E LEGAL NEWS LETTER

DELHI GST PROFESSIONALS GROUP

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LEGAL NEWS LETTER

DELHI GST PROFESSIONALS GROUP

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PATRON IN CHIEF

MESSAGE FROM PATRON PRAVEEN KHANDELWAL

Dear DGST Family

Hope all of you are doing fine. Take care of your health keeping in mind the rising pollution and winter season in the offing. Remain fit. And belated congratulations on Diwali Season and may God bless you all with health, wealth and prosperity in all your endeavors.

Another milestone achieved. A very original, new and pragmatic international Conference you organized within a period of six months. The topics people appreciated; loved and I personally enjoyed the topics on PPT that SV sent me. Indeed worth a clap for all the young speakers and I personally salute to all of them.

People like your SV Sir should also join politics – so much can be done for poor, education seekers and training of young minds. But SV refuses. I have said this many a times that what DGST Group is offering to the world is many stalwarts could only imagine in their dreams. Such an effort and at a scale like dealing with professionals and pro-bono is not easy to emulate for others. But your Core Team under SV Sir is just continuing doing good for young minds.

The birthday we celebrated for SV was quite a nostalgic moment for me – not because he is my best friend, but wishing him well was a motivated gesture on my behalf – we need him much more for the good of young professionals and for DGST Family. He shared picture of most beautiful gifts DGST Family gave him. And the list did not stop here, SV told me that Agra Team, ATL Team also gave beautiful gifts to him. He also told me a beautiful Shiva statute given by Shivangini Jindal. Well, quite heartening to know that.

This Conference you also had a collaborator ICEA which is headed by my friend Pankaj Mahindroo and I have shared great moments with him. That was indeed a welcome move for ICEA as well – their gesture to support such a young group and young professionals. I would urge ICEA to continue support DGST Group in future endeavors and may be organize a joint event for cellular industry and topics that affect them in tax and commercial field. I am sure Pankaj Manindroo will be too happy to look into this.

The whole optics of the Conference including hall decoration, food spaces and dresses the Core Team wore were a spectrum of beauty of the event. Sorry I could not get the suit ready in time due to Bihar elections – but next time surely I will do if another suit will be given.

Before I end the Core Team deserve a pat on their back – firstly for organizing such a wonderful event, training speakers and spending endless hours and secondly for their "extra ordinary tolerance" of SV and his way of working at a pace most of us are not tuned to. But that's the fuel young minds need friends. I cannot admire more of the efforts Rashmi Jain, Renu Sharma and Rajmani put in on the day of the conference moving continuously to ensure comfort for all and sundry. Narender Ahuja and his team and B B Dewan, Rahul Kakkar – were absolutely on their toes to fulfil DGST Dream of becoming a first to host two back -to- back big events in the same financial year. Yes, the passion and avidness that I saw in all of you was worth a lesson to be learnt.

SV now tells me that beginning November GST shall be discussed threadbare for all the new comers and he shall be doing it personally – this is indeed wonderful and I am sure I would love to attend initial classes myself. And secondly new Income Tax Act – important chapters shall be debated by experts. What more could young minds ask for?

And another series of Moot Tribunals coming up. Moot Tribunals should not be stopped and SV briefed me that this time format shall be random and not topic specific. Yes, that is quite innovating stuff- though it involves much more work in drafting various orders etc. But DGST Family has done and can always achieve this in time. Surely, I shall be there when second season of Moot Tribunal begins.

Lastly my salute to H C Bhatia Sir – his presence in combination with SV indeed peps up the entire team. And his relentless efforts to guide the speakers with eye contacts and tacit clapping motivates the speakers.

PARVEEN KHANDELWAL

SUSHIL K. VERMA

MESSAGE FROM THE EDITOR-IN-CHIEF

Hello!

A very tenacious, taxing and eventful months of September and October just go over. It was very trying and touch period for DGST Family – especially the team that organized the Mega Conference on 13th October at NDMC Convention Centre and for all the Speakers. But what a result – WOW. The event was a huge success intellectually notwithstanding the comparatively thin attendance attributable a lot of factors. But DGST Group established itself further all over India that we are a daring and difference breed of professionals and definitely define and decide our own destiny and achieve our own missions.

The dresses of organizing Team – men and women – were indeed very charming and were a talk of the event. Thanking you Rajmani and RASHMI Jain (and Narender Ahuja) for making the greatest choice of colors for the organizing team – sarees and suits respectively. And above all, their bravo act of gifting these dresses to all of us.

The young speakers who spoke on subjects, that I thought were alien to them till now, did a wonderful job – which ShivangIni Jindal and Yugal Goyal standing out on top. Dr. Rakesh Kumar also delivered a brilliant analysis of Black Money Act and Narender Ahuja spoke with clarity on recovery processes in India. Well done friends, indeed a fabulous job.

Our Patron in Chief Praveen Khandelwal especially came to Delhi leaving his election trail in Bihar and that shows his immense attachment to DGST Family. He along with HCB Sir and our team distributed moments to all the speakers and other Guests of Honor. Pankaj Mahindroo, President ICEA delivered a power speech on India's economy as compared with China – a lot we learnt.

A very special mention for my best teacher Rajmani Jindal whose magnetism lure people to keep loving her more and more – and the intensity with which she gets involved is rarest of rate. Imagine giving beautiful sarees to all her women colleagues, spending time and knowing choice of each and every one – and such inert actions create inertia that is difficult to fathom and more so when on the conference day her most peaceful person I have ever met Pradip Jindal also jointed us and he deeply appreciated what we do. He made a statement to me " SV Sir, now I know what is to be in this group". When we gave her the aware of "The Soul of the Group", just imagine PK Sir spoke her name without me even mentioning it. Such is the magnetic values she is blessed with. Her combination with RASHMI Jain is indeed transcendent and it defies logic now two of

these ladies jell with each other so much – having extremely different chemistry and mind set ups. Perhaps the both care about people and about DGST.

Students of Law colleges from UP, their Faculty and Office Bearers of many Tax Bar Associations blessed DGST – and it was a momentous occasion for DGST Family. Narender Ahuja and Rashmi Jain did a wonderful job to not only welcome them but also taking care of them at the event. Students' attendance was a remarkable one of such like events as I have never witnesses their attendance in our professional conferences.

HCB Sir came out with a surprise of his compilation of 101 SC Judgments for DGST Family – the commitment, passion and his willingness to make us better professionals is exceptional. And we would persuade him to speak in coming events on such judgments, if he can. Salute to. you Sir.

And I would be very cruel if I do not self - write about the birthday celebrations the team and our Patron did for me- thank you so much for such lovely gifts and especially the Core Team photo prepared by Renu Sharma. Unimaginable birthday celebration I shall cherish till last.

But friends the aspiration of professionals from DGST are much more – we have to get ready for the coming shows. Research Committee on India GST versus World GST has been constituted and first meeting will take place in early November. Next Conference has to be planned and Income Tax Act to be debated on important topics – other than return filing. There is a growing demand that GSST law too should be discussed afresh and we may do it. Soon Narender Ahuja shall announce the dates.

Punjab Relief Fund was a talk of the conference – many ASSOCIATION HEADS wanted to be a part of it and we assure them should such things happen in the future, we shall surely involve them.

Well, we have reconstituted Core Team and Conference and Study Seminar Teams to align with the DGST requirements with younger people given more responsibilities.

GST Moot Tribunal series one completed – a phenomenal success with other Associations from NCR wanting us to do moot Tribunals – and we did three with huge success.

Lastly Narender Ahuja was awarded Star of the Group award for this year and he would be welcome at Malviya Bhavan in next study session and gets a Laptop from me personally.
Well Done Family – expect more from DGST.

SV

Advocate Kumar Jee Bhat

APPELLATE TRIBUNAL UNDER GOODS AND SERVICES ACT,2017.

Appeal to Tribunal Under GST Act with Special Reference to Cross Appeal by Revenue.

With public welfare in mind, Chanakya had a certain ideal for any tax system. He wanted it to advancement of economic development.

Chanakya quotes "King must collect tax like honeybee, enough to sustain but not too much to destroy".

Nature and scope of the Appellate Tribunal.

Constitution of India under Article 323A provides for formation of Administrative Tribunals and under Article 323 B Tribunals for other matters. Subsection 2 (a) Appropriate legislature may provide for adjudication of a Tribunal for levy, assessment, collection, and enforcement of any tax. The appropriate legislature may by laws provide for formation of tribunals within its territory.

ROLE OF APPEALS IN TAX MATTERS;

Appeals provide a mechanism for challenging the decisions made during the adjudication process. Appeals can proceed through multiple l levels, starting from an appellate authority to higher courts, including a Supreme Court.

The right of appeal is a creature of statute. Under GST ACT, right of appeal is provided under sections 107 to 118 and under relevant state GST and Union Territory Acts as well.

MEANING OF APPEAL;

'POWER CORRUPTS AND ABSOLUTE POWER CORRUPTS ABSOLUTELY,' said Lord Acton. Uncontrolled power is much more likely to be misused than controlled power. Hence all the statutes generally provide for right to appeal against an adverse order/decision. Tribunal is the last fact-finding authority, and no further appeal lies against facts found by the Tribunal. Against the order of the Tribunal appeal can be filed in High Court and Supreme Court only where there is a substantial question of law involved.

Appeal as such has not been defined in the GST Act but Appellate Authority and Appellate tribunal has been defined under section 2 (8) and (9) of the CGST Act.

Appellate Tribunal, means the Goods and Services Tax Appellate Tribunal constituted under section 109.

In Nagendra Nath vs Suresh AIR 1932 PC 165, it was held that an appeal is judicial examination of an inferior court by a superior court/forum. An appeal is an application to reverse, vary or set aside the order, judgment or decision of an inferior court on the ground that it is wrongly decided as per law and justice, it requires to be corrected.

In Lakshamiratan Engg Works vs ACST, AIR 1968 SC 488=21 STC 154, it was held that while appeal is the judicial examination, memorandum of Appeal contained the grounds of appeal on which the judicial examination is invited.

Right of appeal is neither a natural right nor an inherent right. It does not exist unless expressly provided by a statute. Smt Ganga vs Vijay Kumar, AIR 1974 SC 1126 and there is no change in this concept of law till date.

In Hasmat Rai vs Raghunath Prasad, AIR 1981 SC 170, it was observed that an appeal is only the continuation of the original proceedings, and the powers of Appellate authority are co-extensive with those of the original assessing authority. Justice must be rendered in the ultimate analysis and a claim for relief to which a client /taxpayer is entitled should be considered on merit even if made for first time at appellate stage.

The Goods and Services Tax (GST) regime, which came into effect in India on July 1, 2017, is a comprehensive indirect tax, levied on the manufacture, sale, and consumption of goods and services. One of the critical aspects of the GST regime is the mechanism for dispute resolution, particularly the process of appeals. The appellate process under the GST Act involves multiple stages, and the final stage, before approaching the judiciary, is the appeal to the Goods and Services Tax Appellate Tribunal (GSTAT).

It will be the forum of second appeal under the GST Law and is the first common forum of dispute resolution between the Centre and the States. It is the common forum to ensure the uniformity in dispute redressals and quicker resolution of cases.

In union of India vs Delhi High Court Bar Association 2002 AIR SCW 1347, IT was observed that Tribunals whether they pertain to Income Tax, sales tax, customs or Administration have now become essential part of judicial system of this country, such specialised institutions may not strictly come within the concept of the judiciary as envisaged by Art 50, but it cannot be presumed that such Tribunals are not effective part of justice delivery system, like court of law. The judicious mix of judicial members and those with gross root experience would serve the better purpose for which they are created.

Decision given by any Bench of Tribunal is of precedent value and is binding all over India.

High Court having jurisdiction over the authority that passed original order has jurisdiction in the relevant matter.

Raja Mechanical Co.'s vs CCE (2002) 144 ELT 36 DEL, it was held that if commissioner refuses condonation of delay, the order is appealable but only question in appeal would be, whether refusing to condonation of delay was justified or not.

LIMITATION:

Where a special statute makes a specific limitation, that limitation will apply and not as per limitation Act. CST VS PARSON TOOLS & PLANTS, 1975 AIR 1039 followed subsequently in many cases

Delay cannot be condoned if there is no provision in law for condoning the delay. Jagannath Dudhadhar vs STO, (2009) 19 VST151 Del, there is no inherent power with any authority or court to condone the delay. However, in some cases various High Courts did condone the delay in filing where there were sufficient and reasonable cause.

The Allahabad High Court in a recent case has held that Section 5 of the Limitation Act, 1963 does not apply to appeals filed under Section 107 of the Central Goods and Services Tax Act, 2017. “The Central Goods and Services Act is a special statute and a self-contained code by itself. Section 107 of the Act has an inbuilt mechanism and has impliedly excluded the application of the Limitation Act.

What is sufficient cause has been elaborately discussed by Apex Court in Collector Land Acquisition, Anantnag vs MST.Khatiji , 66 STC 228 SC 1987.The strict view about condonation has since been modified and a liberal view is being taken .Indian Oil Corp vs Subrata Barahchowlek (2010) 262 ELT 3SC,

In Prakash H.Jain vs Ms Marie Fernades 2003 AIR SCW 5378, it was held that no court /authority has inherent powers to condone the delay in filing a proceeding unless the law warrants it.

Section 168A empowers the Government to issue Notification to extend time limit specified/prescribed/notified under the CGST Act which cannot be complied due to force majeure. Thus, the powers of such provisions can be exercised only during the special circumstances laid down under the said section. However this provision has been challenged in Gauhati High Court, which has struck it down due to some noncompliance.

PERSON AGGRIEVED

Appeal can be filed/made only by a person who is aggrieved. “Person aggrieved” does not mean a person disappointed of a benefit which he might have received if some other order had been made. A person aggrieved must be a man against whom a decision has been pronounced which has wrongfully deprived him of something or wrongfully refused him something or wrongfully affected his title to something. Adi Ferozshah Ghandi vs H.M.Seervai.AIR 1971 SC 385 (Constitution bench) and the view was upheld in Shobha Suresh Jumani vs Appellate Tribunal (2001) AIR SCW 2051.Consignor of goods is not an aggrieved party, if the consignee was demanded cenvat credit. Buyer of goods on which no demand has been confirmed is not a person aggrieved and cannot file an appeal when demand was confirmed on the manufacturer i.e., that is seller of goods. Gujrat Petro Synthesis Ltd vs Union of India, (2014)47 GST 182 Foreign exporter who has not received his payment is an aggrieved person and can file appeal. 58 ELT 163 SC.

Constitution of the Tribunal u/s 109.

After appointing President of the Tribunal, Govt is in process of appointing judicial and technical members for the Tribunal. Nirmala Sitaraman, the finance Minister of Union, on 6thMay,2024, administered the oath of integrity and secrecy to justice (retd) Sanjaya Kumar Misra, as President of the Tribunal. The formation of the Tribunal is likely to end by the year end. The Principal Bench of the GST Appellate Tribunal is Located in Delhi.

Appeals up to value of Rs.5 lacs in dispute can be heard by a single member by permission of the President.

Section 110 currently entitles only judges to be appointed as judicial member in GSTAT.

Constitution and appointment of Tribunals was questioned in Madras Bar association and revenue Bar Association in 2019 and 2020 .

In Revenue Bar Association union of India (2019) 9 TMI 983 Mad,theHonble High Court held that section 109 (3) (9) of the Act, which prescribes that the Act shall consist of one Judicial member ,one technical member central and one technical member state are struck down. Further, section 110(1)(b)(iii) of the Act, which states that a member of an Indian Judicial Service who has held the post not less than Add. Secretary for 3 years can be appointed as judicial member is also struck down.

Tribunal is quasi-judicial body. The Tribunal hears appeals against the orders of the Appellate Authority or orders passed by the Revisionary Authority U/s 108. Its powers are limited as compared to the Tribunals constituted under Article 323B of the Constitution. However, its orders are binding on lower authorities, Tribunal is the last fact-finding authority. Finding of facts arrived at by Tribunal cannot be upset by higher authorities unless found to be based on no evidence or irrelevant evidence or irrelevant principles for which they are created. Decision given by any bench of Tribunal is binding all over India and has a precedent value.

Understanding Appeals Under the GST Act

Section 112 of the CGST Act provides the legal framework for filing an appeal to the GSTAT against orders passed by the Appellate Authority or Revisional Authority under the GST law. The GSTAT serves as the second level of appellate authority after the Appellate Authority and is crucial in resolving disputes between taxpayers and the tax authorities.

Who Can Appeal Under Section 112?

1. Taxpayer: Any person aggrieved by the order passed by the Appellate Authority under Section 107 or by the Revisional Authority under Section 108 of the CGST Act can file an appeal with the GSTAT.

2. Revenue (Tax Authorities): The Revenue, or tax authorities, can also appeal against the orders passed by the Appellate Authority or Revisional Authority if they believe the decision is incorrect or requires further examination.

For Filing an Appeal, the Tribunal is not bound by Procedure of Civil Code.

1. Time Limit: An appeal must be filed within three months from the date of communication of the order to the aggrieved party. However, the Tribunal has the discretion to extend this period by a further three months if it is satisfied that the appellant was prevented from filing the appeal within the stipulated period for sufficient cause.

2. Form and Fees: The appeal must be filed in the prescribed form, along with the payment of the requisite fee. The fee structure varies

depending on whether the appeal involves a matter of tax, interest, fine, fee, or penalty.

3. Grounds of Appeal: The appeal must clearly state the grounds of appeal and the relief sought. It should also include a copy of the order appealed against.

2. **Electronic Filing Framework** – Rule 18 of the GSTAT (procedural Rules), 2025 established electronic filing as the primary mode of instituting appeals. The Rule mandates that appeals be manual, also filing is also provided in exceptional cases with specific permission from the Registration enquiring that technical difficulties do not prejudice legitimate appeals –

GSTAT Form -05 has specific requirements to be fulfilled – which are as per GSTAT (procedure) Rules, 2025, which

Cause Title – In the Goods and Services Tax Appellate Tribunal.

Paragraph –

Consequently numbered paras organised presentation of facts.

Party Details –

Complete Identification including GSTIN – Proper Party identification.

Challenged Order –

Specific identification of Appellate order.

Rule 20 –

Mandates that Grounds of Appeal must be set forth concisely under destinate, numbered heading.

Rule 21 –

Establishes core documents requirements ensuring that the Tribunal has access to all the relevant documents –

1. Certified copy of impugned order.
2. Certified Original Order.
3. Relied upon documents.

4. Fee payment proof–Evidence of online fee payment

All the documents must be properly authenticated as attested copies.

1. Use Paper size A4 with margins with left margin 5 cm, right margin 2.5 cm.
2. It should be single side printing.
3. Double Spacing.
4. Neat and legible fonts.
5. Neat and fairly type written.
6. Electronic filing via portal mandatory, Rule 115(2).
7. Authentication by Signatures Electronic via portal.

Appeal to be signed by the party concerned and verified by the Appellant himself.

8. Non-English documents must be accompanied by English Translated copies.

Cross Appeals by Revenue:

One of the essential features of the appellate process is the provision for cross appeals. A cross appeal refers to a situation where the opposite party, often the Revenue, files an appeal against the same order on different grounds.

Cross Appeals under the GST Act: Section 112(3) &(5).

1. Filing of Cross Appeal: If the Revenue believes that the order of the Appellate Authority is not entirely in its favour, they may file a

cross appeal to the GSTAT. This is typically done when the Revenue feels that certain aspects of the decision were erroneous or require further scrutiny.

2. Time Limit for Cross Appeal: The time limit for filing a cross appeal is six months from the date on which the said order has been passed. Or on receipt of notice that an appeal has been filed /preferred, may file a memorandum of cross objections within forty five days of the receipt of notice. The Tribunal, however, has the authority to condone delays if justified.

3. Form and Grounds: The cross appeal must be filed in the prescribed form and must state the grounds on which the Revenue seeks to challenge the order of the Appellate Authority. The grounds could range from issues related to the interpretation of GST provisions to matters of tax liability, penalties, and other associated obligations.

CROSS APPEAL-If there was no part of order against revenue, the revenue cannot file cross objection. However, cross objection filed can be treated as written submission. If cross objection is not filed, points decided in favour of either party will not be interfered with by Tribunal. Cross objections are treated as separate appeal and are to be disposed off independently. ITO vs Fagoomal Lakshmi Chand 118 ITR 766 (MAD).If one party files appeal against part of the order which is against him, other party can file cross objection in respect of the other part, which is against him, as the entire order comes within the preview of the Appellate Tribunal same shall be delt by the Tribunal.

