



PAKSH LEGAL

INNOVATE - DISCOVER - THRIVE

IMPORTANT JUDGMENTS

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CHIEF COMMISSIONER OF CENTRAL GOODS AND SERVICE TAX & ORS. VERSUS M/S. SAFARI RETREATS PRIVATE LIMITED & ORS.– (2025) 5 TMI 1684 (SC)

Supreme Court passed the following order:

“In the interest of justice, the defects raised by the Registry are waived.

Delay condoned.

We have gone through the review petition and perused the Judgment and Order dated 03 October 2024 which has been sought to be reviewed.

There is no error apparent on the record.

Review Petition is dismissed.”

Remarks:

The Supreme Court condoned the delay in filing the review petition. Upon examining the review petition and the original judgment dated 03.10.2024, the Court found no apparent error on the record and dismissed the review petition.

UNION OF INDIA & ANR. VERSUS M/S YASHO INDUSTRIES LTD – 2025 (5) TMI 1614 (SC)

Supreme Court passed the following order:

“UPON hearing the counsel the Court made the following.

Delay condoned.

In Special Leave Petition (C) Nos. 25437/2023 and 324/2024, the Assesseees have preferred the petitions before this Court which have been entertained. When the Revenue has preferred Special Leave Petition (C) D.No.508/2025, reliance has been placed on the fact that the Assesseees petitions have been entertained by this Court and therefore on that basis notices were issued in the case of Chief Commissioner of CGST and C.E. and Anr. Vs. M/s. Shiv Crackers.

Today, Shri Abhishek A Rastogi, learned counsel for the respondent/caveator has brought to our notice the fact that initially notices were issued by this Court in the Special Leave Petitions filed by the Assesseees. The respondent(s) ought not to have relied upon those cases for the purpose of seeking notice(s) in their Petitions also. In the circumstances, he submitted that there is no merit in this special leave petition. He also brought to our notice the fact of the Rule 96(10) of the CGST has been deleted in the year 2024.

We have heard learned counsel for the petitioner(s)/Department. The Department’s contention is that since similar matters are pending before this Court, this case also may be tagged with those cases.

As already noted, the aforesaid cases initially filed before this Court are of the Assesseees and not of the Department. In the circumstances, we find that the impugned order passed by the High Court in R/SCA No. 10504/2023 would not call for any interference. Hence, the Special Leave Petition is dismissed.

Pending application(s) shall stand disposed of.”

Remarks:

- The Gujarat High Court allowed taxpayers to use their Electronic Credit Ledger (ECL) balance for the mandatory 10% pre-deposit when filing GST appeals, not restricting them to cash payments.
- The Supreme Court dismissed the Revenue’s SLP, thereby upholding the Gujarat High Court’s decision on this issue.

THE STATE OF KARNATAKA & ANR. VERSUS K-9 ENTERPRISES– 2025 (5) TMI 1613 (SC)

Supreme Court passed the following order:

“UPON hearing the counsel the Court made the following.

- 1. There is a delay of 243 days in filing the Special Leave Petitions which has not been satisfactorily explained. Even otherwise, we have gone through the Special Leave Petition and do not find any merit in the same.*
- 2. The Special Leave Petitions are, therefore, dismissed on the ground of delay as well as on merits.*
- 3. Pending application(s), if any, stand disposed of.”*

Remarks:

- Karnataka High Court in the case of ***K-9-Enterprises, Kquality Metals, K-9-Industries Versus The State Of Karnataka, The Assistant Commissioner Of Commercial Taxes, Belagavi. - 2024 (10) TMI 491*** held that pre-decisional hearing should be granted.
- SLP Dismissed.

M/S. SRIBA NIRMAN COMPANY VERSUS THE COMMISSIONER (APPEALS), GUNTUR, CENTRAL TAX AND CUSTOMS & ORS. – 2025 (5) TMI 1274 (SC)

Supreme Court passed the following order:

“UPON hearing the counsel the Court made the following.

- 1. Exemption Application is allowed.*
- 2. Having heard the learned Senior counsel appearing for the petitioner and having gone through the materials on record, we see no good reason to interfere with the impugned order passed by the High Court of Andhra Pradesh at Amaravati.*
- 3. The Special Leave Petition is, accordingly, dismissed.*
- 4. Pending applications, if any, shall also stand disposed of.”*

The order of HC of Andhra Pradesh in the case of *M/s. Sriba Nirman Company Versus The Commissioner (Appeals), Guntur, Central Tax & Customs, Visakhapatnam., The Joint Commissioner of Cntral Tax, Visakhapatnam, The Joint Cirector, Directorate General of GST Intelligence, The Assistant Commissioner (ST), Aryapuram Circle., - 2025 (1) TMI 1518* is not interfered.

Relevant paras of the judgment:

“28.It must be held that non-filing of monthly returns and non-payment of GST along with such monthly returns, subject to the requirement of making out a case of fraud, wilful misstatement or suppression of fact, would be sufficient for invoking Section 74 of the CGST Act.

