advance ruling only for first method where entire works with material are arranged by customer and the installation work is done by contractor hired by the customers. The applicant's role is to supervise the work, for which they charge 15% towards their fee.

The works contract service supplied in course of electric line installation are neither supplied by nor the consideration for same has been received by applicant. The contract for works contract services is executed between the concerned party and a third-party work contractor. Therefore, the applicant is a stranger to this contract. In a case where the third-party work contractor remains unpaid for the services supplied by him, he can sue only the concerned party not the applicant. There is no obligation to pay on the part of applicant. Hence, the case shall not be covered under section 15(2)(b) of the CGST Act 2017.

UPPTCL is not a supplier of goods and services as per provisions of section 2(105) of CGST Act, 2017 as the work is being undertaken by the customer itself. There is no relationship between the customer and UPPTCL.

It is also pertinent to note that in the present transaction there is no consideration which comes under the purview of section 2(31) of CGST Act, 2017. All the payments are being made by the customer directly to the vendor and contractors and no payment is being made to UPPTCL except supervision charge for the work. The work contract services supplied in the course of construction/dislocation/shifting are neither supplied by nor the consideration for the same has been received by UPPTCL hence there is no supply of works contract services by the UPPTCL.

In this case the ownership of the property being dislocated / shifted is vested with UPPTCL, the UPPTCL receives money in the form of dislocation / shutting charges. The services supplied in such cases is related to an act of tolerance with respect to such immovable property and hence covered under "agreeing the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act" and are classified under SAC999794.

The work contract services in the present case is being supplied by an independent contractor and is covered under SAC 9954, it is distinct service which is being supplied by a registered person other than UPPTCL. Though the property subjected to works contract services belongs to the UPPTCL

but the supply of works contract services is not made on behest of UPPTCL. The contract for works contract services is executed between the concerned party and a third party works contractor and hence UPPTCL is a stranger to this contract.

In a case where the third party works contractor remains unpaid for the services supplied by him, he can sue only the customer and not the UPPTCL. So, there is no liability to pay on the part of UPPTCL.

As the construction or dislocation work is not made on the behest of UPPTCL and there is only a consent or tolerance for such shifting hence the UPPTCL is not liable to pay for the expenses incurred in such shifting. Since there is no obligation to pay on part of UPPTCL hence the provisions of section 15(2)(b) of CGST Act, 2017 are not applicable in this case. In this case the consideration for works contract services is fully paid by concerned party and there is no shared / part payment by the same. In such cases it is not feasible for having two considerations for a single supply.

As per the ruling,

1) Question 1: Whether in the given fact and circumstances, value of material and cost of execution work for installation of lines will be included in the value of supply for determination of taxable value under GST where all such cost are born by the recipient of service and the applicant charge only supervision charges.

Answer: Reply in Negative. GST will be applicable on only supervision charges.

**Statute: GOODS AND SERVICES TAX**  
**Decision in Favour of: NOT APPLICABLE**  
**Title: M/s Abans Alternative Fund Manager LLP**  
**Citation: GUJ/GAAR/R/2024/08 dated 16/04/2024**  
**Bench/Court: THE AUTHORITY FOR ADVANCE RULING IN GUJARAT**

M/s Abans Alternative Fund Manager LLP-IFSC (for short -'applicant'), Unit No. 1108A, Block 13B, Zone 1, Gift SEZ, Gandhinagar-382355, is engaged in providing the services of holding securities and other assets of trusts and funds and similar financial entities, falling under the SAC code 997172. The applicant was granted approval by KASEZ vide letter no. KASEZ/DCO/Gift/SEZ/11/3 8/202 1-22 dated 12.8.2021. Their GST registration number is 24ABOFA6693E127.

The applicant acts as an Investment Manager for managing the schemes floated by the Category-III Alternative Investment fund (AIF), registered under the International Financial Services Centres Authority Act, 2019 and to have a continuing interest in the said Alternative Investment Fund (AIF) as specified by IFSCA from time to time.

The applicant has availed the service from Advocate Pradesh Shah towards execution of lease agreement for premise in GIFT City, Gandhinagar. The applicant is the fund manager of Abans Investment Trust.

The applicant has sought advance ruling in the respect of the following question:

1. Whether an applicant which is a SEZ Unit is required to pay tax under reverse charge mechanism on services received from advocate by virtue of Notification No. 13/2017 - Central tax Rate (as amended time to time)?

