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ERNAKULAM BRANCH

NEWSLETTER



Chairman's Message

Dear Members and Students,

As November dawns, we're enveloped in a season of celebration, learning, and reflection. This month embodies the spirit of progress and pride, from the radiant festival of Deepavali. Just as Deepavali inspires us to illuminate the world with the light of knowledge, our noble profession continues to shine as a beacon of integrity, independence, and excellence.

The Ernakulam Branch continues to uphold the tradition of lifelong learning. This month, we have organized featuring leading Income Tax experts and stalwarts who will share their insights on the new Income Tax Act, 2025. November was a truly enriching month for us, filled with insightful events and opportunities for growth.

We successfully hosted a range of engaging sessions, including an in-depth exploration of the new Income Tax Act, 2025, with leading experts sharing their expertise. The CA Students National Conference 2025 was a highlight, fostering discussions and connections among aspiring CAs. Our one-day CPE Seminar on SME IPOs and Certification Course on Forensic Accounting and Fraud Detection equipped professionals with valuable skills and knowledge. The State Commerce Carnival brought together students and industry experts for a dynamic Mega Career Counselling session, offering guidance and inspiration. We were also honoured to host a Press Meet with the Hon'ble President of ICAI, gaining valuable insights into the institute's vision and initiatives. A big thank you to all participants and speakers – your enthusiasm made these events a success!



My hearty congratulations to all Students who have cleared their CA examinations in September 2025, and best wishes to all those appearing for the forthcoming January 2026 exams. May your perseverance, discipline, and dedication lead you to the success you truly deserve.

With warm regards and festive greetings

CA. Anand A. S.

Chairman

Ernakulam Branch of SIRC of ICAI

Reported Judicial Decisions

CA. P. M. Veeramani FCA

**Statute: Income Tax Act – Sec.11 –
Nature of Receipt not based on TDS**
Decision in favour of : Assessee
Title : Aroh Foundation vs CIT(E)
Citation: 476 ITR 489
Bench: Delhi HC

Sole reason for AO to construe receipt from donor was towards professional or technical services or contractual income was due to the fact that donor had deducted TDS under 194 C and 194J. This alone could not be the basis to conclude that the receipts were from trade, commerce or business. In the absence of any cogent reason the receipts cannot be treated as falling under sixth limb of section 2(15). Supreme Court has dismissed department SLP with the remark “ We are not inclined to interfere with the impugned judgment hence, the SLP is dismissed” [476 ITR 504SC]

**Statute: Income Tax Act – Sec.36(1)(va) –
No prima facie adjustment**
Decision in favour of : Assessee
Title : Raj Kumar Bothra vs DCIT
Citation: 476 ITR 249
Bench: Chattisgarh HC

Prior to judgment of Supreme Court in Check Mate services, CPC could not have made prima facie adjustment of delayed payment as the matter was highly debatable and the audit report showed only delay in deposit and not showing as disallowance

**Statute: Income Tax Act – Sec.54/54F –
Investment up to 139(4) time**
Decision in favour of : Assessee
Title : Kuldeep Singh Sekhawat vs ITO
Citation: 124 ITR Trib SN 45 Bench: ITAT Jaipur

Investment in new house up to the time limit for filing return u/s 139(4) eligible for deduction u/s 54 / 54F , though not deposited in capital gains accounts scheme before time limit under 139(1). Relied on 379 ITR 535 SC in a similar case

**Statute: Income Tax Act – Sec.90 –
No DTAA on DDT Decision in favour of : Revenue**
Title : J C Bamford Excavators Ltd vs ACIT
Citation: 212 ITD 321
Bench: ITAT Delhi

DTAA does not get triggered when a domestic company pays Dividend Distribution Tax under section 115 O as the same is not covered in the agreement between contracting states. Treaty protection is available only if the same is covered under the double tax avoidance agreement

**Statute: Income Tax Act – Sec.148 –
Notice from ITBA after 31st March time barred
Decision in favour of : Assessee
Title : CIT vs Ananthareddy Pannala
Citation: 476 ITR 6 SC
Bench: Supreme Court of India**

SC refusing to interfere order of HC holding that notice under section 148 despatched from ITBA Portal after 31st March is time barred and hence consequential assessment is unsustainable in law

**Statute: Income Tax Act – Sec.164(1) –
Trust created by Will
Decision in favour of : Assessee
Title : Nathiben Kalidas Patel Family Trust vs ITO
Citation: 212 ITD 539
Bench: ITAT Ahmedbad**

As per first proviso to section 164(1) trust created by will are not to be subject to tax at MMR but only to be taxed as AOP. Refer CBDT circular 557 dated 4.9.1990

**Statute: Income Tax Act – Sec.194 IA – Limit to be applied transferee wise
Decision in favour of : Assessee
Title : Archanaben Raendrasingh Deval vs ITO (TDS)
Citation: 212 ITD 414
Bench: ITAT Ahmedbad**

For the purpose of section 194IA, threshold limit of 50 lakhs is to be examined with reference each transferee and each transferor individually and where amount paid to any transferor is below the said limit, TDS is not attracted

**Statute: Income Tax Act –
Sec.244A – Refund of TDS
Decision in favour of : Assessee
Title : PCIT vs Amrutlal Madhavjibhai Bharad
Citation: 476 ITR 1 SC
Bench: Supreme Court of India**

Department appeal dismissed by Supreme Court on ground that there is no good reason to interfere with the order of High Court directing revenue to refund the TDS on interest on compulsory

acquisition of agricultural land since the income was not taxable and revenue department had not issued the TDS certificate on time and hence the delay in filing return was not attributable to the assessee