In Superintending Engg vs B.Subba Reddy,AIR 1999 SC 1747, it was held as under:

(1) Appeal is a substantive right. It is a creation of the statute. Right to appeal does not exist unless it is specifically conferred.

(2) Cross objection is like an appeal. It has all the trappings of an appeal. It is filed in the form of memorandum and the provisions of Rule 1 of Order 41 of the Code, so far as these relate to the form and contents of the memorandum of appeal apply to cross-objection as well.

(3) Court fee is payable on cross-objection like that on the memorandum of appeal. Provisions relating to appeals by indigent person also apply to cross-objection.

(4) Where the appeal is withdrawn or is dismissed for default, cross-objection may nevertheless be heard and determined.

(5) Cross-objection is nothing but an appeal, a cross-appeal at that.

Tribunal must consider cross objections even in nature of counter. Cross objections and appeals should be heard together. CST vs Vijay Industrial Udyog. 152 ITR 111 SC, it held as under;

"3. We entirely agree with the High Court that the two appeals should have been heard at a time by the Tribunal. Since both the parties were before the Tribunal, it was proper that when the assessee's appeal was taken up first, the Tribunal's attention should have been drawn to the fact that the Commissioner's appeal against the same decision of the Assistant Commissioner was pending and both should have been clubbed together. If that had been done the unfortunate situation which has necessitated the present appeal to be carried to this Court would not have arisen."

Legal Implications of Cross Appeals:

- Stay on Proceedings: Once a cross appeal is filed, the Tribunal may grant a stay on the proceedings of the original appeal. This ensures that the cross appeal is heard and adjudicated upon before the final order is passed in the original appeal.
- Harmonization of Orders: Cross appeals allow the Tribunal to harmonize decisions by considering both the taxpayer's and the Revenue's contentions. This ensures that all aspects of the case are thoroughly examined, leading to a balanced and well-reasoned order.
- Binding Precedent: Decisions made by the GSTAT on cross appeals set a binding precedent for similar cases. This helps in maintaining consistency and uniformity in the application of GST laws across different cases.

Hearing and Disposal of Appeals

1. Notice of Hearing: Upon filing the appeal, the GSTAT issues a notice to both parties specifying the date of hearing. Both parties are given an opportunity to present their case, submit evidence, and make legal arguments.
2. Final Order: After hearing both sides, the GSTAT passes an order either confirming, modifying, or annulling the order appealed against. The Tribunal may also refer the matter back to the lower authority for reconsideration if required.
3. Binding Precedent: The decisions of the GSTAT are binding on both the taxpayer and the tax authorities. These decisions can also serve as precedents for future cases, thereby providing clarity and consistency in the interpretation of GST laws.

INHERENT POWER OF TRIBUNAL:

The Tribunal discharges its judicial functions of deciding the disputes between the authority and the taxpayer. Certain powers are provided to Tribunal under section 111(2) & 111(4). It has been consistently held that Tribunal has enormous inherent powers in discharging it judicial functions. Where an Act confers a jurisdiction, it impliedly also grants power of doing all such acts or employing such means as are

essentially necessary to its execution. It has been held by Supreme Court in CIT VS Walchand & Co P Ltd.,65 ITR 381 SC that though Tribunal is not a court, it has judicial powers to be exercised in a manner like exercise of power of an Appellate Court under Civil Procedure Code.

Limitations on the power of Appellate Tribunal:

1. Tribunal cannot review its orders unless power of review is expressly conferred on it by a statute.

2. Tribunal cannot decide upon a legal validity of a statute or even rules, notifications issued under the said Act.

3. Member of the Tribunal are not judges, their decision is an order and not a judgment.

4. Tribunal cannot punish for its own contempt. It has to prefer a case and forward to the High Court for consideration.

5. Tribunal cannot award compensation for wrongful acts of revenue.

DECISION BY MAJORITY.

In ITAT VS V.K. AGGARWAL,AIR 1999, SC 452, it was held that unless an orderof a Bench is signed by all members constituting it and is dated, it is not an order of the Tribunal.

If grounds were urged in memorandum of appeal but not raised or advanced during the course of submission or oral arguments, Tribunal is not bound to deal with such points.

Limitation of time for passing of orders

Section 113(4) provides that Appellate Tribunal shall as far as possible decide the appeal within one year.

In Anil Rai vs state of Bihar,2001 AIR SCW 2833 SC ,it held as under;

"16. In Bhagwan Das Fateh Chand Daswani v. H. P. A. International and Ors. 2000 (2) SCC 13, this Court observed that "a long delay in delivering the judgment gives rise to unnecessary speculation in the minds of parties to case". The Court in various cases including Hussainara Khatoon v. Home Secretary, State of Bihar ; A.R. Antulay v.R.S. Nayak 1992 (1) SCC 279; Kartar Singh v. State of Punjab 1994 (3) SCC 569 ; Raj Deo Sharma v. State of Bihar 1998 (7) SCC 507 ; and Akhtari Bi v. State of M.P. 2001 (4) SCC 355, has in unambiguous terms, held that "the right of speedy trial to be part of Article 21 of the Constitution of India."

Department cannot build up a new case at the Tribunal Stage. It cannot travel beyond show cause notice. Tribunal being the final fact-finding authority can go into pleadings and re appreciate evidence.

SPEAKING ORDERS

In State of Punjab vs Jagdev Singh Talwandi, AIR 1984 SC 444 (Constitutional Bench case) held that practice of giving final orders by High Court without giving reasons at the time of passing order was depreciated. The order should be speaking one indicate application of mind and affected parties should know why decision went against him.

Steel Authority of India vs Sales Tax Officer 16 VST 181 SC, it held as under;

10. Reason is the heartbeat of every conclusion. It introduces clarity in an order and without the same it becomes lifeless. (See Raj Kishore Jha v. State of Bihar 2003 (11) SCC 519)

11. **Even in respect of administrative orders Lord Denning, M.R. in Breen v. Amalgamated Engg. Union (1971) 1 All ER 1148, observed: "The giving of reasons is one of the fundamentals of good administration."** In Alexander Machinery (Dudley) Ltd. v. Crabtree 1974 ICR 120 (NIRC) it was observed: "Failure to give reasons amounts to denial of justice." "Reasons are live links between the mind of the decision-taker to the controversy in question and the decision or conclusion arrived at." Reasons substitute subjectivity by objectivity. The emphasis on recording reasons is that if the decision reveals the "inscrutable face of the sphinx", it can, by its silence, render it virtually impossible for the courts to perform their appellate function or exercise the power of judicial review in adjudging the validity of the decision. Right to reason is an indispensable part of a sound judicial system; reasons at least sufficient to indicate an application of mind to the matter before court. Another rationale is that the affected party can know why the decision has gone against him. One of the salutary requirements of natural justice is spelling out reasons for the order made; in other words, a speaking-out. The "inscrutable face of the sphinx" is ordinarily incongruous with a judicial or quasi-judicial performance.

In the interest of justice, Tribunal can refer to a case law not cited by parties. Once final order is signed it cannot be changed nor an order which is pronounced in open court and signed order cannot be Altered later.

MERGER OF ORDERS.

The doctrine of merger states that when an order is appealed against and when appeal is decided, the order of Appellate authority is the order which remains in operation. The original order merges in appellate decision In Amba Bai vs Gopal AIR 2001 SC 2003,it was observed ,"The juristic justification for doctrine of merger is based on common law principle that there cannot be at one and the same time ,more than one operative order, and judgement of a lower court is

deemed to lose its identity and merges with the judgment of the superior court.

Rectification of Mistake;

a/ by own motion

b/ by application filed by commissioner or other party, within three months from the date of order. No condonation is provided for late filing of application.

The mistake can be corrected only if it is apparent from records. The mistake /error can be of fact or law. Honda Seil Power Products Ltd vs CIT 12 VST 500.

Appeals can be dismissed if proper paper book is not filed, or defects of the following are not removed within specified time. Mistake/ defects that can be rectified:

a/ Typographical, palpable mistake, arithmetic mistake, inapplicable provisions,

wrong rate of tax, Points raised but not considered and discussed ,wrong application of judgement of High Court, and Binding decision not considered, orders in original not filed, pages missing ,illegible pages, classification list not filed, product literature not attached or authorisation not filed and like many other cases can be the reason for rejection of appeal. For removal of defects parties are given notice.

POWERS OF TRIBUNAL

Larger bench

If a bench is unable to agree to a previous decision of another bench consisting of same number of members, it is usual that the bench refer the matter to President for forming a larger bench. Division bench cannot refer matter directly to a larger bench but formulate an issue and ask the registry to place it before the President. The Larger bench should answer the question referred and remit back to division bench. By convention and as judicial discipline, decisions of larger bench are followed by the smaller benches. It has been held that President can form a larger bench of his own (Suo moto) in his administrative capacity, if he is of the opinion that the matter should be decided by a larger bench. AIR 1996 SC 1066.ITAT VS DY.CIT.

President of the Tribunal is the master of Roster, has wide inherent powers to direct the matter to be placed for hearing before a particular bench of any strength. IN Union of India vs Godfrey Philip India Ltd., AIR 1986 SC 806, it was held that a bench of two judges should not overrule or disagree with previous judgment of two-member bench. Same view was upheld in CCE Vs Mahindra and Mahindra ,315 ELT 161 SC.

Appeals up to value of Rs.5 lacs in dispute can be heard by a single member by permission of the President.

CIT VS CHENNPPU MUDLIAR AIR 1969 SC 1068, it was held that no appeal can be dismissed in default but should be decided on merits. Balaji Re-Rolling Mills vs CCE 2014 SC 310. An appeal dismissed ex-part can be restored being within inherent powers of the Tribunal.

ADDITIONAL GROUNDS

Rule 112 provides for production of additional evidence before the Appellate Authority or appellate Tribunal. No new evidence can be allowed by Appellate Tribunal under rule 112(1) except as provided in sub rule (1)(a) &(d).

No evidence shall be admitted under sub rule (10 unless Appellate Tribunal records in writing and adjudicating authority has been provided an opportunity, to examine the document, evidence or cross examine any witness.

Nothing contained in this rule shall affect the power of Appellate Tribunal to allow the production of any document etc., to enable to dispose of the Appeal.

A pure question of law can be allowed to be raised as an additional ground in appeal. In Otis Elavators vs CCE (2015) 52 GST 785additional ground was allowed to be raised at appeal before Supreme Court as issue involved important question having reasonably wide ramifications. Question of

law can be raised even in second Appeal for the first time, so long as relevant facts are on record in that respect. National Thermal Power co vs CIT 132 STC 566.

ADJOURNMENTS

Section 113(2) of the CGST Act provided that Appellate Tribunal m ay grant adjournments for reasons to be recorded in writing and proviso further provided that not more than their adjournments can be granted to a party. However, the provisions seem to be directory and not mandatory. Adjournments cannot be refused merely on the ground that all three have been granted earlier.

PROCEEDINGS ARE FOR FACILITATING JUSTICE AND NOT PENAL PROVISIONS.

N .BALAJI VS VERENDER SINGH AIR 2005 SC 1638

In the matter of applicability of the procedural rigors the Constitution Bench of this Court in Sardar Amarjeet Singh Kalra (dead) by Lrs. and Others Vs. Pramod Gupta (Smt)(Dead) by Lrs. and Others (2003) 3 SCC 272 has observed that laws of procedure are meant to regulate effectively, assist, and aid the object of substantial and real justice and not to foreclose even an adjudication on the merits of substantial rights of citizen under personal, property and other laws. As for as possible, courts must always aim to preserve and protect the rights of parties and extend a helping hand to enforce them rather than deny relief and thereby tender the rights themselves otiose, "ubi jus ibi remedium"(where there is right ,there is a remedy) being basic principle of jurisprudence. Such a course would be more conducive and better conform to a fair, reasonable and proper administration of justice.

It is well settled principle laid down by the Supreme Court that technicalities should not defeat rendering of complete justice to litigant. Aurangabad Electricals vs CCE (2011)1 SCC 121, In this case appellant was allowed to produce the new evidence though not produced earlier. Technical defects in an appeal are curable and can be corrected.

In an appeal an order must be justified on grounds as set out in the orders itself. It cannot be justifying on some entirely different grounds, which was never the case and of which the assessee had no notice.

Remfry & Sons vs CIT (2005) 145 taxmann 22 Del, it held as under: a must-read judgment.

Appeal to High Court

If either party is dissatisfied with the order passed by the GSTAT, they can further appeal to the High Court under Section 117 of the CGST Act. However, such an appeal can only be filed on substantial questions of law and must be filed within 180 days from the date of communication of the GSTAT order.

Conclusion:

The appellate process under the GST Act, especially the provision for cross appeals by the Revenue, plays a crucial role in ensuring that disputes are resolved fairly and comprehensively. The GSTAT, by considering

both the appeals and cross appeals, ensures that all legal and factual aspects of a case are addressed. For taxpayers and tax professionals, understanding the nuances of appeals and cross appeals is essential for effectively navigating the GST dispute resolution mechanism.

**Justice Robert H Jackson (who was the chief prosecutor at post war Nuremberg Trials) said it best.

"We are not final because we are infallible, but we are infallible only because we are final."

Thank you very much for giving me an opportunity to lay some basic points regarding Appellate Tribunal, which I know most of the people are already abreast of.

KUMAR JEE BHAT

SPECIAL LEAVE PETITION – CONSEQUENCES

Once SC admits an SLP it becomes a full-fledged appeal before the Supreme Court. To be heard on merits and SC can uphold, reverse the decision of the lower court or it can refuse to admit SLP and in that case the order of the lower case remains in effect – at times SC may leave the question of law an open one – but it has no impact on the decision of the lower court. We must seek stay on the operation of the decision of the lower court. If the SLP is not admitted the doctrine of merger does not apply – the lower court's decision stands on its own. At times parties give an undertaking that they would comply with the orders of the lower court if their SLP is admitted or this could be a condition precedent fixed by the SC, in that case the party is under legal obligation to comply with the order of the lower authority or it can face contempt before the SC.

CA K P SINGH

Interplay of Section 129, Section 130 and the E-Way Bill under GST

The Goods and Services Tax (GST) framework in India rests heavily on compliance and transparency in the movement of goods. To ensure that tax evasion is minimized during transportation, the legislature introduced Sections 129 and 130 in the Central Goods and Services Tax Act, 2017 ("the CGST Act") along with the e-way bill mechanism prescribed under Rule 138 of the CGST Rules. These provisions collectively create a compliance chain from documentation at the dispatch stage to enforcement action in case of irregularities during transit.

This article discusses the purpose and scope of Sections 129 and 130, their practical linkage with the e-way bill system.

1. Section 129 – Detention, Seizure and Release of Goods and Conveyances

Section 129 empowers the tax authorities to detain or seize goods and vehicles in transit if they are being transported in contravention of the provisions of the CGST Act or the rules made thereunder. Such contraventions generally include the absence of mandatory documents such as invoices or valid e-way bills, expired e-way bills, or discrepancies between documents and actual goods being transported.

Under this section:

a) If the owner of the goods appears before the GST authorities, the goods or the vehicles can be released upon payment of penalty equal to two hundred per cent. of the tax payable on such goods and, in case of exempted goods, on payment of an amount equal to two per cent. of the value of goods or twenty-five thousand rupees, whichever is less.

b) If the owner does not come forward, on payment of penalty equal to fifty per cent. of the value of the goods or two hundred per cent. of the tax payable on such goods, whichever is higher, and in case of exempted goods, on payment of an amount equal to five per cent. of the value of goods or twenty-five thousand rupees, whichever is less.

c) upon furnishing a security equivalent to the amount payable under point a and point b in such form and manner as may be prescribed.

Essentially, Section 129 addresses procedural contraventions related to the movement of goods and provides a mechanism for release upon payment of tax and penalty. It is preventive rather than punitive in nature.

2. Section 130 – Confiscation of Goods or Conveyances and Levy of Penalty

Section 130 is a more stringent provision.

It deals with the confiscation of goods and vehicles and the imposition of penalties when goods are transported or stored in contravention of the Act and rules with an intention to evade tax. Unlike Section 129, where the goods are detained temporarily, Section 130 results in a permanent loss of ownership unless a fine in lieu of confiscation is paid.

Key aspects include:

- The section applies when there is evidence of mens rea—i.e., deliberate intent to evade tax.
- Upon confiscation, the goods and conveyance become the property of the Government.
- The person concerned is liable to pay a fine and penalty, which may be equal to the market value of the goods (reduced by the tax already paid).
- The law also permits the option to pay a fine in lieu of confiscation, but the amount is often substantial.

In practice, Section 130 comes into play only when the violation is serious or when the taxpayer fails to regularize the contravention detected under Section 129 within the prescribed time.

THE RELEVANT PROVISIONS LEADING TO THESE TWO SECTIONS ARE:

Section 68- Inspection of Goods in Movement

Section 129- Detention and Seizure of Goods and Conveyance

Section 67- Seizure of Goods secreted or likely to be secreted which are liable to Confiscation

Section 130- Confiscation of Goods

Both the key sections 129 and 130 deal with a. non obstante clause which are critical to interpreting the law contained in these sections.

Two imp judgments tell us the effect of non obstante or notwithstanding clauses and these are:

In **Chandavarkar Sita Ratna Rao v. Ashalata S. Guram, 1986 (9) TMI 405** - SUPREME COURT, at Paragraph 67, the Supreme Court- Held a clause beginning with the expression "notwithstanding any thing contained in this Act or in some particular provision in the Act or in some particular Act or in any law for the time being in force, or in any contract" is more often than not appended to a section in the beginning with a view to give the enacting part of the section in case of conflict an overriding effect over the provision of the Act or the contract mentioned in the nonobstante clause. It is equivalent to saying that in spite of the provision of the Act or any other Act mentioned in the nonobstante clause or any contract or document mentioned the enactment following it will have its full operation or that the provisions embraced in the nonobstante clause would not be an impediment for an operation of the enactment. See in this connection the observations of this Court in The South India Corporation (P.) Ltd.,

v. The Secretary, Board of Revenue, Trivandrum & Anr., 1963 (8) TMI 30 - SUPREME COURT."

In **Union of India v. Maj I.C. Lala, 1973 (3) TMI 146** - SUPREME COURT, the Supreme Court held that the nonobstante clause does not mean that the whole of the said provision of law has to be made applicable or the whole of the other law has to be made inapplicable. It is the duty of the Court to avoid the conflict and construe the provisions to that they are harmonious.

In view of the Judicial Pronouncement it could be understood that though non-obstante clause gives the immense power of overriding the other provision however the provisions could not be interpretated in such a manner that the intent of the legislature gets failed.

As the provisions of the act starts with the non-obstante clause, hence the applications of the provisions can be made independently. Even in case where the tax and penalty has been paid upon detentions u/s 129 has been done, Section 130 can be invoked simultaneously if

(i) supplies or receives any goods in contravention of any of the provisions of this Act or the rules made thereunder with intent to evade payment of tax; or

(ii) does not account for any goods on which he is liable to pay tax under this Act; or

(iii) supplies any goods liable to tax under this Act without having applied for registration; or

(iv) contravenes any of the provisions of this Act or the rules made thereunder with intent to evade payment of tax; or

(v) uses any conveyance as a means of transport for carriage of goods in contravention of the provisions of this Act or the rules made thereunder unless the owner of the conveyance proves that it was so used without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the conveyance.

The interrelation between these two very importance sections dealing with transportation of goods and other related matters was beautifully explained by a bench of Gujarat High Court in Synergy Fertichem Pvt. Ltd. v. State of Gujarat,

This case involved a dispute over the confiscation of goods and vehicles under the GST Act and was primarily focused on the application of Sections 129 and 130 of the Act. The High Court ultimately modified the initial confiscation order, requiring payment of a portion of the proposed amount and a personal bond for the release of the goods.

Key aspects of the case

Dispute: The case concerned the demand

for tax and 100% penalty under Section 129 and a redemption fine under Section 130 of the GST Act for a genuine transaction.

Legal Interpretation: The court had to interpret the relationship between Section 129 (detention, seizure, and release of goods and conveyance) and Section 130 (confiscation of goods and conveyance) of the GST Act, noting that both provisions start with a non-obstante clause.

