Newsletter - Nov 2025

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Contents

Direct Tax – Circulars and Notifications

Circulars and Notifications issued by CBDT in the month of Nov 2025

1. CBDT notifies permissible Arm's Length Price (ALP) variation range to 1% for wholesale trading and 3% for all other transactions for AY 2025-26

Notification no. 157/ 2025, dated 06th Nov 2025

In exercise of the powers conferred by the third proviso to sub-section (2) of section 92C of the Income-tax Act, 1961 (43 of 1961)(hereafter referred to as the said Act) read with the proviso to sub-rule (7) of rule 10CA of the Income-tax Rules, 1962, the Central Government hereby notifies that where the variation between the arm's length price determined under section 92C of the said Act and the price at which the international transaction or specified domestic transaction has actually been undertaken does not exceed, (i) one per cent. of the latter in respect of wholesale trading; and (ii) three per cent. of the latter in all other cases — the price at which the international transaction or specified domestic transaction has actually been undertaken shall be deemed to be the arm's length price for the assessment year 2025-2026.

Click here to read /download the Notification no. 157/ 2025, dated 06th Nov 2025

2. CBDT notifies enforcement of Amending Protocol to India–Belgium DTAA effective 26 June 2025

Notification no. 160/ 2025, dated 10th Nov 2025

Whereas, the Protocol, amending the Agreement and the Protocol between the Government of the Republic of India and the Government of the Kingdom of Belgium for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, signed at Brussels on the 26th April, 1993, was signed at New Delhi on the 9th March, 2017, as set out in the Annexure appended to this notification (hereinafter referred to as the said Amending Protocol);
And whereas the date of entry into force of the said Amending Protocol is the 26th June, 2025, being the date of the later of the notifications of the completion of the legal requirements and procedures for giving effect to the said Amending Protocol in accordance with paragraph 2 of Article 4 of the said Amending Protocol;
Now, therefore, in exercise of the powers conferred by sub-section (1) of section 90 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby directs that all the provisions of the said Amending Protocol, as set out in the Annexure hereto, shall be given effect to in the Union of India.

Click here to read /download the Notification no. 160/ 2025, dated 10th Nov 2025

3. CBDT notifies Capital Gains Accounts (Second Amendment) Scheme, 2025

Notification No. 161/2025, dated 19th Nov 2025

In exercise of the powers conferred by sub-section (2) of section 54, sub-section (2) of section 54B, sub-section (2) of section 54D, sub-section (4) of section 54F, sub-section (2) of section 54G, sub-section (2) of

section 54GA and sub-section (2) of section 54GB of the Income-tax Act, 1961 (43 of 1961), the Central Government
hereby makes the following Scheme further to amend the Capital Gains Account Scheme, 1988, namely:-
1. This Scheme may be called the Capital Gains Accounts (Second Amendment) Scheme, 2025.
(2) It shall come into force on the date of its publication in the Official Gazette.

Click here to read /download the notification no. 161/2025 dated 19th Nov 2025

4. CBDT notifies additional branches (excluding rural) for Capital Gains Account Scheme

Notification No. 162/2025, dated 19th Nov 2025

In pursuance of clause (e) of paragraph 2 of the Capital Gains Account Scheme, 1988, and
in continuation to the earlier notification numbers G.S.R.725(E), dated the 22nd June, 1988 and G.S.R 859(E), dated
the 30th November, 2012, the Central Government hereby authorises all the branches (except rural branches) of the
following banks to receive deposits and maintain accounts under the said Scheme

Click here to read /download the notification no. 162/2025 dated 19th Nov 2025

Direct Tax – Legal Rulings

1. **SC: Upholds HC's 'Knowledge = Receipt' interpretation u/s 153(2A); Rejects Revenue's SLP**

   Qualcomm Incorporated [TS-1437-SC-2025]

   SC dismisses Revenue's Special Leave Petition (SLP) against Qualcomm Incorporated (Assessee) on the issue of interpretation of the word 'received' under Section 153(2A) as 'having knowledge'; *Delhi HC* had observed that the starting point for computing the period of limitation for Section 153(2A) would be from when the Revenue shall be deemed to have knowledge of the order passed by the ITAT; In the present case *ITAT by order dt. Feb 20, 2015* had set aside one issue for fresh consideration and the Revenue passed the order giving partial effect to ITAT's order on another issue on March 12, 2015 where as the draft assessment order on set aside issue pursuant to ITAT's direction was passed on Dec 27, 2016 and the final assessment order on Oct 30, 2017; Thus, HC accepted Assessee's contention that perusal of the appeal effect order dated March 12, 2015 establishes that the AO had full knowledge of the ITAT order dt. Feb 20, 2015 and consequently the period of limitation as prescribed in Section 153(2A) would have to be computed accordingly; Thus, HC declined to interfere with ITAT's finding that the fresh assessment order passed against Assessee was time barred under Section 153(2A); In the said matter SC declines to entertain Revenue's SLP:

   Click here to read / download the copy of the ruling.

2. **HC: Sec.148 notice beyond 6 years, post-Rajeev Bansal, not saved by Sec.149(1)-fifth proviso if barred by first proviso**

   Cyberabad Citizens Health Services Private Limited [TS-1575-HC-2025(TEL)]

   Telangana HC quashes order under Section 148A(d) and consequential reassessment notice under Section 148 for AY 2017-18, holding that the same is issued beyond the period of limitation as per the first proviso to Section 149 (as amended with effect from April 01, 2021); HC opines that, "*though the assessment year being 2017-18 and end of the relevant assessment year is 31.03.2024, the period of limitation would be three years from 31.03.2018 till 31.03.2021. Even if it is four years , the period of limitation would come to an end on 31.03.2022 and the show-cause notice being one that has been issued on 22.04.2024; the same apparently is barred by limitation*"; HC emphasises that, "*Since the show-cause notice was issued on 31.03.2024 after coming into force of the Finance Act, 2021 w.e.f. 01.04.2021 it would be the limitation prescribed under the new regime i.e. amended provision to Section 149(1) which would be relevant for adjudication of the dispute*", by relying on SC judgment in *Rajeev Bansal*; HC notes that in the present case the show cause notice was issued on Apr 22, 2024 i.e., after expiry of limitation of 6 years from relevant AY; HC relies on Delhi HC judgment in *Godrej* and opines that *no notice under Section 148 of the Act for AY 2017-18 could be issued on or after 1st April 2021 based on the first proviso to Section 149;* Rejects Revenue's reliance of fifth or sixth proviso and opines fifth proviso cannot apply in a case where the first proviso applies because, if a notice under Section 148 could not be issued beyond the time period provided in the first proviso, then the fifth proviso could not save such notices; HC clarifies that the fifth proviso can only apply where one has to determine whether the time limit of three years and ten years in Section 149(1) are breached; HC relies on SC judgment *S.M. Overseas* and holds the reassessment proceedings to be invalid as the Assessee was also subject to rectification proceedings which were not withdrawn by the Revenue; Thus, quashes reassessment proceedings for AY 2017-18.:HC TEL

   Click here to read / download the copy of the ruling.