29. In the present case, there has been a failure, on the part of the petitioner, in filing the monthly returns and making payment of tax under the said monthly returns. This may not amount to fraud or misstatement. Explanation-2 to Section 74 states that suppression, for the purpose of the Act, would mean non-declaration of facts or information which is required to be declared in the returns, statement or report or any other document which needs to be furnished under the Act. To that extent, non-filing of the monthly return would amount to suppression of fact. However, the requirement under Section 74 is not fulfilled on mere suppression of fact. The said suppression of fact would have to be wilful suppression of facts.

30. The petitioner herein has neither filed the monthly returns nor made the necessary payments of tax. The defense of the petitioner is that his sole client, viz., M/s. Vijay Nirman Company had not paid its dues, due to which the petitioner could not remit the necessary taxes along with returns. The appellate authority held that the petitioner had been paid certain amounts by his main client M/s. Vijay Nirman Company and as such, there was no impediment for the petitioner to remit the necessary taxes. On this basis, the appellate authority held that there was wilful suppression and upheld the penalty. In such a situation it is difficult to accept the contention, of the petitioner, that there was no wilful intention to suppress facts or the turnover of the petitioner and the requirement to pay tax. The other penalties levied against the petitioner are natural corollaries of the above finding and do not require any further consideration.”

Remarks:

- The Supreme Court upheld the Andhra Pradesh High Court's view that willful non-filing of GST returns and non-payment of tax can amount to suppression of facts, thereby justifying invocation of Section 74 and imposition of penalties.
- The SC found no reason to interfere with the High Court's order and dismissed the Special Leave Petition, confirming that statutory non-compliance with intent to evade tax attracts penalties under Section 74.

Dismissal of SLP against judgment striking down Circular not allowing filing of ITC Refunds after 18.07.2022 qua goods notified w.e.f. 18.07.2022

ASSISTANT COMMISSIONER OF CENTRAL TAXES & ORS. VERSUS M/S. GEMINI EDIBLES AND FATS INDIA LIMITED & ANR. - 2025 (5) TMI 998 (SC)

Supreme Court passed the following order:

“UPON hearing the counsel, the Court made the following.

We are not inclined to interfere with the impugned judgment; hence, the present special leave petitions are dismissed.

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

The Hon’ble AP High Court in the case of *M/s. Priyanka Refineries Private Limited and Gemini Edibles And Fats India Limited Versus Deputy Commissioner St and Others, The Assistant Commissioner Of Central Taxes and Others. - 2025 (2) TMI 302* struck down Circular No. 181/13/22-GST, dated 10.11.2022 specifying that no refund application would be entertained after 18.07.2022 in respect of goods notified on 18.07.2022 for which refund is not be allowed u/s 54(3). It was held that refund applications in respect of accumulation of ITC upto 18.07.2022 can be filed even after 18.07.2022

M/S. TURBO MEGHA AIRWAYS PRIVATE LTD. VERSUS DEPUTY COMMISSIONER OF STATE TAX-III, & ORS. - 2025 (5) TMI 923 (SC)

Supreme Court passed the following order:

“UPON hearing the counsel the Court made the following.

- 1. The subject matter of challenge before the High Court was the legality, and validity of the Notification No.13/2022 dated 5-7-2022 & Notification Nos.9 and 56 of 2023 dated 31-3-2023 & 28-12-2023 respectively.*
- 2. However, in the present petition, we are concerned with Notification Nos.9 & 56/2023 dated 31-3-2023 and 28-12-2023 respectively.*
- 3. These Notifications have been issued in the purported exercise of power under Section 168(A) of the Central Goods and Services Tax Act, 2017 (for short, the “GST Act”).*
- 4. The issue that falls for the consideration of this Court is whether the time limit prescribed for adjudication of show cause notice and passing order under Section 73 of the GST Act and SGST Act (Telangana GST Act) for financial year 2019-2020 could have been extended by issuing the Notifications in question under Section 168-A of the GST Act.*
- 5. There are many other issues arising for consideration in these matter(s).*
- 6. Issue notice on the SLP as also on the prayer for interim relief.*
- 7. Tag with SLP (C) No.4240/2025.”*

Remarks:

- The Supreme Court is examining the legality and validity of Notifications No. 13/2022, 9/2023, and 56/2023, which extended the time limits for adjudicating show cause notices and passing orders under Section 73 of the CGST and Telangana GST Acts for FY 2019-20, by invoking powers under Section 168A.
- The core issue is whether the government can validly extend these statutory time limits through notifications under Section 168A, which allows extensions in cases where compliance is hindered by force majeure, and whether such notifications require GST Council recommendations.

