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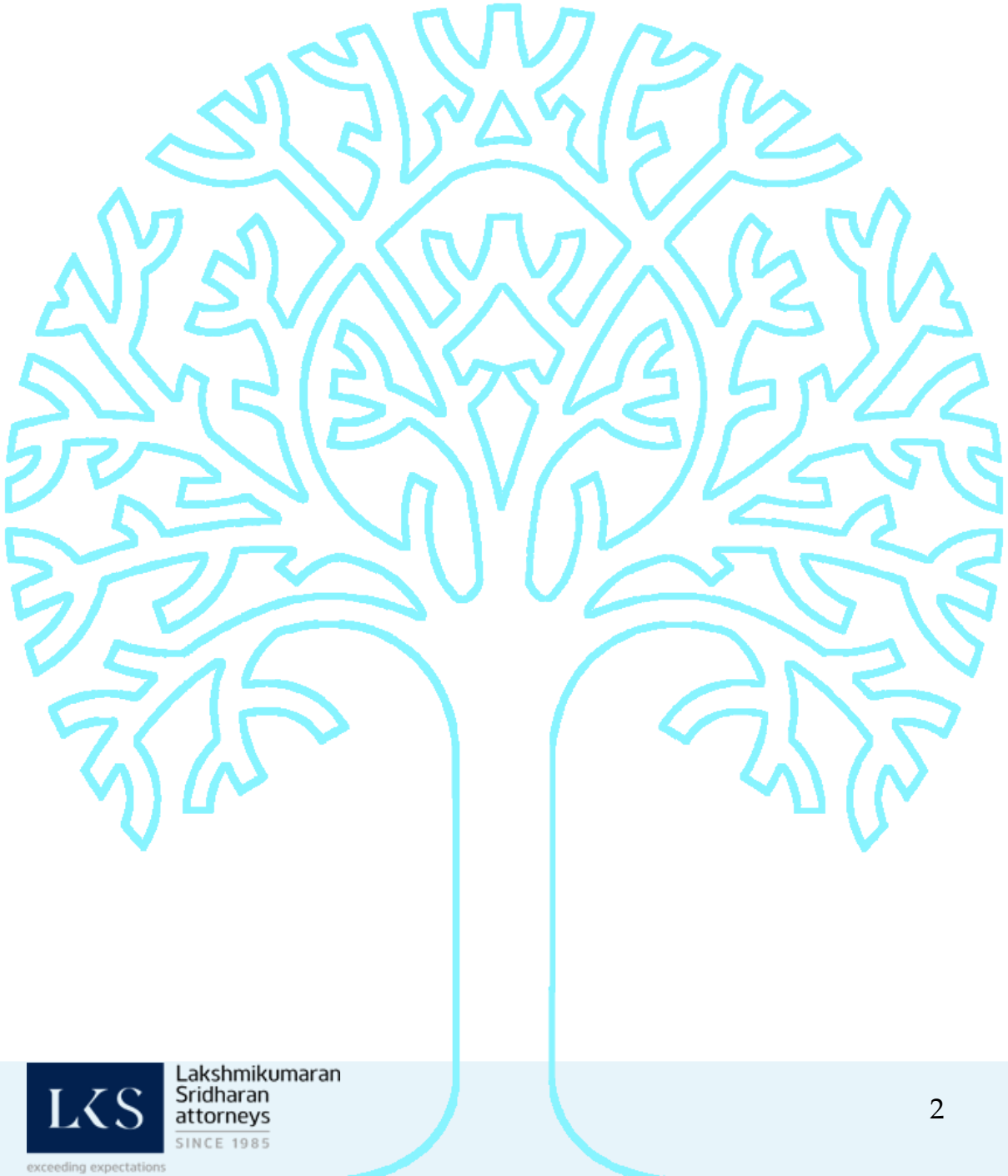

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Article

Navigating seamless inter-State ITC transfers under GST: Judicial guidance

By **Shweta Walecha, Rachit Arora and Hema Modi**

The Bombay High Court has taken a significant step in clarifying the transfer of unutilized ITC during business restructuring. This judgment not only clarifies the legal position on inter-State ITC transfer but also addresses the technical and administrative hurdles posed by the GST Network (GSTN) portal. The article in this issue of Indirect Tax Amicus discusses this decision while noting how the Bombay High Court distinguished the earlier ruling of the Madras High Court. Further, discussing the unresolved ambiguity of revenue loss of the transferor state, the authors advise that businesses must adopt a cautious yet proactive approach. According to them, while the relief supports the ease of doing business, the true challenge lies in harmonizing statutory provisions, judicial interpretations, technological capabilities, and revenue considerations.

Navigating seamless inter-State ITC transfers under GST: Judicial guidance

By Shweta Walecha, Rachit Arora and Hema Modi

Introduction

The non-transferability of Input Tax Credit ('**ITC**') amongst states has long been the point of debate between legal intent and technical feasibility. In a country aspiring for unified taxation scheme, this barrier has translated into stranded ITCs, blocked working capital, and has been a hurdle for the post-merger continuity of business. In a significant ruling, the Hon'ble Bombay High Court (Goa Bench), in the case of *Umicore Autocat India Pvt. Ltd.* v. *Union of India & Ors.* [2025 (7) TMI 1188 – Bombay HC], has taken a significant step in clarifying the transfer of unutilized ITC during business restructuring. This judgment not only clarifies the legal position on interstate ITC transfer but also addresses the technical and administrative hurdles posed by the GST Network (GSTN) portal.

Brief summary of the judgment

The petitioner, Umicore Autocat India Pvt. Ltd., emerged as a new entity following the amalgamation of M/s Umicore Anandeya India Pvt. Ltd. (registered in Goa) with itself (registered in Maharashtra). Post-merger, the petitioner sought to transfer the unutilized ITC from the transferor company's electronic credit ledger to its own account. However, the GSTN portal denied the request, citing a technical restriction that both entities must be registered in the same State/Union Territory.

Challenging this denial, the petitioner approached the Bombay High Court. The Court undertook a rigorous analysis of Section 18(3) of the CGST Act, 2017, read with Rule 41 of the CGST Rules, 2017, concluding that no statutory provision restricts ITC transfer solely based on the geographical location of the transferor and transferee. The Court criticized the GSTN portal's design for imposing limitations that are not supported by law, emphasizing that technical constraints cannot override statutory entitlements.

While the Court upheld the legality of transferring CGST and IGST credits across states post-amalgamation, it refrained from directing the transfer of SGST credit due to concerns raised by revenue authorities regarding potential loss to the originating state's exchequer (Goa). The petitioner voluntarily

relinquished SGST credit, allowing the Court to safeguard taxpayer rights without triggering a direct conflict over inter-state SGST adjustments which is an area that still remains ambiguous under the current GST framework.