Court's Decision: In **Synergy Fertichem Pvt. Ltd. v. State of Gujarat (2019)**, the Gujarat High Court modified the initial order. The court directed the release of the goods and conveyance after the petitioner paid one-fourth of the amount proposed by the authorities and executed a personal bond for the remainder.

Rationale: The court's decision was influenced by the need to balance the revenue authorities' power to confiscate goods with the requirement that such action be based on more than mere suspicion and be a result of proper application of mind, as detailed in related case law and judgments.

· Section 130 of the Act is altogether an independent provision which provides for confiscation in cases where it is found that the intention was to evade payment of tax. Confiscation of goods or vehicle is almost penal in character. In other words, it is an aggravated form of action, and the object of such aggravated form of action is to deter the dealers from evading tax.

· The authorities concerned cannot invoke Section 130 of the Act at the threshold, i.e., at the stage of detention and seizure.

· If the authorities are of the view that the case is one of invoking Section 130 of the Act at the very threshold, then they need to record their reasons for such belief in writing, and such reasons recorded in writing should, thereafter, be looked into by the superior authority so that the superior authority can take an appropriate decision whether the case is one of straightway invoking Section 130 of the Act. there must be material based on which alone the authority could form its opinion . The show cause notice for the purpose of confiscation must disclose the materials, upon which, the belief is formed

· The formation of the opinion by the authority that the goods and the conveyance are liable to be confiscated should reflect intense application of mind. We are saying so because it is not any or every contravention of the provisions of the Act or the Rules which may be sufficient to arrive at the conclusion that the case is one of an intention to evade payment of tax. In short, the action must be held in good faith and should not be a mere pretence

· Section 129(6) Where the person transporting any goods or the owner of the goods fails to pay the amount of tax and penalty as provided in sub-section (1) within 1[fourteen days] of such detention

or seizure, further proceedings shall be initiated in accordance with the provisions of section 130:

· The High Court further held with the provisions of Sections 129(2) and (3) respectively, if the person, transporting any goods, or the owner of the goods, fail to pay the amount of tax and penalty within 14 days of such detention or seizure, then further proceedings would be initiated in accordance with the provisions of Section 130, i.e, for the purpose of confiscation. However, in such an eventuality, it would not be necessary for the department to establish any intention to evade payment of tax. Sub-clause (6) of Section 129 provides an eventuality, by which, it would be open for the authority to put the goods and the conveyance to auction and deposit the sale proceed thereof with the Government

The High Court further held that even after determining the amount of tax and penalty under Section 129 of the Act and release of the goods and vehicle, the authorities may be justified in issuing notice under Section 130 of the Act for the purpose of initiating confiscation proceedings. In other words, at the stage of Section 129 of the Act, there may not be sufficient evidence for the purpose of coming to the conclusion that the case is one where the owner of the goods or the driver of the vehicle had the intention to evade payment of tax. This would be provided, the case is falling in any of the five eventualities prescribed in Section 130(1) of the Act. When it comes to confiscation over and above the tax and penalty, fine can be imposed.

3. The E-Way Bill Mechanism

The e-way bill system, introduced under Rule 138 of the CGST Rules, 2017, is the operational foundation connecting these provisions. Every registered person who causes the movement of goods of consignment value exceeding ₹50,000 for interstate and
₹1,00,000 in some state for intrastate must generate an e-way bill before commencement of such movement. The e-way bill contains key details such as invoice number, HSN code, value of goods, transporter information, and vehicle number.

Common contraventions include failure to generate an e-way bill, expiry before delivery, incorrect or incomplete details, and non-updation of transporter or vehicle details. When such lapses occur, the movement of goods is deemed to be in contravention of the Act, empowering officers to detain goods under Section 129. Where the contravention appears deliberate, Section 130 proceedings may follow.

4. The Interrelationship Between Sections 129 and 130

The two provisions operate as stages in a sequential enforcement framework:

1. Detection and Detention (Section 129): Goods in transit without proper documents can be detained, and release is allowed upon payment of tax and penalty.
2. Escalation to Confiscation (Section 130): If the taxpayer fails to comply or intent to evade tax is evident, confiscation proceedings follow.

Distinguishing factors:

- Section 129 covers procedural lapses; Section 130 applies where deliberate evasion is proved.
- Section 129 allows release upon payment; Section 130 leads to loss of ownership.
- Section 130 requires mens rea; Section 129 does not.

Hence, Section 129 is preventive, while Section 130 is punitive.

5. Circulars and Judicial Interpretation

Circular No. 64/38/2018-GST dated 14 September 2018 clarified that following minor errors in e-way bills should not attract the harsh provisions of Section 129: -

a) Spelling mistakes in the name of the consignor or the consignee but the GSTIN, wherever applicable, is correct;
b) Error in the pin-code but the address of the consignor and the consignee mentioned is correct, subject to the condition that the error in the PIN code should not have the effect of increasing the validity period of the e-way bill;
c) Error in the address of the consignee to the extent that the locality and other details of the consignee are correct;
d) Error in one or two digits of the document number mentioned in the e-way bill; Circular No. 64/38/2018-GST Page 3 of 3
e) Error in 4- or 6-digit level of HSN where the first 2 digits of HSN are correct and the rate of tax mentioned is correct;
f) Error in one or two digits/characters of the vehicle number.
g) Missing in filing Part B of e-way bill

6. Practical Implications for Taxpayers

Businesses face significant risks if e-way bill norms are violated. Detention disrupts supply chains and results in financial losses. Common causes include non-generation or expiry of e- way bills, mismatched details, and procedural oversight.

7. Compliance and Best Practices

Businesses should:

- Generate accurate e-way bills before movement;
- Track validity periods and extend when necessary;
- Carry original or electronic copies of all documents;
- Establish accountability among consignor, consignee, and transporter;
- Respond promptly to detention notices;

- Maintain documentation trails to prove bona fide conduct; and
- Conduct periodic internal audits.

8. Conclusion

The e-way bill framework, read with Sections 129 and 130 of the CGST Act, forms a layered compliance and enforcement mechanism. Section 129 ensures procedural discipline, while Section 130 deters deliberate evasion. Maintaining the distinction between genuine errors and fraudulent intent is essential for fair implementation. Judicial guidance and administrative clarity have ensured proportionality in enforcement, protecting honest taxpayers from undue hardship.

Ultimately, robust e-way bill compliance is both a statutory requirement and a cornerstone of responsible tax governance under GST.

K P SINGH

Article 14 and Article 19(1)(g) of the Constitution of India

To be invoked by way of matters before the Constitutional Courts – High Court or the Supreme Court.

Reading Article 14 with Article 19(1)(g) means combining the right to **equality before the law** with the right to **practice any profession, trade, or business**. This combination is crucial because it prevents arbitrary restrictions on a person's right to earn a livelihood. It ensures that any regulation on the right to a profession is fair, non-discriminatory, and has a reasonable basis, preventing the state from denying this right arbitrarily.

Rahul Kakkar

Artificial Intelligence –
A Legal Perspective from India's viewpoint!

Introduction

Artificial Intelligence is developing rapidly like Alexa and other virtual assistant to Self-Driving Cars. The term Artificial Intelligence was found by John McCarthy in 1956 who was an American computer scientist. According to Merriam Webster's, "Artificial intelligence is a branch of computer science dealing with the simulation of intelligent behaviour in computers".

Artificial intelligence has transformed every professional sector including legal profession. Software solution replacing paperwork and data management. Globally, Legal business having rapid growth and technology advancement. Everything is open to be replaced by technology except some services which depends on the experience and judgement.

Artificial Intelligence (AI) is starting to play a major role in the legal industry, revolutionising the way legal services are provided and used. Artificial Intelligence (AI) in the legal sector refers to a range of technologies, such as natural language processing (NLP), robotic process automation (RPA), and machine learning. These cutting-edge technologies are being incorporated into a number of legal practice areas, providing novel approaches that aim to improve accessibility, accuracy & efficiency.

Legal practice has historically been defined by labour-intensive procedures that required a great deal of human labour to complete duties including document inspection, legal research, and contract draughting. With the advent of AI, these traditional approaches will no longer apply, as automation and sophisticated data processing will now be available in the legal sector.

AI's initial application in the legal industry was restricted to simple task automation. But more recently, developments have extended its ability to encompass more sophisticated tasks including legal reasoning, decision support, and predictive analytics. The integration of Artificial Intelligence (AI) into legal practice is emerging as a significant trend in India, with the potential to revolutionize the legal profession. AI technologies are increasingly being employed to optimize legal processes, enhance decision-making, and provide new forms of legal services.

- **The Integration of AI in Legal Practice**

AI encompasses a variety of technologies, including machine learning, natural language processing (NLP), and robotic

process automation (RPA), which can be applied to different aspects of legal practice. In India, the application of AI is transforming traditional legal workflows, from case research to client interactions.

- **Case Research and Document Review** AI tools can process large volumes of legal texts, case law, and statutory materials more efficiently than traditional methods. Technologies like predictive coding, which uses machine learning algorithms to categorize and review documents, have streamlined the discovery process in litigation. For instance, the use of AI in e-discovery has significantly reduced the time and cost associated with reviewing documents by automating the identification of relevant information.

- **Contract Analysis and Drafting** AI systems are also transforming contract analysis and drafting. NLP-equipped tools can analyse legal documents to identify key clauses, suggest modifications, and ensure compliance with regulatory requirements. This automation not only speeds up the drafting process but also enhances accuracy by minimizing human error. In India, platforms like Contractional and Legal Zoom are already being used to generate and review standard contract templates.

- **Predictive Analytics** AI-driven predictive analytics allow lawyers to forecast case outcomes based on historical data and statistical models. This capability aids in strategy formulation, settlement negotiations, and risk assessment. For example, Indian legal tech startups like Case Mine use AI to analyze past court decisions to predict the likely success of a case, assisting in more informed decision-making.

➢ **Implications Of Artificial Intelligence**

The implications of Artificial Intelligence (AI) in legal practice are profound and multifaceted, influencing various aspects of how legal services are delivered and experienced. AI technologies, such as machine learning, natural language processing (NLP), and robotic process automation (RPA), are reshaping traditional legal workflows, bringing both transformative benefits and significant challenges. One of the primary implications is the potential for increased efficiency in legal operations. AI systems can handle repetitive and time-consuming tasks, such as document review, legal research, and contract analysis, at speeds and accuracies far beyond human capabilities.

Usage of extensive AI by lawyers can invite ethical issues, misuse of data policy and security, issue of reliability of AI data used, can create creativity issues by affecting fairness and inclusive biased approaches, human ingenuity and above all AI may kill innovation. But in my view AI is

and must be used extensively for regulatory frame work of compliances under various laws including cross boarder contracts, transactions and law based approaches to export-import. For example EU has adopted AI as a business tool and hence compliance of AI based laws in EU can be helped. By appropriate AI technological platform.

- **Guidelines Issued by The Central Government**:

- **National Strategy for Artificial Intelligence:**

Overview: The National Strategy for Artificial Intelligence, released in June 2018, provides a comprehensive framework for AI development in India. It emphasizes the promotion of AI research and development, the need for creating a robust AI ecosystem, and the importance of ethical and responsible AI use. It focuses on sectors like healthcare, agriculture, education, and smart cities.

- **Personal Data Protection Bill (PDPB):**

Overview: The Personal Data Protection Bill is a proposed legislation that seeks to regulate the processing of personal data. It includes provisions for data protection, privacy rights, and the establishment of a Data Protection Authority. This bill, once enacted, will have significant implications for AI systems that process personal data.

Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021:

Released by: Ministry of Electronics and Information Technology (MeitY)

Overview: These rules regulate digital platforms, including social media and messaging services. They include provisions for the responsible use of technology and address issues related to content moderation, which can impact AI systems used by digital platforms

National Artificial Intelligence Portal:

Overview: The National Artificial Intelligence Portal serves as a central repository for AI-related information, policies, and resources. It aims to promote collaboration among various stakeholders, including government, industry, and academia.

- **Sector-Specific Regulations and Initiatives:**

Healthcare: The Ministry of Health and Family Welfare is exploring the use of AI in healthcare and has issued guidelines for telemedicine that include provisions related to AI-based solutions.

Agriculture: The Indian government supports AI applications in agriculture through various schemes and initiatives, focusing on improving productivity and sustainability.

- **International Collaboration:**

India is also participating in international discussions and collaborations on AI ethics and governance, contributing to global efforts to shape AI policies and standards.

- **AI Used by Legal Professionals**

The use of artificial intelligence (AI) in the legal system has been the subject of extensive research and controversy in recent years. This disruptive technology could change many parts of the legal profession with its innovative solutions to long-standing issues.

- The Study of Documents is one important area where AI is making great progress. A huge variety of papers, including case histories and contracts, are handled often in the legal profession. Using pertinent information extraction, pattern recognition, and data categorization, AI algorithms can quickly examine these texts. As a result, document review is now speed up, which reduces time spent on it, but accuracy is also improved by lowering the possibility of human error. These tasks can be automated, allowing legal experts to devote their time and knowledge to jobs that are more difficult.

- Another area where AI has had a significant impact is Legal Research, a foundational component of legal practice. The traditional method of conducting legal research entails reading through lengthy legal documents and precedents to glean pertinent information. Artificial intelligence (AI) enabled technologies may now quickly scan huge databases of legal documents and extract relevant legislation, cases, and regulations based on predefined criteria. This quickens the research procedure and gives legal practitioners quicker access to a wider variety of data. As a result, this skill raises the calibre of legal justifications and suggestions.

- Using AI to Forecast Case Outcomes is becoming more common. Artificial intelligence (AI) systems can offer insights into the likely outcome of a case by examining historical case data, legal trends, and a range of contributing factors. Even though AI's predictions are not certain, they are helpful tools for lawyers to use when creating case strategy and giving clients advice. This predictive skill assists in more informed decision-making, which may result in better resource allocation and better client representation.

  AI has the ability to Increase Efficiency and Accuracy while also democratising access to justice. Legal services can be too costly for many individuals and small enterprises. AI-powered solutions can ensure that legal insights are accessible to a larger range of individuals by providing more affordable options for contract analysis, case prediction, and legal research. This increased accessibility will enable more individuals and organisations to effectively manage legal concerns, which is consistent with the core values of justice and equality.

- **Potential Benefits of AI in Legal Practice:**

  Surely it will enhance efficiency and per person productivity, help us do advanced legal research and analysis, offer far better organised, researched and knowledge based client-lawyer interactions, enhanced contract management (compliance of contracts, relevant dates, escalations for materials etc. can be AI linked in advance), AI can improve a lawyer's professional practice model where he could cate to top 10 percent instead of 90 percent category to enhance and enrich his practice, and AI models based on para-materia facts of each case can help lawyers to know the risks in advance and to take care of such risks,. The essence of AI versus Lawyers is a Win -Win situation for lawyers as professionals and for clients provided there is a transparency and appreciation of AI based knowledge, research and legal propositions thrown open by AI models of various kinds.

- **Hazards Of AI In Legal Practice**

  Perhaps loss of jobs for those lawyers who are not AI equipped. But in my view this field may not lose much jobs because legal field is creativity based field where AI as a tool can be used for research, to help understand potential outcome of the case, to help lawyers to know the relevant Issued involved in the matter and to prepare the responses accordingly. In India, in my view, we have a long way to go unliked the US and Europe, China, Australian sub-continent where AI based legal practice and Courts including higher courts are now prevalent and in some countries even Legal Robots are granting routine bail applications. But the young crop of professionals in legal filed, in my view, should take this AI seriously and avidly examine the possibilities of enhancing their vision, their creative skills, their drafting skills, their knowledge and above all their crisp and to the point presentations in court room. The court room craft, tone and tenor of their arguments are based in AI models and AI robots who can be seen arguing the matters before Courts and they teach how to do it. But all this must be done with a pinch of salt – it depends how much data is made available and how accurate and updated is. For example SC judgments are now available on line till 2023, but all High Courts judgments are not;

besides for AI to study examine and research such judgments on any AI platform need tremendous techniques that could be expensive and perhaps not up to the mark.

Such precautions are required to be kept in mind.

LEADING RESEARCHERS SAY:

According to the professionals surveyed in 2025 **Thomson Reuters' Future of Professionals Report**:
AI is driving productivity of routine legal tasks, including **document review**, legal **research**, and **contract analysis**.

These tools have the potential to save lawyers nearly **240 hours** per year.

The report surveyed **2,275 professional**s in a number of fields: legal, tax, accounting, global trade, risk, fraud and compliance, and corporate C-suite. Most respondents were legal professionals. [4]
Responses came from around the globe: the United States, Australia, New Zealand, the United Kingdom, Canada, Latin America, Mainland Europe, Asia, Africa, and the Middle East.

80% of respondents believe AI will have a **high or transformational impact** on their work within the next five years. That's an increase of 3 percentage points over the 2024 report's responses. [1]

72% of legal professionals surveyed in the report view AI as a **force for good** in their profession. [2]

53% of respondents said their organizations are already seeing a **return on investment** (ROI) from investing in AI.

Conclusion

Without a doubt, artificial intelligence (AI) is changing the legal practice and its landscape. It presents both enormous obstacles and tremendous opportunities. The introduction of AI technology into the legal field signals the beginning of a new era marked by accuracy, efficiency, and innovation. With AI's ability to automate repetitive procedures, improve legal research, and provide predictive analytics, legal services delivery can be improved and operations streamlined.

AI-driven solutions, for example, can drastically cut down on the time and expense needed for case analysis and document review, freeing up legal experts to concentrate on more intricate and strategic parts of their work. Furthermore, chatbots, virtual assistants, and automated document generation are just a few of the ways AI has the ability to democratise access to legal services by offering accessible and reasonably priced solutions.

However, the benefits of AI come with a set of critical implications and hazards that must be addressed to ensure that its integration into legal practice is both ethical and effective. One of the primary concerns is the risk of perpetuating biases inherent in AI algorithms. Since AI systems are trained on historical data, they can inadvertently reinforce existing prejudices, affecting fairness and justice in legal outcomes. Ensuring that AI technologies are designed and tested to minimize biases is crucial to maintaining equity in legal processes.

Data privacy and security also pose significant challenges, as AI systems handle large volumes of sensitive and confidential information. The risk of data breaches and unauthorized access necessitates the

implementation of robust data protection measures and adherence to evolving data privacy regulations. Additionally, there is a concern about over-reliance on AI, which may lead to diminished critical thinking and nalytical skills among legal professionals. Balancing the use of AI with the application of human judgment is essential to preserve the integrity of legal decision-making.

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SUSHIL K. VERMA

SECTION 74 CGST ACT AND THEORY OF FRADULENT TRANSACTIONS AND PRINCIPLE OF VOID AB INITO – THE EFFECT.

The legal maxim fraud vitiates all asserts that any act or transaction tainted by fraud is rendered void. This principle applies universally across judicial acts, including judgments and orders, and is well-established in Indian law. It is now a settled principle of law in India that once a ***transaction*** is demonstrated to be ***fraudulent***, it cannot confer any legal rights upon any party.

Final and conclusive judgments, meaning judgments of judicial bodies which bring litigation to an end and are not (or are no longer) subject to an appeal process, have a special place in this jurisdiction. The principle of finality demands that they be respected, complied with, and left undisturbed save in the most exceptional of circumstances.

Imagine a refund in GST law obtained through fraudulent documents or processes or by suppression of key facts or fraudulent transactions; than notwithstanding the refunds have been credited to the bank account of the tax payer, the revenue can recall the refund orders under section 74 of the CGST Act and punish and penalise the tax payer. But the question that revenue has to face to establish the element of fraud or suppression of facts leading to fraud; because this will be an exception to the above principle of settled law.

Undoubtedly, the legal position is settled. That fraud vitiates every solemn act, including the suppression of material facts, and that courts can recall orders obtained by fraud. That fraud is against all equitable principles and cannot be saved by doctrines like *res judicata.* Judgments obtained by fraud can be challenged at any time, in any court, or in a collateral proceeding. A person who commits fraud cannot benefit from their deceit.

The phrase "fraud taints all transactions with illegality" summarizes the legal principle *fraus et jus nunquam cohabitant* ("fraud and justice never dwell together"), which states that fraud unravels and invalidates everything it touches. This doctrine applies universally to legal acts, including contracts, judicial decrees, and administrative orders, rendering them void *ab initio* (from the beginning).