**Statute: Income Tax Act – Sec.249 –
Limitation from date of service
Decision in favour of : Assessee
Title : Madhya Gujarat Vij Co Ltd vs DCIT
Citation: 213 ITD 168
Bench: ITAT Ahmedbad**

Merely issuing the order in portal on 30th March would not start due date of filing of appeal, but calculation of due date should be from date of service which was in August. Hence CIT(A) not justified in dismissing the appeal as not filed in time

**Statute: Income Tax Act – Sec.263 –
Revision not valid
Decision in favour of : Assessee
Title : PCIT vs Green Touch Vincom Pvt Ltd
Citation: 476 ITR 511
Bench: Calcutta HC**

The tribunal had not erred in quashing the revision order relying on the earlier decision of the High Court in a similar case. Department SLP dismissed by Supreme Court with the remark “ On merits, no case for interference is made out in exercise of our jurisdiction under article 136 of the Constitution of India and SLP is accordingly dismissed” [476 ITR 515 SC]

**Statute: Income Tax Act – Sec.263
Revision not valid, but CIT can pass order
Decision in favour of : Revenue
Title : PCIT vs V-Con Integrated Solutions Pvt Ltd
Citation: 476 ITR 526 SC
Bench: Supreme Court of India**

The order of the HC which upheld the decision of the Tribunal was correct on facts and law as the case did not involve a failure by the AO to conduct an enquiry / investigation but as the department contended, a case where the AO having made the enquiries did not make addition and hence the appeal is dismissed
However, the power under Section 263 can be exercised by the Commissioner , by going into the merits and making an addition , and not by way of a remand, recording that there was a failure to investigate or taking a wrong decision or conclusion

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

CA. P. J. Johney FCA



RECENT ADVANCE RULINGS UNDER GST

Statute: GOODS AND SERVICES TAX

Decision in Favour of: NOT APPLICABLE

Title: M/s. HMSU ROLLERS (INDIA) PVT.LTD

Citation: GUJ/GAAR/R/2025/15 dated 30.04.2025

Bench/Court: GUJARAT AUTHORITY FOR ADVANCE RULING

M/s HMSU Rollers (India) Pvt. Ltd., Block No. 4 (Paiki) 8, Vireshwar Estate, Village: Kerala, NH 8A, Bavla-Bagodra Road, Tal. Bavla, Ahmedabad382 220, (for short -

'applicant') is engaged in the business of manufacturing of rollers.

The applicant for their expansion project, is required to install a PEB' which falls under the SAC 995441 (Installation, assembly and erection services of pre-fabricated buildings).

The applicant has further stated as under,
 • That they had placed an order for supply of the PEB with M/s. Shree

Steel Building Technology

- That consequent to supply of the PEB. the supplier raised Tax Invoice (E-Invoice) for 1,11,06,750/- (supply of Rs. 94.12,500/- + CGST Rs. 8.47.125/- + SGST Rs. 8,47.125/-);
- That they have made the payment for the said supply except 5% of the contract value as per payment terms;
- That the installation of a 10 Ton Crane in the PEB was as per the specifications mentioned in the layout

drawing provided by M/s. Konecranes and Demag Private Limited;

- That the load of the crane is borne by the PEB;
- That it is not possible to install the crane independently without the support of the PEB;
- That they have enclosed the Chartered Engineer's certificate dated 28/08/2023 along with the load calculations and crane loads with the application.

The applicant further stated that the PEB is a special kind of multi utility building; that it is not merely a conventional roofed factory building meant to protect the men, materials and machineries from the weather but is a plant and machinery in itself as it is incrementally strong with large foundation, pillars and beams with support mountings across the length and breadth; that it facilitates the operation of overhead crane(s) which makes the entire PEB a plant and machinery in itself; that the overhead crane is installed with the support of the foundation of the PEB structure and that the PEB bears the load of the crane.

The applicant has sought ruling on the below mentioned questions;

1. Whether proportionate Input Tax Credit is admissible for supply of the following goods and services:

- (a) Steel, Cement and other consumables etc., to the extent of their actual usage in the execution of works contract service when supplied for construction of immovable property, in the form of the factory which is an Integrated Factory Building with Gantry Beam, which in turn is used for mounting across the pre-cast concrete beams, poles over which the crane would be operated;
- (b) Installation and Erection Services of the PEB when supplied for construction of immovable property, in the form of the factory which is an Integrated Factory Building with Gantry Beam, which in turn is used for mounting across the pre-cast concrete beams, poles and over which the crane would be operated;
- (c) Other capital goods like rails, electrification, etc. installed or erected for smooth operation of the crane.

As per the discussion and findings, We have considered 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.

To summarize, the short issue involved is regarding eligibility of the proportionate ITC on inputs and input services used in the execution of Works contract service when supplied for construction of an immovable property. The applicant also intends to avail proportionate credit on other capital goods like rails, electrification, etc installed or erected for smooth operation of the crane. Before dwelling on to the question on which the applicant has sought ruling, it would be prudent to reproduce the relevant sections viz, Section 2-Definitions, Section 16- Eligibility and conditions for taking input tax credit, Section 17 Apportionment of credit and blocked credits for ease of understanding.

Personal hearing was held on 23.01.2025, wherein Shri Jagdish Shah, Shri Ketan Rana and Shri Lalit Pandey appeared on behalf of the applicant and reiterated the submission already made in the application and further stated that PEB structure is a must to support the crane.

During the course of personal hearing, the applicant provided certain photographs, to substantiate their averments. The averment made is that basis since the crane is installed on the structural support of the PEB [as is evident from the photograph] , they are eligible for proportionate ITC.