2. If, answer to the above point is in the affirmative, then the tax under reverse charge mechanism is required to be paid under which tax head i.e, IGST or CGST and SGST?

Personal hearing in the matter was held on 27.2.2024 wherein Shri Devam S Sheth, CA appeared on behalf of the applicant and reiterated the facts as stated in the application. The applicant thereafter vide his email dated 8.4.2024, addressed to the registry informed that there was a minor correction in the first question which was submitted and that they would like a ruling on the below mentioned revised questions : "Whether an applicant which is a SEZ Unit is required to pay tax under reverse charge mechanism on services received from advocate by virtue of Notification No. 10/2017 Integrated Tax Rate (as amended time to time)?"

As per discussion and findings, at the outset, we would like to state that the provisions of both the CGST Act and the GGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provisions under the GGST Act.

The submissions made by the applicant in their application for advance ruling as well as the submissions made during the course of personal hearing. We have also considered the issue involved, the relevant facts & the applicant's submission/interpretation of law in respect of question on which the advance ruling is sought.

According to section 5, rule 3 of Integrated Goods and Services Act 2017, under the heading 'Levy and collection', it states that "The Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both"

According to section 7, rule 5 of Integrated Goods and Services Act 2017, under the heading 'Inter-State supply, it states that

"Supply of goods or services or both-

(a) when the supplier is located in India and the place of supply is outside India:

(b) to or by a Special Economic Zone developer or a Special Economic Zone unit:

or

(c) in the taxable territory, not being an intra-State supply and not covered elsewhere in this section.

shall be treated to be a supply of goods or services or both in the course of inter-State trade or commerce."

Under Notification No. 10/2017-Integrated Tax (Rate) (as amended) dated 28.06.2017, it is stated that "In exercise of the powers conferred by sub-section (3) of section 5 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), the Central Government on the recommendations of the Council hereby notifies that on categories of supply of services provided by an individual advocate including a senior advocate or firm of advocates by way of legal services, directly or indirectly, supplied by an individual advocate including a senior advocate or firm of advocates, the whole of integrated tax leviable under section 5 of the said Integrated Goods and Services Tax Act. shall be paid on reverse charge basis by the recipient of the such services of any business entity located in the taxable territory."

Under Notification No. 18/2017-Integrated Tax (Rate) dated 5.7.2017, it is stated that "in exercise of the powers conferred by sub-section (1) of section 6 of the Integrated Goods and Service Tax Act, 2017 (13 of 2017), the Central Government, on being satisfied that it is necessary in the public interest so to do and on the recommendations of the Council, hereby exempts services imported by a unit or a developer in the Special Economic Zone for authorised operations, from the whole of the integrated tax leviable thereon under section 5 of the Integrated Goods and Service Tax Act, 2017 (13 of 2017).

According to Special Economic Zones Act, 2005, under Rule 5 "Requirements for establishment of a Special Economic Zone", it states that, "Before recommending any proposal for setting up of a Special Economic Zone. the State Government shall endeavour that the following are made available in the State to the proposed Special Economic Zone Units and Developer, namely: -

(a) exemption from the State and local taxes, (State Goods and Services Tax) levies and duties, including stamp duty, and taxes levied by local bodies on goods required for authorized operations by a Unit or Developer. and the goods sold by a Unit in the Domestic Tariff Area except the goods procured from domestic tariff area and sold as it is."

Also according to Special Economic Zones Act, 2005, under Rule 30 "Procedure for procurements from the Domestic Tariff Area", it states that:

( 1) The Domestic Tariff Area supplier

supplying goods or services to a Unit or Developer shall clear the goods or services, as in the case of zero-rated supply as per provisions of section 16 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017) either under bond or legal undertaking or under any other refund procedure permitted under Goods and Services tax laws or Central Excise law, or as duty or tax paid goods under claim of rebate, on the cover of documents laid down under the relevant Central Excise law for the purpose of export by a manufacturer or supplier."