The judgment also clarified the definition of 'Registered Person' under Section 2(94), noting that Section 25 permits separate registrations for each State/UT, treating each as a distinct legal entity. Importantly, the Court emphasized that Section 18(3) does not condition ITC transfer on the transferee being registered in the same state as the transferor.

By adopting a literal interpretation of the statute, the Court reinforced that conditions not expressly stated in law cannot be read into it. This ruling not only affirms the legality of inter-state ITC transfer post-amalgamation but also underscores the urgent need for technical upgrades to the GSTN portal to ensure seamless credit flow in line with statutory provisions.

Distinguishing the Madras High Court Ruling: A shift toward substance over structure

In delivering its judgment, the Bombay High Court notably distinguished the earlier ruling of the Madras High Court in the case of *MMD Heavy Machinery (India) Pvt. Ltd.* v. *Asst. Comm. of GST & C. Ex., Chennai* - 2021 (53) G.S.T.L. 3 (Mad.). The Madras High Court had denied ITC transfer on the grounds that Section 18(3) applies only where there is a change in the constitution of a business, not in cases of mere relocation of a unit across states without such change. In contrast, the Bombay High Court adopted a substantive approach, holding that statutory entitlements under Section 18(3) prevail over technical or structural limitations. It emphasized that legal rights cannot be curtailed by portal design or administrative interpretation, thereby reinforcing the dominance of legislative intent.

The divergence between the Bombay and Madras High Courts raises a compelling jurisprudential question: Would the Madras High Court have permitted ITC transfer had the case involved a change in the constitution of business? If so, it opens the door to a broader interpretation suggesting that the principle of ITC transfer may not be confined to separate legal entities post-amalgamation, but could also extend to distinct persons under GST, i.e., different registrations of the same entity across states.

Under the GST framework, distinct persons are recognized by virtue of Section 25, which allows a single legal entity to obtain separate registrations in different States/UTs, each treated as a separate taxable person. This concept is further

reinforced by Rule 41A of the CGST Rules, which specifically facilitates ITC transfer between such registrations within the same State or UT, provided they belong to the same legal entity.

However, the absence of a corresponding provision for inter-state ITC transfer between distinct persons i.e., within the same entity, raises a critical limitation. The Bombay High Court's ruling, while progressive, was grounded in the context of amalgamation between separate legal entities, and not intra-entity transfers across states.

Therefore, while the judgment sets a precedent for inter-state ITC transfer post-merger, its extension to distinct persons within the same entity remains legally untested. Any such extension would require either judicial affirmation in a suitable case or legislative intervention to harmonize the GST framework with commercial realities and ensure seamless credit flow across business structures.

Unresolved ambiguity – Revenue loss of the transferor state

Though the Bombay High Court's judgment marks a progressive shift in interpreting GST law, it simultaneously opens a new line of debate, particularly from the perspective of state revenue authorities. The primary concern raised by the department was that allowing the transfer of SGST credit from Goa to Maharashtra could result in a loss to Goa's exchequer. However, such concerns remain speculative and unsubstantiated, given the nature of ITC as a deferred benefit, realizable only upon actual utilization against a particular tax liability.

GST, by design, is a destination-based consumption tax. Under Section 53 of the CGST Act, the Central Government is mandated to apportion CGST credit utilized for IGST payments to the destination state. A parallel mechanism exists under the respective SGST Acts, requiring a state to transfer an equivalent amount of SGST credit used for IGST payments to the state where the supply is consumed. This statutory framework ensures that revenue ultimately accrues to the consuming state, thereby preserving fiscal neutrality.

Accordingly, any perceived revenue loss to the transferor state is notional and only materializes if and when the credit is actually utilized. Despite this, the Court refrained from issuing directions on SGST transfer, leaving the issue unsettled. This cautious approach leaves room for interpretational ambiguity and future litigation, particularly in the absence of a clear

statutory or procedural mechanism for inter-state SGST credit migration in cases of business reorganization or restructure.

Way forward

Amidst the cloud of uncertainties surrounding SGST treatment and inter-state ITC transfer, businesses must adopt a cautious yet proactive approach. Filing formal legal representations before GST authorities can help seek clarity on the open-ended issues raised by the Bombay High Court's judgment. Where appropriate, the advance ruling mechanism may be explored for case-specific guidance. Additionally, in light of recent jurisprudence, taxpayers may also consider the refund route for unutilized ITC, particularly in cases involving discontinuance of business. A fact-driven, well-documented strategy remains essential to navigate this evolving legal landscape.

Conclusion

The *Umicore* ruling reaffirms that the spirit of GST law favours the seamless flow of ITC over rigid territorial boundaries. While the interim relief supports the ease of doing business, the true challenge lies in harmonizing statutory provisions, judicial interpretations, technological capabilities, and revenue considerations. However, it will be interesting to observe whether implementing authorities will apply the court's *ratio decidendi* into consistent framework to transfer unutilised ITC between separate legal entities as well as distinct persons across states and evolve system procedures accordingly or will the technical challenges and notional loss to the state governments stretch the ongoing debate.

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Goods & Services Tax (GST)

Ratio decidendi

- Telecommunication towers are not immovable property – ITC is not deniable under Section 17(5)(d) – *Supreme Court*
- Second provisional attachment, after expiry of initial attachment order, is wrong – *Supreme Court*
- Parallel proceedings by State and Central Authorities when permissible/not permissible – *Supreme Court*
- Parallel proceedings – Subsequent notices by State authorities, which were closed, are not fatal to proceedings initiated earlier by Central GST authorities – *Chhattisgarh High Court*
- Purchase and subsequent sale of vouchers at margin is not liable to GST – *Karnataka High Court*
- Relevant date for refund when tax mistakenly paid as CGST but later also paid correctly as IGST – *Patna High Court*
- Limitation for issuance of SCN – Expression 'three months' in Section 73(2) must be interpreted as three calendar months and not 90 days – *Delhi High Court*
- No ITC related to supply of Duty Credit Scrips available for period prior to 5 July 2022 – Insertion of Explanation (1)(d) in Rule 43 is not retrospective – *Chhattisgarh High Court*
- ITC is not available on coal used in generation of electricity consumed in maintenance of township – *Chhattisgarh High Court*
- No penalty under Section 74 if tax was not paid due to bona fide dispute over interpretation of law, which was litigated up to Supreme Court – *Karnataka High Court*
- Divergence of demand between pre-notice intimation and the show cause notice is fatal – *Calcutta High Court*
- Demand – Summaries in DRC-01, DRC-02, and DRC-07 are supplementary and cannot replace the requirement of proper and authenticated primary documents – *Gauhati High Court*
- Consolidated show cause notice for multiple years is permissible in case of fraudulently availed ITC – *Delhi High Court*
- Squaring off the amount paid in Electronic Cash Ledger for liability, when returns not filed due to liquidation – *Madras High Court*
- Refund – Citation of a wrong provision or typographical error in the forms is not fatal – *Allahabad High Court*
- Service of notice – Mere uploading on portal or sending e-mail is not sufficient when registration already surrendered – *Karnataka High Court*
- Refund of tax paid in cash when ITC available – Applicability of CBIC Circular No. 26/26/2017-GST – *Andhra Pradesh High Court*
- ITC available on construction of concrete tower constituting foundation of plant and machinery – *Gujarat Appellate AAR*

Ratio Decidendi

Telecommunication towers are not immovable property – ITC is not deniable under Section 17(5)(d)

The Supreme Court, after condoning the delay in filing, dismissed Special Leave Petition(s) filed by the Revenue department challenging the decision passed by the Delhi High Court by holding that the cases were not fit to exercise discretion under Article 136 of the Constitution of India. Here, the Delhi High Court had held that telecommunication towers would not fall within the ambit of Section 17(5)(d) of the CGST Act, 2017. Thus, denial of input tax credit is consequently not sustainable.