The applicant has explained the averment as under:

- Weight contribution of the crane for the primary structure of PEB- 27.10 tonnes
- Weight of the gantry beam- 10.80 tonnes
- Total weight capacity of PEB- 37.90 tonnes
- Total weight capacity of the PEB as per invoice dated 18.8.2023- 75.23 tonnes
- Thus, total weight eligible for ITC credit is- 37.90 tonnes i.e., 50.36 % of the total weight

Now, moving on to the first & second

part of the question, viz eligibility of proportionate ITC on [a] steel, cement & other consumables used in the execution of the works contract; and [b] installation and erection services of the PEB, when supplied for construction of immovable property in the form of the factory which is an integrated factory building with gantry beam, which is used for mounting across the pre-cast concrete beams, poles over which crane would be operated.

At the cost of repetition, the applicant has received works contract service from M/s. Shree Steel Building Technology, Ahmedabad, regarding installation and erection services of PEB, valued at Rs. 1.11 crores. As per the copy of the invoice attached with the application papers, the service received by the applicant is classified under SAC 995441 involving GST of Rs. 16,94,250/-. Now, SAC 99544 is in respect of 'assembly & erection of prefabricated constructions', while SAC 995441 is in respect of 'installation, assembly and erection services of prefabricated buildings.

Moving on to the last part of the question, that is whether proportionate ITC is admissible for supply of other capital goods like rails electrification, etc. installed or erected for smooth operation of crane, we find that once these are embedded in the civil structure and become an immovable property, the credit stands blocked in terms of section 17(5)(c) and (d), ibid. Thus, the averment regarding availment of proportionate credit in respect of other capital goods like rails electrification, etc. installed or erected for smooth operation of crane, is not legally tenable.

As per rulings;

1. Whether proportionate Input Tax Credit is admissible for supply of the following goods and services;

- (a) Steel, Cement and other consumables etc., to the extent of their actual usage in the execution of works contract service when supplied for construction of immovable property, in the form of the factory which is an Integrated Factory Building with Gantry Beam, which in turn is used for mounting across the pre-cast concrete beams, poles over which the crane would be operated;
- Answer: - No proportionate Input Tax Credit is admissible for the same

(b) Installation and Erection Services of the PEB when supplied for construction of immovable property, in the form of the factory which is an Integrated Factory Building with Gantry Beam, which in turn is used for mounting across the pre-cast concrete beams, poles and over which the crane would be operated;

Answer: - No proportionate Input Tax Credit is admissible for the same

(c) Other capital goods

like rails, electrification, etc. installed or erected for smooth operation of the crane.

Answer: - No proportionate Input Tax Credit is admissible for the same

Statute: GOODS AND SERVICES TAX

Decision in Favour of: NOT APPLICABLE

Title: M/S. ENERZI MICROWAVE SYSTEMS P LTD

Citation: GUJ/GAAR/R/2025/17 dated 30.04.2025

Bench/Court: GUJARAT AUTHORITY FOR ADVANCE RULING

M/s. Enerzi Microwave Systems P Ltd, 243, RJD Integrated Textile Park, Ground and 1% floor, Ichhapor, Surat, Gujarat-394510 is registered under GST and their GSTIN is 24AABCE8744K17F.

The applicant has entered into a Dealership and Service Representation agreement with M/s. MUEGGE GmbH, Germany. In terms of the said agreement, the applicant is providing warranty services to the customers of M/s. MUEGGIE GmbH in India. The applicant has further stated that the IGST on the import of parts has been paid by M/s. MUEGGIE GmbH. However, as there is no clarity about the eligibility of the ITC which is reflected in their GSTR-2B statement, the applicant seeks a ruling on whether they are eligible for the said ITC. Further, as a temporary measure the said ITC is reversed every month in table 4B(2) of GSTR 3B return, in terms of point no. 4.3 C of circular no. 170/02/2022-GST dated 6.07.2022.

The applicant has sought advance ruling on the following question;

1. Whether the IGST on import of parts which has been paid by the foreign supplier M/s. MUEGGE GmbH is available to the applicant?.

Personal hearing was granted on 08.04.2025

wherein Shri Rupesh Agashimani, Director, appeared on behalf of the applicant and reiterated the facts as stated in the application. He also submitted a copy of the Dealership and Service Representation agreement between M/s. MUEGGE GmbH and the applicant.

As per the discussions and findings, We have considered 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.

Before dwelling further on to the submission, we deem it appropriate to reproduce the relevant sections viz, Section 16- eligibility and conditions for taking input tax credit. To recapitulate, the applicant has entered into a Dealership and Service Representation agreement with M/s. MUEGGE GmbH, Germany, as a consequence of which, they are obliged to provide warranty service to the customers of M/s. MUEGGE GmbH. As a part of the warranty service, the applicant requires parts for the microwaves, which are imported. The IGST in respect of the said imports is paid by M/s. MUEGGE GmbH. Since warranty is free, the applicant, in respect of the said supply, raises the invoice against M/s. MUEGGE GmbH for the supply of warranty service. The above arrangement comes forth on going through the Agreement between the applicant and M/s. Muegge, Germany.

Significantly, the applicant in his application at paragraph 5, states that the place of supply of service, [in respect of warranty service] the invoice of which is raised on M/s. MUEGGE GmbH, is India, as such services are not considered as export of services. In terms of Section 97(2) of the CGST Act, 2017, determination of place of supply is not a question on which an advance ruling can be sought, since it does not figure amongst the seven issues mentioned therein. However, since the applicant himself has accepted that it is not an export of service and is not disputing it, we move forward to decide the question posed before us.