The applicant's case is that in respect of legal services from advocate, a recipient of service is required to pay GST under RCM in terms of notification No. 10/2017-IT (Rate) [incorrectly mentioned as notification No. 13/2017-CT (R)], reproduced supra. However, the applicant further states that being an SEZ unit, Rule 5(5)(a) of the SEZ Rules, 2006, provides exemption from SGST; that Rule 30(1), *ibid*, enables a DTA supplier to clear services to an SEZ unit as in the case of zero rated supply in terms of section 16 of IGST Act, 2017, either under bond or under legal undertaking or under any other refund procedure permitted under the GST law; that notification No. 18/2017-IT (Rate) exempts service imported by unit in SEZ for authorized operation from the whole of IGST leviable u/s 5, *ibid*; that even otherwise, section 51 of the SEZ Act, 2005, which is a non obstante clause, clearly states that the provisions of the SEZ Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act. In view of the foregoing, the applicant's averment that a combined reading clearly shows that the 'reverse charge' notifications cannot have any application in this case.

Under notification No. 37/2017-CT, a unit in DTA can supply services to a unit in SEZ without payment of IGST subject to furnishing of LUT to the jurisdictional Commissioner. The notification No. 37/2017- —Central Tax dated 4.10.2017, reads as follows;

"G.S.R....(E).-In exercise of the powers conferred by section 54 of the Central Goods and Services Tax Act, 2017, and section 20 of the Integrated Goods and Services Tax Act, 2017, sub-rule (3) of rule 96A of the Central Goods and Services Tax Rules, 2017, and in supersession of notification No. 16/2017-Central Tax, dated the 7th July, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 848(E), dated the 7th July, 2017 except as respects things done or omitted to be done before such supersession, the Central Board of Excise and Customs hereby specifies conditions and safeguards for furnishing a Letter of Undertaking in place of a Bond by a registered person who intends to supply goods or services for export without payment of integrated tax

(i) all registered persons who intend to supply goods or services for export without payment of integrated tax shall be eligible to furnish a Letter of Undertaking in place of a bond except those who have been prosecuted for any offence under the Central Goods and Services Tax Act, 2017 (12 of 2017) or the Integrated Goods and Services Tax Act, 2017 (13 of 2017) or any of the existing laws in force in a case where the amount of tax evaded exceeds two hundred and fifty lakh rupees;"

In respect to clarification whether, "the SEZ unit is liable to pay GST in respect of legal services, sponsorship services etc received by an SEZ unit in IFSC, Gandhinagar, from a unit in DTA, which are chargeable to GST under RCM, Tax Research Unit, CBIC, New Delhi, clarified as under:

(3). Since the intention of the Legislature is not to tax supplies to a unit in SEZ or a SEZ Developer which have been zero rated under clause (b) of section 16(1) of the IGST Act, by virtue of deeming provision under section 5(3) of the IGST Act, 2017. levy for procurement of input services specified under notification No. 13/2017-CT (Rate) falls upon the unit in SEZ or the SEZ developer. It is, therefore clarified that a unit in SEZ or the SEZ developer can procure such services, where they are required to pay GST under reverse charge, without payment of integrated tax provided the actual recipient, i.e. unit in SEZ or SEZ developer, furnishes a Letter of Undertaking in place of a bond as specified in condition no. (i) in para 1 of notification No. 37/2017-CT. The actual recipient of service is the deemed supplier/registered person for the purpose of fulfilling other conditions in para 1 of the notification *ibid* including the manner of furnishing of Letter of Undertaking. "

We find that there is no bar in borrowing the rationale of the aforementioned clarification. Hence, we find that the applicant, an SEZ unit, can procure the services mentioned supra, for use in authorized operations without payment of IGST provided the applicant, furnishes a LUT or bond as specified in condition (1) of para 1 of notification No. 37/2017-CT.

As per ruling;

Question 1. Whether an applicant which is a SEZ Unit is required to pay tax under reverse charge mechanism on services received from advocate by virtue of Notification No. 13/2017 - Central 'tax Rate (as amended time to time)?

Answer:- The applicant, an SEZ unit, is not required to pay GST under RCM on specified services in accordance with notification No. 10/2017-IT(Rate) dated 28.6.2017 as amended from time to time, subject to furnishing a LUT or bond as specified in condition (1) of para 1 of notification No. 37/2017-CT.