In this context, the revenue alleging fraud is reactive; they are the defendant to proceedings and must act quickly to take instructions and find sufficient material supporting a client's allegation of fraud. A very difficult process as the onus is upon revenue to prove this fact before, say,

refund orders can be recalled under section 74 of CGST Act, say for example

Fraud is not defined in GST law. Fraud in this context can take a broad meaning. It is not confined to the limited number of causes of action generally regarded as 'fraud claims' in law. It has been said it can extend to encompass every variety of mala fides and mala praxis *(refers to careless, wrong, or illegal behavior while in a professional job that causes harm or injury to another person)* whereby one of the parties misleads and deceives the judicial tribunal.

The fraud ground for resisting enforcement is a carefully delineated exception and should not to be given an expansive application being an exception to the general rule that the Indian courts will not re-open the substantive merits of final and conclusive judgments of competent jurisdiction. Fraud defences are not to be run on light material or with anything other than a realistic view of the challenges they pose. The material to invoke section 74 on the ground of fraudulent reasons has to be very strong and without any interpretation; otherwise High Courts may not really interfere and allow the recall of the refund orders. The orders under section 74 so far we have viewed are not at all compelling orders and High Courts or the GST Tribunal will surely quash such orders. That being so, even where powerful considerations of comity arise, *it is questionable how compelling such considerations would be if the enforcing quasi- judicial authorities considered it proven on the balance of probabilities that the refund orders were obtained by fraud. For example to prove collusion or misfeasance or deceit or suppression of facts – revenue authorities will really have to dug out evidence or catch the suppliers and buyers together to even remotely prove the collusion – assumptions of conjectures will not work, I am sure.*

The kind of horrible simplistic approach that the revenue authorities adopt to allege fraud or fraudulent evasion of tax of suppression of facts seem a mockery of justiciable process. The revenue authorities must move from statements of general approach to statements of principle, to rely successfully prove fraud ground to recall refund orders or create tax liabilities on this ground, the revenue officers must bring on record the compelling evidence to show fraud - both that there was a *"conscious and deliberate dishonesty"* and that this dishonesty was "material". High Court will not be moved by bald assertions of fraud or entertain speculation as to how new facts, deliberately concealed would have affected the outcome of earlier proceedings. This would lead to long stretched litigation.

The evidence or material to invoke section 74, for example, may not be dehors the adjudication order in favour of the taxpayer. It is not necessary to find new evidence of fraud that was not available in the original proceedings – the fraud defence may be advanced on material already available for deployment in the original proceedings, although the Court may question the revenue officers why it was ignored during original proceedings,

but in my view the Court will not dismiss the case of revenue on this ground.

While dealing with such proceedings practitioners are well-advised to approach the exercise in much the same way as they would when being asked by a client to allege fraud with the a supplier or a civil dispute litigation in extant domestic proceedings and heed all of the judicial and professional warnings that come with the same. In fine, the principles must be understood to prove or disprove fraud in tax litigations before replying to notices or filing appeals or preparing creditable evidence.

Revenue officers cannot simply float such an allegation with regards to the transactions facing them. Either one makes it or one does not make it; and if one does make it, one has to make it subject to the normal rules of stating precisely what the alleged fraud is and the facts and matters relied on. It does not seem to me that this is a proper pleading of fraud. The kind of notices that are floated by revenue authorities in GST are simply repetition of provisions of law and we as lawyers do not really reply it well in our replies. One has to serious question such baseless and unsubstantiated allegations right form the reply to show cause notice state itself leading to courts in future.

If a serious matter with regards to impropriety of a taxpayer to be advanced, then it needs to be firstly clearly advanced and, secondly, with grounds for the making of such an allegation which grounds perform the important functions of not merely informing the taxpayer and the other side as to what they are but requiring whatever legal representative has pleaded the case to be satisfied that they are reasonable grounds which justify such a serious allegation.

In modern legal jurisprudence for the last many decades we can perhaps regard the action to set aside a judgment or an adjudication order for fraud as akin to an action for deceit. The only significant differences are that the court, rather than the opposing party to the first action, has to be shown to have been deceived, deliberate dishonesty is required, and materiality rather than simple reliance must be shown. If the elements are made out (misrepresentation or misleading conduct, made or undertaken fraudulently, with reliance for deceit and materiality for an action to set aside a judgment), the favourable adjudication order can be rescinded or set aside leading to recall of the refund order.

The revenue must show that the judgment leading to refund was obtained by the fraud, and that that proper officer was induced to make a potentially wrong judgment by the fraud. And we as lawyers have to work hard to disprove such material based evidence, if any, right from the reply to show cause notice stage onwards.

In my view, more pertinently for us practitioners, the task of the revenue authority considering the fresh action to set aside the refund given etc was to determine whether the new evidence discovered impugned the original refund decision and

showed that the concealment was an operative cause of his/her decision. In carrying out that task, the revenue officer invoking section 74 has to look at the new evidence alongside the old to establish if, taken together, they show that the original revenue authority had been materially misled – indeed a very difficult task.

It is centrally important that, where challenges are made to original orders said to have been tainted by fraud, litigators/lawyers must take a careful and critical look at the new evidence discovered and ask themselves (and their clients): would this really have made all the difference? If not the allegation of fraud will not stand the test of law and refund could not be recalled.

The revenue officer who alleges that the original order should be set aside on the ground of fraud must establish that the tax payer is responsible for the fraudulent conduct in such a way that it would be inequitable for the taxpayer to take the benefit of the judgment. The taxpayer must somehow be 'connected' with the fraud alleged. This must be shown by extrinsic evidence. How it is to be done depends upon the enquiries or evidence or statements in the possession of the revenue – and for which the taxpayer has a right to cross examine or test the evidence on the touchstone of principles settled by Courts.

If the fraud is alleged on the new facts i.e. dehors the original adjudication order, the courts have formulated the requirement that the claim must be based on newly discovered or fresh facts which, by themselves or in combination with previously known facts, would provide a reason for setting aside judgment. And the onus is on revenue officers to do so.

The requirement that if the revenue officer discover new or fresh facts means that such discovery must have occurred after the adjudication order complained of. The revenue officers' claim will fail where the evidence reveals she or he knew of the facts establishing fraud before the final judgment sought to be set aside. Therefore, even if the revenue officers' establish that evidence given by the taxpayer was perjured, the appellate authorities including High Court will not set aside the original order as having been fraudulently obtained where the revenue officer fails to establish a 'new discovery' or any 'fresh facts' as the basis of her or his claim – no one is allowed to take a premium on his own negligence as the maxim goes.

The power of the revenue officer under section 74 to set aside the original order on the ground of fraud remains a useful means of protecting the integrity of the judicial process by rectifying miscarriages of justice. On the one hand, the courts do not wish to herald 'open season' regarding the challenging of original orders. To this end, there must exist effective safeguards against abuses of process, the substance of which have been discussed as above. On the other hand, where fraud has infected an order so that to let it stand would unjustly enrich a person guilty of fraudulent conduct and amount to a miscarriage of justice, the

courts have entertained applications to set the orders of the lower authorities aside.

Section 74 is going to be the biggest litigating factor in GST Law – let us fully understand the fraud theory and principles, a few of them I have highlighted in this Article, without any judgments on this issue. The more you read the more capability you will get in marginalising the difference between and connection of original orders vis a vis show cause notices to set aside the earlier orders or self-assessments.

As I always say learning offers endless possibilities and if you have to be a litigating lawyer the conceptual clarity is a pre-condition for litigation and it would help.

@ SV

Section 151 Code of Civil Procedure
Most used Section in civil practice

Section 151 of the Code of Civil Procedure (CPC) grants courts **inherent powers** to make necessary orders to secure the ends of justice or prevent abuse of the court's process, especially when there is no specific rule to cover the situation. These powers are meant to supplement the code and ensure that justice is served, but they cannot be used to override existing provisions of the CPC. The court must exercise these powers judiciously and only when no other remedy is available.

CA VERSHA JAIN

ROLE OF TRAINING IN PROFESSIONAL DEVELOPMENT AND ASSOCIATED SELF PERSONAL AND PROFESSIONAL GROWTH – MY EXPERIMENT":

"Anyone who stops learning is old, whether at 20 or 80

Anyone who stays learning stays young." - Henry Ford, Founder at Ford Motor Company

"Education is the most powerful weapon you can use to change the world." - Nelson Mandela, Former President of South Africa

Intellectual growth should commence at birth and cease only at death." - Albert Einstein, Physicist and Nobel Prize Winner

Imagine such stalwarts and professionals wizards in their respective field and what they think of training education and developments

Training is the process of teaching specific, immediate skills for a current job, while professional development is a broader, long-term effort to enhance skills and knowledge for career advancement and future roles. Both are crucial for employee and company success, with training addressing current needs and development focusing on future growth through activities like workshops, courses, and mentorship.

Professional development refers to skills and knowledge attained for both personal development and career advancement. Professional development encompasses all types of facilitated learning opportunities, ranging from college degrees and formal coursework to conferences and workshops.

Individuals who take part in professional development run the gamut from teachers to military officers. Individuals may pursue professional development because of an interest in lifelong learning, a sense of moral obligation, to maintain and improve professional competence, enhance career progression, keep abreast of new technology and practice, or to comply with professional regulatory organizations. In fact, there are many professions that have requirements for annual professional development to renew a license or certification, such as accountants, lawyers, and engineers.

There are a variety of approaches to professional development, including consultation, coaching, communities of practice, lesson study, mentoring, reflective supervision, and technical assistance. Professional development may include formal types of vocational education—typically post-secondary or technical training leading to a qualification or credential required to obtain or retain employment. Professional development may also come in the form of pre-service or in-service professional development

programs. These programs may be formal or informal, group or individual. It's possible to pursue professional development on one's own, or through the company's human resource departments. Professional development on the job may develop or enhance "process skills"—sometimes referred to as leadership skills—as well as task skills. Some examples of process skills are effectiveness skills, team-functioning skills, and systems-thinking skills.

The twenty-first century has seen a significant growth in online professional development. Content providers have become well informed about using technology in innovative ways, incorporating collaborative platforms such as discussion boards and Wikis to maximize participant interaction. These content providers offer training on topics ranging from sexual harassment awareness to promoting diversity in the workplace. The ability to customize training for a business or industry has placed these providers in a position to supplement or even replace in-house training departments. Because businesses can purchase access on an as-needed basis for as many or as few employees as necessary, the cost of training is reduced. Thus, businesses can provide more training and professional development opportunities to their employees at reduced costs and at times that are more convenient for both the employer and employee.

And for professionals both training and professional development expand enrich and solidify our professional and personal life, for sure.

Professional Development and Training

In My words The Lifelong Strategy for Growth

A few years ago, during a critical board meeting, our company faced a pivotal decision — whether to invest in automation for our finance operations. The data was inconclusive, opinions were divided, and time was limited. What helped me steer that decision confidently wasn't just experience — it was the learning I had gathered over time through experiences in previous work professional courses, leadership programs, and industry interactions.

Similarly, I recall another defining moment in my professional journey — when our company faced a complex **GST matter** involving intricate legal interpretation and procedural compliance. What enabled me to manage the issue successfully wasn't merely technical expertise, but the clarity and confidence developed through my involvement in the GST implementation at the initial time when GST Act came in to force and my regular and razor sharp focussed learning from various interactions in Professionals Groups – like DGST Professionals Group, to name one I fondly associated with.

My regular participation in **Delhi GST Professionals Group sessions and their MOOT Tribunal exercises** gave me enough confidence to self-actualise and helped me to put my acquired knowledge through such groups into productive exercises for the

organisation I work. Indeed it was an enlightening exercise when my Management appreciated my course of action, my legal strategy and the final result. Such is the power of training AND perceived professional development, friends.

These sessions given me the insight how to read the Law in true sense and in professional manner and trained me to approach every notice and order with a structured, and an analytical mindset — to interpret each communication with legal precision and practical understanding. Through consistent participation and self-practice, I learned not only *how to read notices*, but how to *understand the intent behind them*. That experience strengthened my professional judgment and helped to set the path how to deal with the matter and given the capabilities to have healthy discussion with the consultants with clarity. And this attitude, aptitude and quest for more continues….

In the corporate world, professional development isn't a formality — it's the compass that helps leaders navigate complexity and change..

For all of us professionals we must appreciate, know and always remember that while **professional development** builds long-term strategic capabilities such as leadership, critical thinking, and adaptability, **training** focuses on short-term, job-relevant skills like mastering automation tools, financial modelling, or digital transformation processes.in other words we can say without training professional development is not possible.

Why Professional Development and Training Matter

In today's fast-evolving business environment, where technology advances faster than business cycles, continuous learning is not optional — it's a necessity.

For **individuals**, professional development enhances confidence, sharpens judgment, and opens new growth opportunities. It empowers leaders to make informed, future-ready decisions and respond effectively to the current and future challenges and work .

For **organizations**, a culture of learning fosters innovation, and sustained performance. When employees continuously develop, companies gain a competitive edge through smarter decisions, improved efficiency, and higher engagement.

Ultimately, **professional development and training create a culture of continuous improvement** — benefiting both individual aspirations and organizational performance.

The Self-Directed Professional Development Process

Unlike traditional training programs, effective professional development is **self-**

directed. It requires awareness ownership, dedication, sincerity and result s — the amazing leadership.

Step 1: Self-Assessment and Awareness — *Know Yourself*

Assess where you stand today — your technical strengths, leadership style, and development needs. Seek 360° feedback from peers and mentors. Self-awareness is the foundation for targeted growth.

Step 2: Goal Setting — *Plan Your Future*

Define clear, measurable goals aligned with your career vision and organizational priorities. Examples include gaining expertise in reporting, enhancing leadership communication, or mastering analytics tools.

Step 3: Developing an Action Plan — *The Strategy*

Translate goals into actionable steps — courses, certifications, networking engagements, or cross-functional projects. Allocate time and treat learning as seriously as business deliverables.

Step 4: Implementation and Practice — *Take Action*

Engage fully in learning experiences — whether online programs, workshops, or live business projects. Apply new knowledge in real situations; theory turns into skill only through practice.

For instance, by **actively applying insights gained from DGST Professional Group discussions** to real departmental queries and internal tax reviews, I found that consistent self-practice transformed learning into professional mastery. Attending those forums not only expanded my technical understanding but also developed the discipline to analyse every case independently and confidently.

Step 5: Reflection and Accountability — *Monitor Progress*

Review progress periodically. Maintain a professional learning journal, track milestones, and recalibrate your plan. Leverage mentors and peer groups for guidance and accountability.

Forms of Professional Development and Training

Professional growth manifests in three core formats: **formal**, **experiential**, and **collaborative** learning.

1. Formal and Structured Learning

- Executive programs, technical certifications (IFRS, data analytics).
- Professional reading — industry journals, case studies, and global reports.
- Participation in leadership conferences, CFO summits, or thought-leadership forums.

2. Experiential and Applied Practice

- Leading transformation or innovation projects.
- Rotational assignments across functions or geographies.
- Designing and mentoring internal training programs to build team capability.

3. Social and Collaborative Learning

• Engaging with mentors or executive coaches for guidance.
• Building cross-industry learning networks.
• Sharing insights through internal sessions or professional associations — teaching reinforces mastery.

Participation in **professional groups like DGST** further enhances this ecosystem. Such communities encourage interactive learning, peer discussions, and exposure to real-life case studies. These experiences help professionals develop interpretative and analytical abilities that cannot be acquired through theory alone.

The Dual Benefits: For Individuals and Organizations

For the Individual:

• Continuous learning ensures relevance in evolving roles.Broader knowledge encourage strategic thinking and better judgment. Professional learning builds meaningful connections with peers and successful and established leaders. Specialized expertise and certifications often translate into tangible career gains.

• **For the Organization:**

Skilled employees bring fresh ideas and process excellence.Investing in employee growth enhances loyalty and morale. In-house development mitigates shortages in emerging skill areas like technology. A learning culture ensures agility amid market shifts.

In management, the most powerful resource isn't capital or technology — it's capable people.

Professional development and training ensure that capability keeps evolving.

When leaders themselves continuous learning, they inspire their teams to do the same. Each new insight, certification, or reflection adds to one's professional balance sheet — not in numbers, but in value. My own professional growth — shaped through constant learning, self-practice, and active participation in the **DGST Professional Group** — has reinforced one principle above all others**: *learning is leadership*.** In a world where industries transform overnight.

And finally my friends professional development isn't an event — it's a mindset.

It's the lifelong strategy that keeps individuals relevant and strong enough to deal with in the organisation and outside the organisation. Professional Development is journey which helps to reach to the destination.

The key requirement of such an enriching experience of heart and mind, in my view, is to learn to "let go" principle, believe in your mentors and above all your time, mental health and insatiable hunger for learning and problem solving… you must transcend and be avid to read, understand, appreciate and have a great sense of gratitude to those who get involved to train

and professionally develop you. Results will come surely.

FROM economic viewpoint, investment in training and development is a far lucrative and long life investment than making short term gains through stock exchange – it brings peace, intellect, good money and above all an opportunity to deal with great brains and move with head up… that is the strength of these actvitieis.

I am learning the hard way – are you willing to?

Varsha

ARTICLE 141 AND THEORY OF PRECEDENT IN INDIAN LAWS.

Article 141 of the Indian Constitution establishes the doctrine of precedent, mandating that all courts in India must follow the "law declared by the Supreme Court," ensuring legal consistency and stability. The binding part of a Supreme Court judgment is the **ratio decidendi** (the reason for the decision), not the **obiter dicta** (observations that are not essential to the decision). This makes the Supreme Court the ultimate interpreter of the law, and its rulings serve as binding authority for all lower courts.

Adv. Ujjawal Goel

The Sustainability and Environment: An Indian perspective

(Special reference to Carbon Credits Certificates.)

Introduction.

India's journey toward economic growth and environmental protection is not merely based on policy, it is a civilizational commitment. Rooted in India's ancient wisdom, the concept of **"Vasudhaiva Kutumbakam"** the world is one family reflects the deep interdependence between humans, nature, and all living beings. This idea teaches that no nation, community, or individual can live in isolation. The well-being of one depends on the well-being of all.

Similarly, the Vedic prayer: -

"Om Sarve Bhavantu Sukhinah, Sarve Santu Niraamayaah |
Sarve Bhadraani Pashyantu, Maa Kashcid Duhkha-Bhaag Bhavet ||
Om Shantih Shantih Shantih ||"

translates to *"May all be happy, may all be healthy, may all see auspicious things, and may no one suffer."*

This prayer to almighty perfectly captures the essence of sustainable development, harmony between economic progress, environmental balance, and human well-being. India's modern environmental laws and policies carry forward these values, embedding them in a comprehensive legal and institutional framework.

The legal architecture of sustainability in India is therefore both ancient and modern, grounded in ethical duty and strengthened by contemporary governance tools such as laws, tribunals, and modern tools (carbon markets).

I. Constitutional Foundations of Environmental Law.

The Constitution of India lays the foundation for environmental protection as both a state responsibility and a citizen's duty.

Directive Principles of State Policy (Article 48A): The State must "endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country."

Fundamental Duties (Article 51A(g)): Every citizen must "protect and improve the natural environment including forests, lakes, rivers and wildlife, and have compassion for living creatures."

Right to a Healthy Environment (Article 21): The Supreme Court has interpreted the Right to Life to include the right to a clean and healthy

environment, making environmental protection a justiciable right.

Together, these provisions transform environmental protection from a mere government task into a shared constitutional responsibility of the State and the people.

II. India's Environmental Laws.

India's environmental governance rests on a web of interrelated laws:

Environment (Protection) Act, 1986: The umbrella law granting wide powers to the Central Government to regulate pollution, issue standards, and take measures to improve environmental quality.

Water (Prevention and Control of Pollution) Act, 1974: Establishes Pollution Control Boards to monitor and control water pollution.

Air (Prevention and Control of Pollution) Act, 1981: Extends similar powers to control air pollution from industrial and vehicular sources.

Forest (Conservation) Act, 1980: Regulates diversion of forest land for non-forest use with mandatory central approval.

Wildlife (Protection) Act, 1972 and Biological Diversity Act, 2002: Provide for conservation of wildlife, biodiversity, and equitable sharing of benefits from genetic resources.

These laws collectively safeguard India's land, air, water, and biodiversity acting the four pillars of ecological balance.

III. Judiciary and Green Tribunals.

India's judiciary has played an active role in shaping environmental governance.