The applicant, we find has provided a copy of the invoice, raised on M/s. MUEGGE

GmbH towards warranty service, as mentioned supra. As is evident, the invoice is towards repairs and service charges and does not include the cost of spare parts. The application is also silent on the crucial aspect of whether the invoice raised on M/s. MUEGGE GmbH, includes the cost of parts also. We find that spare parts docs not form part of the invoice, more so since it is M/s. MUEGGE GmbH who is discharging the payment in respect of the IGST at the time of import, though the import is in the name of the applicant, as is evident from a sample bill of entry provided with the application. However, as far as availment of ITC as is reflected in the GSTR 2B is concerned, we find that the applicant would not be entitled to avail the same.

As per ruling;

Question: - Whether the IGST on import of parts which has been paid by the foreign supplier M/s. MUEGGE GmbH is available to the applicant?

Answer: - The applicant is not eligible for IGST on imports of parts paid by the foreign supplier M/s. MUEGGE GmbH, in terms of section 16 of the CGST Act, 2017.

Statute: GOODS AND SERVICES TAX

Decision in Favour of: NOT APPLICABLE

Title: M/s SITARAM KUMHAR

Citation: RAJ/AAR/2025-26/01 dated 17.04.2025

Bench/Court: RAJASTHAN AUTHORITY FOR ADVANCE RULING

M/s SITARAM KUMHAR, 18A, Kalyan Vihar, Nayla Road, Jaisinghpura Khor, JAIPUR-302027, Rajasthan (hereinafter "the applicant") is fit to pronounce advance ruling as they have deposited prescribed Fee under CGST Act and it falls under the ambit of the Section 97(2).

The applicant states that he is intending to start the business of trading-Purchase and sale of Ground Nuts with shell. The applicant will purchase/source ground nuts from farmers (mandi) and then sell/supply it on order to various firm inter-state and intra- state.

Ground nut is the 'King of Oil seeds' because of its high nutritional values containing proteins, oil, carbohydrate and calorific value. It is grown in Kharif and Rabi seasons of India and India is the second largest Ground Nut producing country followed by

China.

Moisture content is a fundamental characteristic of Ground Nut. There are strict moisture content requirements for Ground Nut production. For harvesting, processing, or storage, the moisture content of Ground Nut must be within a particular range. Ground Nuts are susceptible to mold growth, particularly *Aspergillus flavus* and *Aspergillus parasiticus*, which produce aflatoxins—a group of potent carcinogens. Drying reduces the moisture content, inhibiting mold growth and minimizing aflatoxin production. Aflatoxins pose serious health risks and can lead to significant economic losses due to rejected shipments and reduced marketability.

High moisture content in Ground Nuts can lead to spoilage and degradation. Drying Ground Nuts to an appropriate moisture level slows down the metabolic activity and microbial growth, thereby extending their shelf life. This is crucial for storage and transportation, ensuring that the Ground Nuts remain fresh and safe for consumption over longer periods.

The applicant after the sourcing of Ground-Nuts from open farms will heat the Ground Nuts in order to ensure that the Ground Nuts are not-spoiled during storage and transportation. It is very necessary to reduce the moisture content of the Ground Nuts without posing fundamental chemical and physical changes in the structure and composition of the Ground Nuts. The heating is essential in order to ensure that the Ground Nuts are retained in their original/raw form only even after transportation and are delivered without spoilage and degradation.

The applicant has sought for the following question;

Question: - Whether mere heating of Ground-Nuts with shell to reduce its water content to make it suitable for storage and transportation makes it in-eligible to be classified under HSN 1202 or not?

As per application, the business of the taxable person is TRADING of groundnuts with shell (procurement from farms and supply after dehydration by mild heating). As point no. 6 of application, the taxable person states that "The groundnuts sourced by the applicant shall be subjected to 5% GST rate under chapter 12 of the GST Tariff

Act 2017 and seeks to sale them further at the same rate of GST. But in the last of application, in PRAYER, the taxable person prays the hon'ble authority as follows:- " It is therefore, prayed that in light of the above made submission, the commodity to be traded by the applicant i.e., groundnut with shell (procurement from farms and supply after dehydration by mild heating), to be held as goods falling under chapter heading 12, tariff item 1202 attracting NIL rate of GST. Thus, from the applicable tax-rate point of view, it appears that the applicant made contradictory statements in the application.

As per application, the taxable person wants to reduce water content by mild heating process. Here it appears necessary to understand some terms like drying, heating, roasting and cooking. Normally drying appears to be sun-drying or air-drying in Agri-sector. Sun-drying and Air-drying is a natural process. Drying also carried out artificially or mechanically using heat treatment which can be termed as heating. Heating holds close proximity with roasting. Mild heating or roasting have a mild difference based on degree of heat or temperature. Heat-drying or heating can also bring change in physical appearance, structure and composition to subjected goods. Further, cooking is a more intense form of the same. Thus, drying, heating, roasting and cooking are gradually more intense than former. Heating at sufficient degree becomes roasting and roasted groundnuts are intentionally not included in ISN no. 1202 by legislature.

In the light of above-mentioned facts, the undersigned is humbly of the opinion that heating whether mild or harsh, being proximate to roasting, makes groundnuts with shell ineligible to be classified under HSN 1202.

In the matter, personal hearing was granted to the applicant on 19.02.2025. Mr. Pankaj Malik (C.A.) Authorized Representative appeared for personal hearing. They reiterated the submission already made by them.

As per the discussions and findings, We have carefully examined the statement of facts, contents of the application filed by the applicant, submissions made at the

time of hearing and the comments of the jurisdictional Tax Authority. We have also considered the issue involved, on which advance ruling is sought by the applicant and other relevant facts.