The Delhi High Court had relied on the decisions of the Supreme Court in the case of Vodafone Mobile Services and Bharti Airtel. The Court noted that though these decisions were rendered in the context of Cenvat Credit Rules, 2004, the generic principles would apply to the concept of immovable property in the GST regime as well. Thus, the Court had explicitly concluded that the telecommunication towers are to be treated as moveable.

The Delhi High Court decision was covered in December 2024 issue of LKS Indirect Tax Amicus, as available ***here****.* A ***number of assessees were represented by Lakshmikumaran & Sridharan Attorneys here.*** [*Commissioner* v. *Bharti Airtel Limited etc.* – 2025 VIL 62 SC]

Second provisional attachment, after expiry of initial attachment order, is wrong

The Supreme Court has answered in negative the question as to whether the CGST Act or any other law in force permits issuance of a second provisional attachment order under sub-section Section 83(1) of the CGST Act after the initial provisional attachment order issued thereunder ceases, by reason of efflux of a year from the date of its issuance, in terms of sub-section (2) thereof.

The Apex Court observed that the tax authorities cannot issue a second provisional order stipulating that there is no ban placed by the statute for issuing the same. The Court relied on various precedents and observed that if the power is not conferred by the statute, executive instructions or any other instrument which is law within the meaning of Article 13 of the Constitution, it cannot be justified by arguing that the exercised

power is neither prohibited by the statute nor by executive instructions. The Court, for this purpose, also noted that there is a complete absence of any executive instruction consistent with the legislative policy and intendment of the CGST Act authorizing renewal of a lapsed provisional attachment order. The Supreme Court was also of the view that allowing fresh provisional attachment order will render the text of sub-section (2) of Section 83 otiose.

The Court also noted that a period of one year, as ordained by the legislature, is enough for the revenue authorities to conclude its investigation; if not, the legislature could have provided for a renewal or an extended period as in the Excise Act and the Customs Act. [*Kesari Nandan Mobile* v. *Office of Assistant Commissioner* – 2025 VIL 65 SC]

Parallel proceedings by State and Central Authorities when permissible/not permissible

In this case, the Central GST Authorities had issued summons against the assessee while the State GST Authorities had already commenced proceedings. The Assessee relied upon Section 6(2)(b) of the CGST Act, 2017 to submit that this is impermissible. The Supreme Court upheld the Delhi High Court's decision, wherein the High Court had declined to interdict the summons issued by the Central GST authorities pursuant to a search.

While holding so, the Apex Court observed that,

- All actions initiated for inquiry/gathering of evidence or information do not constitute 'proceedings' within the meaning of Section 6(2)(b) of the CGST Act.
- Expression 'initiation of any proceedings' occurring in Section 6(2)(b) refers to the formal issuance of SCN, and does not cover issuance of summons, or the conduct of any search, or seizure etc.
- Twofold test for determining whether a subject matter is 'same' requires, (i) determining if an authority has already proceeded on an identical liability of tax or alleged offence by the assessee on the same facts, and (ii) if the demand or relief sought is identical.
- Expression 'subject matter' refers to any tax liability, deficiency, or obligation arising from any particular contravention which the Department seeks to assess or recover.

The Court in this regard also observed that,

- Any action arising from the audit of accounts or detailed scrutiny of returns must be initiated by the tax administration to which the taxpayer is assigned.
- Intelligence-based enforcement action can be initiated by any one of the Central or the State tax administrations.
- Parallel proceedings should not be initiated by other tax authorities when one of the tax authority has already initiated intelligence-based enforcement action.

It may be noted that the Supreme Court also laid down the following guidelines in cases where, after the commencement of an inquiry or investigation by one authority, another inquiry or investigation on the same subject matter is initiated by a different authority.

- Where assessee becomes aware that the matter being investigated is already the subject of an inquiry/investigation by another authority, the assessee is to inform in writing to the authority that has initiated the subsequent investigation.
- Tax authorities need to verify the claim and are within their rights to conduct an inquiry or investigation until it is ascertained that both authorities are examining the identical liability/contravention.
- When subject matter is found different, the authorities need to intimate the taxpayer along with reasons.
- In case of same subject matter, authorities need to decide *inter-se* which of them shall continue with the inquiry or investigation. In case of non-decision, the first authority to take the matter for conclusion.

[*Armour Security (India) Ltd.* v. *Commissioner* – Judgement dated 14 August 2025 in Special Leave Petition (C) No. 6092 of 2025, Supreme Court]

Parallel proceedings – Subsequent notices by State authorities, which were closed, are not fatal to proceedings initiated earlier by Central GST authorities

In this case, an inspection was carried out under Section 67(1) of the Central GST Authorities. Meanwhile, a summary SCN in Form DRC-01 and statement in Form DRC-02 was issued by the State GST Authorities in 2021 for which the assessee had furnished a reply. Thereafter, in 2022, the State GST Authorities issued another DRC-01 in 2022 for which the assessee submitted a reply. After this, the proceedings were closed by the State GST Authorities, albeit without specifying any reason

and without adjudication. After this, the Central GST Authority issued Form GST DRC-01A and the assessee filed a reply. The Central GST Authority issued a Show Cause Notice under Section 73 of the CGST Act. The assessee challenged the SCN issued by the Central GST Authority through a Writ Petition. Rejecting the petition, the Court observed that Section 6(2)(b) of the CGST Act bars a proper officer under the Act to initiate any proceeding on a subject-matter where on the same subject-matter proceeding by a proper officer under the State GST Act has been initiated. Here, since the first proceeding has already been initiated by the Central GST Authorities against the assessee, the Court held that State GST authorities were not competent to initiate any proceeding. [*South Eastern Coalfields Limited* v. *Principal Commissioner* – 2025 VIL 805 CHG]