A. Judicial Principles

The Supreme Court of India has established key doctrines:

Polluter Pays Principle: The polluter bears the cost of controlling and cleaning up pollution.

Precautionary Principle: Preventive action should be taken even if there is scientific uncertainty about harm.

Public Trust Doctrine: Natural resources belong to the public; the government acts only as a trustee.

B. The National Green Tribunal (NGT)

Established in 2010, the NGT is a specialized body that provides fast and technical adjudication of environmental cases. It has brought accountability to both government agencies and industries, reinforcing that environmental protection and development must go hand in hand.

IV. Carbon Credits and the Legal Architecture of Sustainability

India's commitment to achieving net-zero emissions by 2070 and reducing the emissions intensity of its GDP by 45% by 2030 (from 2005 levels) necessitates the creation of a robust domestic carbon market. This market, facilitated by Carbon Credits (CCs), is the critical financial mechanism for translating policy commitments into

tangible, incentivised action across the economy.

A. **Definition and Role of Carbon Credits.** A Carbon Credit Certificate (CCC) is a tradeable permit equivalent to the removal, reduction, or avoidance of one metric tonne of carbon dioxide equivalent of greenhouse gas (GHG) emissions. Their primary role in sustainability is to internalise the cost of emissions, thereby creating a financial incentive for companies to decarbonise their operations beyond compliance levels.

B. **The Enabling Legislation:**

Energy Conservation (Amendment) Act, 2022 The legal foundation for the domestic carbon market is the Energy Conservation (Amendment) Act, 2022. This Act amended the principal Energy Conservation Act, 2001, granting the Central Government, specifically through the Ministry of Power, the authority to:

Specify a Carbon Credit Trading Scheme: This provision provides the legislative mandate for the entire market mechanism.

Issue Carbon Credit Certificates (CCCs): The Act empowers the Central Government or its authorised agency (the Bureau of Energy Efficiency - BEE) to issue CCCs to registered and compliant entities.

Mandate the use of Non-Fossil Sources: The Act also imposes an obligation on *'designated consumers'* to meet a minimum share of energy consumption from non-fossil sources, including green hydrogen, further driving the demand side for sustainable practices.

Rules and Regulations:

The Carbon Credit Trading Scheme (CCTS), 2023 Notified by the Ministry of Power in June 2023, the CCTS establishes the operational framework for the Indian Carbon Market (ICM), operating on a 'cap-and-trade' basis for compliance entities and an 'offset' basis for voluntary participants.

1. The Compliance Mechanism (Cap-and-Trade) This mechanism imposes mandatory targets on specified, obligated entities in energy-intensive sectors (e.g., steel, cement, power, etc.):Targets and Benchmarks: Obligated entities are mandated to achieve specific Greenhouse Gas (GHG) emission intensity targets (tCO_2e per unit of output), which are set by the Central Government/ Ministry of Environment, Forest, and Climate Change [MoEFCC].

Issuance of CCCs:

Entities that overachieve their targets (i.e., emit less than the benchmark) are eligible to be issued CCCs.

Compliance Requirement:

1. Entities that fail to meet their targets must meet the shortfall by purchasing and surrendering an equivalent number of CCCs from the market. This mandatory purchase obligation drives demand and thus, the market price of the credits.

2. The Offset Mechanism (Voluntary) the CCTS also allows for an offset mechanism where projects that reduce or remove GHGs (such as renewable energy projects or afforestation efforts) but are not covered by the compliance mechanism can voluntarily generate CCCs. Non-obligated entities can purchase these credits to offset their own emissions, contributing to a broader voluntary market.

3. Key Regulatory and Institutional Framework the CCTS defines the roles of key institutions to ensure market integrity and transparency: Bureau of Energy Efficiency (BEE) Administrator of the ICM. Key functions include developing trajectory and targets for obligated entities, and issuing CCCs based on the recommendations of the National Steering Committee. Central Electricity Regulatory Commission (CERC)Regulator of Trading Activities. CERC regulates the trading of CCCs, registers power exchanges (like IEX, PXIL) as the trading platforms, and provides market oversight. Grid Controller of India Limited (Grid-India) Registry Operator. Maintains the central ICM Registry for the registration of entities, issuance, tracking, and retirement of CCCs.

C. Accredited Carbon Verification Agencies

Third-party agencies responsible for rigorous Measurement, Reporting, and Verification of GHG emissions data and reductions achieved by obligated and voluntary entities. National Steering Committee Recommends procedures for institutionalising the market and advises the BEE on sector inclusion, targets, and market stability mechanisms.

The Green Credit Programme (GCP)Complementary to the CCTS, the Ministry of Environment, Forest and Climate Change notified the Green Credit Rules, 2023, establishing the Green Credit Programme (GCP). While the CCTS focuses specifically on reducing GHG emissions, the GCP is a voluntary,

market-based mechanism designed to incentivise a broader range of environmental-positive actions beyond just carbon reduction, such as water conservation and management, sustainable agriculture waste management, air pollution reduction. This dual approach the CCTS for mandatory carbon compliance and the GCP for broader environmental actions aims to create multiple channels for environmental monetisation and corporate social responsibility.

V. Indian Government Policies and Schemes for Sustainable Development

Beyond the laws and market mechanisms, the Indian government has launched many **policies and schemes** to align with sustainable development and environment protection.

Here are some prominent ones:

- The Swachh Bharat Mission (SBM): Aims to improve sanitation, reduce open defecation, manage solid waste in rural and urban areas. Cleanliness, waste management, and health are key components of sustainability.
- The Jal Jeevan Mission: Focused on providing safe drinking water to rural households, managing water sources sustainably is vital for environment protection.
- The Atal Bhujal Yojana: National groundwater management scheme launched in 2019 in priority states to improve groundwater governance and community participation.
- The Nagar Van Scheme: Announced on World Environment Day 2020, aims to create 200 urban forests across India to enhance green cover, improve air quality and provide urban ecological green spaces.
- Ek Ped Maa Ke Naam (#Plant4Mother) campaign: Launched on World Environment Day 2024, this campaign aims to plant 140 crore trees by March 2025
- National Green Hydrogen Mission: This initiative, launched in January 2023, aims to make India a global hub for green hydrogen production by targeting 5 MMT annual capacity by 2030.
- The National Solar Mission (part of the broader National Action Plan on Climate Change): Seeks aggressive deployment of solar energy to reduce fossil

fuel dependence and drive renewable energy growth.

- GOBARdhan Scheme: As part of the Swachh Bharat Mission (Grameen), this initiative focuses on converting cattle dung and agricultural waste into biogas and compost.
- The broader National Action Plan on Climate Change (NAPCC): Launched in 2008 and covered eight missions: solar energy, energy efficiency, sustainable habitat, water mission, Himalayan ecosystem, agriculture, strategic knowledge etc.

Above mentioned and many other schemes and policies show that India is working on multiple fronts energy transition, water and forest management, urban greening, waste, and sanitation all of which contribute to sustainable development and environmental protection.

VI. The Corporate Role: CSR, Sustainability & Environment Protection

Government alone cannot carry the burden of sustainable development. Corporates and businesses have a key role via their sustainability programmes and corporate social responsibility (CSR) efforts. Corporate Social Responsibility (CSR) means the voluntary contributions made by companies to a better society and a cleaner environment. It is a concept whereby companies integrate social and other useful concerns in their business operations for the betterment of their stakeholders and society in general.

Many companies integrate sustainability in their core business switching to renewable energy, improving energy efficiency, adopting cleaner technologies, reducing waste, and using green supply chains.

Under the CSR (incorporated companies often spend 2 % of profits on CSR), firms often choose environment-related projects (tree planting, water conservation, renewable energy, waste management) as part of their social responsibility. Through green investments and participation in emerging mechanisms like carbon credits, companies can align profit with planet for example by reducing emissions in their operations (thus earning carbon credits) or purchasing them to offset emissions, they bring market discipline to sustainability.

Partnerships between government, industry and civil society (public-private partnerships) enable scale for example, firms establishing green energy parks, funding afforestation, financing community-based water-management, etc. This links corporate resources to environmental outcomes. When businesses act responsibly by

reducing pollution, conserving resources, and contributing to community-based environmental efforts they become part of the solution, not merely regulated entities.

Sustainability Beyond CSR

Leading Indian corporations like Tata Group, Infosys, Reliance, ITC, Mahindra, and Adani etc. have integrated sustainability into their core business models by investing in renewable energy, net-zero operations, carbon neutrality, and sustainable supply chains. By adopting ESG (Environmental, Social, and Governance) frameworks, they align business performance with social and environmental outcomes, ensuring long-term value creation for stakeholders and the planet alike.

VII. Challenges and the Road Ahead

While the legal and regulatory framework is robust, the effective integration of environment and sustainability into India's growth model faces significant challenges:

Implementation and Enforcement: The efficacy of the legal framework hinges on strict enforcement, particularly by the SPCBs and the NGT. Issues like political interference, technical capacity limitations, and regulatory capture remain persistent threats.

Clarity in Carbon Market Operations: While the CCTS has been notified, sector-specific emission caps, methodologies for the offset mechanism, and initial pricing mechanisms need to be transparently established to ensure a liquid and credible market.

Legal Interface of CCTS and GST/Income Tax: There is ongoing ambiguity regarding the definitive taxation (Goods and Services Tax and Income Tax) of CCCs and Green Credits, which is crucial for investor confidence.

Integration with International Markets:

Alignment of the CCTS with global standards and the requirements is essential for Indian credits to be traded internationally, accessing global climate finance. In conclusion, India’s legal regime for environment and sustainability has evolved from constitutional principles to a sophisticated network of statutes, spearheaded by an activist judiciary. The introduction of the Carbon Credit Trading Scheme marks the nation’s decisive shift toward a market-based, technologically driven approach to decarbonisation, firmly establishing the financial incentive for climate action within its domestic legal architecture. The continued success of India’s sustainability journey will depend on the transparent, non-corrupt, and efficient operation of these new market mechanisms,

ensuring that climate goals are met without compromising the country's development aspirations.

VIII. Conclusion

From the ancient ideals of **Vasudhaiva Kutumbakam** to the modern framework of carbon trading, India's environmental vision is deeply moral and legally grounded. It combines spiritual heritage, constitutional principles, progressive laws, judicial innovation, and corporate responsibility into a unified model of sustainable development. If implemented with transparency, accountability, and community participation, this framework can ensure that India's growth remains both inclusive and sustainable, a model for the world where prosperity and planet thrive together.

Ujjwal Goyal

RIGHT TO CROSS EXAMINE AND TAX LAWS.

ALWAYS USE IT BY MOVING AN APPLICATION BEFORE THE AUTHORITY –

The right to cross-examine witnesses in Indian tax law is a **fundamental aspect of natural justice** and a crucial procedural safeguard for assessees. It is not an absolute or unfettered right, but its denial without valid justification, especially when a case relies on third-party statements, can render the entire tax proceeding void. **Section 136 of the CGST Act, 2017**

Arpita Aggarwal

Online Learning and E learning- A tool for Professional development

Introduction:

The term 'online learning' refers to a flexible, accessible method of acquiring knowledge via digital platforms without the need for in-person interaction. All platforms other than traditional offline modes are categorized as Online Mode. The process of obtaining data, information, and knowledge through these modes is classified as Online Learning or E-learning. This is an evolved approach to education that facilitates learning through electronic devices and the internet, providing access to educational content. The rapid changes occurring in our society, related to the development of technology and the ability to transfer information quickly, also prompt changes in the educational area. Thus, there is also a need to adapt the education system to the new circumstances and requirements.

Advantages of Electronic and Online Learning:

1. **Elasticity:** This indicates flexibility for learners to access their information at their convenience.
2. **Accessibility:** Where geographical barriers are surmounted and all information is consolidated in a single location without reliance on human intervention.
3. **Wide range of data and information:** Since the data and information are obtained through online or internet sources, there are no barriers to access and availability of the data.
4. **Networking:** the platform lacks conciseness, which results in the presence of individuals from across the nation and around the world; this also facilitates networking globally.
5. **Collaboration:** a significant benefit of electronic learning is the integration of a collaboration tool, which enables the peer-to-peer interactions and teamwork.
6. **Customization:** the complete idea behind electronic learning is that one is free to tailor the information and related content to the most precise way. Since traditional classroom /offline learning methods are rigid

and lack flexibility, evolving technology has successfully addressed these grievances and introduced an improved alternative.

7. **Real-Time Assessment and Feedback**: the various alternatives and innovative structures of learning and assessment have rendered an interactive learning module that even includes evaluation and feedback on performance, which is not biased and totally skills-driven based analysis. Such analysis is commendable and characterized by accuracy, as it ignores the human interventions and the challenges they entail.
8. **Cost-Effective**: by eliminating the old school physical classroom education structure and printed material. E-Learning provides a strategy that reduces the cost of acquiring and developing skills.

Currently, this facility is advancing professionals in their careers and in recognizing the importance of continuous education amid contemporary compliance standards and legal mandates. Technological progress has eclipsed conventional learning methods, converting educational settings into online and virtual formats. This development requires professionals to be adaptable and open to reevaluating pedagogical approaches within emerging e-learning environments and to embrace technological innovations in knowledge dissemination and instructional strategies.

Disadvantages or Challenges of Electronic and Online Learning:

1. **Motivation:** being annexed with convenience, it also has a setback, which is self-motivation. Since learning has been upgraded from the organised, well-established classrooms, it also creates a comfort zone that can lead to lethargy.
2. **Quality Check:** too much availability of information or non-processed data leads to a compromise in the credibility and authenticity. Henceforth, it is a challenge for a professional to choose data and information that is accredited and undergoes quality checks.
3. **Social Interaction:** old school methods involve a personal touch, due to which professionals also had a source to meet and greet, and collaborations and networking take place. However, since the market has become fragmented, it causes isolation

4. **Knowledge of technology and its know-how:** it is not apparent that all professionals are technologically sound, and those who are, are not all professionals. Hence, the colored intersection in which the technologically aware and qualified professionals are quite rare, which hinders the practical adoption of such advancement, unanimously.

The rapid growth of digital technology is fueling a revolution in learning strategies.

Conclusion:

E-learning is a tool that orients towards professional development, and the integration of technology within the realm of professional career advancement has become an integral aspect of society. This aligns with the transformed standards of expertise and the stimulation of competencies. This article exfoliates the transformative implications of e-learning on professional development, including challenges, advantages, and other aspects related to the use of technology in enhancing professional careers. The digital revolution has widened the horizon of learning by making it more accessible, customizable, and flexible for professionals. Scaling the e-learning methods in professional delivery is about stimulating a mindset of continuous growth and adaptability in the digital era. It also guides us towards persistent mitigation of the challenges to align the propagation of e-learning in the professional world. E-learning has transformed the domain of professional development and skill enhancement, offering unparalleled accessibility.

Arpita Aggarwal

Adv. Kumar Jee Bhat

IMPORTANT SUPREM COURT JUEDGMENTS
UNION OF INDIA VS MOHIT MINERAL PVT LTD
CHALLENGE TO THE CONSTITUTIONAL VALIDITY OF COMPENSATION CESS
HELD VALID.

Whether the Compensation to States Act, 2017 is beyond the legislative competence of Parliament - Whether Compensation to States Act, 2017 violates Constitution (One Hundred and First Amendment) Act, 2016 and is against the objective of Constitution (One Hundred and First Amendment) Act, 2016 and whether the Compensation to States Act, 2017 is a colourable legislation - Whether levy of Compensation to States Cess and GST on the same taxing event is permissible in law - Whether on the basis of Clean Energy Cess paid by the petitioner till 30th June, 2017, the petitioner is entitled for set off in payment of Compensation to States Cess – HELD - After Constitution (One Hundred and First Amendment) Act, 2016, as per Article 270, the Parliament can levy cess for a specific purpose under a law made by it. Article 270, thus, specifically empowers Parliament to levy any cess by law - When Constitution provision empowers the Parliament to provide for Compensation to the States for loss of revenue by law, the expression "law" used therein is of wide import which includes levy of any cess for the said purpose. We do not find any merit in the submission of the petitioner that Parliament has no legislative competence to enact the Compensation to States Act, 2017 - The Compensation to States Act, 2017 is not beyond the legislative competence of the Parliament - The expression used in Article 246A is "power to make laws with respect to goods and services tax". The power to make law, thus, is not general power related to a general entry rather it specifically relates to goods and services tax. When express power is there to make law regarding goods and services tax, we fail to comprehend that how such power shall not include power to levy cess on goods and services tax - power of Parliament to make law providing for compensation to the States for loss of revenue was expressly included by constitutional provision - Parliament has full legislative competence to enact the Act and the Act having been enacted to implement the Constitution (One Hundred and First Amendment) Act and the object being clearly to fulfill the Constitution (One Hundred and First Amendment) Act's objective, the Compensation to States Act, 2017 does not violate Constitution (One Hundred and First Amendment) Act, 2016 nor is against the objective of Constitution (One Hundred and First Amendment) Act, 2016 – The Compensation to States Act is not a colourable legislation - Goods and Services Tax imposed under the 2017 Acts and levy of cess on such intra-State supply of goods and services or both as provided under Section 9 of the CGST Act and such supply of goods and services or both as part of Section 5 of IGST Act is, thus, two separate imposts in law and

are not prohibited by any law so as to declare it invalid - We do not find any substance in the submission that levy of Compensation to States Cess on same taxable event is not permissible - Levy of Compensation to States Cess is an increment to goods and services tax which is permissible in law - The petitioner's submission that the petitioner should be given the credit to the extent of payment of Clean Energy Cess upto 30.06.2017 also cannot be accepted. The Clean Energy Cess and States Compensation Cess are entirely different from each other - payment of Clean Energy Cess was for different purpose and has no bearing or connection with States Compensation Cess. Giving credit or set off in the payment is legislative policy which had to be reflected in the legislative scheme - Compensation to States Act, 2017 or Rules framed thereunder does not indicate giving of any credit or set off of the Clean Energy Cess already paid till 30.06.2017. Thus, claim of the petitioner that he is entitled for set off in payment of Compensation to States Cess to the extent he had already paid Clean Energy Cess cannot be accepted - The petitioner is not entitled for any set off of payments made towards Clean Energy Cess in payment of Compensations to States Cess – No merit in the writ petition. The writ petition is dismissed

M/S GATI KINTETSU EXPRESS PVT LTD VS COMMISSIONER COMMERCIAL TAX OF MADHYA PRADESH

GST – Seizure of goods - When the petitioner has already paid the tax and insofar as other dues are concerned, which are being demanded, the vehicle which is seized along with the consignments should be released to the applicant/petitioner

TATE OF HARYANA VS CAPRO POWER LTD

GST - Even after the implementation of the CGST Act, the item ‘Natural Gas’ continues to be covered under the CST Act, 1956 and the State is liable to issue 'C' Forms in respect of the natural gas purchased by the petitioner from the Oil Companies in Gujarat and used in the generation or distribution of electricity at its power plants in Haryana - the High Court order is upheld and the State appeal is dismissed

THE STATE OF UTTAR PRADESH VS M/S KAY PAN FRAGRANCE PVT LTD

a complete mechanism is predicated in the Act and the Rules for release and disposal of the seized goods and for which reason, the High Court ought not to have entertain the Writ Petitions questioning the seizure of goods and to issue directions for its release - the High Court in all such cases ought to have relegated the assessees before the appropriate Authority for complying with the procedure prescribed in Section 67 of the Act read with Rules as applicable for release (including provisional release) of seized goods

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GST – Section 67, Rule 140 & Rule 141 - State appeal challenging the interim order passed by the High Court directing the State to release the seized goods, subject to deposit of security other than cash or bank guarantee or in the alternative, indemnity bond equal to the value of tax and penalty to the satisfaction of the Assessing