The applicant, M/s SITARAM KUMHAR, 18A, Kalyan Vihar, Nayla Road, Jaisinghpura Khor, JAIPUR-302027, Rajasthan, is registered with the GST department having GSTIN 08FCIPS2948E127. The Applicant has stated that he is intending to start the business of trading - purchase and sale of Ground Nuts with shell. The applicant will purchase/source ground nuts from farmers (mandi) and then sell/supply it on order to various firms both inter-state and intra-state.

The present application has been filed by the applicant seeking that whether mere heating of Ground-Nuts with shell to reduce its water content to make it suitable for storage and transportation makes it in-eligible to be classified under HSN 1202 or not?

We observe that the applicant has submitted that it is very necessary to reduce the moisture content of the Ground Nuts without posing fundamental chemical and physical changes in the structure and composition of the Ground Nuts. The heating is essential in order to ensure that the Ground Nuts are retained in their original/raw form only even after transportation and are delivered without spoilage and degradation.

We observe that the taxable person wants to reduce water content of ground nuts by mild heating process. The terminologies related to mild heating are drying, heating, roasting and cooking. Normally drying relates to be sun- drying or air-drying in Agri-sector. Sun-drying and Air-drying is a natural process. Drying also carried out artificially or mechanically using heat treatment which can be termed as heating. Mild heating or roasting has a minor difference based on intensity of heat. Thus, drying, heating, roasting and cooking are gradually more intense than former.

We observe that heating holds close proximity with roasting. Further, we find that the applicant has not mentioned the details of the heating process to be adopted

by him. He has not mentioned details of equipments etc. that will be used to heat ground nuts in order to remove moisture in a controlled way by maintaining adequate temperature. We also find that the applicant has not submitted any details of the infrastructure set up or intended to be set up by him in this regard. Heating at sufficient degree becomes roasting and roasted groundnuts is not classified under HSN -1202 by legislature. Further, it is noteworthy that heat-drying or heating can also bring change in physical appearance, structure and composition to subjected goods. We observe that mere heating of Ground-Nuts with shell to reduce its water content is squarely covered under roasting process and therefore, the product so obtained is not covered under HSN 1202.

As per ruling;

Question:- Whether mere heating of Ground-Nuts with shell to reduce its water content to make it suitable for storage and transportation makes it in-eligible to be classified under HSN 1202 or not?

Answer: - Yes, heating of Ground-Nuts with shell to reduce its water content to make it suitable for storage and transportation makes it in-eligible to be classified under HSN 1202.

B. JUDICIAL DECISIONS ON INDIRECT TAXES

Statute: GOODS AND SERVICES TAX

Decision in Favour of: APPELLANT

Title: AMBIKA TRADERS VERSUS ADDITIONAL COMMISSIONER, ADJUDICATION DGGSTI, CGST, DELHI NORTH

PRATHIBA M. SINGH AND RAINEESH KUMAR GUPTA, JJ.

Citation: (2025) 148 GSTR 1: 2025 SCC OnLine Del 6913

Bench/court: IN THE HIGH COURT OF DELHI
A. Gst Writs Under Constitution Scope Of Interference Demands And Recovery - Proceedings Order Detailed, Setting Out Facts, Hearings, Analysis Of Reply Replies Duly Considered But Largely Technical No Substantive Rebuttal On Merits - Facts Revealed In Investigation Not Prima Facie Disputed - Fraudulent Availment Of Input-Tax Credit Existence Of Business To Be Proved By Nature Of Goods Sold And

Quantities Purchased- No Such Averments Made Conclusions Of Respondent Not Perverse Constitution Of India, Art. 226. Central Goods And Services Tax Act (12 Of 2017), S. 74.

B. Gst Demands And Recovery Show-Cause Notice Validity Allegation Of Wrongful Availment Of Input-Tax Credit - Consolidated Notice For Multiple Financial Years Permissible Statute Refers To "Period" And Not "Financial Year" Period Could Be More Than One Financial Year Where Wrongful Availment Of Input-Tax Credit Is Alleged, Notice Need Not Be Confined To Single Financial Year Fraudulent Availment Or Utilisation Of Credit Cannot Be Established Without Linking Transactions Across Years - A Solitary Year's Availment May Be Insufficient - Law Not.

Statute: GOODS AND SERVICES TAX

Decision in favour of: APPELLANT

Title: EMINENT TEXTILES MILLS PRIVATE LIMITED VERSUS STATE TAX OFFICER AND OTHERS

PANKAJ MITHAL AND PRASANNA B. VARALE, JJ.

Citation: (2025) 148 GSTR 39: 2025 SCC OnLine SC 2610

Bench/Court: IN THE SUPREME COURT OF INDIA

Gst- Rectification Of Mistake- Natural Justice-Section 161-Rejection Without Hearing - Third Proviso To Section 161 Requiring Principles Of Natural Justice Only Where Rectification Adversely Affects Any Person-Dismisal Of Rectification Application Without Rectification Does Not Attract Requirement Of Natural Justice-Assessee Directed To Avail Of Statutory Appeal Remedy- Tamil Nadu Goods And Services Tax Act (19 Of 2017), S.161.

Statute: GOODS AND SERVICES TAX

Decision in favour of: APPELLANT

Title: DHIRAJ CAN CO. PVT. LTD VERSUS UNION OF INDIA AND OTHERS

BHARGAV D. KARIA AND PRANAV TRIVEDI, JJ.

Citation: (2025) 148 GSTSR 40: 2025 SCC OnLine Guj 5006

Bench/Court: IN THE HIGH COURT OF GUJARAT

Gst- Leasehold Rights- Assignment Of Leasehold Rights Of Land Allotted By

Gujarat Industrial Development Corporation - Not Supply Of Service But Transfer Of Immovable Property- Interest In Immovable Property In Form Of Leasehold Rights Not Distinct From Immovable Property Itself - Transaction Not Liable.