Purchase and subsequent sale of vouchers at margin is not liable to GST

In a case where the assessee-petitioner purchased the vouchers from the voucher issuer and sold them to its client at a margin mutually agreed between the assessee and the client, the Karnataka High Court has held that the transaction would not be liable to GST. The Court observed that the assessee was not rendering any services to the voucher issuer as regards marketing and promotion and or distribution of vouchers. The Court in this regard relied upon para 4.2 of the CBIC Circular No. 243/37/2024-GST dated 31 December 2024. The Department had alleged that by making use of trade in voucher/gift cards, the assessee was providing services to its clients and as such, these services would be exigible to GST, as the vouchers were distributed on commission/fee basis. ***The assessee was represented by Lakshmikumaran & Sridharan Attorneys here.*** [*BI Worldwide India Pvt. Ltd.* v. *Additional Director* – 2025 VIL 830 KAR]

Relevant date for refund when tax mistakenly paid as CGST but later also paid correctly as IGST

The Patna High Court has held that the relevant date for counting the period of limitation for refund of CGST/SGST would start from the date when the assessee correctly deposited the tax under IGST Act later, and not when the taxpayer had earlier mistakenly deposited the CGST and Bihar GST. The High Court in this regard relied upon Section 77 of the CGST Act, 2017 read with Section 19 of the IGST Act and the clarificatory CBIC Circular No. 162/18/2021-GST. It was thus held that the tax authorities erred in taking a view that the period of two years would be counted from the month when the amount on account of SGST and CGST were deposited. The Court was hence of the view that otherwise the provisions of

the CGST and IGST Act including the Circular will become redundant. [*Sai Steel* v. *State of Bihar* – 2025 VIL 791 PAT]

Limitation for issuance of SCN – Expression 'three months' in Section 73(2) must be interpreted as three calendar months and not 90 days

The Delhi High Court has held that the SCN issued on 30 November 2024, when the outer limit for passing the Order under Section 73(10) of the CGST Act, 2017, is 28 February 2025, was not time-barred. Differing with the views of the Andhra Pradesh High Court's decision in *Cotton Corporation of India* v. *Assistant Commissioner*, the Delhi High Court relied upon the Supreme Court decision in *State of Himachal Pradesh and Anr.* v. *Himachal Techno Engineers and Anr*, which had taken note of the definition of 'month' in the General Clauses Act. The Court was hence of the view that the expression 'three months' must be reckoned and interpreted as three calendar months and not as 90 days. The Court however also noted that even otherwise, in the particular facts of the case, the total number of days came out to be 90 days (31 days each of December 2024 and January 2025 and 28 days of February 2025). [*Tata Play Ltd.* v. *Sales Tax Officer* – 2025 VIL 797 DEL]

1) No ITC related to supply of Duty Credit Scrips available for period prior to 5 July 2022 – Insertion of Explanation (1)(d) in Rule 43 is not retrospective

2) ITC not available on coal used in generation of electricity consumed in maintenance of township

The Chhattisgarh High Court has held that the amendment made in the Explanation (1)(d) in Rule 43 of the CGST Rules, 2017, is not clarificatory in nature. The Court in this regard noted that though express power in Section 164(3) of the CGST Act has been conferred upon the rule-making authority, yet the authority did not choose to promulgate it with retrospective effect. It was also noted that insertion of clause (d) only expanded the scope of supplies which have to be excluded from the aggregate value of exempt supplies. The clause (d) had excluded, with effect from 5 July 2022, the supply of Duty Credit Scrips from the category of exempt supplies for the purpose of ITC on inputs.

Relying upon Supreme Court's decisions in the cases of *Gujarat Narmada Fertilizers Company Limited* and *Maruti Suzuki Limited*,

pertaining to Cenvat credit, the High Court has upheld the denial of ITC on coal used in generation of electricity consumed for maintenance of the assessee's township. The question to whether the maintenance of township and supply of electrical energy thereof is in the course or furtherance of business in terms of Section 2(17) read with Section 16(1) of the CGST Act and thus the assessee was entitled for Input Tax Credit, was thus answered in negative. [*Bharat Aluminium Company Limited* v. *State of Chhattisgarh* – 2025 VIL 799 CHG]

No penalty under Section 74 if tax was not paid due to bona fide dispute over interpretation of law, which was litigated up to Supreme Court

The Karnataka High Court has answered negatively the question as to whether an assessee who challenges the exigibility of a particular transaction to tax and succeeds in such challenge before the Tribunal, but the order is reversed by the Supreme Court, would be required to pay interest and penalty in terms of Section 74 of the Goods and Service Tax Act, 2017. The issue related to liability of service tax on secondment of employees which was held in favour of the Department by the Supreme Court in the case of *Northern Operating Systems Private Limited*. The Court noted that it cannot be said that the assessee evaded tax by reason of fraud or on the basis of any willful statement or suppression of facts, as all the facts were presented to the authorities. ***The assessee was represented by Lakshmikumaran & Sridharan Attorneys here.*** [*BSH Houseshold Applicances Manufacturing Pvt. Ltd.* v. *Commissioner* – 2025 VIL 831 KAR]

Divergence of demand between pre-notice intimation and the show cause notice is fatal

In a case where the tax demand under the show cause notice was some 40 times higher than that shared by the Department in the pre-notice intimation under DRC-01A, the Calcutta High Court has held that the Department ought not to take the assessee by surprise by enhancing the claim several folds, for the first time in the show-cause notice in DRC-01. The Court in this regard noted that there was no explanation by the Revenue department on the mismatch. The High Court was thus of the view that since the petitioner was not provided with an opportunity to offer explanation to the notice in DRC -01A, the show-cause in DRC-01 was not sustainable.

It may be noted that the Court, however, directed that the order issued under Section 73 to be treated as a notice issued under

Section 73, subject to the assessee-petitioner depositing an additional 10 per cent of the tax in dispute. [*Expo Gas Containers Ltd*. v. *Commissioner* – 2025 VIL 801 CAL]

Demand – Summaries in DRC-01, DRC-02, and DRC-07 are supplementary and cannot replace the requirement of proper and authenticated primary documents

The Gauhati High Court has observed that the issuance of the show cause notice and the Statement of determination of tax by the Proper Officer are mandatory requirements in addition to the Summary of SCN in GST DRC-01 and Summary of the Statement in GST DRC-02. It was therefore held that a formal and duly authenticated SCN is mandatorily required to initiate proceedings under Section 73. The High Court was also of the view that the Department's claim that the statement attached to the Summary in GST DRC-01 constitutes a valid SCN, was misconceived and contrary to law.

Further, the High Court also held that the SCN, the Statement, and the Final Order under Section 73(9) must be issued and passed only by the Proper Officer, as defined under Section 2(91), and that these documents must be properly authenticated in accordance with Rule 26(3) of the CGST Rules, 2017. According to the Court, summaries issued in GST DRC-01, DRC-02, and DRC-07 are merely supplementary and cannot override or replace the requirement of issuing proper and authenticated primary documents. [*Shree Arihant Logistics Private Limited* v. *State of Assam* – 2025 VIL 803 GAU]

Consolidated show cause notice for multiple years is permissible in case of fraudulently availed ITC

The Delhi High Court has held that in cases involving fraudulent availment of ITC, consolidated show cause notice for multiple years is not merely permissible but is required. Taking note of Sections 74(3), 74(4), 73(3) and 73(4) of the CGST Act, 2017, which use the term 'for any period' and 'for such periods', the Court was of the view that the Legislature was conscious of the fact that insofar as wrongfully availed ITC is concerned, the notice can relate to a period and need not to be for a specific financial year. It was observed that the language of the provision itself does not prevent issuance of SCN or order for multiple years in a consolidated manner.