The notification No. 10/2017-IT(Rate) dated 28.6.2017 (amended) reads as follows:

"Under Notification No. 10/2017-Integrated Tax (Rate) (as amended) dated 28.06.2017, it is stated that, "In exercise of the powers conferred by sub-section (3) of section 5 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), the Central Government on the recommendations of the Council hereby notifies that on categories of supply of services provided by an individual advocate including a senior advocate or firm of advocates by way of legal services, directly or indirectly, supplied by an individual advocate including a senior advocate or firm of advocates, the whole of integrated tax leviable under section 5 of the said Integrated Goods and Services Tax Act. shall be paid on reverse charge basis by the recipient of the such services of any business entity located in the taxable territory."

Question 2. If, answer to the above point is in the affirmative, then the tax under reverse charge mechanism is required to be paid under which tax head i.e. IGST or CGST and SGST?

Answer: - In view of the answer to question (1) above, the second question is rendered infructuous.

## JUDICIAL DECISIONS ON INDIRECT TAXES

**Statute: GOODS AND SERVICES TAX**  
**Decision in Favour of: ASSESSEE**  
**Title: SRI RENG TIMBERS v. ASSISTANT COMMISSIONER (ST) (FAC), MAYILADUTHURAI AND ANOTHER C. SARAVANAN J.**  
**Citation: [2024] 127 GSTR 458 (Mad)**  
**Bench/court: IN THE MADRAS HIGH COURT**  
 Goods And Services Tax — Input-Tax Credit — Transitional Credit — Denial Of Credit — Error By Assessee In Filing Revised Returns — Credit Lying Unutilised By Assessee As On June 2017 — Mistake In Returns Filed In Tran-1 Twice Not Ground To Deny Credit — Availment And Utilisation Of Such Credit To Be Condoned And Regularized — Order Denying Credit Quashed And Matter Remitted For Reconsideration — Central Goods And Services Tax Act (12 Of 2017), S. 140

**Statute: GOODS AND SERVICES TAX**  
**Decision in favour of: ASSESSEE**  
**Title: FAIZAL TRADERS PVT. LTD. v. DEPUTY COMMISSIONER, CENTRAL TAX AND CENTRAL EXCISE, PALAKKAD DIVISION, PALAKKAD AND ANOTHER DINESH KUMAR SINGH J.**  
**Citation: [2024] 127 GSTR 424 (Ker)**  
**Bench/Court: IN THE KERALA HIGH COURT**

Goods And Services Tax — Legislative Powers — Central Government — Power To Extend Time For Passing Orders — Extension Of Time Owing To Force Majeure In Form Of

Pandemic – Within Discretion Of Executive And Valid – Input-Tax Credit – Government Issuing Circular To Deal With Difference Between Input-Tax Credit Availed Of In Form Gstr-3b And That Detailed In Form Gstr-2a For Financial Years 2017-18 And 2018-19 – Assessee To Be Allowed Benefit Of Circular – Assessment Set Aside And Matter Remanded For Assessment Afresh – Central Goods And Services Tax Act (12 Of 2017), Ss. 73(9), (10), 168a – Notification No. 13/2022-Central Tax Dated July 5, 2022 – Notification No. 09/2023-Central Tax Dated March 31, 2023 – Notification No. 35/2020-Central Tax Dated April 3, 2020 – Notification No. 14/2021 Dated May 1, 2021 – Circular No. 183/15/2022-Gst Dated December 27, 2022.

**Statute: GOODS AND SERVICES TAX**  
**Decision in favour of: DEPARTMENT**  
**Title: PACE SETTERS BUSINESS SOLUTIONS PVT. LTD. v. UNION OF INDIA AND OTHERS VIBHU BAKHRU and AMIT MAHAJAN JJ.**  
**Citation: [2024] 127 GSTR 392 (Del)**  
**Bench/Court: IN THE DELHI HIGH COURT**