Authority - Assessee appeal seeking quashing the seizure order passed under Section 67(2) of the CGST Act, 2017 and declaring the search and seizure proceedings to be void and restraining the authorities from taking any coercive action against the petitioner – HELD - a complete mechanism is predicated in the Act and the Rules for release and disposal of the seized goods and for which reason, the High Court ought not to have entertain the Writ Petitions questioning the seizure of goods and to issue directions for its release - the High Court in all such cases ought to have relegated the assessees before the appropriate Authority for complying with the procedure prescribed in Section 67 of the Act read with Rules as applicable for release (including provisional release) of seized goods - There is no reason why any other indulgence need be shown to the assessees, who happen to be the owners of the seized goods. They must take recourse to the mechanism already provided for in the Act and the Rules for release, on a provisional basis, upon execution of a bond and furnishing of a security, in such manner and of such quantum, as may be prescribed or on payment of applicable taxes, interest and penalty payable, as the case may be, as predicated in Section 67(6) of the Act – in the interim orders the High Court has erroneously extricated the assessees concerned from paying the applicable tax amount in cash, which is contrary to the said provision - the orders passed by the High Court which are contrary to the stated provisions shall not be given effect to by the authorities. Instead, the authorities shall process the claims of the concerned assessee afresh as per the express stipulations in Section 67 of the Act r/w the relevant rules in that regard. In terms of this order, the competent authority shall call upon **every assessee to complete the formality strictly as per the requirements of the stated provisions disregarding the order passed by the High Court in his case, if the same deviates from the statutory compliances - the appeals are disposed of in the afore-stated terms**

MRF LTD VS STATE OF KERALA

GST – Adjustment of deposit with GST liability – HELD - the applicant was directed to pay the amount equivalent to tax payable, that was to be treated as “deposit" with the Department and not payment of tax dues. The expression used ‘will be treated as deposit not payment’; is quite significant - The amount deposited by the applicant was not towards tax dues as such, but to be treated as “deposit” in terms of order of the Court - The necessary adjustments by way of credit of Rupees Nine Crore Ninety Six Lakh Thirty Eight Thousand Sixteen only, being the net interest remaining due and payable, be given under the Kerala State Goods and Services Tax Act, 2017 against future liabilities

SKILL LOTTO SOLUTIONS PVT LTD VS UNION OF INDIA

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the submission of the petitioner that actionable claims have been artificially included in the definition of goods cannot be accepted – the writ petition is dismissed

GST – Writ petition challenging inclusion of actionable claim in the definition of goods under Section 2(52) of the CGST Act, 2017 - Taxability of lottery tickets - Article 14, (19)(1)(g), 301, 304 of the Constitution of India - Whether the inclusion of actionable claim in the definition of goods as given in Section 2(52) of CGST Act, 2017 is contrary to the legal meaning of goods in Sale of Goods Act, 1930 and unconstitutional – legal meaning of term 'goods' - whether actionable claim is 'goods' – HELD - Definition of goods as occurring in Article 366(12) is inclusive definition and does not specifically excludes actionable claim from its definition. Whenever inclusive definition is given of an expression it always intended to enlarge the meaning of words or phrases, used in the definition - The Constitution framers were well aware of the definition of goods as occurring in the Sale of Goods Act, 1930 when the Constitution was enforced. By providing an inclusive definition of goods in Article 366(12), the Constitution framers never intended to give any restrictive meaning of goods – CGST Act, 2017 is an Act of Parliament in exercise of power of Parliament as conferred under Article 246A of the Constitution - When the Parliament has been conferred power to make law with respect to goods and services, the legislative power of the Parliament is plenary – there is no force in the submission of the petitioner that Parliament could not have defined the goods in CGST Act, 2017, expanding the definition of goods as existing in Sale of Goods Act, 1930 - definition of goods under Section 2(52) of the CGST Act,2017 does not violate any constitutional provision nor it is in conflict with the definition of goods given under Article 366(12) - the submission of the petitioner that actionable claims have been artificially included in the definition of goods cannot be accepted – the writ petition is dismissed

UNION OF INDIA VS ADFERT TECHNOLOGIES PVT LTD

GST – Section 140 & Rule 117 - Revenue challenge to Punjab & Haryana High Court Order in Adfert Technologies case - Unutilized credit arising on account of duty/tax paid under erstwhile Acts is vested right which cannot be taken away on procedural or technical ground of non-filing of TRAN-1 by deadline – Revenue petition is dismissed

UNION OF INDIA VS BHARTI AIRTEL LTD

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there is no provision regarding refund of surplus or excess ITC in the electronic credit ledger, it does not follow that the assessee concerned who has discharged OTL by paying cash (which he is free to pay in cash in spite of the surplus or excess electronic credit ledger account), can later on ask for swapping of the entries, so as to show the corresponding OTL amount in the electronic cash ledger from where he can take refund. Payment for discharge of OTL by cash or by way of availing of ITC, is a matter of option, which having been exercised by the assessee, cannot be reversed unless the Act and the Rules permit such reversal or swapping of the entries. As a matter of fact, Section 39(9) provides for an express mechanism to correct the error in returns for the month

or quarter during which such omission or incorrect particulars have been noticed

GST - Appeal by Union of India challenging Delhi High Court Order allowing rectification of the return from July, 2017 to September, 2017 and reading down para 4 of the Circular No. 26/26/2017-GST dated 29.12.2017 to the extent that it restricts the rectification of Form GSTR-3B in respect of the period in which the error has occurred and permitting assessee to rectify Form GSTR-3B for the period to which the error relates – right to avail of Input Tax Credit for discharge of the Output Tax Liability – HELD - primarily of the grievance of the assessee is due to non-operability of Form GSTR-2A at the relevant time (July to September 2017), it had been denied of access to the information about its electronic credit ledger account and consequently, availing of ITC for the relevant period and instead to discharge the output tax liability by paying cash, resulting in payment of double tax and unfair advantage to the Dept because of their failure to operationalize the statutory forms enabling auto-populating statement of inward supplies of the recipient and outward supplies including facility of matching and correcting the discrepancies electronically - The High Court did not enquire into the cardinal question as to whether the writ petitioner was required to be fully or wholly dependent on the auto generated information in the electronic common platform for discharging its obligation to pay Output Tax Liability for the relevant period between July and September 2017 - The answer is an emphatic No – assessee being a registered person, was under a legal obligation to maintain books of accounts and records as per the provisions of the CGST Act, 2017 and Chapter VII of the CGST Rules, 2017 regarding the transactions in respect of which the output tax liability would occur - Even during the pre-GST regime, the assessee had been maintaining such books of accounts and records and submitting returns on its own. No such auto-populated electronic data was in vogue. It is the same pattern which had to be followed by the registered person in the post-GST regime - registered person is obliged to do self-assessment of ITC, reckon its eligibility to ITC and of output tax liability including the balance amount lying in cash or credit ledger primarily on the basis of his office record and books of accounts required to be statutorily preserved and updated from time to time - The common portal is only a facilitator to feed or retrieve such information and need not be the primary source for doing self-assessment - The question of reading down paragraph 4 of the said Circular would have arisen only if the same was to be in conflict with the express provision in the CGST Act and the Rules framed thereunder - The express provision in the form of Section 39(9) clearly posits that omission or incorrect particulars furnished in the return in Form GSTR-3B can be corrected in the return to be furnished in the month or quarter during which such omission or incorrect particulars are noticed. This very position has been restated in the impugned Circular. It is, therefore, not contrary to the statutory dispensation specified in Section 39(9) of the Act - the challenge to the impugned Circular No. 26/26/2017-GST dated

29.12.2017, is unsustainable - the direction issued by the High Court allowing the writ petitioner to rectify Form GSTR-3B for the period (July to September 2017), in the teeth of express statutory dispensation, cannot be sustained and set aside – the appeal is allowed - ^Reading down para 4 of the Circular No. 26/26/2017-GST dated 29.12.2017 - The question of reading down paragraph 4 of the said Circular would have arisen only if the same was to be in conflict with the express provision in the 2017 Act and the Rules framed thereunder. The express provision in the form of Section 39(9) clearly posits that omission or incorrect particulars furnished in the return in Form GSTR-3B can be corrected in the return to be furnished in the month or quarter during which such omission or incorrect particulars are noticed. This very position has been restated in the impugned Circular. It is, therefore, not contrary to the statutory dispensation specified in Section 39(9) of the Act. The High Court, however, erroneously noted that there is no provision in the Act, which restricts such rectification of the return in the period in which the error is noticed. It is then noted by the High Court that as there is no possibility of getting refund of surplus or excess ITC shown in the electronic credit ledger, therefore, the only remedy that can enable he writ petitioner to enjoy the benefit of the seamless utilization of the ITC is by way of rectification in its annual tax return (Form GSTR-3B) for the relevant period. Further, the High Court in paragraph 23 of the impugned judgment, noted that the relief sought in the case before it, was indispensable. This logic does not commend to us. For, if there is no provision regarding refund of surplus or excess ITC in the electronic credit ledger, it does not follow that the assessee concerned who has discharged OTL by paying cash (which he is free to pay in cash in spite of the surplus or excess electronic credit ledger account), can later on ask for swapping of the entries, so as to show the corresponding OTL amount in the electronic cash ledger from where he can take refund. Payment for discharge of OTL by cash or by way of availing of ITC, is a matter of option, which having been exercised by the assessee, cannot be reversed unless the Act and the Rules permit such reversal or swapping of the entries. As a matter of fact, Section 39(9) provides for an express mechanism to correct the error in returns for the month or quarter during which such omission or incorrect particulars have been noticed

UNION OF INDIA & ORS. VS VKC FOOTSTEPS INDIA PVT LTD

When proviso (ii) of section 54(3) refers to "rate of tax", it indicates a clear intent that a refund would be allowed where and only if the inverted duty structure has arisen due to the rate of tax on input being higher than the rate of tax on output supplies. Reading the expression 'input' to cover input goods and input services would lead to recognising an entitlement to refund, beyond what was contemplated by Parliament – it is not open to the Court to accept the argument of the assessee that in the process of construing Section 54(3) contextually, the Court should broaden the expression 'inputs' to cover both goods and services – The Court affirm the view of

the Madras High Court in Tvl. Transtonnelstory Afcons Joint Venture case and disapprove of the view of the Gujarat High Court in VKC Footsteps India Pvt. Ltd. case – answered in favour of Revenue

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GST - Constitutional validity of Section 54(3) of the CGST Act & Rules 89(5) of the CGST Rules – Eligibility to refund of unutilised input tax credit accumulated due to an inverted duty structure – interpretation of the expression "inputs" in Section 54(3)(ii) of CGST Act and the definition of "Net ITC" in the amended Rule 89(5) - divergence between the views of the Gujarat High Court and Madras High - Assessees submits that Input Tax Credit means credit of input tax and since 'input tax' is defined with reference to the tax charged on the supply of goods or services or both, a refund available on the entirety of the unutilized Input Tax Credit including the credit which is relatable to tax paid on input goods and input services - Revenue argues that the first proviso to Section 54(3) is a restrictive – HELD - The Court while interpreting the provisions of Section 54(3) must give effect to its plain terms. The Court cannot redraw legislative boundaries on the basis of an ideal which the law was intended to pursue – Fiscal policy ought not be dictated through the judgments of the High Courts or this Court. For it is not the function of the Court in the fiscal arena to compel Parliament to go further and to do more - when the first proviso to Section 54(3) has provided for a restriction on the entitlement to refund it would be impermissible for the Court to redraw the boundaries or to expand the provision for refund beyond what the legislature has provided. If the legislature has intended that the equivalence between goods and services should be progressively realized and that for the purpose of determining whether refund should be provided, a restriction of the kind which has been imposed in clause (ii) of the proviso should be enacted, it lies within the realm of policy - Registered persons with unutilized ITC may conceivably form one class but it is not possible to ignore that this class consists of species of different hues. Given these intrinsic complexities, the legislature has to draw the balance when it decides upon granting a refund of accumulated ITC which has remained unutilized - Parliament while enacting sub-Section (3) of Section 54 has stipulated that no refund of unutilized ITC shall be allowed other than in the two specific situations envisaged in clauses (i) and (ii) of the first proviso – While clause (i) has dealt with zero rated supplies made without the payment of tax, clause (ii), which governs domestic supplies, has envisaged a more restricted ambit where the credit has accumulated on account of the rate of tax on inputs being higher than the rate of tax on output supplies. While the CGST Act defines the expression 'input' in Section 2(59) by bracketing it with goods other than capital goods, it is true that the plural expression 'inputs' has not been specifically defined. But there is no reason why the ordinary principle of construing the plural in the same plane as the singular should not be applied. To construe 'inputs' so as to include both input goods and input services would do violence to the provisions

of Section 54(3) and would run contrary to the terms of Explanation-I – When proviso (ii) of section 54(3) refers to "rate of tax", it indicates a clear intent that a refund would be allowed where and only if the inverted duty structure has arisen due to the rate of tax on input being higher than the rate of tax on output supplies. Reading the expression 'input' to cover input goods and input services would lead to recognising an entitlement to refund, beyond what was contemplated by Parliament – it is not open to the Court to accept the argument of the assessee that in the process of construing Section 54(3) contextually, the Court should broaden the expression 'inputs' to cover both goods and services – The Court affirm the view of the Madras High Court in Tvl. Transtonnelstory Afcons Joint Venture case and disapprove of the view of the Gujarat High Court in VKC Footsteps India Pvt. Ltd. case – answered in favour of Revenue

THE ASSISTANT COMMISSIONER OF STATE TAX AND OTHERS VS M/S COMMERCIAL STEEL LIMITED

– Although the existence of an alternate remedy is not an absolute bar to the maintainability of a writ petition under Article 226 of the Constitution but a writ petition can be entertained in certain exceptional circumstances - In the present case, none of those exceptions was established

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GST – Section 107 – Appellate Remedy - Whether the High Court was in error in entertaining the respondent's writ petition when the statutory alternative remedy was available under Section 107 of the CGST Act – vide the impugned order the High Court in the exercise of its writ jurisdiction under Art. 226 had set aside the action of the Revenue in collecting amount from the respondent towards tax and penalty and directed a refund together with interest – A further direction was issued by the Court to State Govt to consider initiating disciplinary proceedings against the Assistant Commissioner and costs of Rs 25,000 was also imposed on the Officer – Revenue challenges the validity of High Court Order – HELD - The assessee-respondent had a statutory remedy under Section 107 of the CGST Act. Instead of availing of the remedy, the respondent instituted a petition under Art. 226 – Although the existence of an alternate remedy is not an absolute bar to the maintainability of a writ petition under Article 226 of the Constitution but a writ petition can be entertained in certain exceptional circumstances - In the present case, none of those exceptions was established – further, there was no violation of the principles of natural justice since a notice was served on the person in charge of the conveyance. In this backdrop, it was not appropriate for the High Court to entertain a writ petition - The assessment of facts would have to be carried out by the appellate authority - the High Court has while doing this exercise proceeded on the basis of surmises – the impugned order of the High Court is set aside - The writ petition filed by the respondent shall stand dismissed. However, this shall not preclude the respondent from taking recourse to appropriate remedies which are available in terms of Section 107 to pursue the grievance in regard to the action adopted

by the state in the present case – answered in favour of Revenue

M/S SIDDHI VINAYAK TRADING COMPANY VS UNION OF INDIA

GST - Parallel proceeding - Enforcement action - Petition contention that once the notice and summons had been issued by the Central Tax Authority, adjudication under Section 74 of the UPGST Act could not have been made by the State Authority – High Court Held - the summons had been issued while initiating inquiry under Section 70 of the CGST Act, 2017 which is a judicial proceeding whereas for determination of tax and penalty, the proceeding had been initiated in accordance with the procedure prescribed under 74 of the UPGST Act - As the proceedings for determination and levy of tax and penalty had been initiated by the State Tax Authority, the Court does not find substance in the challenge to the jurisdiction of State Tax Authority to pass order for determination of tax and penalty to levy the same upon the petitioner, in view of the CBIC Circular dated 5.10.2018 - the initiation of the proceeding for imposition of tax and penalty under Section 74 of UPGST and the inquiry under Section 70 of the CGST Act was independent - The writ petition is dismissed - SC: Since an appeal lies under Section 107 of the UPGST Act against the order of assessment the Court is not inclined to entertain the Special Leave Petition under Art. 136 of the Constitution - the petitioners to pursue the alternative remedy - keeping all the rights and contentions of the parties open the SLP is dismissed

UNION OF INDIA VS AWADKRUPA PLASTOMECH PVT LTD

In the case of the applicant, the drawback rates being the same, it represents only the Customs elements, which did not get subsumed in the GST and thus, the assessee cannot be said to have availed double benefit i.e. of the IGST refund and higher duty drawback

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GST - Revenue seeking to deny IGST refund of Zero-rated supply on ground of claim of higher duty drawback by the petitioner - Revenue reliance on Circular No.37/2018-Customs dated 09/10/2018 to deny the refund - High Court Held - the controversy raised in this writ-application is squarely covered and settled by the decision in the case of Amit Cotton Industries Vs. Principal Commissioner of Customs - Circular No.37/2018-Customs, dated 09/10/2018 would apply only to the cases where the exporters have availed the option to take drawback at the higher rate in place of the IGST refund out of their own volition. In the instant case, the assessee had never availed the option to take drawback at higher rate in place of the IGST refund - Circular No.37/2018-Cus is not applicable to the facts of the present case - in terms of Notification 131/2016-Cus.(N.T.) dated 31/10/2016, when the higher duty drawback and lower duty drawback are the same, it shall imply that the same pertains only to the Customs component and is available irrespective of whether the exporter has availed of the CENVET facility or not - In the case of the applicant, the drawback rates being the same, it represents only the Customs elements,

which did not get subsumed in the GST and thus, the assessee cannot be said to have availed double benefit i.e. of the IGST refund and higher duty drawback – Department is directed to sanction the refund towards the IGST paid in respect to Zero Rated Supplies - the petition was allowed - SC: Revenue appeal - The High Court had clearly recorded that respondent-assessee had claimed an IGST export refund only to the extent of the customs component – There is no error in the finding of the High Court - The Special Leave Petition preferred by Revenue is dismissed

DIRECTORATE GENERAL OF GST INTELLIGENCE (DGGI) VS LUPITA SALUJA

GST – DGGI in appeal challenging High Court order granting anticipatory bail and precluding custodial interrogation of the respondent - High Court had held: it is established that the suppliers have supplied goods to the companies, which have been further exported and payments received to account of the suppliers - The Investigating Agency has conducted raids at the residence and office premises of the applicant and seized the evidence, however, the applicant was never called upon to join the investigation but called first time after her husband and she had challenged the entire investigation before the Court - the custodial interrogation of the applicant is not required - in the event of arrest, the petitioner/applicant shall be released on her furnishing a personal bond | SC - No reason to interfere with the impugned order passed by the High Court - The special leave petitions filed by DGGI are dismissed

M/S FALCON ENTERPRISES VS STATE OF GUJARAT

Section 107(6) provides that an appeal shall not be entertained unless the appellant pays the admitted tax, interest, fine, fee and penalty arising out of the impugned order and a sum equivalent to 10% of the remaining amount of tax in dispute arising out of the said order

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GST - Section 107 & 130 – Appealable order, Confiscation of goods, demand of tax and penalty - Appeal against order of confiscation of goods - Challenge to High Court order rejecting the writ petition by holding that the order passed under Section 130 of the CGST Act, 2017 is appealable under Section 107 of the CGST Act – petitioner contends that the appeal under Section 107 of the CGST Act is not an efficacious remedy - HELD - Section 107(6) provides that an appeal shall not be entertained unless the appellant pays the admitted tax, interest, fine, fee and penalty arising out of the impugned order and a sum equivalent to 10% of the remaining amount of tax in dispute arising out of the said order – Section 107 of the CGST Act provides that an appeal lies against any decision or order passed by the adjudicating authority - The petitioner is at liberty to raise all issues before the appellate authority - the special leave petition is disposed of

CHHAYA DEVI VS UNION OF INDIA

GST - Bail - Arrest for violation of provisions of Section 132(1)(a) to (h) of CGST Act on account of alleged clandestine removal of finished goods without issuance of invoice and payment of tax - High Court Held - prosecution for offences of issuance of any invoice without supply of goods and service tax or both in violation of provisions of CGST Act and availment of input tax credit without any invoice or offence made under sub-section (b) and (c) of sub-section (1) of Section 132 of the CGST Act do not depend upon completion of assessment - the applicant is the proprietrix of the company and is responsible to the company for conduct of the business of the company, even if the business is being managed by the so-called manager – the bail application of applicant is rejected - SC: Issue Notice - The petitioner shall deposit a sum of Rs.1 crore with the concerned authorities on or before 10.05.2021 – the petitioner shall file an Undertaking within five days to the effect that she shall not create any encumbrance with respect to the properties of the business as well as her personal properties till further orders and will deposit the amount representing the admitted duty element - Pending further consideration, the petitioner shall be released on ad interim bail subject to the satisfaction of the concerned Trial Court