The High Court in this regard noted that a solitary availment or utilization of ITC in one financial year may actually not be capable of by itself to establish the pattern of fraudulent availment or utilization. According to the Court, the nature of ITC is such that fraudulent utilization and availment of the same cannot be established on most occasions without connecting transactions over different financial years. [*Ambika Traders* v. *Additional Commissioner* – 2025 VIL 806 DEL]

Squaring off the amount paid in Electronic Cash Ledger for liability, when returns not filed due to liquidation

In this instance, the petitioner was acting as the liquidator for a company undergoing liquidation. The petitioner had deposited the entire duty payable in the Electronic Cash Ledger during the impugned period through challans. However, the returns (Form GSTR-1 and GSTR-3B) could not be filed as the company's GST registration had been cancelled. In this instance, the Madras High Court observed that there is no dispute that the amount has been transferred as and when the tax liability arose into the Electronic Cash Ledger. There cannot be an impediment to appropriate amounts already paid by the petitioner on the dates mentioned in the Electronic Cash Ledger to square off the tax liability of the petitioner. Further, the Court also took note of the CBIC Circular No. 134/04/2020-GST, dated 23 March 2020 which addressed the issue of refund claim where IRP/ IPs have made deposit in cash ledger of erstwhile registration of the corporate debtor. Here, the Court noted that the clarification indicates that under similar circumstances, the IRP/ IPs have to obtain a fresh registration and apply for a refund, implying a fresh payment of the amount and thereafter, the refund of the aforesaid amount paid earlier. However, the Court was of the view that these are only trade facilitation intended to reduce the rigors of the strict application of the provisions of the Act and Rules. [*Satyadevi Alamuri liquidator of M/s G.B. Engineering Enterprises Private Limited* v. *Office of Assistant Commissioner* – 2025 VIL 815 MAD]

Refund – Citation of a wrong provision or typographical error in the forms is not fatal

Observing that there was no dispute between the parties that the assessee was entitled to CGST refund, the Allahabad High Court has held that citation of a wrong provision or typographical error in the forms submitted along with the application cannot be the basis for rejecting the substantive

claims or denying rights accruing to the assessee. The assessee had entered the amount under an incorrect head in the form for the tax refund. The Court was of the view that the Appellate Authority erred in law by failing to determine the controversy on merits and by declining the claim on the aforesaid technicality. [*Bharat Mint & Aroma Chemicals* v. *Union of India* – 2025 VIL 820 ALH]

Service of notice – Mere uploading on portal or sending e-mail is not sufficient when registration already surrendered

The Karnataka High Court has held that it cannot be expected from the assessee to visit the portal and to ascertain that any notice has been issued to him when his registration has already been surrendered/cancelled. The assessee in the dispute had grievance that despite surrender and cancellation of his GST Registration, the assessment notice was sent to the Email-ID, put up on the said portal, and the assessee could not respond to the said notice. The Court here was of the view that in such cases, the Department would be required to issue necessary notice by registered post and acknowledgment due and only after proof of service of notice proceed with the matter. [*Viveks Construction* v. *Commercial Tax Officer* – 2025 VIL 873 KAR]

Refund of tax paid in cash when ITC available – Applicability of CBIC Circular No. 26/26/2017-GST

The Andhra Pradesh High Court has directed the Revenue department to consider the request of the assessee-petitioner, for grant of refund of compensation cess in terms of CBIC Circular No.26/26/2017-GST, dated 29 December 2017, after giving the assessee an opportunity of hearing. The assessee had paid compensation cess during import of coal and while moving the said coal across State borders, again paid compensation cess in cash without utilizing the ITC of the cess paid on imports. The assessee had sought relief of rectification of Form GSTR-3B so as to avail ITC of compensation cess along with consequential refund. The Court in this regard noted that clause 4 of the said Circular provided for grant of refund where adjustment was not feasible. ***The assessee was represented by Lakshmikumaran & Sridharan Attorneys here.*** [*Tata Steel Ltd.* v. *CBIC* – 2025 VIL 886 AP]

ITC available on construction of concrete tower constituting foundation of plant and machinery

The Gujarat Appellate AAR has allowed ITC on the inputs and input services used for the construction of the concrete tower,

as it constituted foundation and structural support for plant and machinery. Setting aside the AAR ruling, the AAAR observed that the process inside VCV tower undertaken at each floor and the weight of the significantly heavy components to be placed on each floor, the concrete structure was essential to support and erect the vertical continuous vulcanization lines for manufacture of extra high voltage cables. The AAAR was of the view that plant and machinery in terms of the second explanation to Section 17 specifically includes foundation and structural support, and that 'other civil structures' means civil structures other than foundation and structural support to plant and machinery. ***The assessee was represented by Lakshmikumaran & Sridharan Attorneys here.*** [In RE: *KEI Industries Ltd.* – 2025 VIL 37 AAAR]

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Customs and FTP

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- Cotton, not carded or combed – BCD and AIDC exempted till 31 December 2025
- Jute imports from Bangladesh – Port restrictions imposed
- Diamond Imprest Authorisation – Imports not eligible for exemption from IGST and Compensation Cess
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Ratio decidendi

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- Interactive Flat Panels are classifiable under Customs TI 8471 41 90 and not under TI 8528 59 00 – *CESTAT Mumbai*
- Appeals before CESTAT by Directors of company – Pre-deposit from company instead of from Directors' accounts is valid – *Delhi High Court*
- No penalty under Customs Section 114A in case of classification of goods differently than what believed by Department – Benefit of Section 28(2) available – *CESTAT New Delhi*
- Delay in obtaining EODC, due to reasons beyond the control of the assessee, is not fatal – *CESTAT Chennai*
- Exemption to diagnostic kits for detection of HIV – Purposive interpretation of exemption notifications to be applied to allow benefit to technologically advanced kits – *CESTAT New Delhi*
- Water balloons for use in Holi are classifiable under TI 9505 90 90 and not as toys; Holi is also a festival – *CESTAT Chandigarh*

Notifications and Circulars

Cotton, not carded or combed – BCD and AIDC exempted till 31 December 2025

The Ministry of Finance has exempted cotton, not carded or combed, falling under Heading 5201 of the Customs Tariff Act, 1975, from the levies of Basic Customs Duty (BCD) and Agriculture Infrastructure and Development Cess (AIDC) on imports. The exemption is available from 19 August 2025 till 31 December 2025. Notification No. 35/2025-Cus., dated 18 August 2025 as amended by Notification No. 36/2025-Cus., dated 28 August 2025, has been notified for this purpose.