Goods And Services Tax – Service Tax – Legislative Powers – Discrimination – Services Provided By Recovery Agent To Banking Company Or Financial Institution Or Non-Banking Financial Company – Notifications Providing For Payment Of Tax On Reverse Charge Basis – Issued By Central Government In Exercise Of Its Legislative Powers Delegated In Terms Of Respective Enactments – All Persons Rendering Services Of Particular Nature Treated Uniformly – Contention Of Hostile Discrimination Unmerited – Not Open For One Class Of Assessee To Seek Parity With Another Class Of Persons, That Is Not Subject To Same Tax – Denial Of Input-Tax Credit In Respect Of Services On Which Service Tax Or Goods And Services Tax Payable On Reverse Charge Basis, Not Arbitrary – Petition Challenging Notification Dismissed – Challenge To Section 17(3) Of Central Act To Extent That It Deems Supply Of Recovery Agent Services As Exempted Supplies Also Rejected – Finance Act (32 Of 1994), S. 68(2) – Central Goods And Services Tax Act (12 Of 2017), Ss. 9(3), (4), 17(3) – Integrated Goods And Services Tax Act (13 Of 2017), S. 5(3), (4) – Constitution Of India, Art. 14 – Notification No. 30/2012-St, Dated June 20, 2012 – Notification No. 10/2014-St, Dated July 11, 2014 – Notification No. 10/2017-Integrated Tax (Rate), Dated June 28, 2017.

**Statute: GOODS AND SERVICES TAX**  
**Decision in favour of: ASSESSEE**  
**Title: VIMAL AGRO PRODUCTS PVT. LTD. AND ANOTHER v. UNION OF INDIA AND OTHERS BHARGAV D. KARIA and NIRAL R. MEHTA JJ.**  
**Citation: [2024] 127 GSTR 334 (Guj)**  
**Bench/Court: IN THE GUJARAT HIGH COURT**

Goods And Services Tax – Rate Of Tax – Classification Of Goods – Mango Pulp – Mango Pulp Not Mangoes, Sliced And Dried – Not Subject To Rate Of Five Per

Cent. – Third Category Of Mangoes Other Than Fresh And Dried Clarified To Exist – Insertion Of Entry To This Effect In Rate Notification Clarificatory – Circular On Subject Clarificatory – No Retrospective Imposition Of Tax At Twelve Per Cent. – Mango Pulp Taxable At Twelve Per Cent. – Notice Seeking To Tax At Eighteen Per Cent. Set Aside – Assessee 's Contention Of Tax At Five Per Cent. Rejected – Central Goods And Services Tax Act (12 Of 2017), S. 9 – Notification No. 1/2017-Central Tax (Rate) Dated June 28, 2017, Schedule I, Sl. No. 30a, Schedule Ii, Sl. No. 16 – Notification No. 6/2022-Central Tax (Rate) Dated July 13, 2022 – Notification No. 34/2017 Dated October 13, 2017 – Circular No. 179/11/2022-Gst Dated August 3, 2022.

**Statute: GOODS AND SERVICES TAX**  
**Decision in favour of: ASSESSEE**  
**Title: BODAL CHEMICALS LTD. v. UNION OF INDIA**  
**J. B. PARDIWALA and MS. NISHA M. THAKORE JJ.**  
**Citation: [2024] 127 GSTR 33 (Guj)**  
**Bench/Court: IN THE GUJARAT HIGH COURT**

Goods And Services Tax – Input-Tax Credit – Transitional Credit – Error In Goods And Services Tax Network – Preventing Distribution Of Credit By Assessee As Input Service Distributor – Assessee Not To Be Denied Vested Right Due To Technical Glitches – Assessee To Be Permitted To Furnish Form Manually – Central Goods And Services Tax Act (12 Of 2017) – Constitution Of India, Art. 226

**Statute: GOODS AND SERVICES TAX**  
**Decision in favour of: ASSESSEE**  
**Title: KAVIN HP GAS GRAMIN VITRAK v. COMMISSIONER OF COMMERCIAL TAXES, CHENNAI AND ANOTHER**  
**MRS. S. SRIMATHY J.**  
**Citation: [2024] 127 GSTR 114 (Mad)**  
**Bench/Court: IN THE MADRAS HIGH COURT – MADURAI BENCH**

Goods And Services Tax – Input-Tax Credit – Belated Filing Of Return In Form Gstr-2 – Denial Of Credit – Relevant Return Not Being Notified – Assessee Could Not Be Expected To File Return – Assessee Filing Return Manually – Taxes Due Paid – Gstr-3b Filing Not Permitted When Taxes On Output Supplies Not Paid – Obstructs Dealer From Claiming Input-Tax Credit – Assessee To Be Permitted To File Manual Returns Where Claiming Credit Without Paying Output Tax – Belated Returns To Be Accepted – Claim For Input-Tax Credit To Be Allowed – Tamil Nadu Goods And Services Tax Act (19 Of 2017), Ss. 38, 39 – Tamil Nadu Goods And Services Tax Rules, 2017, Rr. 60, 61