Statute: GOODS AND SERVICES TAX

Decision in favour of: APPELLANT

Title: SHRI ADINATH ENTERPRISES VERSUS JOINT COMMISSIONER CENTRAL TAX GST DELHI EAST AND ANOTHER PANKAJ MITHAL AND PRASANNA B. VARALE, JJ.

Citation: (2025) 148 GSTR 50: 2025 SCC OnLine SC 2606

Bench/Court: IN THE SUPREME COURT OF INDIA

Gst- Writs Under Constitution- Alternative Remedy- Writ Petition Against Final Order Under Section 74 Without Exhausting Alternative Remedy Of Appeal - Not Maintainable Central Goods And Services Tax Act (12 Of 2017), S. 74- Constitution Of India, Art. 226.

Statute: GOODS AND SERVICES TAX

Decision in favour of: APPELLANT

Title: ASSISTANT COMMISSIONER OF CENTRAL TAX AND OTHERS VERSUS SRI VIJAYA VISAKHA MILK PRODUCERS COMPANY LTD. AND ANOTHER SANJIV KHANNA, C.J. AND SANJAY KUMAR, J.

Citation: (2025) 148 GSTR 51: 2025 SCC OnLine SC 1856

Bench/ Court: IN THE SUPREME COURT OF INDIA

Gst - Classification - Flavoured Milk - Classification Of Flavoured Milk Under Tariff Heading 0402 Or 2202 Assessee Contending Flavoured Milk Falls Under Tariff Heading 0402 As Milk Containing Added Sugar And Sweetening Matter Revenue Holding Flavoured Milk Falls Under Tariff Heading 2202 As Beverages Containing Milk Application Of General Rules For Interpretation Special Entry To Be Preferred Over General Entry-Flavoured Milk Held To Fall Under Tariff Heading 0402- Central Goods And Services Tax Act (12 Of 2017), Ss. 74, 122(2)(B).

Statute: GOODS AND SERVICES TAX

Decision in favour of: APPELLANT

Title: TIRTH AGRO TECHNOLOGY PVT. LTD. AND ANOTHER VERSUS UNION OF INDIA AND OTHERS

BHARGAV D. KARIA AND D.N. RAY, JJ.

Citation: (2025) 148 GSTR 53: 2024 SCC OnLine Guj 4452

Bench/Court: IN THE HIGH COURT OF GUJARAT

Gst- Refund- Change Of Law-Retrospective Legislation- Formula For Calculating Refund Under Rule 89(5)- Notification Amending Formula Issued Pursuant To Supreme Court Direction To Goods And Services Tax Council To Remove Anomalies- Amendment Being Clarificatory And Curative In Nature Has Retrospective Application Benefit Of Amended Notification Cannot Be Confined Only To Applications Filed After Amendment Assessee Having Filed Refund Claims Within Prescribed Limitation Period Entitled To Benefit Of Amended Formula Irrespective Of Any Prior Refund Restricting Benefit Only To Post-Amendment Claims Would Result In Discrimination And Inequality Among Similarly Placed Assesseees Circular Stating Amendment Not Clarificatory And Applies Prospectively Held Contrary To Act And Liable To Be Quashed - Respondents Directed To Release Differential Refund Within Three Months Central Goods And Services Tax Act (12 Of 2017), S. 54(3) Central Goods And Services Tax Rules, 2017, R. 89(5) Notification No. 14/2022, Dated July 5, 2022.

Statute: GOODS AND SERVICES TAX

Decision in favour of: APPELLANT

Title: UNION OF INDIA AND OTHERS VERSUS TIRTH AGRO TECHNOLOGY PVT. LTD. AND OTHERS

MANOS MISRA AND LUGAL BHUYAN, JJ.

Citation: (2025) 148 GSTR 64:2025 SCC OnLine SC 2607

Bench/Court: IN THE SUPREME COURT OF INDIA

Gst-Refund- Change Of Law- Retrospective Legislation- Formula For Calculating Refund Under Rule 89(5)- Notification Amending Formula Issued Pursuant To Supreme Court Direction To Goods And Services Tax Council To Remove Anomalies- Amendment Being Clarificatory And Curative In Nature Has Retrospective Application- Benefit Of

Amended Notification Cannot Be Confined Only To Applications Filed After Amendment - Assessee Having Filed Refund Claims Within Prescribed Limitation Period Entitled To Benefit Of Amended Formula Irrespective Of Any Prior Refund -Restricting Benefit Only To Post-Amendment Claims Would Result In Discrimination And Inequality Among Similarly Placed Assesseees- Circular Stating Amendment Not Clarificatory And Applies Prospectively Held Contrary To Act And Liable To Be Quashed - Respondents Directed To Release Differential Refund Within Three Months Central Goods And Services Tax Act (12 Of 2017), S. 54(3) Central Goods And Services Tax Rules, 2017, R. 89(5)- Notification No. 14/2022, Dated July 5, 2022.

Statute: GOODS AND SERVICES TAX

Decision in favour of: APPELLANT

Title: NRM METALS (INDIA) PRIVATE LIMITED AND ANOTHER VERSUS UNION OF INDIA AND OTHERS

BHARGAV D. KARIA AND P.M. RAVAL JJ.

Citation: (2025) 148 GSTR 66: 2025 SCC OnLine Guj 5007

Bench/Court: IN THE HIGH COURT OF GUJARAT

A. Gst- Search And Seizure Document Identification Number - State Tax Authority Not Required To Mention Document Identification Number In Summons And Orders Cbic Circular No. 37/2019 Not Applicable To State Tax Authorities No Similar Circular Issued By State Central Goods And Services Tax Act (12 Of 2017), S. 67 - Gujarat Goods And Services Tax Act (25 Of 2017), S. 67.