Jute imports from Bangladesh – Port restrictions imposed

The Ministry of Commerce has imposed port restrictions on import of certain jute products from Bangladesh. Accordingly, imports of certain jute products falling under HS Codes 5310 90 (Bleached and unbleached woven fabrics of jute or of other textile bast fibre), 5608 90 (Twine, cordage, rope, etc., of jute), 5607 90 (Twine, cordage, rope and cables) and 6305 10 (sacks and bags of jute) of the ITC(HS) Classifications are now not eligible for import through any land port on the India-Bangladesh border. The imports are, however, allowed only through Nhava Sheva Seaport. Notification No. 24/2025-26, dated 11 August 2025 has been issued for the purpose.

Diamond Imprest Authorisation – Imports not eligible for exemption from IGST and Compensation Cess

The Ministry of Commerce has amended Para 4.63 of the Foreign Trade Policy to state that exemption from whole of Integrated Tax (IGST) and Compensation Cess is not available to imports under Diamond Imprest Authorisations. Imports under DIA will however continue to enjoy exemption from BCD, Additional Customs Duty, Education Cess, Anti-dumping duty, Countervailing duty, Safeguard duty, and Transition Product Specific Safeguard duty. Notification No. 25/2025-26, dated 19 August 2025 issued for this purpose also amends Para 4.61 of the FTP to permit submission of CA certificate in place of latest ITR and then submit the proof of submission of ITR by 31st of December.

Chemicals – EO period for imports under Advance Authorisations of products under mandatory QCOs extended

The export obligation (EO) period against import of products subjected to mandatory Quality Control Orders (QCOs) by the Department of Chemicals & Petrochemicals, under Advance Authorisations, has been extended from 180 days to 18 months. As per the changes now made in Para 2.03(A)(i)(g) of the Foreign Trade Policy by Notification No. 28/2025-26, dated 28 August 2025, EO period for all Advance Authorisation holders will be now as per Para 4.40 of the Handbook of Procedures.

Virgin Multi-layer Paper Board – Minimum import price imposed till 31 March 2026

The Ministry of Commerce has imposed a minimum import price of INR 67,200/MT on imports of Virgin Multi-layer Paper Board. This import restriction on CIF value of goods will be there will 31 March 2026 and covers goods falling under ITC(HS) Codes 4805 91 00, 4805 92 00, 4805 93 00, 4810 92 00, and 4810 99 00. Notification No. 26/2025-26, dated 22 August 2025 has been issued for the purpose.

Natural honey – Minimum Export Price lowered

The Ministry of Commerce has lowered the Minimum Export Price of Natural Honey from USD 2000/MT FOB to USD 1400/MT FOB. The relaxation is effective from 22 August 2025 till the original restrictions, i.e., till 31 December 2025. Notification No. 27/2205-26, dated 22 August 2025 has been issued for the purpose.

Ratio Decidendi

MEIS – Inadvertent procedural error in shipping bill, which corrected under Customs Section 149, is not fatal

The Supreme Court of India has reiterated that beneficial schemes must be construed liberally and that procedural lapses, once rectified, cannot be allowed to defeat substantive rights. The Apex Court was deciding a case involving denial of MEIS benefit as the Customs Broker inadvertently did not mark 'Yes' in the column in the shipping bill for declaration to claim benefit of the scheme (MEIS). The Court in this regard noted that the shipping bill was subsequently corrected/amended under Section 149 of the Customs Act, 1962. Taking note of the various Bombay High Court decisions, the Apex Court observed that once exports are genuine and fall within the notified category, inadvertent mistakes of procedure cannot be treated as fatal, especially where they are corrected under statutory authority.

It may be noted that while allowing the appeal, the Supreme Court also observed that Union of India, acting through the DGFT and the CBIC, must take appropriate measures to ensure that genuine exporters are not driven to needless litigation on account of inadvertent procedural lapses which have been rectified in accordance with law. [*Shah Nanji Nagsi Exports Pvt. Ltd.* v. *Union of India* – 2025 VIL 69 SC CU]

Advance Authorisation condition when not violated in case of transfer of duty-free goods to sister concern

The Gujarat High Court has upheld the CESTAT's finding of no violation of condition no. (vii) of Notification No. 43/2002-Cus., relating to Advance Authorisation in a case where the importer had transferred duty-free imported goods to its subsidiary concern who in turn manufactured cement which was transferred back to the importer for further export. The Court noted that there was no transfer/sale of the imported duty-free coal and instead the manufacture of cement/clinker was done on job-work basis through the subsidiary. It was noted that the importer had issued debit notes by excluding customs duty and profit upon the subsidiary which adjusting such debit note transferred the cement clinkers to the importer for further export. Dismissing the Revenue department's

appeals, the High Court also noted that there was no prohibition against utilization of the imported material after the export obligation was met as per the Advance Authorizations. ***The importer was represented by Lakshmikumaran & Sridharan Attorneys here.*** [*Commissioner* v. *Ultratech Cement* – 2025 VIL 885 GUJ CU]

Customs cannot confirm duty demand till EODC issued by DGFT is not cancelled

The CESTAT New Delhi has reiterated that the customs authority cannot confirm demand of Customs duty in the absence of any adjudication by the DGFT cancelling the Export Obligation Discharge Certificate (EODC) certificate issued by it, certifying that the export obligation was fulfilled by the assessee. The CESTAT thus observed that the Customs department would not have any jurisdiction to sit in judgment over the EODC issued by the DGFT. It was noted that the said EODC had not been cancelled till date by the DGFT. The assessee had imported cars and used them in the hotel for rendering services like pick-up and drop from/to airport for its customers without charging any separate amount towards this service. Supreme Court's decision in the case of *Titan Medical Systems* and the Delhi High Court decision in the case of *Design Company*, were relied upon by the Tribunal while allowing assessees appeal. ***The assessee was represented by Lakshmikumaran & Sridharan Attorneys here.*** [*Bestech Hospitalities Pvt. Ltd.* v. *Commissioner* – 2025 VIL 1281 CESTAT DEL CU]

Status Holder Incentive Scheme – Good having separate and distinct usage in manufacture are capital goods and not parts/spares/components of capital goods

The CESTAT Kolkata has allowed benefit of Status Holder Incentive Scheme (SHIS) in case of import of certain goods which had distinct and separate usage for use in manufacturing in assessee's final product. Holding the goods to be capital goods, the Tribunal was of the view that the goods cannot be held as parts, spares, components of capital goods. Taking note of the definition of capital goods under Notification No. 104/2009-Cus., the Tribunal was of the view that the definition is so wide, it includes all components which are used for manufacturing or production or providing service. The goods involved were High Dimension Thickness Sander, Fiber Destruction Machine, PLC [Programmable Logic Controller] operated core builder, Glue Spreader, Steel Caul Plates/