M/S RADHA KRISHAN INDUSTRIES VS STATE OF HIMACHAL PRADESH

GST – Scope and interpretation of Section 83, 107 & Rule 159 – Provisional Attachment - Delegation of authority under CGST Act - whether the orders of provisional attachment issued by the Joint Commissioner against the appellant are in consonance with the conditions stipulated in Section 83 of the CGST/SGST Act - Whether a writ petition challenging the orders of provisional attachment was maintainable under Article 226 of the Constitution before the High Court – HELD - The order of the Joint Commissioner contains absolutely no basis for the formation of the opinion that a provisional attachment was necessary to safeguard the interest of the revenue. No tangible material has been disclosed. The record clearly reveals a breach of the mandatory pre-conditions for the valid exercise of powers under Section 83 of the HPGST Act - The Joint Commissioner while ordering a provisional attachment under section 83 was acting as a delegate of the Commissioner in pursuance of the delegation effected under Section 5(3) and an appeal against the order of provisional attachment was not available under Section 107(1); The writ petition before the High Court under Article 226 of the Constitution challenging the order of provisional attachment was maintainable; The High Court has erred in dismissing the writ petition on the ground that it was not maintainable; The power to order a provisional attachment of the property of the taxable person including a bank account is draconian in nature and the conditions which are prescribed by the statute for a valid exercise of the power must be strictly fulfilled; The exercise of the power for ordering a provisional attachment must be preceded by the formation of an opinion by the Commissioner that it is necessary so to do for the purpose of protecting the

interest of the government revenue. Before ordering a provisional attachment, the Commissioner must form an opinion on the basis of tangible material that the assessee is likely to defeat the demand, if any, and that therefore, it is necessary so to do for the purpose of protecting the interest of the government revenue; The expression "necessary so to do for protecting the government revenue" implicates that the interests of the government revenue cannot be protected without ordering a provisional attachment; The formation of an opinion by the Commissioner under Section 83(1) must be based on tangible material bearing on the necessity of ordering a provisional attachment for the purpose of protecting the interest of the government revenue; In the facts of the present case, there was a clear non-application of mind by the Joint Commissioner to the provisions of Section 83, rendering the provisional attachment illegal; Under the provisions of Rule 159(5), the person whose property is attached is entitled to dual procedural safeguards: (a) An entitlement to submit objections on the ground that the property was or is not liable to attachment; and (b) An opportunity of being heard; There has been a breach of the mandatory requirement of Rule 159(5) and the Commissioner was clearly misconceived in law in coming into conclusion that he had a discretion on whether or not to grant an opportunity of being heard; The Commissioner is duty bound to deal with the objections to the attachment by passing a reasoned order which must be communicated to the taxable person whose property is attached; A final order having been passed under Section 74(9), the proceedings under Section 74 are no longer pending as a result of which the provisional attachment must come to an end; The appellant having filed an appeal against the order under section 74(9), the provisions of sub-Sections 6 and 7 of Section 107 will come into operation in regard to the payment of the tax and stay on the recovery of the balance as stipulated in those provisions, pending the disposal of the appeal - the impugned judgment of the High Court is set aside - The writ petition filed by the appellant stands allowed by setting aside the orders of provisional attachment

UNION OF INDIA VS M/S PALAK DESIGNER DIAMOND JEWLLERY

GST - section 67(2), 74(5) and section 67(6) - Search & Seizure - petition seeking provisional release of finished goods under sub-section (6) of section 67 of the CGST Act upon furnishing of bank guarantee - Revenue insistence for additional bank guarantee - High Court Held - **under Rule 140 of the CGST Rules, 2017 the seized goods may be released on a provisional basis upon execution of a bond for the value of the goods and furnishing of a security in the form of a bank guarantee equivalent to the amount of applicable tax, interest and penalty payable** - the respondents are duly empowered to provisionally release the seized goods, if the requirements of section 67(6) of the CGST Act r/w rule 140 of the CGST Rules are satisfied - The petitioner has already deposited Rs.14.16 lakhs by way of challan and has reversed credit of SGST to the tune of Rs.7.90 lakhs which comes to approx.

Rs.22 lakhs. Under the circumstances, if the petitioner furnishes bank guarantee of Rs.50 lakhs and a bond for the value of the goods, the interest of justice would be served - The respondents are directed to forthwith provisionally release the seized goods of the petitioner under sub-section (6) of section 67 of the CGST Act, upon the petitioner executing a bond for the total value of the seized goods, and furnishing a bank guarantee of Rs.50 lakhs - the petition is partly allowed - Revenue in appeal - SC: In the facts of the case, the Court declines to interfere. The Special Leave Petition is dismissed leaving all question of law open.

SURESH KUMAR P.P. VS THE DEPUTY DIRECTOR, DIRECTORATE GENERAL OF GST INTELLIGENCE (DGGI)

There is no finding that any extortion having been effected against the statute and record specifically indicates that it is a voluntary payment, although it is made under protest - Rule 142 as it stands in 2019 does not at all speak of deposit under Section 74(5) being made only after an intimation is served by the proper officer. The issuance of the cheque is voluntary and its receipt by the SIO, is sanctioned by the statute and the rules prescribed there under. Hence, the Department could proceed for encashment of the cheque in accordance with the procedure prescribed - The requirement of hearing, as a necessary concomitant of the principles of natural justice, does not apply insofar as an attachment made to protect the interest of the revenue. If notice is issued before attachment, then the account holder could as well defeat the purpose, by withdrawing the amounts kept in such accounts. The rule for a hearing does not arise prior to attachment - the proceedings initiated under Section 67 is proper, legal and not in any manner arbitrary or high-handed fashion - the writ appeals are dismissed - SC: not inclined to entertain the Special Leave Petition under Article 136 of the Constitution of India. The Special Leave Petition is dismissed

GST - Audit under Section 65 and initiation of investigation under Section 67 of the CGST Act - Search and seizure - petitioner prayed for setting aside the impugned notice, invalidation of search and seizure proceedings, refund of amount collected under duress - petitioner claims of absence of DIN no. on Summons, Seizure Order and on other relevant document - challenge to simultaneous proceedings of investigation having been commenced when already an audit is in progress - Petitioner challenge to collection of the cheque in the absence of determination of tax under Sections 49 and 50 and non-generating the forms as prescribed under the Rules – Grant of opportunity of hearing before attachment of bank account - High Court Held - In terms of Circular No. 122/41/2019-GST not all communications are brought under the mandatory requirement of DIN no. - seizure order, by the nature of its issuance, to the appellants in their presence would not be included for requirement of DIN no., as there could be no suspicion raised of its issuance, on the date and time it bears and its author - the Summon issued to the appellants, which is also an order of seizure of documents, made in the presence of the appellants to effectuate seizure, doesn't

requires a DIN or even subsequent generation of the same. The invalidity argued on that ground does not survive - Harassment and high-handedness by Respondent: An operation carried out by a statutory authority invested with the powers of search, inspection and seizure, by reason only of such activities having been carried out in the residences and offices of any person under investigation, cannot be labeled as harassment or high-handed - Further, the inconvenience caused to the person under investigation, especially of remaining in the premises for the entire duration, cannot be termed to a detention pursuant to an arrest - A search and seizure operation necessarily brings with it certain discomforts, which are to be endured in the best interest of the person under investigation who witnesses every action of the inspection team - In the scheme of Section 67 and the empowerment of an officer not below the rank of Joint Commissioner who has further been empowered with the power to authorize any other officer to search and seize from the business or other premises of a taxable person, there is no infirmity in Summon issued by the SIO, as has been alleged by the petitioner. The SIO has been properly authorized under section 67(2) to carry out the search and seizure operations in the premises of the appellants. The 'reason to believe' is a requirement as per the authorization and does not at all vitiate or invalidate the impugned order - Audit under section 65 is a routine procedure which is independent of an investigation under Section 67 which is a more onerous procedure. There is no infirmity in the audit and investigation proceeding being continued simultaneously - There is no scope for determination of tax or interest under Sections 49 and 50 and the determination has to be made under Chapter XV 'Demands and Recovery', containing Sections 73 and 74 - Sub-clause (c) of the proviso to Rule 87(3) authorises deposit of any amounts collected, by way of cash, cheque or demand draft, during the investigation or enforcement activity. This does not require generation of the Forms prescribed. The proper officer or the one authorized, hence is enabled to receive cash, cheque or demand draft in the course of an investigation or enforcement activity from the tax payer. There is no finding that any extortion having been effected against the statute and record specifically indicates that it is a voluntary payment, although it is made under protest - Rule 142 as it stands in 2019 does not at all speak of deposit under Section 74(5) being made only after an intimation is served by the proper officer. The issuance of the cheque is voluntary and its receipt by the SIO, is sanctioned by the statute and the rules prescribed there under. Hence, the Department could proceed for encashment of the cheque in accordance with the procedure prescribed - The requirement of hearing, as a necessary concomitant of the principles of natural justice, does not apply insofar as an attachment made to protect the interest of the revenue. If notice is issued before attachment, then the account holder could as well defeat the purpose, by withdrawing the amounts kept in such accounts. The rule for a hearing does not arise prior to attachment - the proceedings

initiated under Section 67 is proper, legal and not in any manner arbitrary or high-handed fashion - the writ appeals are dismissed - SC: not inclined to entertain the Special Leave Petition under Article 136 of the Constitution of India. The Special Leave Petition is dismissed

CURE SMA FOUNDATION OF INDIA & ORS. VS UNION OF INDIA & ORS.

GST - PIL seeking directing the respondent-Union of India to exempt drugs for treatment of rare diseases from the levy of IGST, CGST, SGT and Custom Duty; and directing the respondents to permit import the drugs for treatment of SMA directly without approaching the Centre of Excellence - HELD - it is for the Government to take a policy decision whether to completely exempt drugs for treatment of rare diseases from the levy of IGST, CGST, SGT and Custom Duty. No writ of mandamus can be issued directing the Union of India to exempt the drugs from payment of any tax or custom duty – further, no writ of mandamus can be issued directing the respondents to permit import the drugs for treatment of SMA directly without approaching the Centre of Excellence. There may be number of reasons why the drugs are to be cleared by the Centre of Excellence - the writ petition is dismissed

RAMCHANDRA VISHNOI ETC. VS UNION OF INDIA

GST – Bail - Claim of bogus Input Tax credit against fake invoices – appellant challenge rejection of bail application in connection with offence punishable under Section 132 of the CGST Act, 2017 – the application for bail filed by the appellants was rejected solely on the ground that an earlier application was dismissed on merits – HELD - The appellants have been in custody for nearly 14 months – both the co-accused were already granted bail by this Court - Having regard to the period of custody which has been undergone by the appellants and that the co-accused have been enlarged on bail, the appellants shall be released on bail subject to such terms and conditions as may be imposed by the Trial Court - The appeals are disposed of

BM CONSTRUCTION COOCHBEHAR VS THE ADDITIONAL COMMISSIONER CENTRAL GOODS AND SERVICE TAX AND CENTRAL EXCISE & ORS.

GST - Assessee challenged Assessment Order before the High Court – the High Court refused to entertain the writ petition on ground of alternative appellate remedy u/s 107 of the CGST Act – being aggrieved, assessee filed instant petition – HELD - Against the order of assessment, there is a further appeal under Section 107 of the CGST Act - Under the circumstances, in view of the alternative statutory remedy available by way of appeal, the High Court has rightly refused to entertain the writ petition – assessee petition is dismissed

UNION OF INDIA VS BHARAT FORGE LTD

TENDERS DON'T DECIDE TAXABILITY – SECTION 9 DECIDES.

GST - Whether the classification of the HSN Code is integral to the tendering process -

Respondent-assessee preferred writ petition before High Court seeking direction to tendering authority to indicate GST HSN Code of procurement product in tender document - High Court issued direction to Appellant-General Manager, Diesel Locomotive Works, Varanasi to clarify the issue with the GST authorities relating to the applicability of correct HSN Code of the procurement product and mention the same in the NIT tender/ bid document, so as to ensure uniform bidding and to provide all bidders a 'Level Playing Field' – Aggrieved by aforesaid direction Union of India and the Railway Board filed instant appeal - whether there exists any public duty with the appellants to indicate the HSN Code when they float a public tender – HELD – the purport of the Railway Board is that it is the responsibility of the bidder to quote the correct HSN Number and the corresponding GST rate - in the name of producing a level playing field, the State, when it decides to award a contract, would not be obliged to undertake the ordeal of finding out the correct HSN Code and the tax applicable for the product, which they wish to procure - This is, particularly so when the State is not burdened with the liability to pay the tax - The liability to pay tax under the GST regime is on the supplier unless it falls under Section 9(3) of the GST Act. He must make inquires and make an informed decision as to what would be the relevant HSN Code applicable to the items and the rate of tax applicable - The appellants cannot be expected to find out the HSN Code and announce it so as to bind the tenderers or fetter the power of jurisdictional officer of the supplier - The only provision which clearly deals with classification is provision for advance ruling - the appellants will be compelled to go through the said cumbersome procedure and, at the end of it, proclaim the HSN Code - in order to ensure that the successful tenderer pays the tax due and to further ensure that by not correctly quoting the GST rate, there is no tax evasion, in all cases, where a contract is awarded by the appellants, a copy of the document, by which, the contract is awarded containing all material details shall be immediately forwarded to the concerned jurisdictional Officer - The Union of India and the Railway Board shall ensure that this direction shall be complied with by all units - impugned judgment is set aside and the appeal is allowed - Scope of Writ of Mandamus - Whether High Court erred in issuing the direction, which is in the nature of the Writ of Mandamus - Mandamus would lie if the Authority, which had a discretion, fails to exercise it and prefers to act under dictation of another Authority. A Writ of Mandamus or a direction in the nature thereof had been given a very wide scope in the conditions prevailing in this country and it is to be issued wherever there is a public duty and there is a failure to perform and the courts will not be bound by technicalities and its chief concern should be to reach justice to the wronged. We are not dilating on or diluting other requirements, which would ordinarily include the need for making a demand unless a demand is found to be futile in circumstances, which have already been catalogued in the earlier decisions of this Court - 'Make in India' Policy - The contention of the Respondent that unless

the appellant found out the correct HSN Code and also the tax rate applicable for the product, the local content, as defined in the 'Make in India' Policy, could not be determined – HELD - Proceeding on the basis, that for determining the local content, the HSN Code of the item, for the purpose of custom duty, is to be found, that may not justify the writ petitioner from contending that the HSN Code for the GST must be included in the tender conditions - It is open to the bidder, wholly or partly, to absorb the tax effect. In other words, being an indirect tax, while it is open to a bidder to pass it on to the buyer (the appellant), nothing stands in the way of the bidder, partly or wholly, absorbing the tax. The liability to pay the tax under the GST regime is with the supplier unless it falls under Section 9(3) of the GST Act. Further, the appellants cannot declare a GST rate and make it binding on the bidder. The correctness of the Code/rate can, at best, be the appellants understanding of the same. This is why, in the Circular issued by the Railway Board, it conferred a discretion on the purchaser, to incorporate the HSN Number in the tender document – We cannot hold that in view of the Make in India policy there is duty to declare the HSN code in the tender and what is more, make the tenderers quote the rate accordingly

UNION OF INDIA & ANR. VS FILCO TRADE CENTRE PVT. LTD. & ANR.

GST – TRAN-1 – Section 140 of the CGST Act - Rule 117 of the CGST Rules - GSTN is directed to open common portal for filing concerned forms for availing Transitional Credit through TRAN-1 and TRAN-2 for two months i.e. w.e.f. 01.09.2022 to 31.10.2022 - GSTN has to ensure that there are no technical glitch during the said time - The concerned officers are given 90 days thereafter to verify the veracity of the claim/transitional credit and pass appropriate orders - Thereafter, the allowed Transitional credit is to be reflected in the Electronic Credit Ledger - If required GST Council may also issue appropriate guidelines to the field formations in scrutinizing the claims - Special Leave Petitions are disposed of

UNION OF INDIA VS M/S MOHIT MINERALS PVT. LTD.

OCEAN FREIGHT- CIF CONTRACT – IN VIEW OF SECTION 8, OCEAN FREIGHT IS A PART OF COMPOSITE SUPPLY AND HENCE EXEMPT FROM GST… NOTIFICATIONS ARE ILLEGAL.

GST – Validity of IGST Notification No.8/2017-Integrated Tax (Rate) and Notification 10/2017 Integrated Tax (Rate) – Challenge to levy of IGST on Ocean Freight - Liability of Indian importer to pay IGST on composite supply of services of transportation, insurance in CIF contract – HELD - It would not be permissible to ignore the text of Section 8 of the CGST Act and treat the two transactions as standalone agreements. In a CIF contract, the supply of goods is accompanied by the supply of services of transportation and insurance, the responsibility for which lies on the seller (the foreign exporter in this case). The supply of service of transportation by the foreign shipper forms a part of the bundle of supplies between the foreign exporter

and the Indian importer, on which the IGST is payable under Section 5(1) of the IGST Act read with Section 20 of the IGST Act, Section 8 and Section 2(30) of the CGST Act. To levy the IGST on the supply of the service component of the transaction would contradict the principle enshrined in Section 8 and be in violation of the scheme of the GST legislation. Based on this reason, we are of the opinion that while the impugned notifications are validly issued under Sections 5(3) and 5(4) of the IGST Act, it would be in violation of Section 8 of the CGST Act and the overall scheme of the GST legislation - The recommendations of the GST Council are not binding on the Union and States - On a conjoint reading of Sections 2(11) and 13(9) of the IGST Act, read with Section 2(93) of the CGST Act, the import of goods by a CIF contract constitutes an "inter-state" supply which can be subject to IGST where the importer of such goods would be the recipient of shipping service; The IGST Act and the CGST Act define reverse charge and prescribe the entity that is to be taxed for these purposes. The specification of the recipient, in this case the importer, by Notification 10/2017 is only clarificatory. The Government by notification did not specify a taxable person different from the recipient prescribed in Section 5(3) of the IGST Act for the purposes of reverse charge - Since the Indian importer is liable to pay IGST on the 'composite supply', comprising of supply of goods and supply of services of transportation, insurance, etc. in a CIF contract, a separate levy on the Indian importer for the 'supply of services' by the shipping line would be in violation of Section 8 of the CGST Act - Appeal is dismissed

UNION OF INDIA VS M/S STAR DELTA EXIM (P) LTD

GST – Parallel proceedings – Multiple Show Cause Notices by different adjudicating authorities on same subject matter - in the case of different show cause notices issued on the same issue answerable to different adjudicating authorities, whether the show cause notice shall be adjudicated by the adjudicating authority competent to decide the case involving the highest amount of duty – Revenue aggrieved by High Court order directing that the proceedings pursuant to show cause notice issued by Commissioner, Central Excise and Service Tax Commissionerate, Alwar to be transferred to the Additional Director General, Directorate General of Central Excise Intelligence, Delhi Zonal Unit, New Delhi for further decision - HELD - Considering the fact that both the show cause notices, issued by the Directorate General of Central Excise Intelligence, Delhi Zonal Unit and the subsequent show cause issued by the Commissioner, Central Goods and Service Tax Commissionerate, Alwar, were on the same subject-matter, the High Court is justified in directing that both the notices to be adjudicated and heard together by one authority - now both the show cause notices one dated 01.03.2016 and the subsequent show cause notice dated 23.10.2017 be adjudicated by only one authority, namely, the Additional Director General, Directorate General of Central Excise Intelligence, Delhi Zonal Unit, New Delhi or the equivalent authority and

disposed of within a period of six months - the Special Leave Petition stands dismissed

UNION OF INDIA VS M/S WILLOWOOD CHEMICALS PVT LTD & M/S SARAF NATURAL STONE

INTEREST CAN BE ALLOWED STRICTLY AS PER PROVISIONS OF THE ACT…

GST - Section 56 of the CGST Act, 2017– Zero-rated Supply - Applicable rate of interest on delayed payment of refund of IGST - in applications preferred by Respondent-assessees the High Court directed Dept-Appellant to pay simple interest at the rate of 9% per annum on the delayed payment of IGST refund - being aggrieved, Dept preferred Review Petitions before the High Court with submission that as per Section 56 of the CGST Act, net interest at the rate of not exceeding six percent may be given instead of 9% - the said Review Petitions preferred by the Dept-appellant were dismissed by the impugned High Court order - The judgments passed by the High Court are under challenge in these appeals preferred by the Union of India – whether the High Court was justified in awarding interest at the rate of 9 per cent per annum - HELD - the relevant provision has prescribed rate of interest at 6 per cent where the case for refund is governed by the principal provision of Section 56 of the CGST Act - wherever a statute specifies or regulates the interest, the interest will be payable in terms of the provisions of the statute and, on the other hand, wherever a statute is silent about the rate of interest and there is no express bar for payment of interest, any delay in paying the compensation or the amounts due, would attract award of interest at a reasonable rate on equitable grounds - Since the delay in the instant case was in the region of 94 to 290 days and not so inordinate, the matter has to be seen purely in the light of the applicable statutory provisions and in terms of the principal part of Section 56 of the CGST Act, the interest would be awarded at the rate of 6 per cent - The award of interest at 9 per cent would be attracted only if the matter was covered by the proviso to the Section 56 of the CGST Act - The High Court was in error in awarding interest at the rate exceeding six per cent in the instant matters - the assessees would be entitled to interest at the rate of six per cent per annum on amounts that they were entitled by way of refund of tax. Since the concerned amounts along with interest at the rate of six per cent per annum have already been made over to them, nothing further need be done in the instant cases – the Civil Appeals are allowed

ASSISTANT COMMISSIONER (ST) VS M/S SATYAM SHIVAM PAPERS PVT LIMITED

ABUSE OF POWER – COST INCREASED BY SUPREME COURT.