Statute: GOODS AND SERVICES TAX

Decision in favour of: APPELLANT

Title: ESH ISPAT PRIVATE LIMITED AND ANOTHER VERSUS PRINCIPAL COMMISSIONER, CENTRAL GOODS AND SERVICE TAX AND CENTRAL EXCISE, RANCHI AND OTHERS

TARLOK SINGH CHAUHAN. C.J. AND RAJESH SHANKAR, J.

Citation: (2025) 148 GSTR 77: 2025 SCC OnLine Jhar 3197

Bench/Court: IN THE HIGH COURT OF JHARKHAND

Gst Appeal Limitation Condonation Of Delay Writs Undersection 107 One Month Constitution Writ Petition For Directing

Appellate Authority To Condone Delay Of About Two Months Ten Days In Filing Appeal Against Order Under Section 107(4) Providing For Condonation Of Delay Only Up To Appellate Authority Having No Power To Condone Delay Beyond Prescribed Statutory Period Writ Court Cannot Exercise Jurisdiction Under Article 226 To Condone Delay Where Statutory Limitation Period Has Expired Complete Exclusion Of Section 5 Of Limitation Act Where Specific Limitation Provided Petition Dismissed Central Goods And Services Tax Act (12 Of 2017), S. 107- Limitation Act (36 Of 1963), S. 5-Constitution Of India, Art. 226.

Statue: GOODS AND SERVICES TAX

Decision in favour of: APPELLANT

Title: PATIL CONSTRUCTION AND INFRASTRUCTURE LTD VERSUS COMMISSIONER OF STATE TAX AND OTHERS (AND OTHER CASES

B.P. COLABAWALLA AND SOMASEKHAR SUNDARESAN, JJ.

Citation: (2025) 148 GSTR 91: 2024 SCC OnLine Bom 5142

Bench/Court: IN THE HIGH COURT OF BOMBAY

Gst Recovery Of Tax - Provisional Attachment Order Of Provisional Attachment Must Be Preceded By Formation Of Opinion That It Is Necessary So To Do For Purpose Of Protecting Interest Of Government Revenue Order Of Attachment Bereft Of Material To Show That For Protecting Interest Of Government Revenue Attachment Necessary Quashed Maharashtra Goods And Services Tax Act (43 Of 2017), S. 83- Central Goods And Services Tax Act (12 Of 2017) - Central Goods And Services Tax Rules, 2017, R. 159.

Statute: CENTRAL SALES TAX

Decision in favour of: APPELLANT

Title: NATESAN VERSUS STATE TAX OFFICER, ATTUR (TOWN) CIRCLE, ATTUR C. SARAVANAN. J.

Citation: (2025) 148 GSTR 99: 2024 SCC OnLine Mad 10829

Bench/Court: IN THE HIGH COURT OF MADRAS

Central Sales Tax-Inter-State Sales- Rate Of Tax- Exemption Notification Issued Under Value Added Tax Act- Applicable To

Inter-State Sales In Absence Of Specific Notification Under Section 8(5)- Central Sales Tax Act (74 Of 1956), S. 8(2), (5).

Statute: GOODS AND SERVICES TAX

Decision in favour of: APPELLANT

Title: VINEET POLYFAB PVT. LTD. AND ANOTHER VERSUS UNION OF INDIA AND OTHERS

BHARGAV D. KARIA AND PRANAV TRIVEDI, J.

Citation: (2025) 148 GSTR 109: 2025 SCC OnLine Guj 5008

Bench/Court: IN THE HIGH COURT OF GUJARAT

Gst- Refund-Interest- Refund Delayed Due To Technical Glitch In System And Not Attributable To Assessee- Interest Mandatory And Compensatory In Nature- Respondents Directed To Grant Interest On Delayed Refund Within 12 Weeks From Date Of Receipt Of Order-Central Goods And Services Tax Act (12 Of 2017), S. 56.

Statute: SALES TAX AND VAT

Decision in favour of: APPELLANT

Title: WEATHERPROOF SOLUTION AND ANOTHER VERSUS STATE OF GUJARAT AND ANOTHER

BHARGAV D. KARIA AND D.N. RAY. JJ.

Citation: (2025) 148 GSTR 154: 2025 SCC OnLine Guj 5144

Bench/Court: IN THE HIGH COURT OF GUJARAT

Sales Tax And Vat-Value Added Tax- Input-Tax Credit-Refund- Not Unutilised Input-Tax Credit- Carried Forward To Next Tax Period- Transferred Under Goods And Services Tax Regime- Filing Of Form Gst-Tran-1 Not Mandatory- Four-Year Assessment Period Expired- Refund Admissible- Gujarat Value Added Tax Act, 2003 (1 Of 2005), Ss. 34, 36- Gujarat Value Added Tax Rules, 2006

Statute: GOODS AND SERVICES TAX

Decision in favour of: APPELLANT

Title: SHRI PREMPURJI GRANIMARBO PRIVATE LIMITED VERSUS UNION OF INDIA AND OTHERS

AVINEESH JHINGAN AND UMA SHANKER VYAS, J.

Citation: (2025) 148 GSTR 180: 2024 SCC OnLine Raj 3859

Bench/Court: IN THE HIGH COURT OF RAJASTHAN'

Gst-Writs Under Constitution- High Court- Cause Of Action- Territorial Jurisdiction- Rejection Of Refund Of Integrated Goods And Services Tax On Exports From Ports Outside State Of Rajasthan- - Assessee's Business Location Or Goods And Services Tax Registration In Rajasthan Does Not Give Rise To Cause Of Action For Refund Withheld By Customs Authorities At Port Of Export- Cause Of Action Must Arise From Material Or Integral Facts Having Direct Nexus With Grievance- No Part Of Cause Of Action Arising In Rajasthan- Writ Petition Dismissed For Want Of Territorial Jurisdiction- Central Goods And Services Tax Rules, 2017, R. 96 Constitution Of India, Art. 226(2).