Stainless Steel Press Plates, Aligner System and Circular Saw Blades, and Cross Correction Module, Fan Wheel Driver and Rotor for Chipper. ***The assessee was represented by Lakshmikumaran & Sridharan Attorneys here.*** [*Greenpanel Industries Ltd.* v. *Commissioner* – Final Order No. 77120/2025, dated 9 July 2025, CESTAT Kolkata]

Interactive Flat Panels are classifiable under Customs TI 8471 41 90 and not under TI 8528 59 00

The CESTAT Mumbai has held that Interactive Flat Panels are correctly classifiable under Tariff Item 8471 41 90 of the Customs Tariff Act, 1975 and not under TI 8528 59 00 *ibid*. The Tribunal in this regard noted that the Panels had all the pre-requisites of storing processing programs, are freely programmed as per the requirements, perform arithmetic computations specified by the user, and execute without human intervention, a processing programme which require them to modify their execution, by logical decision during the processing run. It may be noted that the Tribunal distinguished the said product from electronic whiteboard which is a PC based input equipment. Dismissing the appeals filed by the Revenue department, the Tribunal also relied upon its earlier decision in the case of *Ingram Micro India Pvt. Ltd.* and *Cloudwalker Streaming Technologies Pvt. Ltd.* ***The importer was represented by Lakshmikumaran & Sridharan Attorneys here.*** [*Commissioner* v. *BenQ India Pvt. Ltd.* – Final Order No. A/86226/2025, dated 5 February 2025, CESTAT Mumbai]

Appeals before CESTAT by Directors of company – Pre-deposit from company instead of from Directors' accounts is valid

The Delhi High Court has set aside the CESTAT decision wherein the Tribunal had refused to register the appeals filed by the Directors of the company while holding that only pre-deposits made directly from the Directors' accounts are valid, despite the exact quantum of amount stood deposited by the Directors. The High Court was of the view that pre-deposits made by the company in which the petitioners were Directors should be given credit *qua* the Directors and the appeals should be entertained on merits by the Tribunal. The Court also clarified that the appeals before the CESTAT shall not be dismissed for want of pre-deposit. [*Abbas Husein Bandali* v. *Assistant Commissioner* – 2025 VIL 782 DEL CU]

No penalty under Customs Section 114A in case of classification of goods differently than what believed by Department – Benefit of Section 28(2) available

The CESTAT New Delhi has allowed the benefit of Section 28(2) of the Customs Act, 1962 in a case where the assessee-importer had under *bona fide* belief classified the imported goods as railway parts under Chapter 86 of the Customs Tariff Act, 1975, but after the initiation of DRI investigation, agreed with the classification proposed by the DRI and paid the full amount of differential duty along with interest. The DRI however issued a SCN after payment of duty and interest, imposing penalty under Section 114A while alleging collusion/willful misstatement/suppression of facts. The Tribunal, however, observed that while it is necessary for an importer to truthfully declare facts in the Bill of Entry, matters of opinion such as the classification cannot be clearly stated as correct or incorrect. According to the Tribunal, classification of goods by the importer or by the proper officer or by the Commissioner (Appeals) or by Tribunal or by any Court is a matter of opinion and not a matter of fact, and hence the SCN alleging mis-declaration was wrong. The benefit of Section 28(2) which states that the proper office shall not serve any notice, in case of payment of duty and interest, was thus allowed. [*Faiveley Transport Rail Technologies India Private Limited* v. *Principal Commissioner* – 2025 VIL 1206 CESTAT DEL CU]

Delay in obtaining EODC, due to reasons beyond the control of the assessee, is not fatal

The CESTAT Chennai has held that the delay in obtaining Export Obligation Discharge Certificate (EODC), due to reasons which are beyond the control of the assessee, cannot result in denial of benefit under the EPCG Scheme and also not trigger any demand of Customs duty to the importer's detriment. CBEC Circular No.16/2017-Cus dated 2 July 2017 and Instruction F.No.605/71/2015-DBK dated 14 October 2016, were relied upon for the purpose. [*Mohan Breweries & Distilleries Ltd.* v. *Commissioner* – 2025 VIL 1340 CESTAT CHE CU]

Exemption to diagnostic kits for detection of HIV – Purposive interpretation of exemption notifications to be applied to allow benefit to technologically advanced kits

Applying purposive interpretation to Notifications Nos. 50/2017-Cus. and 01/2017-Integrated Tax (Rate), which specifically mentioned 'diagnostic kits for detection of HIV

antibodies', the CESTAT New Delhi has allowed the benefit of said notifications to technologically advanced diagnostic kits that serve the same purpose of detection and prognosis of HIV, even if they use nucleic acid amplification test (NAAT) technology instead of the conventional antibody detection method. The Revenue department here was of the view that the exemption is restricted only to diagnostic kits for 'detection of HIV antibodies' and not for detection of HIV nucleic acid by NAAT.

Taking note of the National Guidelines for HIV Testing containing information regarding different types of tests for HIV, the Tribunal observed that the imported kits are required for identifying the course of treatment of HIV and thereby fighting the epidemic of HIV, which is the sole intention behind introducing the exemption benefit to life-saving drugs/medicines and diagnostic kits for HIV. Supreme Court's decision in the case of *Government of Kerala* v. *Mother Superior Adoration Convent*, which had held that the exemption has to be construed in terms of the objective sought to be achieved, was relied upon. [*Hemogenomics Pvt. Ltd.* v. *Commissioner* – 2025 VIL 1324 CESTAT DEL CU]

Water balloons for use in Holi are classifiable under TI 9505 90 90 and not as toys; Holi is also a festival

The CESTAT Chandigarh has held that balloons for use during *Holi* for spraying colours are classifiable under Tariff Item 9505 90 90 of the Customs Tariff Act, 1975. The Revenue department had sought classification under TI 9503 00 20 as non-electronic toys. The Tribunal in this regard observed that Heading 9505 covered festive, carnival or other entertainment articles, and that there was no reason to take constrictive use of the word Christmas in the HSN Notes. According to the Tribunal, it could mean any festival. It was also noted that it was not the case of the department that *Holi* is not a festival and the impugned goods are not used during *Holi*.