3. **ITAT: Reassessment solely basis investigation wing report sans independent inquiry, invalid**

Maralbid Padmavathi [TS-1456-ITAT-2025(Bang)]

Bangalore ITAT quashes reassessment based on investigation wing report alleging non-disclosure of capital gain without independent inquiry and ignoring tangible material evidencing disclosure of capital gain by the Assessee; Tribunal holds that reasons recorded are vague and factually incorrect since the capital asset received by the Assessee due to operation of law was not converted into stock by the legal heirs and the same was reported as capital asset in ITR; Assessee filed return of income for AY declaring total income of Rs. 8.10 Lax including agricultural income of Rs. 4.75 Lac; Consequently, reassessment under Section 148 was initiated on the basis of the Investigation wing report alleging non-disclosure of capital gain of Rs. 3.36 Cr in ITR; Subsequently, made addition of Rs. 3.36 Cr as unexplained income under Section 69A on the premise that the transactions were adventure in the nature of trade and deduction under Section 54 is not allowable; Tribunal relies on SC judgment in *Kelvinator* and opines that reassessment notice under Section 148 was initiated on the basis of Investigation wing, Bellary report without independent verification qua veracity of the report; Lastly, Tribunal holds that CIT(A) finding that capital asset was received by the legal heirs after demise of Mr. Eranna has not been converted into the stock by the legal heirs and the Assessee has shown capital gain on this income, accordingly, the disputed amount does not come under the business income; Thus, quashes reassessment and dismisses Revenue's appeal.:ITAT Bang

Click here to read / download the copy of the ruling.

4. **ITAT: Quashes retrospective Trust-registration cancellation; No invocation of Sec.12AB(4) for violations prior to new regime**

Ram Saran Das Kishori Lal Charitable Trust [TS-1500-ITAT-2025(DEL)]

Delhi ITAT sets aside the CIT(E) order under Section 12AA(3)/12AB(4) holding that the assumption of jurisdiction by CIT(E) under Section 12AB(4) is vitiated; ITAT opines, "*the notice dated 14.03.2024 itself was defective and did not vest powers to cancel the registration for any alleged 'specified violation' and that too retrospectively*"; ITAT notes that the registration of Assessee-Trust under section 12A was cancelled by the CIT(E) with retrospective effect from April 01, 2002 on the ground that the Assessee was involved in illegal kidney transplant and thus, the activities carried out by the Assessee ceased to be for charitable purposes and were actually for profit motive, that too, through illegal means; ITAT emphasises that the FIRs do not charge Trust or Trustees of any illegality of offence and have no bearing on the charitable nature of the activities carried out by the trust at the hospital run by it; ITAT expounds, "*There is no legal justification under the Act or rationality to vicariously hold an assesse liable for rejection of beneficial registration under the Act or for any disallowances unless the Trust and its Trustees are directly held responsible for any criminal action or an act of breach of public trust*", by relying on Mumbai ITAT ruling in *Padmashree Dr DY Patil-University* and Amritsar ITAT ruling in *Guru Gobind Singh Educational Society*; ITAT opines, "*The suspension or cancellation of permission to Trust hospital w.e.f. 20.01.2003 by the Punjab Government under the Transplantation Human Organs Act, 1994 cannot be valid ground for cancellation of registration of a charitable trust under the Act as it was not merely for the organ transplant the charitable activity was recognised*"; Having perused the impugned notice for cancellation of registration, ITAT finds that there is no reference to Explanation to Section 12AB(4) pointing towards the specific violations laid down in clause (a) to (g) of the Explanation, for which the action of

cancellation of registration is warranted and further the said notice does not mention CIT(E)'s intention to invoke cancellation powers with retrospective effect; ITAT points out that it is only after the registration is undertaken within the meaning of Section 12AB, then only, if any punitive action by way of cancellation is to be undertaken by the Revenue under Section 12AB, meaning there by that the 'specified violations' should be subsequent to the new regime coming into effect; ITAT, thus emphasises that the 'specified violations' allegedly pertained to a period prior to April 01, 2022 thereby provisions of Section 12AB(4) could not have been invoked; Thus allows Assessee's appeal.:ITAT

Click here to read / download the copy of the ruling.

5. **NR's investment in residential property from foreign-source not taxable as unexplained investment in India**

Rajnish Kasturchand Ostwal [TS-1524-ITAT-2025(Mum)]

Mumbai ITAT allows Assessee's appeal, deletes addition under Section 69 on account of alleged unexplained investment in residential property by the Non-resident Assessee, holding that source of unexplained investment being accumulated foreign salary not taxable in India were satisfactory explained along with documentary evidences sans any corroborative evidence by the Revenue to rebut the explanation; Tribunal reiterates that Section 5(2) applies only in case the income is accrued or received in India, however, in the present case, no such income was either accrued or received in India, thus, Section 69 also has no applicability since investment did not represent income liable to tax; Tribunal notes that Assessee has been continuously residing and employed abroad for nearly two decades without any source of income in India; Assessee contended that entire investment in residential property was made from accumulated foreign salary remitted through authorised and verifiable banking channels; ITAT opines that perusal of bank statement and other relevant document depicts that fund trail were clear, contemporaneous and fully corroborated by documentary evidences with no discrepancy by the Revenue; Assessee, a Dubai resident and subsequently returned to India in the year 2001 did not file return of income for AY 2016-17; Subsequently, on the basis of third party information reassessment notice under Section 148 alleging unexplained investment in residential property of Rs. 2 Cr; Consequently, AO rejected Assessee's explanation of source being salary income of AED and made addition of Rs. 2 Cr under Section 69 on the premise that Assessee failed to explain the source; DRP rejected Assessee's objection; Tribunal observes that rejection of evidences by AO/DRP were solely based on conjectures sans statutory verification despite production of all evidences by the Assessee; Lastly, ITAT also observes that deeming fiction could not be invoked when satisfactory explanation has been offered i.e., source of foreign salary no taxable in the present case in absence of corroborative evidence.:ITAT Mum

Click here to read / download the copy of the ruling.

6. **ITAT: Sec. 69A applies only to unexplained/unrecorded money in books; Deletes addition**

Srinivasappa [TS-1460-ITAT-2025(Bang)]

Bangalore ITAT allows Assessee's appeal observing that the addition made by the AO under Section 69A, and confirmed by the CIT(A), alleging unexplained cash deposits is unsustainable both in law and fact; ITAT renders that "*Section 69A applies only when the assessee is found to be the owner of unexplained money not recorded in the books... That is not the case here.*"; Tribunal states that it is an admitted position that Assessee's books of accounts are duly audited; ITAT notes

Assessee's submissions that cash deposits in the SBI Bank a/c run into several crores and therefore the allegation that there has been a cash deposit of Rs 7.40 Lakhs appears vague and without any basis; Further, ITAT records that the cash deposits in the HDFC bank a/c stands much more than the amount alleged by the AO; Therefore, Tribunal renders that the basis of alleging unexplained cash deposit in the bank of the Assessee and treating the same as unexplained money under Section 69A is devoid of any merit, particularly in light of the fact that the AO has not mentioned the cash deposit in any particular bank account number; With regard to whether the Revenue should be provided another opportunity when the Assessee already filed requisite details, ITAT observes that once the Assessee furnished complete evidence such as audited accounts, cash book, and reconciliation, then there is no justification to remand the matter; Tribunal states that the addition is made on the same cash which is recorded in the book and the net cash position stands disclosed; ITAT opines that provisions of Section 69A has no applicability when the cash deposits stands fully explained through the books of accounts, Thus, ITAT deletes the addition under Section 69A:ITAT Bang

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7. **ITAT: Deletes Sec.56(2)(x) addition; Rules stamp duty valuation cannot override actual agricultural land character**

Ishwarbhai Gordhanbhai Prajapati [TS-1531-ITAT-2025(Ahd)]