**Statute: GOODS AND SERVICES TAX**  
**Decision in favour of: ASSESSEE**  
**Title: HIMALAYA DRUG COMPANY v. COMMISSIONER OF CENTRAL TAX (APPEALS-II) AND ANOTHER**  
**S. R. KRISHNA KUMAR J.**

**Citation: [2024] 127 GSTR 124 (Kar)**  
**Bench/Court: IN THE KARNATAKA HIGH COURT**

Goods And Services Tax – Writs Under Constitution – Appeal To Commissioner (Appeals) – Delay In Filing – Condonation Of Delay – Assessee Explaining Delay Stating It Had Goods And Services Tax Registration In 24 States And Officer In-Charge Of Taxation Travelling To Complete Audit – Held Assessee Had Made Out Valid And Sufficient Cause To Condone Delay And Assessee Had A Good Case To Urge On Merits – Held Fit Case For Exercise Of Writ Jurisdiction And Condone Delay – Order Of Commissioner (Appeals) Dismissing Appeal As Barred By Time Set Aside And Matter Remitted To Commissioner (Appeals) For Consideration Of Appeal Afresh On Merits In Accordance With Law – Constitution Of India, Art. 226

**Statute: GOODS AND SERVICES TAX**  
**Decision in favour of: ASSESSEE**  
**Title: SHRI MAHILA GRIHA UDYOG LIJJAT PAPAN v. JOINT COMMISSIONER OF COMMERCIAL TAXES (APPEAL), BANGALURU AND ANOTHER**  
**S. R. KRISHNA KUMAR J.**  
**Citation: [2024] 127 GSTR 182 (Kar)**  
**Bench/Court: IN THE KARNATAKA HIGH COURT**

Goods And Services Tax – Audit Report – Appeal – Against Audit Report To First Appellate Authority Held Wrongly Dismissed On Grounds Of Being Not Maintainable Without Appreciating Specific Provision Governing Non-Appellable Decisions – All Orders Otherwise Appellable – Endorsement Being Short Of Reasons Set Aside – Matter Remitted Back – Writ Petition Allowed – Central Goods And Services Tax Act (12 Of 2017), ss. 107, 121

**Statute: GOODS AND SERVICES TAX**  
**Decision in favour of: ASSESSEE**  
**Title: EPRAGATHI RECYCLING v. STATE OF KARNATAKA AND OTHERS**  
**S. R. KRISHNA KUMAR J.**  
**Citation: [2024] 127 GSTR 185 (Kar)**  
**Bench/Court: IN THE KARNATAKA HIGH COURT**

Goods And Services Tax – Writs Under Constitution – Appeal – Dismissal In Limine Holding Appeal From Audit Observation Not Maintainable – Endorsement Arbitrary, Cryptic And Laconic – Order Set Aside And Matter Remanded To Appellate Authority For Decision Afresh In Accordance With Law – Central Goods And Services Tax Act (12 Of 2017), Ss. 65(6), 73(1), 107 – Karnataka Goods And Services Tax Act (27 OF 2017), ss. 65(6), 73(1)

**Statute: GOODS AND SERVICES TAX**  
**Decision in favour of: ASSESSEE**  
**Title: D. RANGANATHAN AND CO. v. ASSISTANT COMMISSIONER (RAL)(FAC) AND OTHERS**

**DR. ANITA SUMANTH J.**

**Citation:** [2024] 127 GSTR 189 (Mad)

**Bench/Court:** IN THE MADRAS HIGH COURT  
Goods And Services Tax — Input-Tax Credit — Fraudulent Availment Of Credit — Failure By Assessee To Establish Movement Of Goods — Mere Fact That Order Passed Under Rule 86a(2) Of Rules In Favour Of Assessee Not To Stand In Way Of Assessing Officer Making Assessment Or Curtail Officer's Powers — Petition Challenging Assessment Order Dismissed — Tamil Nadu Goods And Services Tax Act (19 Of 2017), Ss. 73, 74 — Tamil Nadu Goods And Services Tax Rules, 2017, R. 86a