Further, dismissing the appeal filed by the Department, the CESTAT noted the balloons were fragile, non-durable and were intended to break on impact, and thus could not be called Toys or Toy balloons, as explained under HSN notes for Heading 9503. It was also noted that the goods were specifically described under Heading 9505 which occurred last in the available alternatives. [*Commissioner* v. *Goyal Brothers* – 2025 VIL 1268 CESTAT CHD CU]

Central Excise, Service Tax and VAT

Ratio decidendi

- Export of service when contractual customer is located outside India, but beneficiary is in India – *Supreme Court*
- Valuation – Transportation/insurance charges when not includible – *Supreme Court*
- Classification of 'spice mixes' – Presence of more than certain quantity of other substances does not necessarily make the product lose its individuality – *Supreme Court*
- Kerala VAT – Purchasing dealer cannot be denied ITC solely on ground that the selling dealer failed to remit the tax collected – *Larger Bench of Kerala High Court*
- Demand – Extended period is not invokable merely because Department came to know the facts when audit was conducted – *CESTAT New Delhi*
- Repairs and maintenance of landscaping of road dividers is covered under exemption for maintenance and repairs of roads – *CESTAT Mumbai*
- Fish caught from ocean and purchased from fisherman is not agricultural produce – *CESTAT Ahmedabad*

Ratio Decidendi

Export of service when contractual customer is located outside India, but beneficiary is in India

The Supreme Court of India has dismissed bunch of appeals filed by the Revenue department against different decisions of the CESTAT involving service tax liability, in the cases where the assessees had argued exemption due to export of services. The period involved was from 2003 till 2014 and the Department had contended that even if the contractual customer is located outside India, if the beneficiaries of the services are located within India, then the assessees do not fall within the scope of the exemption from service tax liability provided to exports. Pointing out that there was no privity of contract between the beneficiary and the service provider, the assessees had submitted that the mere fact that the beneficiary of the service is located in India would not be a determinant factor for the levy of service tax. Dismissing the Department's appeals, the Supreme Court observed that what was determined by the CESTAT was purely findings of facts, that the Court does not find any perversity in the determination of the findings of facts. ***Number of assessees were represented by Lakshmikumaran & Sridharan Attorneys here.*** [*Commissioner* v. *Vodafone India Ltd.* – 2025 VIL 56 SC ST]

Valuation – Transportation/insurance charges when not includible

The Supreme Court has dismissed Revenue department's appeal in a case where the Department contended for inclusion of value of transportation and insurance charges in the gross value of works contract service of erection and installation of transmission towers. The CESTAT had earlier allowed assessee's appeal observing that the goods were supplied on ex-works basis and that the scope of work under the service contract was divided in two parts for which two separate considerations – one for installation charges and other for transportation/insurance charges, were received. The Tribunal was thus of the view that the demand of service tax confirmed on the facility of arranging for transportation/ insurance of goods offered by the assessee to their customers was wrongly classified by the Department as activity of incidental or ancillary to 'Installation Services'. Finding no good reason to entertain the Department's appeal, the Apex Court dismissed the same on grounds of both delay as well as merits. ***The assessee was represented by***

Lakshmikumaran & Sridharan Attorneys here. [*Commissioner* v. *Kalpataru Projects International Limited* – 2025 VIL 60 SC ST]

Classification of 'spice mixes' – Presence of more than certain quantity of other substances does not necessarily make the product lose its individuality

The Supreme Court has upheld the decision of the CESTAT Mumbai Bench where the Tribunal had observed that only by establishing presence of more than certain quantities of substances in a particular product, the individuality of the product would not be necessarily lost. The dispute involved classification of certain spice mixes, whether under Chapter 09 or under Chapter 21 of the Central Excise Tariff. The Tribunal in its decision, *covered in March 2025 issue of LKS Indirect Tax Amicus, as available* ***here***, was of the view that the essential characteristics of the products were not lost despite the presence of more than the required quantity of other items not mentioned in Heading 0910. Dismissing the Civil Appeal, the Apex Court observed that it was not inclined to interfere with the impugned order passed by the CESTAT. [*Commissioner* v. *Pravin Masalewale* – 2025 VIL 53 SC CE]

Kerala VAT – Purchasing dealer cannot be denied ITC solely on ground that the selling dealer failed to remit the tax collected

The 3-Judge Bench of the Kerala High Court has held that a purchasing dealer, who has otherwise complied with all statutory requirements, cannot legitimately be denied the benefit of input tax credit under the Kerala Value Added Tax Act, 2003, solely on the ground that the selling dealer failed to remit the tax collected. Setting aside the Division Bench decision, the High Court also observed that the responsibility for recovering unpaid tax lies properly and primarily with the tax authorities, who must proceed against the defaulting seller, rather than against the innocent purchasing dealer who has fulfilled all obligations imposed by the Act. According to the Court, denying ITC results in unjust enrichment for the State, as it effectively collects tax twice, once from the purchaser (through disallowed credit) and again from the seller (via recovery proceedings). [*S.P. Faizal* v. *State of Kerala* – 2025 VIL 785 KER]

Demand – Extended period is not invokable merely because Department came to know the facts when audit was conducted

The CESTAT New Delhi has held that merely because facts came to the notice of the Department when the audit was conducted, it would not by itself be sufficient for invocation of the extended period of limitation alleging suppression on the part of the assessee. Observing that nothing prevented the Revenue department from scrutinizing the returns filed by the assessee, the Tribunal noted that it was not the case of the Department that the assessee had avoided giving any required particulars in the returns or had mis-stated certain facts therein.

Allowing assessee's appeal, the Tribunal also observed that when two or more views were possible on a particular issue then merely because the assessee took one view, it would not mean that it had suppressed any facts from the Department with an intention to evade payment of duty. The Tribunal, in this regard, was of the view that the Department has not only to allege but prove suppression leading to evasion.

The decision of the Tribunal in the case of *G.D. Goenka Private Limited* v. *Commissioner*, was relied upon. ***The assessee was represented by Lakshmikumaran & Sridharan Attorneys here.*** [*National Engineering Industries Ltd.* v. *Commissioner* – 2025 VIL 1338 CESTAT DEL CE]

Repairs and maintenance of landscaping of road dividers is covered under exemption for maintenance and repairs of roads

The CESTAT Mumbai has held that 'repairs and maintenance of landscaping of road dividers' is covered under exemption provided to service of management, maintenance and repairs of roads. The Tribunal for this purpose observed that dividers are safety devices and landscaping of dividers relieves monotony which is detrimental to traffic safety. It was also observed that the 'roads' comprise 'carriageways' and it is incorrect to construe 'carriageways' as 'roads', as held by the first Appellate Authority. The reviewing authority had earlier held that 'landscaping' merely improves appearance which had nothing to do with the intent of the exemption. However, according to the Tribunal, aesthetics notwithstanding, landscaped 'dividers' are not excludible from roads merely for that reason and in the absence of reference to any authoritative source for such distinction. [*Central India Engineering* v. *Commissioner* – 2025 VIL 1317 CESTAT MUM ST]

Fish caught from ocean and purchased from fisherman is not agricultural produce

The CESTAT Ahmedabad has held that benefit of Sr. No. 21 (a) of Notification 25/2012-ST is not available to the assessee who were not breeding and rearing the fishes in the pond but were purchasing the fish from the fisherman outright and exported it after processing. According to the Tribunal, the fish exported cannot be considered as agricultural produce and the services provided by the GTA by way of transport of fish in a goods carriage were hence not exempted. [*Keshodwala Foods* v. *Commissioner* – 2025 VIL 1314 CESTAT AHM ST]

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