Statute: GOODS AND SERVICES TAX

Decision in favour of: APPELLANT

Title: STAR HEALTH AND ALLIED INSURANCE COMPANY LTD VERSUS STATE OF HARYANA AND OTHERS

G.S. SANDHAWALIA AND LAPITA BANERI, JJ.

Citation: (2025) 148 GSTR 191: 2024 SCC OnLine P&H 15831: (2024) 83 GSTL 289

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

Gst-Appeal - Limitation-Electronic And Manual Filing - Provisional Acknowledgement To Be Treated As Date Of Filing Where Order Not Uploaded- Procedural Rules Are Handmaids Of Justice- Rejection Of Appeal On Technical Grounds Unsustainable- Central Goods And Services Tax Rules 2017, R. 108(3).

Statute: GOODS AND SERVICES TAX

Decision in favour of: APPELLANT

Title: CHEGG INDIA PVT. LTD VERSUS UNION OF INDIA AND OTHERS

PRATHIBA M. SINGH AND AMIT SHARMA, JJ.

Citation: (2025) 148 GSTR 194: 2024 SCC OnLine Del 9194: (2025) 97 GSTL 289

Bench/Court: IN THE HIGH COURT OF DELHI

A. Gst-Change Of Law-Appeal- Limitation- Refund Orders-Appeals Filed Online Within Prescribed Period- Physical Filing Delayed- Pre-Amendment Rule 108 Requiring Physical Filing Of Certified Copy- Amendment Dated December 26, 2022 Eliminating Requirement Of Physical Filing- Clarificatory Nature Of Amendment- Online Filing Within Limitation Sufficient- Central

Goods And Services Tax Act (12 Of 2017), S. 107-Central Goods And Services Tax Rules, 2017, R. 108.

B. Gst- Change Of Law - Appeal - Limitation - Amendment To Rules Retrospective Application Rule 108 Amended To Eliminate Requirement Of Physical Filing Of Certified Copy Amendment Clarificatory In Nature Applicable To Appeals Filed Before Amendment Services Tax Rules, 2017, R. 108. Central Goods And

C. Gst Appeal Online Filing - Electronic Filing Recognized As Valid Mode Physical Filing Merely Procedural Requirement - Delay In Physical Filing When Online Filing Within Limitation Condonable Central Goods And Services Tax Rules, 2017, R. 108.

Statute: GOODS AND SERVICES TAX

Decision in favour of: APPELLANT

Title: RIDDHI SIDDHI ENTERPRISES VERSUS COMMISSIONER OF GOODS AND SERVICES TAX (CGST), SOUTH DELHI AND ANOTHER YASHWANT VARMA AND RAVINDER DUDEJA, J.

Citation: (2025) 148 GSTR 206: 2024 SCC OnLine Del 9847: (2024) 90 GSTL 257

Bench/Court: IN THE HIGH COURT OF DELHI

GST- Registration-Cancellation - Retrospective Effect - Show-Cause Notice Issued Under Section 29(2)(E) Alleging Registration Obtained By Fraud- Order Passed Cancelling Registration From Retrospective Date Without Assigning Reasons- Power To Cancel Registration Retrospectively Cannot Be Exercised Mechanically- Cancellation With Retrospective Effect Requires Reasoned Order Demonstrating Due Application Of Mind - Order Quashed- Central Goods And Services Tax Act (12 Of 2017),S.29(2)(E).

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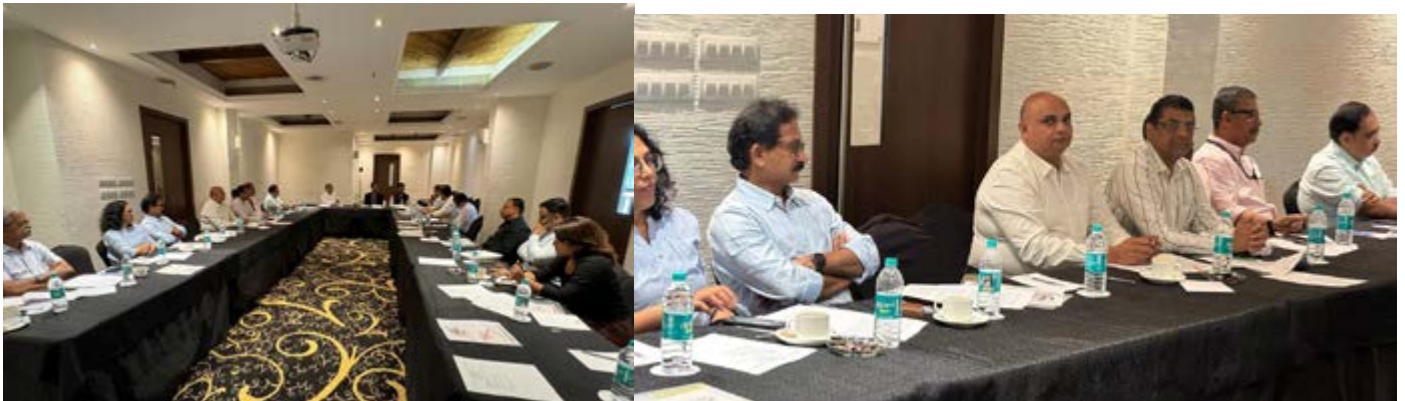
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