Ahmedabad ITAT deletes the addition made under Section 56(2)(x) on account of difference between purchase price and stamp value by treating the property as non-agricultural and applying non-agricultural rates, holding the same as unsustainable; Having perused sale deed and the Form No. 7 extract, ITAT concurs with the Assessee that the land purchased was agricultural land and not non-agricultural (N.A.) land, as erroneously assumed by the AO; ITAT observes that the land fell under a proposed draft Town Planning (T.P.) Scheme of the AUDA and due to the draft scheme, the Sub-Registrar's Office had charged higher stamp duty treating the land as N.A. land; ITAT further observes that the Assessee had paid a price higher than the prevailing jantri rate applicable for agricultural land, and therefore, there was no reason or justification for invoking section 56(2)(x); ITAT emphasises that the charging of higher stamp duty by the Sub-Registrar's Office based on a draft AUDA scheme would not alter the inherent nature of the land; ITAT reiterates the settled legal position that stamp duty valuation or classification for fiscal purposes does not determine the character of the property under the Income-tax Act; ITAT concurs with Assessee's contention that merely because the stamp duty authority levied duty treating the land as N.A. due to draft AUDA scheme, it would not change the actual land use or character of the property; Thus ITAT concludes, "*Considering the totality of circumstances, including the nature of the land, the evidence produced, and the fact that the assessee has paid more than the jantri value, we hold that the addition of Rs. 18,10,640/- made under section 56(2)(x) of the Act is unwarranted and unjustified*":ITAT Ahd

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8. **SC: Dismisses Revenue's SLP on applicability of beneficial TDS rate under DTAA over Sec. 206AA**

Manthan Software Services Pvt. Ltd [TS-1578-SC-2025]

SC dismisses Revenue's Special Leave Petition against *Karnataka HC judgment* in Manthan Software Services Pvt. Ltd. where in HC had held, relying on Karnataka HC ruling in *Wipro Ltd.*, that the DTAA overrides Section 206AA rate and hence, when the recipient entity is eligible for benefit of DTAA, the TDS rate shall be taken as per the applicable DTAA and

not as per the provisions of Section 206AA; SC accepts Assessee's contention that the issue in the present SLP is squarely covered by the SC judgment in *Air India Ltd.*, wherein it was held that TDS at beneficial DTAA rate prevails over non-obstante Sec. 206AA provisions; Thus, dismisses the Revenue's SLP:SC

Click here to read / download the copy of the ruling.

9. **ITAT: Subscription fee for access to copyrighted article not 'royalty' under India–US DTAA**

GSMA Ltd [TS-1489-ITAT-2025(DEL)]

Delhi ITAT allows Assessee's appeal, deletes the addition on account of Assessee's receipt of subscription fee on holding that the subscription fee for providing access to copyrighted article is not in the nature of royalty under provisions of the I-T Act as well as under the India-US DTAA; Tribunal relies on SC judgment in *Engineering Analysis* wherein Court gave a conclusive finding that where any agreement creates interest or right for use of copyrighted article the payments for such use does not constitutes royalty; Noting that the Assessee entered into Master License Agreement with an entity Comviva Technologies and on perusing the said License Agreement, ITAT observes that the Assessee has granted access to Comviva Technologies for limited purpose and for its internal use only and the said entity is not authorized to commercially exploit the data/information that is accessible to it by way of Subscription services; ITAT also observes that the Assessee provides limited access to the subscriber to copyrighted article and not to the copyrights of the article; Thus, Tribunal opines that "*…the payment made by the subscriber to the assessee referred to as Subscription Fee does not fall within the meaning of royalty under Article 12(3) of India-US DTAA.*"; Tribunal further refers to Delhi HC judgment in *Relx Inc.* wherein it was held that the Subscription Fee received by the assessee for granting access to its data does not constitute fee for technical services nor does the Subscription Fee is in the nature of royalty; Lastly, ITAT also directs AO to delete the addition made in respect of Administration Fee treating it as royalty by relying on co-ordinate bench ruling in AY 2013-14 and 2015-16 wherein it was held that the Administration Fee received by the Assessee is not in the nature of royalty as per Section 9(1)(vii) as well as India-USA DTAA.:ITAT DEL

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10. **IT development & non-IT support services not FTS, sans satisfaction of 'make available' clause under India-UK DTAA**

CPPGROUP Services Limited [TS-1477-ITAT-2025(DEL)]

Delhi ITAT holds that payment received by a UK based entity from its Indian associate enterprises for IT development and non-IT support services are not taxable as 'Fees for technical services' (FTS) under Article 13 of India-UK DTAA (DTAA) sans satisfaction of 'make available' clause; ITAT rejects Revenue's contention that IT development services during the relevant AY changed the factual matrix and opines that DRP itself found IT support and IT development to be functionally distinct; ITAT opines that Revenue failed to provide any evidence showing that Indian entity had become independently capable of providing IT support services after such interactions; On the issue of taxability of non-IT support services, ITAT observes that perusal of agreement shows that the Assessee provided routine managerial and standardization; ITAT notes that DRP also held that no evidence was provided of training, transfer of know-how or creation of capability in Indian entity and produce contrary material to prove that the 'make available' clause was satisfied; During assessment, AO held that both IT support services and non-IT support services

amounts to FTS under Article 13 of India-UK DTAA on the premise that Assessee's associate entity was 'made capable' of independently performing the functions due to transfer of technical know-how; DRP partly allowed Assessee's objection; ITAT observes that perusal of agreement shows that no transfer of enduring knowledge or skill was made by the Assessee, accordingly, the receipt for IT support services could not be taxed as FTS under Article 13 of India-UK DTAA; Thus, allows Assessee's appeal.:ITAT DEL.

Click here to read / download the copy of the ruling.

MCA Updates

1. MCA gives Clarification on Loan Exemptions for NBFCs and IFSC Finance Companies

The MCA has issued a Notification (G.S.R. 811(E)) dated November 3, 2025, amending the Companies (Meetings of Board and its Powers) Rules, 2014.

This Amendment clarifies the Definition of "Business of Financing Industrial Enterprises" under Section 186(11)(a) of the Companies Act, 2013, which provides Exemption from certain restrictions on Inter-Corporate Loans and Investments.

- NBFCs: For a Non-Banking Financial Company (NBFC) registered with the RBI, the expression now explicitly includes the "Business of giving of any Loan or providing any Guaranty or Security in the Ordinary Course of its Business". This reconfirms that lending Activities by NBFCs, which constitute their Ordinary Business, are exempt from the limits and procedures specified under Section 186 of the Act.

- IFSC Finance Companies: The Exemption is also extended to a Finance Company registered with the International Financial Services Centres Authority (IFSCA). The Business of such Companies, as defined under the IFSCA (Finance Company) Regulations, 2021, is now included in the Exempted Definition.

Reference of MCA Update:

MCA Notification_03.11.2025_Clarification on Loan Exemptions

2. MCA Revises Definition of 'Small Company'

- The MCA has issued a significant Amendment to the Criteria defining a **"Small Company"** under the Companies Act, 2013.

- The **Companies (Specification of Definition Details) Amendment Rules, 2025**, notified on **December 1, 2025** (G.S.R. 880(E)), revises the Thresholds for Paid-Up Capital and Turnover.

- The Thresholds for classifying a Company as a 'Small Company' under Section 2(85) of the Act have been **Substituted** as follows:
-

CRITERIA	NEW THRESHOLD (Shall not exceed)
Paid-Up Capital	Rs. 10 Crores
Turnover	Rs. 100 Crores

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- This Amendment further liberalizes the Definition, bringing more Companies under the "Small Company" Category. These Companies benefit from reduced Compliance requirements, including Exemptions from certain Provisions of the Companies Act, 2013, thereby promoting ease of doing business.