**Statute:** GOODS AND SERVICES TAX

**Decision in favour of:** DEPARTMENT

**Title:** SRI KUBERA CONSTRUCTIONS PVT.

**LTD. v.STATE OF KERALA AND OTHERS**

**GOPINATH P. J.**

**Citation:** [2024] 127 GSTR 201 (Ker)

**Bench/Court:** IN THE KERALA HIGH COURT

Goods And Services Tax — Works Contract — Reimbursement Of Tax — Clarification In Pre Bid Meeting Held And Documents Issued Before Introduction Of Goods And Services Tax That Service Tax Will Be Paid By Contractee — With Introduction Of Goods And Services Tax, Tax On Both Supply Of Services And Supply Of Goods Subsumed Into One Tax — After Introduction Of Goods And Services Tax From July 1, 2017, No Scope For Demand Or Payment Of Service Tax As A Component Outside Goods And Services Tax Regime — Work Order Stipulating That Work Awarded For Amount Shown Therein Inclusive Of All Taxes — Assessee Not Entitled To Any Reimbursement — Central Goods And Services Tax Act (12 Of 2017) — Constitution Of India, Art. 226

**Statute:** GOODS AND SERVICES TAX

**Decision in favour of:** ASSESSEE

**Title:** ANNALAKSHMI STORES v. DEPUTY

**STATE TAX OFFICER-2, METTUR CIRCLE,**

**METTUR AND ANOTHER**

**SENTHILKUMAR RAMAMOORTHY J.**

**Citation:** [2024] 127 GSTR 267 (Mad)

**Bench/Court:** IN THE MADRAS HIGH COURT

Goods And Services Tax — Registration — Cancellation For Failure By Assessee To File Returns For Six Months — Assessee Contending It Was Unaware Of Assessment Order And Show-Cause Notice — Held, Tax Liability Was Computed On Best Judgment Basis Without Hearing Assessee In Person And Considering Assessee's Objections — Assessee To Be Allowed Opportunity To Contest Proposals — Order Set Aside On Condition Assessee Remit Ten Per Cent. Of Disputed Tax Demand In Respect Of Each Assessment Period Within Two Weeks And Matters Remanded For Reconsideration — Central Goods And Services Tax Act (12 Of 2017), S. 63 — Tamil Nadu Goods And Services Tax Rules, 2017, R. 100

**Statute:** GOODS AND SERVICES TAX

**Decision in favour of:** ASSESSEE

**Title:** MANOHAR v. ASSISTANT COMMISSIONER OF GST AND CENTRAL EXCISE, SHOLINGANALLUR DIVISION, CHENNAI

**SENTHILKUMAR RAMAMOORTHY J.**

**Citation:** [2024] 127 GSTR 270 (Mad)

**Bench/Court:** IN THE MADRAS HIGH COURT

Goods And Services Tax — Refund — Audit Revealing Assessee Had Wrongly Claimed Input-Tax Credit In Respect Of Central And State Goods And Services Tax Instead Of Integrated Goods And Services Tax — Assessee Paying Sums And Claiming Refund On Account Of Double Payment — Rejection Of Refund Claim Without Recording Reasons For Concluding That Claim Did Not Fall Within Ambit Of Section 77(1) — Proper Reasons Not Assigned For Conclusion That There Was No Excess Payment — Order Rejecting Refund Set Aside And Matter Remanded For Reconsideration — Central Goods And Services Tax Act (12 Of 2017), Ss. 54(8)(D), 77(1)

**Statute:** GOODS AND SERVICES TAX

**Decision in favour of:** ASSESSEE

**Title:** KANCHAN SUPPLIER v. STATE OF

**PUNJAB AND OTHERS**

**G. S. SANDHAWALIA and MS. LAPITA**

**BANERJI JJ.**

**Citation:** [2024] 127 GSTR 309 (P&H)

**Bench/Court:** IN THE PUNJAB AND HARYANA HIGH COURT

Goods And Services Tax — Confiscation Of Goods — Writs Under Constitution — Order Of Confiscation Of Goods And Levy Of Penalty On Prima Facie Finding That Bogus Transactions Made For Defrauding Exchequer — Liberty Granted To Assessee To Challenge Order — Goods To Be Provisionally Released Against Deposit Of 25 Per Cent. Of Amount In Cash And Bank Guarantee For Balance — Since Assessee Belonged To Another State Order For Surety Bond Not Issued — Central Goods And Services Tax Act (12 Of 2017), S. 130 — Punjab Goods And Services Tax Act (5 Of 2017), S. 130 — Constitution Of India, Art. 226