GST - Expiry of e-way Bill, conclusion of evasion of tax merely on account of lapsing of time mentioned in the e-way bill, Blatant abuse of power - Levy of tax and penalty - Non-movement of goods carrying vehicle due to traffic blockage - Validity of Officer's action of unloading the detained goods at a private premises – On petition filed by the assessee-respondent, the Telangana High Court quashed levy of tax and penalty and

imposed cost on officer concerned - aggrieved by the High Court order Dept filed instant appeal against levy of cost – HELD - the High Court has meticulously examined and correctly found that no fault or intent to evade tax could have been inferred against the assessee - there was no intent on the part of the assessee to evade tax and rather, the goods in question could not be taken to the destination within time for the reasons beyond the control of the writ petitioner. When the undeniable facts, including the traffic blockage due to agitation, are taken into consideration, the State alone remains responsible for not providing smooth passage of traffic - Considering the overall conduct of the Officer concerned and the corresponding harassment faced by the assessee, the Court find it rather necessary to enhance the amount of costs - The High Court has awarded costs to the assessee in the sum of Rs. 10,000/- in relation to tax and penalty of Rs.69,000/- that was sought to be imposed by the Officer - a further sum of Rs. 59,000/- is imposed on the petitioners toward costs, which shall be payable to the assessee within four weeks from today. This would be over and above the sum of Rs. 10,000/- already awarded by the High Court - the State would be entitled to recover the amount of costs, after making payment to the writ petitioner, directly from the person/s responsible for this entirely unnecessary litigation - the petition stands dismissed

STATE OF PUNJAB & ORS. VS JAGSEER SINGH

HIGH COURT MUST HEAR REVENUE BEFORE GRANTING EX PARTE RELIEF EQUIVALENT TO THE MAIN RELIEF IT SELF THROUGH AN INTERIM ORDER.

GST - Interim orders by the High Court, Release of Confiscated goods and vehicles - State appeals against the interim orders passed by the High Court whereby the High Court had directed the release of the confiscated goods and vehicles on deposit of only 25% of the demanded amount and personal surety bonds for the remaining amount, instead of insisting on a bank guarantee - Whether the High Court was justified in passing the interim orders without considering the merits of the case and without ensuring adequate security for the State's revenue - HELD - the High Court had granted the interim relief equivalent to the main relief sought by the respondent, virtually ex parte without hearing the State's stand - if the goods were confiscated as well as the vehicles were released, in the absence of there being any proper bank guarantee or other security provided by the respondent(s), the revenues of the State would be at risk if the respondent is ultimately unsuccessful - the impugned interim order is set aside and matter remanded back to the High Court for fresh consideration - the goods and vehicles have not yet been released and appropriate directions could be issued in accordance with law if the respondent-assessee presses for an interim relief – the appeals are disposed

SHARDA CONSTRUCTION VS THE STATE OF BIHAR & ORS.

GST - Principles of Natural Justice, Dismissal of Appeal by Appellant Authority - Appellant filed an appeal before the Appellant Authority against an adverse order – The Appellant Authority dismissed the appeal for non-prosecution as well as on merits without hearing the appellant – Appellant-assessee challenge the order of the High Court upholding the order passed by the Appellant Authority - Whether the Appellate Commissioner was justified in dismissing the appeal on merits without giving an opportunity to the appellant to make submissions – HELD - the Appellate Commissioner's action of dismissing the appeal on merits without hearing the appellant was a violation of the principles of natural justice. The Appellate Commissioner could have dismissed the appeal for non-prosecution due to the consistent absence of the appellant but was not justified in dismissing it on merits without providing the appellant an opportunity to be heard - the principle and rule stated in Order XLI Rule 17 of the Code of Civil Procedure, 1908 ought to have been followed by the Appellate Commissioner who could not have therefore dismissed the appeal filed by the appellant on merits without giving an opportunity to the appellant herein to make his submissions - the orders of the High Court and the Appellate Commissioner are set aside and the matter is restored on the file of the Appellate Commissioner, while imposing a cost of Rs. 25,000 on the appellant for its consistent absence before the Appellate Commissioner – the appeal is allowed

CHIEF COMMISSIONER OF CENTRAL GOODS AND SERVICE TAX & ORS. VS M/S SAFARI RETREATS PRIVATE LTD & ORS.

GST - Challenge to Constitutional validity of clauses (c) and (d) of Section 17(5) of the CGST Act, 2017 – Blocked Credit, Expressions “plant and machinery” and “plant or machinery” – Eligibility to Input Tax Credit on goods and services used in the construction of immovable property - Whether the definition of “plant and machinery” in the explanation appended to Section 17 of the CGST Act applies to the expression “plant or machinery” used in clause (d) of sub-section (5) of Section 17 of the CGST Act – HELD - the expression "plant or machinery" cannot be given the same meaning as "plant and machinery" as defined in the explanation to Section 17. The legislature has consciously used a distinct expression, and it must be given a different meaning - the word "plant" in the expression "plant or machinery" should be interpreted based on the functionality test, i.e., whether the building is essential for carrying out the business activities of the registered person - the Constitutional validity of clauses (c) and (d) of Section 17(5) and Section 16(4) of the CGST Act is upheld - the legislature has the power to make reasonable classifications for the purpose of taxation, and the provisions in question do not violate the principle of equality under Article 14 of the Constitution - the impugned judgment of High Court of Orissa is set aside and matter remanded to the High Court to determine whether the

shopping mall in question satisfies the functionality test to be considered a "plant" under clause (d) of Section 17(5) of the CGST Act - the writ petitions challenging the constitutional validity of clauses (c) and (d) of Section 17(5) and Section 16(4) of the CGST Act are rejected – the appeals are partly allowed

RHC GLOBAL EXPORTS PRIVATE LIMITED & ORS. VS UNION OF INDIA & ORS.

GST - Section 83 of the CGST Act, 2017 - Attachment of Bank Accounts, Expiry of Attachment, Renewal of Attachment - Petitioners application seeking to lift the attachment of the bank account which was renewed by the Revenue-respondents despite the initial attachment having lapsed as per the provisions of Section 83(2) of the CGST Act, 2017 - Whether the renewal of the attachment on the bank account by the respondents after the initial attachment had lapsed was valid – HELD - Once the attachment of the bank account expires by virtue of the operation of law under Section 83(2) of the Act, there is no provision or jurisdiction vested with the Department to renew the attachment - the attachment made by the respondents on the third bank account is without the authority of law and therefore directed to be lifted – the application is allowed

ASSISTANT COMMISSIONER STATE TAX, DURGAPORE RANGE VS ASHOK KUMAR SUREKA

GST - Monetary limit of filing SLP - Detention of goods, expired e-Way Bill - Revenue in appeal against setting aside penalty and tax on detention of the vehicle and goods on account of e-way bill relating to the consignment had expired – HELD - Having regard to the latest Circular No.207/1/2024-GST dated 26.06.2024 issued by CBIC, GST Policy Wing, these special leave petitions do not meet the threshold limit mentioned therein as the penalty imposed is only Rs.3.25 lacs - the High Court order would not act as a precedent - the special leave petitions stand disposed

BHARAT BHUSHAN VS DIRECTOR GENERAL OF GST INTELLIGENCE, NAGPUR ZONAL UNIT THROUGH ITS INVESTIGATING OFFICER

GST – Cancellation of anticipatory bail - Challenge to impugned High Court maintaining Revenue application seeking cancellation of anticipatory bail granted by the trial court – HELD – vide the impugned order the anticipatory bail granted by the trial court came to be cancelled following the dictum as laid in the order passed by this Court in State of Gujarat vs Choodamani Parmeshwaran Iyer wherein this Court took the view that if any person is summoned under Section 69 of the CGST Act 2017 for the purpose of recording of his statement, the provisions of Section 438 of the Code of Criminal Procedure cannot be invoked - the High Court committed no error in cancelling the anticipatory bail granted by the trial court. However, in the facts and circumstances of the case, the petitioner is granted liberty to invoke the writ jurisdiction of the concerned High Court under Article 226 of the Constitution - The Special Leave Petition is accordingly disposed of

PRAHITHA CONSTRUCTIONS PRIVATE LIMITED VS UNION OF INDIA & ORS.

GST - Taxability of transfer of development rights by way of Joint Development Agreement (JDA) – High Court held that in terms of the JDA, there are two sets of transactions to be met in its entirety. One is agreement between the landowner and the petitioner and another is the supply of construction services by the petitioner to the landowners and only thereafter sale of constructed area to third party buyers. Both these transactions qualify as supplies made and would attract GST subject to clause (b) of paragraph 5 of Schedule II and both these supplies would fall under Section 7 of the CGST Act, 2017 – SC HELD - Issue notice – there is no stay on the operation of the impugned judgment/order and, therefore, taxes will have to be paid – Ordered accordingly

VARDAN ASSOCIATES PVT LTD VS ASSISTANT COMMISSIONER OF STATE TAX, CENTRAL SECTION & ORS.

GST – Movement of consignment in the nature of "inter unit transfer" of capital goods - Expiry of e-way bill - Detention of goods carrying vehicle – Levy of tax and penalty – appellant challenge deposit of 100% tax and penalty as condition for release of goods – HELD - appellant cannot shirk from its responsibility of complying with the requirement in law to generate a fresh E-way bill, if for any reason the consignment had not been transported. However, the appellant is the owner of the consignment and was using it in connection with its contractual obligations in Uttar Pradesh and then having a similar contract in West Bengal and no evidence has been placed on record that shows that the consignment was to be sold or used for any other purpose in respect of any other party - end of justice would be served if the penalty amount is reduced to 50% of the penalty imposed – imposition of tax is upheld and penalty is reduced to 50% - upon deposit of tax and penalty, the transportation vehicle as also the consignment shall be released to the rightful owners expeditiously – this order has been passed under Article 142 of the Constitution of India and shall not be treated as a precedent – Ordered accordingly

Notifications issued by CBIC from 01.09.2025 to 31.10.2025

Summarised by CA Renu Sharma

Central Tax

Date	Notification no	Matter
17.09.2025	13/2025-Central Tax	Seeks to notify the Central Goods and Services Tax (Third Amendment) Rules 2025.
17.09.2025	14/2025-Central Tax	Seeks to notify category of persons under section 54(6).
17.09.2025	15/2025-Central Tax	Seeks to exempt taxpayer with annual turnover less than Rs 2 Crore from filing annual return.
17.09.2025	16/2025-Central Tax	Seeks to notify clauses (ii), (iii) of section 121, section 122 to section 124 and section 126 to 134 of Finance Act, 2025 to come into force.
18.10.2025	17/2025-Central Tax	Seeks to extend date of filing GSTR-3B.
18.10.2025	18/2025-Central Tax	Seeks to notify the Central Goods and Services Tax (Fourth Amendment) Rules 2025

Central Tax (Rate)

Date	Notification no	Matter
17.09.2025	09/2025-Central Tax (Rate)	Seeks to supersede Notification No. 1/2017-Central Tax (Rate) dated 28.06.2017.
17.09.2025	10/2025-Central Tax (Rate)	Seeks to supersede Notification No. 2/2017-Central Tax (Rate) dated 28.06.2017.
17.09.2025	11/2025-Central Tax (Rate)	Seeks to amend Notification No. 3/2017-Central Tax (Rate) dated 28.06.2017.
17.09.2025	12/2025-Central Tax (Rate)	Seeks to amend Notification No. 8/2018-Central Tax (Rate) dated 25.01.2018.
17.09.2025	13/2025-Central Tax (Rate)	Seeks to amend Notification No. 21/2018-Central Tax (Rate) dated 26.07.2018.

17.09.2025	14/2025-Central Tax (Rate)	Seeks to notify GST rate for bricks.
17.09.2025	15/2025-Central Tax (Rate)	Seeks to amend Notification No 11/2017 - Central Tax (Rate) dated 28th June, 2017 to implement the recommendations of the 56th GST Council.
17.09.2025	16/2025-Central Tax (Rate)	Seeks to amend Notification No 12/2017- Central Tax (Rate dated 28th June, 2017 to implement the recommendations of the 56th GST Council.
17.09.2025	17/2025-Central Tax (Rate)	Seeks to amend Notification No 17/2017- Central Tax (Rate), dated 28th June, 2017 to implement the recommendations of the 56th GST Council
24.10.2025	18/2025-Central Tax (Rate)	Seeks to amend notification No. 26/2018- Central Tax(Rate) dated 31.12.2018.

Integrated Tax

Date	Notification no	Matter

No Notification issued

Integrated Tax (Rate)

Date	Notification no	Matter
17.09.2025	09/2025- Integrated Tax (Rate)	Seeks to supersede Notification No. 1/2017- - Integrated Tax (Rate) dated 28.06.2017.
17.09.2025	10/2025- Integrated Tax (Rate)	Seeks to supersede Notification No. 2/2017- - Integrated Tax (Rate) dated 28.06.2017.
17.09.2025	11/2025- Integrated Tax (Rate)	Seeks to amend Notification No. 3/2017- - Integrated Tax (Rate) dated 28.06.2017
17.09.2025	12/2025- Integrated Tax (Rate)	Seeks to amend Notification No. 9/2018- - Integrated Tax (Rate) dated 25.01.2018.
17.09.2025	13/2025- Integrated Tax (Rate)	Seeks to amend Notification No. 22/2018- -

		Integrated Tax (Rate) dated 26.07.2018.
17.09.2025	14/2025- Integrated Tax (Rate)	Seeks to notify GST rate for bricks.
17.09.2025	15/2025- Integrated Tax (Rate)	Seeks to amend Notification No 8/2017-Integrated Tax (Rate), dated 28th June, 2017 to implement the recommendations of the 56th GST Council.
17.09.2025	16/2025- Integrated Tax (Rate)	Seeks to amend Notification No 9/2017-Integrated Tax (Rate), dated 28th June, 2017 to implement the recommendations of the 56th GST Council.
17.09.2025	17/2025- Integrated Tax (Rate)	Seeks to amend Notification No 14/2017-Integrated Tax (Rate), dated 28th June, 2017 to implement the recommendations of the 56th GST Council.
24.10.2025	18/2025- Integrated Tax (Rate)	Seeks to amend notification No. 26/2018-Integrated Tax(Rate) dated 31.12.2018.

Union Territory Tax

Date	***Notification No.***	***Matter***

No Notification issued

Union Territory Tax (Rate)

Date	Notification No.	Matter
17.09.2025	09/2025-Union Territory Tax (Rate)	Seeks to supersede Notification No. 1/2017-Union Territory Tax (Rate) dated 28.06.2017.
17.09.2025	10/2025-Union Territory Tax (Rate)	Seeks to supersede Notification No. 2/2017-Union Territory Tax (Rate) dated 28.06.2017.
17.09.2025	11/2025-Union Territory Tax (Rate)	Seeks to amend Notification No. 3/2017-Union Territory Tax (Rate) dated 28.06.2017.
17.09.2025	12/2025-Union Territory Tax (Rate)	Seeks to amend Notification No. 8/2018-Union Territory Tax (Rate) dated 25.01.2018.

17.09.2025	13/2025-Union Territory Tax (Rate)	Seeks to amend Notification No. 21/2018-Union Territory Tax (Rate) dated 26.07.2018.
17.09.2025	14/2025-Union Territory Tax (Rate)	Seeks to notify GST rate for bricks.
17.09.2025	15/2025-Union Territory Tax (Rate)	Seeks to amend Notification No 11/2017-Union Territory Tax (Rate)dated 28th June, 2017 to implement the recommendations of the 56th GST Council.
17.09.2025	16/2025-Union Territory Tax (Rate)	Seeks to amend Notification 12/2017-Union Territory Tax (Rate), dated 28th June, 2017 to implement the recommendations of the 56th GST Council.
17.09.2025	17/2025-Union Territory Tax (Rate)	Seeks to amend Notification No 17/2017 - Union Territory (Rate), dated 28th June, 2017 to implement the recommendations of the 56th GST Council.
24.10.2025	18/2025-Union Territory Tax (Rate)	Seeks to amend notification No. 26/2018-Union Territory Tax(Rate) dated 31.12.2018

Compensation Cess

Date	***Notification No.***	***Matter***
17.09.2025	02/2025-Compensation Cess (Rate)	Seeks to amend Notification No. 1/2017-Compensation Cess (Rate) dated 28.06.2017.

Corrigendum

Date	***Corrigendum***	***Matter***
18.09.2025	Corrigendum	Corrigendum to Notification No. 10/2025 – Central Tax (Rate) dated 17.09.2025
18.09.2025	Corrigendum	Corrigendum to Notification No. 9/2025 – Union Territory Tax (Rate) dated 17.09.2025
18.09.2025	Corrigendum	Corrigendum to Notification No. 10/2025 – Union Territory Tax (Rate) dated 17.09.2025

Circulars from 01.09.2025 to 31.10.2025

Summarised by CA Renu Sharma

Date	Circular no.	Matter
12.09.2025	251/08/2025-GST	Clarification on various doubts related to treatment of secondary or post-sale discounts under GST
23.09.2025	252/09/2025-GST	Communication to taxpayers through eOffice - requirement of Document Identification Number (DIN)
01.10.2025	253/10/2025-GST	Regarding withdrawal of circular No. 212/6/2024-GST.
27.10.2025	254/11/2025-GST	Assigning proper officer under section 74A, section 75(2) and section 122 of the Central Goods and Services Tax Act, 2017

Instruction from 01.09.2025 to 31.10.2025

Date	Instruction No.	Matter
03.10.2025	Instruction No. 06/2025-GST	Provisional sanction of refund claims on the basis of identification and evaluation of risk by the system

News, Updates and Advisories Issued by GSTN from 01.09.2025 to 31.10.2025–

Summarised by CA Renu Sharma

Serial no.	Date	Advisory
1	01.09.2025	Gross and Net GST revenue collections for the month of Aug, 2025
2	23.09.2025	New Changes in Invoice Management System (IMS)
3	26.09.2025	Invoice-wise Reporting Functionality in Form GSTR-7 on portal-reg
4	01.10.2025	Gross and Net GST revenue collections for the month of Sep, 2025
5	08.10.2025	Important Advisory on IMS

6	15.10.2025	Advisory for GSTR 9/9C for FY 2024-25
7	16.10.2025	FAQs on GSTR -9/9C for FY 2024-25
8	17.10.25	Introduction of "Pending" Option for Credit Notes and declaration of Reversal amount in IMS
9	29.10.2025	Advisory to file pending returns before expiry of three years
10	30.10.2025	Introduction of Import of Goods details in IMS


DGST PROFESSIONALS IN COLLABORATION WITH CAIT ROORKEE / ARBIVALE
"TOWARDS A NEW PROFESSIONAL JOURNEY- AND BEYOND"


WARDS A NEW PROFESSIONAL JOURNEY -AND BEYOND"
"Arbitration and Mediation" –
Conceptual Framework


EMPLOYEE'S COMPENSATION ACT, 1923
APPLICABILITY
Applies to-
All establishments covered under the Act — including