Reference of MCA Update:
MCA Notification_01.12.2025_Revision of Small Company Definition

Indirect Tax Updates

GST & Customs Updates

Circulars:

1. Circular No. 28/2025-GST dated 15-11-2025:

Launch of Online Module for Permissions under Section 65 (MOOWR and MOOSWR)-reg.

CBIC has operationalised a dedicated online module on ICEGATE 2.0 to streamline and simplify the submission of applications for permissions under Section 65 covering the following 2 categories:

(a) MOOWR (Manufacture and Other Operations in Warehouse Regulations, 2019), applicable to warehouses licensed under Section 58 of the Customs Act, 1962; and

(b) MOOSWR (Manufacture and Other Operations in Special Warehouse Regulations, 2020), applicable to special warehouses licensed under Section 58A of the Customs Act, 1962.

2. DG Systems has made available detailed User Manuals for both trade and departmental officers at https://www.Icegate.gov.in/guidelines/warehouse-licensing. These manuals provide clear, stepwise instructions with screenshots of the module interface. Users are advised to acquaint themselves with these manuals.

3. Any difficulty in using the module may be reported to icegatehelpdesk@icegate.gov.in. Departmental officers may escalate such issues to saksham.seva@icegate.gov.in for timely resolution.

4. Chief Commissioners of Customs shall issue Public Notices indicating the port code(s) to be used for receipt and processing of applications for permissions under Section 65 within their jurisdiction and ensure smooth onboarding of trade onto the ICEGATE 2.0 module.

Indirect Tax – Legal Rulings

1. 2025-TIOL-1836-HC-AHM-GST

Patanjali Foods Ltd Vs UoI

GST - Petitioner, a public limited company importing crude palm oil on CIF basis, paid IGST on ocean freight pursuant to Entry 10 of Notification 10/2017-IGST (Rate) - The petitioner deposited Rs 40,30,715 under protest - After the levy was declared ultra vires in Mohit Minerals and affirmed by the Supreme Court, the petitioner sought refund - The Department rejected the claim citing limitation u/s 54 of the GST Act, leading to the present writ petition.

Held - The Bench observes that once the levy on ocean freight was declared ultra vires, refund claims for such IGST are not governed by limitation u/s 54 of the GST Act - The Bench holds that rejection of the refund claim on limitation grounds is unsustainable - The Bench concludes that the petitioner is entitled to refund of IGST with statutory interest after necessary verification: HC

- Writ petition allowed: GUJARAT HIGH COURT

2. 2025-TIOL-1835-HC-AHM-GST

Sical Logistics Ltd Vs State Tax Officer

GST - The petitioner, engaged in warehousing and logistics services, was undergoing Corporate Insolvency Resolution Process (CIRP) and had an approved resolution plan under the Insolvency and Bankruptcy Code, 2016 - Despite the statutory mandate that no past or future claims of government or statutory authorities could be raised post-approval of the resolution plan, the respondent-authority issued notice proposing GST demand for FY 2017-18 - Petitioner's reply was not considered and the impugned order confirming the demand was passed without proper communication to the petitioner - Subsequently, petitioner's bank account was frozen without prior notice, and an appeal filed was dismissed by the Commissioner (Appeals) - Petitioner approached the Court challenging the demand for a period prior to the effective date of the resolution plan.

Held - The Bench observes that the impugned orders raising GST demand for the period prior to the effective date of the approved resolution plan cannot survive - The Bench holds that on the effective date of the resolution plan, all claims not included in the plan stand extinguished and no proceedings can be initiated or continued in respect of such claims - The Bench concludes that the respondent-authority acted contrary to the binding effect of the resolution plan and quashes and sets aside the impugned orders - Rule is made absolute and no orders as to costs are directed: HC

- Writ petition allowed: GUJARAT HIGH COURT

3. 2025-TIOL-1834-HC-AHM-GST

Vineet Polyfab Pvt Ltd Vs UoI

GST - The Petitioner exported goods through five Shipping Bills filed at Hazira Port and paid IGST of Rs 7,53,469, but the automated system failed to sanction the refund due to a technical glitch reflected as code SB000 in the ICES-GSTN integration report - Multiple attempts by the department to resolve the issue electronically were unsuccessful, and the petitioner's refund remained pending despite entitlement - After the writ petition was filed, the Principal Commissioner approved manual processing, and the refund was finally sanctioned, but no interest was granted, with the department alleging unspecified errors by the petitioner in filing Shipping Bills and GST returns - Affidavit of the respondents, however, admitted that the delay resulted from a system glitch and not from any fault of the petitioner.

Held - The Bench observes that the delay in refund arose solely from technical issues in the automated ICES-GSTN system, and not due to any inaccuracy attributable to the petitioner - The Bench holds that u/s 56 of the GST Act, interest is mandatorily payable when refund is not issued within sixty days from the date of receipt of the refund application, which in export cases corresponds to the date of filing the Shipping Bills - The Bench concludes that interest under section 56 is compensatory in nature and becomes payable automatically on delayed refunds, as affirmed in Ranbaxy Laboratories and followed in Panji Engineering , and therefore directs the Respondents to pay interest on the delayed refund within the stipulated period: HC

- Writ petition allowed: GUJARAT HIGH COURT

4. 2025-TIOL-1713-CESTAT-MUM

Infinix Services Pvt Ltd Vs CGST & CX

ST - The appeals concerned denial of refund of accumulated unutilised CENVAT credit related to export of IT & ITES services, where the refund sanctioning authority rejected the claims because the credit was not reflected in ST-3 returns and the CENVAT account had not been debited at the time of filing refund applications, which rejection was upheld by Commissioner (A) - Appellant contended that although the amounts were not debited earlier, they had subsequently debited the exact sums on 15.05.2018 and 16.05.2018 in compliance with deficiency memos dated 23.11.2017 and 18.03.2019, and notified the department

accordingly, and argued that non-debit at the time of filing refund is a curable procedural lapse and not a ground for denial, relying on a consistent line of decisions including Milan Laboratories 2020-TIOL-452-CESTAT-MUM , Sandoz Pvt Ltd 2015-TIOL-2076-CESTAT-MUM , Inductotherm Group 2017-TIOL-2920-CESTAT-MUM , Kopran Ltd 2016-TIOL-748-CESTAT-MUM , Scintel Technologies 2019-TIOL-2739-CESTAT-MAD , and Lightspeed India Partners 2021-TIOL-850-CESTAT-DEL , which recognised subsequent debit as valid compliance - Appellant further argued that non-reflection of credit in ST-3 is also not a ground for rejection since Notfn 27/2012-CE(NT) does not prescribe such a condition; the only relevant requirement is availability of credit and debit of credit before sanction - Department argued that debit of credit post-GST is not possible and relied on PAN Business Lists, Rosy Blue India, and Convance Clinical Development 2021-TIOL-377-CESTAT-BANG to contend that refunds must be rejected if debit is not made before filing or sanction - Tribunal held that entire sequence of judicial precedents cited by the appellant clearly establishes that subsequent debit is an acceptable remedial measure, whereas contrary decisions relied on by department dealt with situations where no debit was made even till the appellate stage which is not the factual position here - On the department's argument about absence of mechanism under GST to debit pre-GST credit, Tribunal referred to appellant's own affidavit citing second proviso to section 142(3) of CGST Act, which provides that no refund shall be allowed if amount has been carried forward into GST, thereby confirming that the law gives an option either to claim refund in cash or carry forward the credit and thus debiting during GST regime is permissible - Non-reflection of credit in ST-3 returns cannot be a ground for rejection since Notfn 27/2012-CE(NT) contains no such stipulation and Commissioner (A) himself had recorded that there is no evidence that said credit had been carried forward to GST, meaning the credit remained legitimately available for refund under section 142(3) of CGST Act - Refund could not be denied on procedural lapses when substantive condition of availability of credit and subsequent debit stood fulfilled - Sanction of both refund amounts with applicable interest is directed within two months:

CESTAT - Appeal allowed: MUMBAI CESTAT

5. 2025-TIOL-1712-CESTAT-MAD

Tangedco Vs CC

Cus - The appeal concerned refund claims of Rs. 9,06,059 and Rs. 10,00,021 relating to two Bills of Entry where appellant had self-assessed duty by adding notional 2% high-sea-sales commission instead of the actual trade margin of Rs. 33 per MT paid to MMTC - The refund was rejected on the ground that margin was not disclosed at assessment, documents such as HSS contract and commission particulars required under Board Circular 32/2004 were not furnished and bill-of-lading quantity could not be adopted as it contradicted purchase-order conditions - Appellant submitted that HSS agreement is already part of the assessment records; that Board Circular 32/2004 treats the actual high-seas-sale-contract price as transaction value and prohibits notional additions; that after the 08.04.2011 amendment to section 27, a separate challenge to assessment is no longer required for claiming refund; and that in any event governing law had changed after ITC Ltd. - Through a miscellaneous application dated 24.04.2025, appellant sought permission to amend Bills of Entry under section 149, arguing that proposed correction is based purely on documents which existed at the time of clearance and are already on record - They relied on Sony India Pvt Ltd 2021-TIOL-1707-HC-TELANGANA-CUS , where High Court held that section 149 is a valid remedial mechanism when amendment is sought on the basis of contemporaneous documents - Department argued that section 149 applies only for minor amendments not affecting assessment; that where assessment is to be altered, recourse lies under sections 17 and 128; and that amendment cannot be used to reopen self-assessment after initiating refund - Tribunal observed that this is a case of self-assessment and appellant had subsequently sought correction of an error traceable to contemporaneous documents - Board Circular 32/2004 and Supreme Court ruling in

Hyderabad Industries 2002-TIOL-198-SC-CUS require inclusion only of actual high-sea-sales charges, not notional figures and that the purchase-order showing the Rs. 33 per MT charge is available at the time of assessment - The Tribunal in Valeo India recognised the applicability of section 149 when amendment is based on documents already forming part of assessment record - In view of Supreme Court's observations in Ramakant Ambalal Choksi regarding the proper role of appellate authorities vis-à-vis original authorities, Tribunal held that it should not decide the amendment request itself, but must remand the matter so that original authority examines the section 149 request, considers all submissions and documents and passes a fresh order after granting due opportunity - Accordingly, impugned order is set aside and case remanded for de novo consideration under section 149: CESTAT

- Matter remanded: CHENNAI CESTAT

6. 2025-TIOL-1875-HC-DEL-GST

Commissioner of Delhi GST Vs Global Opportunities Pvt Ltd

GST - Respondent is engaged in the business of providing educational consultation to Indian students who intend to travel abroad inter alia , to pursue their higher education in foreign universities - The Respondent is based in Delhi and has entered into agreements with foreign universities for providing such counselling and consulting services - As per the said agreements entered into between the Respondent and the Universities concerned, students who avail such services of the Respondent apply and seek admission in the relevant Universities - If the University accepts the said students for admission for any particular course, the Respondent is paid a commission in terms of the agreement executed between them - Case of the department is that the respondent is nothing but an 'intermediary' and is not qualified for exemption from payment of GST u/s 5 of the IGST Act, 2017 as the respondent's services do not constitute 'export' of services - Adjudicating authority had held that the respondent is an 'intermediary' and the services rendered do not constitute an export of service - However, the refund rejection orders were challenged before the Appellate authority and who reversed the said orders and allowed the refund, therefore, the present petition by the department - S hort questions that arise in the present writ petition are - Whether the Respondent's services qualify as export of services in terms of the agreements which the Respondent enters into with Foreign Educational Institutions (FEI)?; Whether the Respondent can be construed as an 'intermediary' in terms of Section 2(13) of the IGST Act, 2017.

Held: Respondent is clearly engaged in educational consultancy services - The Respondent does not act on behalf of any FEI - The Respondent is in fact, engaged by the said FEI for providing consultancy services to students in India and upon the said students obtaining admission, the Respondent raises invoices in either Indian Rupees or foreign currency upon the said university/FEI - The Respondent then receives foreign exchange payment from the said university - This relationship between the Respondent and the university or the FEI cannot be held to be an intermediary service as the Respondent is working as an educational consultant and may be rendering services which may further the cause of the FEI but is not an agent of the said FEI - Court holds that the Respondent's services when rendered to foreign universities and the earnings being in foreign exchange would not constitute intermediary services - O wing to the confusion that was being caused, the GST Council in its 56th meeting held at New Delhi has also recommended omission of Clause (b) of Section 13(8) of the IGST Act to help Indian exporters to claim export benefits - Thus, 'intermediary services' are no longer services for which the place of location of the supplier would be deemed as the place of supply - Even for such services the place of the recipient of the services would be place of supply as per Section 13(2) of the IGST Act - The confusion that was prevalent relating to intermediaries and their entitlement to claim benefits on the basis of export of services is eliminated - Present writ petition does not deserve to be entertained and is, accordingly, dismissed - The refund in terms of the Appellate Authority's orders be processed and be granted to the Respondent along with the applicable statutory interest in accordance with law within two months: High Court [para 22, 23, 25, 26]

- Petition dismissed: DELHI HIGH COURT

7. 2025-TIOL-85-SC-CUS

CC Vs Epsilon Eye Care Pvt Ltd

Cus - The case involved import of intraocular lenses (IOLs) by assessee and its Director, Shyam Anand, through postal parcels during 2017-2022 - Customs authorities alleged undervaluation and absence of a valid Central Drugs Standard Control Organisation (CDSCO) license at the time of import - Based on reassessment using surrogate values from prior Air Cargo Complex (ACC) imports, they demanded differential duty of ?1.69 crore under Section 28 of Customs Act, 1962 and imposed penalties under Sections 112, 114A and 114AA - Goods under clearance are revalued and absolutely confiscated and earlier imports are subjected to revaluation and partial confiscation, some with option for redemption - Customs also ordered disposal of expired lenses using the Disposal Manual - Tribunal observed that CDSCO license had been revalidated before adjudication and that seizure on licensing grounds could not be sustained - It found that postal imports, unlike ACC consignments, followed a distinct valuation regime and that Customs had wrongly applied valuation principles from ACC to postal imports without treating the importer as a declarant or notifying the foreign supplier - Tribunal held that the valuation under Rule 5 of Customs Valuation Rules, 2007 is not applicable to postal parcels - Adjudicating authority exceeded its jurisdiction by ordering disposal of seized goods, which is the prerogative of Central Government post-confiscation under Section 126 - Additionally, it is ruled that Customs cannot invoke licensing violations under Drugs and Cosmetics Act post-clearance, which must be handled by municipal regulators - With both the pillars for confiscation, penalties and differential duty, viz., lack of licence and comparison with imports at Air Cargo Complex (ACC), the consequences of adjudication is without authority of law - The impugned order was set aside.