**Statute:** GOODS AND SERVICES TAX

**Decision in favour of:** ASSESSEE

**Title:** SUNLIGHT CABLE INDUSTRIES v.

**COMMISSIONER OF CUSTOMS, NS II AND**

**OTHERS**

**G. S. KULKARNI and JITENDRA JAIN JJ.**

**Citation:** [2024] 127 GSTR 312 (Bom)

**Bench/Court:** IN THE BOMBAY HIGH COURT

Goods And Services Tax — Refund — Zero Rated Supply — Integrated Goods And Services Tax — Drawback — Export Of Insulated Cables To Myanmar — Amounted To Zero Rated Supply And Assessee Entitled To Refund Of Integrated Goods And Services Tax — Denial Of Refund On Ground Assessee Claimed Drawback At Higher Rate In Regard To Exported Goods — Notification No. 131/2016-Cus. (Nt) Prescribing Common Duty At 2 Per Cent. In Respect Of Such Goods — Assessee Could Not Have Claimed

Higher Rate Of Drawback To Reject Its Claim Of Refund — Assessee Not Availing Of Double Benefit That Is Of Integrated Goods And Services Tax Refund And Higher Duty Drawback — Held, Assessee Entitled To Refund Of Integrated Goods And Services Tax Paid On Goods Exported With Simple Interest At 7 Per Cent. From Date Of Filing Of Rectified Returns — Order Rejecting Refund Set Aside — Central Goods And Services Tax Act (12 Of 2017), S. 54 — Integrated Goods And Services Tax Act (13 Of 2017), S. 16(3) — Central Goods And Services Tax Rules, 2017, R. 96 — Notification No. 131/2016-Cus. (Nt) Dated October 31, 2016.

**Statute:** GOODS AND SERVICES TAX

**Decision in favour of:** ASSESSEE

**Title:** SUBHANKAR GOLDER v. ASSISTANT

**COMMISSIONER OF STATE TAX, SERAMPORE**

**CHARGE AND OTHERS**

**T. S. SIVAGNAMAM C. J. and HIRANMAY**

**BHATTACHARYYA J.**

**Citation:** [2024] 127 GSTR 320 (Cal)

**Bench/Court:** IN THE CALCUTTA HIGH COURT

Goods And Services Tax — Registration — Cancellation For Failure To File Returns For Six Continuous Months — Appeal Against Cancellation Dismissed As Filed Late — Writ — Held, Assessee A Small Retailer And To Be Given One More Opportunity — Cancellation Set Aside Subject To Assessee Filing Returns For Entire Period Of Default And Paying Tax, Interest, Fine And Penalty.

**Statute:** GOODS AND SERVICES TAX

**Decision in favour of:** ASSESSEE

**Title:** PRASANTA DAS v. SUPERINTENDENT,

**RANGE-V, CENTRAL GOODS AND**

**SERVICES TAX AND CENTRAL EXCISE,**

**BARRACKPORE DIVISION, KOLKATA NORTH**

**COMMISSIONERATE AND OTHERS**

**RAJA BASU CHOWDHURY J.**

**Citation:** [2024] 127 GSTR 322 (Cal)

**Bench/Court:** IN THE CALCUTTA HIGH COURT

— CIRCUIT BENCH AT JALPAIGURI

Goods And Services Tax — Registration — Cancellation For Failure By Assessee To File Returns For Six Continuous Months — Department Having No Case That Assessee Attempting To Evade Tax — Held, Revocation Of Registration Would Be Counterproductive And Assessee Would Not Able To Carry On His Business — Immediately Upon Issuance Of Show Cause Assessee Filing Returns For Subsequent Period — Department To Take Pragmatic View And Permit Assessee To Carry On Business — Order Cancelling Registration Of Assessee To Be Set Aside, Subject To Assessee Filing His Returns For Entire Period Of Default And Paying Requisite Tax, Interest, Fine And Penalty — Central Goods And Services Tax Act (12 Of 2017), S. 29(2)(B), (C) — West Bengal Goods And Services Tax Act (28 Of 2017), S. 29(2)(B), (C) — Central Goods And Services Tax Rules, 2017 — West Bengal Goods And Services Tax Rules, 2017, R. 22, First Prov.