Held - No good reason put forward to entertain the present appeal, more so where importer had a valid license as on date of adjudication - Issue whether Customs had right to confiscate the goods after the goods leave the port, is left open:

SC - Appeal dismissed: SUPREME COURT OF INDIA

8. 2025-TIOL-1869-HC-MAD-GST

Oriental Lotus Hotel Supplies Pvt Ltd Vs Joint Commissioner

GST - The writ petition challenges the issuance of a single show cause notice and assessment order by the respondents for multiple financial years, namely 2019-20 to 2022-23, under Sections 73 and 74 of the GST Act - The petitioner contended that the GST Act mandates issuance of notice and passing of assessment orders separately for each financial year, and clubbing of notices/orders for multiple years causes hardships, including difficulty in collecting evidence, inability to file applications for compounding u/s 138, and inability to avail any amnesty schemes or contest issues year-wise - Reliance was placed on prior judgments, including Titan Company Ltd., vs. Joint Commissioner of GST & Central Excise , which held that bunching of notices is impermissible - Petitioner sought quashing of the impugned composite show cause notice and assessment order for more than one financial year.

Held - The Bench observes that Sections 73 and 74 of the GST Act provide for issuance of show cause notice based on the tax period, which may be a monthly or yearly period, and explicitly bars issuance of notice for more than one financial year - The limitation for assessment is fixed separately for each financial year, and clubbing multiple years frustrates the statutory limitation scheme, prevents year-specific rebuttals, and causes jurisdictional overreach - The Bench concludes that issuance of composite show cause notice covering multiple financial years is impermissible in law - The Bench holds that the impugned order is void ab initio and accordingly quashes the assessment order - Liberty is granted to the respondents to issue fresh show cause notices for each financial year:

HC - Writ petition allowed: MADRAS HIGH COURT

9. **G P Sourcing Pvt Ltd Vs CCE & ST**

ST - The assessee, engaged in software development and provider of IT software services, availed CENVAT credit on input services used for export of output services - For

the quarter October 2016 to December 2016, it filed a refund claim of Rs. 7,78,883/- on 30.06.2017 under Rule 5 of CENVAT Credit Rules, 2004 - After withdrawing Rs. 43,347/-, the effective claim was Rs. 7,35,536/- - Adjudicating authority sanctioned Rs. 1,80,134/- and rejected Rs. 5,55,402/- (after withdrawal adjustment), on grounds of limitation and invalidity of manually filed revised return - Appellant argued that there is no provision to file revised ST-3 returns electronically at relevant time, that non-submission electronically could be due to technical issues and that substantial benefit cannot be denied for mere procedural lapses when invoices and tax payment were genuine - The original return was filed on 26.04.2017 electronically and thereafter the refund was filed on 30.06.2017 and revised return was filed manually on 20.07.2017 which is not permitted in law and therefore, both the authorities have correctly held that revised return cannot be considered as legally filed - Further, original return is not amended before filing refund and original return has become final unless modified by appropriate proceedings - Further, the decision of Lupin Ltd. 2023-TIOL-229-CESTAT-HYD is applicable in present case, wherein, it has been held that Cenvat credit taken beyond a period of 12 months from date of invoice/bill of entry, same cannot be allowed - By following the ratio of Kalyan Toll Infrastructure Ltd. 2025-TIOL-373-CESTAT-DEL , there is no infirmity in impugned order which is upheld:

CESTAT - Appeal dismissed: CHANDIGARH CESTAT

10. 2025-TIOL-1722-CESTAT-DEL

Pro-Interactive Services India Pvt Ltd Vs Pr.CCGST

ST - The appellant provided security, manpower and construction services to various foreign embassies and consulates claiming exemption under Notfn 27/2012-ST - Department alleged that appellant had availed exemption without fulfilling procedural conditions prescribed in clauses (v) and (vi) of Exemption Notfn 27/2012-ST such as mentioning unique identification numbers and undertaking details on invoices and raised a demand of Rs. 3,75,95,778/- with interest and penalties - The Commissioner confirmed the demand, observing that certificates from Protocol Division of Ministry of External Affairs were either missing or submitted after SCN - Appellant argued that exemption was denied on mere procedural grounds despite undisputed provision of services to diplomatic missions, that embassy certificates were subsequently furnished and that such lapses were curable and not substantive - It is also submitted that pre-show cause consultation mandated by CBIC Circular 1053/2017-C.EX had not been followed, rendering the proceedings void - Reliance is placed on IT Solutions Pvt. Ltd., SOTC Travel Services Pvt. Ltd. 2021-TIOL-607-CESTAT-DEL , and Mangalore Chemicals & Fertilizers Ltd. 2002-TIOL-234-SC-CX to argue that procedural lapses cannot defeat substantive exemption - Appellant accepted limited liability of Rs. 3,46,210 for embassies that had not issued any certificate - Revenue argued that exemption could be granted only on strict compliance with all conditions relying on Dilip Kumar & Co. 2018-TIOL-302-SC-CUS-CB and Inox Wind Ltd. - Tribunal examined Notfn in detail noting that its substantive condition was that taxable services were provided for the official or personal use of diplomatic missions or consular posts - There is no dispute that services were actually rendered to embassies and that certificates from Ministry of External Affairs were available for 21 out of 29 missions - While certain procedural requirements such as serial numbers or dates of undertakings are not complied with, these lapses could not defeat the substantive benefit intended by exemption - The Commissioner's denial of exemption is overextended and contrary to principle that notifications granting diplomatic immunity must be interpreted liberally to uphold reciprocity and international comity - Matter remanded to adjudicating authority to verify certificates produced for each embassy and to extend the exemption accordingly, cum-tax benefit be allowed wherever applicable and setting aside penalties in entirety: CESTAT

- Matter remanded: DELHI CESTAT

11. 2025-TIOL-1692-CESTAT-MAD

Tulsyan Nec Ltd Vs CGST & CE

ST - Appeals arise from the denial of Input Service Tax credit distributed by M/s Tulsyan to its Ambattur unit - The departmental

adjudication impugns distribution on multiple grounds, including that supplier invoices were addressed to the Gummidipoondi unit (another Tulsyan unit) and not to the ISD; and that several invoices lacked details of the original service providers and relied upon internal ledger (CWIP) entries - Demands were confirmed and penalties were imposed on the appellant as well as the Input Service Distributor, therefore, the present appeals.

Held: Two conditions are to be satisfied by an ISD and it is, therefore, for the Revenue to give a finding as to the violation, if any, of any or both conditions of Rule 7 - In the absence of any such specific findings, there cannot be any denial of the CENVAT credit distributed for consumption at the units - In the case on hand, without causing any investigation or enquiry as to the claim of the appellant, the Adjudicating Authority has doubted the availment of service tax credit by the ISD - Bench finds that distribution by the ISD to Amabattur is not automatically invalid solely because supplier invoices were addressed to the Gummidipoondi unit - The correct approach is to examine the documentary evidence - Bench finds that the ISD mechanism contemplates centralised procurement/central payment and distribution of credit - If the ISD has taken credit lawfully (entered in its CENVAT records), issued ISD invoices/statements to Ambattur and distributed as per rules, denial on technical ground of invoice address would be unjust - Department has not done any such exercise to show statutory exclusion or lack of nexus resulting in misuse or any evidence of fabricated invoices, shell suppliers or circular payments, mere technical defects in supplier invoices (invoice addressed to another unit; absence of non-essential particulars) are not sufficient to disallow ISD distributed credit despite this issue emanating out of investigation proceedings - Invoices on which credit is taken and distributed relates to debit notes and that all required details are available in the original invoices linked to the debit notes - Where ledger entries are backed by vouchers, supplier invoices (even if imperfect), bank remittances and performance proof, distribution can be upheld - There are only two limitations for distribution of credit by an ISD and in the case on hand, Revenue has not made out a case as to the non-satisfaction of the above two conditions - Consequently, there being no deficiency as to the eligibility of the ISD for distribution, no denial could be made in the hands of the recipient who has only consumed the same - In the absence of any evidence of fabricated invoices, shell suppliers or circular payments, mere technical defects in supplier invoices (invoice addressed to a unit; absence of non-essential particulars) are not sufficient to disallow ISD distributed credit: CESTAT [para 8.1.4, 10.3, 11.3, 12.3, 16, 19]

Limitation - Burden of establishing suppression or fraud lies squarely on the Department and cannot be discharged by conjecture or suspicion - Neither were the ingredients for invoking extended period discussed or justified though invoked in the SCN - The impugned order has overlooked this important aspect and straightaway confirmed the draconian penalty on the grounds of ineligible credit only - The demand crumbles on the grounds of limitation also - Appeals are allowed with consequential benefits: CESTAT [para 22.3, 23, 31]

- Appeals allowed: CHENNAI CESTAT

12. 2025-TIOL-1690-CESTAT-MAD

Chennai Citi Centre Holdings Pvt Ltd Vs CGST & CE

ST - Appellant had leased out their parking area / lot to M/s. Smart Parking India Pvt. Ltd. (SPIPL) for parking of public vehicles in the basement of their shopping malls and in an additional parking area for which the appellant received 78% car park revenue collected by SPIPL - It is the department's contention that Notification No. 25/2012-ST providing exemption to services by way of vehicles parking to general public excluded 'leasing of space for an entity for providing parking facility' from the exemption - Hence Show Cause Notice dated 22.7.2014 was issued for demanding service tax of Rs.20,67,463/- for the period from July 2012 to March 2013 - The adjudicating authority confirmed the demand and also imposed penalty, which order was upheld by the Commissioner(A), hence the present appeal - Appellant informs that the demands for the previous period were dropped by Commissioner(A) vide OIA no. 154-156/2014 (MST) dated 14.03.2014.

Held : In the light of the order of the Commissioner (Appeals) in OIA No. 154-156/2014 (MST) dated 14.03.2013 not having been challenged, by either of the parties, it has become final - However, the impugned OIA 239/2016(STA-III), dated: 28.11.2016 passed subsequently and involving identical facts, has after considering the OIA dated 14.03.2013 taken a diametrically opposite stand in a very cryptic and facile order - It has been well accepted that as per judicial comity or judicial discipline, a decision of the earlier Commissioner (Appeals) on identical facts should be followed subsequently by the same Authority, unless it is shown that the earlier order has been modified or set aside in appeal, which is not the case here - This would help promote certainty and consistency in quasi-judicial decisions and provide assurance to the trade and public on the uniform application of law - Appellant has engaged SPIPL because of its expertise, experience, knowledge and technical know-how in the operation of car parks - In consideration of the appellant engaging the services of SPIPL, they (SPIPL) are required to share the monthly car park revenue after adjusting the direct operating expenses with the appellant - The entire amount collected is first deposited in the bank account maintained by the appellant after which the share pertaining to SPIPL is remitted to them - The amount received is hence in the nature of sharing of profits, which can vary from month to month and cannot be considered as rent - The ultimate purpose of the Agreement as seen from the joint intent of the parties is for the appellant to engage SPIPL in providing car parking facility to the public on a profit-sharing basis - This cannot be considered as leasing of space to an entity for providing parking facility - The impugned order hence merits to be set aside - Appeal is allowed: CESTAT [para 4, 5, 8, 9]

- Appeal allowed: CHENNAI CESTAT

13. 2025-TIOL-1808-HC-MP-ST

Urmila Shekhawat Vs CCGST & CE

ST - Question of law arises for re-consideration that "Whether in facts and circumstances of the case and materials on record, the learned CESTAT was justified in passing the impugned order dated 6.5.2024 and 25.4.2025 on the hyper technical ground of non- deposit of statutory pre-deposit amount by the appellant for filing of the appeal before the learned CESTAT despite the fact that the entire demanded amount of service tax together with interest and penalty has already been recovered from the appellant by the Revenue thereby fulfilling the requirement of statutory pre-deposit". Held: In the present case, the condition of pre-deposit is now fulfilled because the entire amount of tax with interest & penalty has been recovered; thus, now the stage has come to entertain the appeal - Since the recovery of tax and penalty has been made, hence there is no need to deposit 10% of the tax and penalty; therefore, the appeal is liable to be restored for adjudication on merit - Impugned orders dated 06.05.2024 and 25.04.2025 are hereby set aside - The appeal is restored to its original number for adjudication on merit: High Court [para 18, 19, 20]

- Appeals allowed: MADHYA PRADESH HIGH COURT

14. 2025-TIOL-1669-CESTAT-KOL

Smifs Capital Markets Ltd Vs CCGST & CE

ST - The appellant, engaged in construction of residential complexes, is issued a SCN demanding service tax of Rs.11,76,705/- on an advance of Rs.2,69,49,000/- received on 04.06.2016 for sale of flat No.15C, alleging that the amount was received before obtaining completion certificate - Appellant submitted that Kolkata Municipal Corporation had issued a partial completion certificate (PCC) on 04.06.2016 covering the relevant portion of building and that the entire consideration was received after such PCC; the final completion certificate was later issued on 20.08.2016 after completion of the remaining portion - Tribunal observed that under section 66E(b) of Finance Act, 1994, sale of a flat after issuance of completion certificate by the competent authority is not a declared service, and that the law does not distinguish between partial and full completion certificates - It noted that the PCC was issued by competent authority under Rule 29 of K.M.C. Building Rules, 2009, based on same set of structural stability and safety documents as final completion certificate under Rule 28, signifying completion of specified portion fit for occupation - Accordingly, Tribunal

held that the sale of flat No.15C effected after PCC was outside the ambit of service tax - On limitation, it is found that the SCN issued on 13.04.2021 for FY 2016-17 is beyond the thirty-month period prescribed in section 73(1) and therefore time-barred; further, the demand is raised solely on audit findings, where extended period cannot be invoked - Extended limitation requires wilful suppression, which is absent as all data is available in statutory returns - Therefore the demand, interest and penalty are set aside: CESTAT

- Appeal allowed: KOLKATA CESTAT

15. **2025-TIOL-77-SC-VAT**

IN THE SUPREME COURT OF INDIA

Civil Appeal Nos. 2042-2047/2025 Civil Appeal No. 9902/2017

THE COMMISSIONER TRADE AND TAX, DELHI

Vs

M/s SHANTI KIRAN INDIA PVT LTD

Manoj Misra & Nongmeikapam Kotiswar Singh, JJ

Dated: October 9, 2025

Appellant Rep. by: Mr. N. Venkataraman Ld, A.S.G. Mr. Mukesh Kumar Maroria, AOR Mr. Udai Khanna, Adv. Ms. V.C. Bharathi, Adv. Mr. B.K. Satija, Adv. Mr. Gaurang Bhushan, Adv. **Respondent Rep. by:** Mr. Varinder Kumar Sharma, AOR

VAT - Short issue that arose for consideration before the Delhi High Court was whether the benefit of Input Tax Credit (ITC) is available to the registered purchaser dealers (respondents herein) who paid taxes to registered seller dealer(s) in terms of invoice(s) raised by them even though those seller dealers did not deposit the collected tax with the Government - High Court, vide impugned judgment and order(s), found respondent(s) bonafide purchaser dealer(s) who had paid taxes in good faith to registered seller dealer(s) and, therefore, entitled to the benefit of ITC and, accordingly, allowed the said benefit to them after due verification of invoices - Aggrieved, Revenue has filed Civil Appeals.

Held: Clause (g) of sub-section (2) of Section 9 of Delhi Value Added Tax Act, 2004 made ITC benefit available to a purchasing dealer only when the tax paid by the purchasing dealer has actually been deposited by the selling dealer with the Government or has been lawfully adjusted against output tax liability and correctly reflected in the return filed for the respective tax period - Reading down clause (g) of sub-section (2) of Section 9, in On Quest Merchandising India - 2017-TIOL-2251-HC-DEL-VAT, the Delhi High Court held that the Department is precluded from invoking Section 9(2)(g) of the DVAT to deny ITC to a purchasing dealer who has bona fide entered into a purchase transaction with a registered selling dealer who has issued a tax invoice reflecting the TIN number - In the event that the selling dealer has failed to deposit the tax collected by him from the purchasing dealer, the remedy for the Department would be to proceed against the defaulting selling dealer to recover such tax and not deny the purchasing dealer the ITC, unless the Department is able to come across material to show that the purchasing dealer and the selling dealer acted in collusion - Aforesaid decision of the High Court was challenged before this Court in Special Leave to Appeal (Civil) No.36750 of 2017 and was disposed of without interfering with the order of the High Court - Bench does not find a good reason to interfere with the order of the High Court directing for grant of ITC benefit after due verification - Appeals lack merit, hence are dismissed: Supreme Court [para 5, 6, 7]

Appeals dismissed

Case law cited -

On Quest Merchandising India Pvt. Ltd. vs. Government of NCT of Delhi and Ors ., = 2017-TIOL-2251-HC-DEL-VAT **...para 4, 5, 6...followed**

JUDGEMENT

1. Heard learned counsel for the appellant and perused the record.

2. In these appeals the short issue that arose for consideration before the Delhi High Court1 was whether the benefit of Input Tax Credit (ITC) is available to the registered purchaser dealers (respondents herein) who paid taxes to registered seller dealer(s) in terms of invoice(s) raised by them even though those seller dealers did not deposit the collected tax with the Government.

3. There is no dispute that on the date of transaction, the seller dealer(s) were registered with the Department. However, after the transaction, the registration of those seller dealer(s) was cancelled, and they defaulted in depositing the tax collected by them from the purchaser dealer(s). The High Court vide impugned judgment and order(s) found respondent(s) bona fide purchaser dealer(s) who had paid taxes in good faith to registered seller dealer(s) and, therefore, entitled to the benefit of ITC and, accordingly, allowed the said benefit to them after due verification of invoices.

4. A similar issue later arose for consideration before the High Court in *On Quest Merchandising India Pvt. Ltd. vs. Government of NCT of Delhi and Ors., 2017 SCC OnLine Delhi 13037* =***2017-TIOL-2251-HC-DEL-VAT*** in the context of the provisions of Section 9(2) (g) of Delhi Value Added Tax Act, 20042.

5. Section 9(1) of DVAT Act permits ITC to a registered dealer in respect of turnover of purchases occurring during the tax period where the purchase arises in the course of his activities as a dealer and the goods are to be used by him directly or indirectly for the purpose of making sales which are liable to tax under Section 7 of the DVAT Act. Subsection (2) of Section 9 sets out the conditions under which such ITC would not be allowed. Clause (g) of sub-section (2) of Section 9 made ITC benefit available to a purchasing dealer only when the tax paid by the purchasing dealer has actually been deposited by the selling dealer with the Government or has been lawfully adjusted against output tax liability and correctly reflected in the return filed for the respective tax period. Reading down clause (g) of sub-section (2) of Section 9, in On Quest Merchandising India (supra), the Delhi High Court held:

"62. In light of the above legal position, the Court hereby holds that the expression 'dealer or class of dealers' occurring in Section 9 (2) (g) of the DVAT Act should be interpreted as not including a purchasing dealer who has bona fide entered into purchase transactions with validly registered selling dealers who have issued tax invoices in accordance with Section 50 of the Act where there is no mismatch of the transactions in Annexures 2A and 2B. Unless the expression 'dealer or class of dealers' in Section 9 (2) (g) is 'read down' in the above manner, the entire provision would have to be held to be violative of Article 14 of the Constitution.

63. The result of such reading down would be that the Department is precluded from invoking Section 9 (2) (g) of the DVAT to deny ITC to a purchasing dealer who has bona fide entered into a purchase transaction with a registered selling dealer who has issued a tax invoice reflecting the TIN number. In the event that the selling dealer has failed to deposit the tax collected by him from the purchasing dealer, the remedy for the Department would be to proceed against the defaulting selling dealer to recover such tax and not deny the purchasing dealer the ITC. Where, however, the Department is able to come across material to show that the purchasing dealer and the selling dealer acted in collusion then the Department can proceed under Section 40A of the DVAT Act."

6. The aforesaid decision of the High Court was challenged before this Court in Special Leave to Appeal (Civil) No.36750 of 2017. The said special leave petition was disposed of without interfering with the order of the High Court.

7. In light thereof, as we find that there is no dispute regarding the selling dealer being registered on the date of transaction and neither the transactions nor invoices in questions have been doubted, based on any inquiry into their veracity, we do not find a good reason to interfere with the order of the High Court directing for grant of ITC benefit after due verification. The appeals lack merit and are, accordingly, dismissed.

8. Pending application(s), if any, shall stand disposed of.

FEMA Updates

1. **Reserve Bank of India has taken following measures to mitigate impact of trade disruptions on exports arising on account of global headwinds:**

Foreign Exchange Management (Export of Goods and Services) (Second Amendment) Regulations, 2025

In exercise of the powers conferred by Section 7, Section 8 and sub-section (2) of section 47 of the Foreign Exchange Management Act, 1999 (42 of 1999), the Reserve Bank of India makes the following amendments to the Foreign Exchange Management (Export of Goods & Services) Regulations, 2015 [Notification No. FEMA 23(R)/2015-RB dated January 12, 2016] (hereinafter referred to as 'the Principal Regulations'), namely:

1. Short Title and Commencement:-

(i) These regulations may be called the Foreign Exchange Management (Export of Goods and Services) (Second Amendment) Regulations, 2025

(ii) They shall come into force from the date of their publication in the Official Gazette.

Extension of time for realisation/repatriation of export proceeds:

At present export proceeds are required to be realised and repatriated in full within nine months from **the** date of export. It is now proposed to extend the same time limit to fifteen months.

Increase in time for shipment of goods:

In case of advance against exports presently goods are required to be exported within one year of receipt of advance. The said time limit is now proposed to be increases to three years from the date of **receipt** of advance.

2. **Amendments to Directions - Compounding of Contraventions under FEMA, 1999**

Amendments to Directions - Compounding of Contraventions under FEMA, 1999

Attention of Authorised Persons is invited to **Master Directions on compounding of contraventions under FEMA, 1999, dated April 22, 2025.**

In order to streamline the receipt of compounding application fee and 'sum for which a contravention is compounded' ('compounding amount'), it has been decided to change the account details of account where compounding application fee and compounding amount will be received through National Electronic Fund Transfer (NEFT), Real Time Gross Settlement (RTGS).

All Authorised Persons may bring the guidelines contained in this circular to the notice of their constituents.

The directions contained in this circular have been issued under sections 10(4) and 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999) and are without prejudice to permissions/approval, if any, required under any other law.

भारतीय रिज़र्व बैंक
RESERVE BANK OF INDIA

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