Dismissal of SLP against judgment holding that negative blocking of Electronic Credit Ledger cannot be done

COMMISSIONER OF CENTRAL TAX AND GST DELHI NORTH & ORS. VERSUS RAGHAV AGARWAL– 2025 (5) TMI 844 (SC)

Supreme Court passed the following order:

“UPON hearing the counsel the Court made the following.

Delay condoned.

No case for interference is made out in exercise of our jurisdiction under Article 136 of the Constitution of India. The Special Leave Petitions are accordingly dismissed. However, other remedies of the petitioners for recovery in accordance with law are kept open.

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

Remarks:

- The Supreme Court upheld the decision of the Delhi High Court in the case of Best Crop Science Pvt. Ltd. and Ors. versus Principal Commissioner and Ors. Wherein it was held that Rule 86A of the CGST Rules only permits authorities to block input tax credit (ITC) up to the amount available in the taxpayer’s Electronic Credit Ledger (ECL) at the time of the order; blocking amounts beyond the available balance or creating a negative balance is not authorized.
- SLP dismissed, finding no reason to interfere with the High Court’s decision.

M/S GANPATI MOTORS VERSUS THE CHIEF COMMISSION, CENTRAL GST AND CENTRAL EXCISE & ORS.– 2025 (5) TMI 310 (SC)

Supreme Court passed the following order:

- “1. Leave granted.*
- 2. This appeal arises from the order passed by the High Court of Judicature at Patna dated 22.08.2024 in Civil Writ Jurisdiction Case No. 12294 of 2024 by which the High Court rejected the writ petition filed by the appellant herein on the ground that the appellant has an alternative efficacious remedy of filing an appeal before the Tribunal.*
- 3. Heard Mr.Rahul Pandey, the learned counsel appearing for the appellant and Mr.Chandrashekhar V. Bharathi, the learned counsel appearing for the revenue.*
- 4. We are of the view that we should remand the matter to the High Court for being considered afresh on its own merits.*
- 5. The appeal stands allowed. The impugned order passed by the High Court is set aside. The Civil Writ Jurisdiction Case No. 12294 of 2024 is ordered to be restored to the original file of the High Court. The High Court shall now hear this writ petition on its own merits in accordance with law.*
- 6. Pending application(s), if any, stands disposed of.”*

Remarks:

The Supreme Court set aside the High Court’s order in M/s Ganpati Motors Versus The Chief Commission and Ors. and directed the HC to reconsider the writ petition on its own merits without dismissing it solely based on availability of alternative remedy.

ETEMAD CARGO THROUGH ITS SURVIVING PARTNER UMESH CHANDRA MISHRA VERSUS ASSISTANT COMMISSIONER, WARD 206, ZONE 11, DELHI– 2025 (5) TMI 1682 (HC – DELHI)

- The SCN placement in the "Additional Notices" tab following the post-January 2024 portal update resulted in the petitioner's complete unawareness of the 2020 notice.
- The significant timeline gap between the SCN issuance in 2020 and the writ petition filed in 2025 highlighted the systemic issues with the GST portal's notice delivery mechanism.
- The Delhi High Court granted the petitioner a reply deadline of 10 July 2025 and mandated that a personal hearing must be conducted post-reply submission.

BOJJA UPENDRA VERSUS ASSISTANT COMMISSIONER ST NELLORE AND OTHERS– 2025 (5) TMI 1674 (HC – ANDHRA PRADESH)

- The assessment order in Form GST DRC-07, dated 01.10.2024, was set aside because it lacked both the signature of the assessing officer and the mandatory Document Identification Number (DIN), rendering it invalid as per established judicial precedents.
- The Supreme Court and subsequent Division Bench judgments have also clarified that an order issued without a DIN is invalid, in line with CBIC's circular dated 23.12.2019 mandating the inclusion of a DIN on all GST orders.
- The Court quashed both the assessment order and the consequential bank attachment, granting liberty to the tax authority to conduct a fresh assessment after due notice and with a properly signed and DIN-numbered order.

ANKUR AGARWAL VERSUS CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS & ANR.- 2025 (5) TMI 764 (HC-DELHI)

Relevant paras of the judgment:

“11. The entire issue is very small which can be resolved with the help of the GST Network. From what has been submitted, the above mentioned procedure which is prescribed by the GST Network does not seem to be working insofar as the Petitioner is concerned. The Petitioner has also raised a ticket bearing no. 2024032211843933 in respect of the same by way of email, but the same is yet to be resolved.

12. In such circumstances, the Petitioner is directed to approach the concerned Officer at the GSTN Office, Aerocity, New Delhi on 14th May 2025 at 11:30 a.m.

13. The official of the Petitioner may visit the GST office on the aforesaid date and time and the concerned GST officer in the said office shall render whatever assistance as may be needed to the Petitioner to upload the PMT-03 forms. The same shall be enabled within a period of one week.”

Remarks:

- An assessee from Uttarakhand, engaged in exports, filed a writ petition before the Delhi High Court against GSTN due to the inability to submit an undertaking online for re-credit of a rejected IGST refund.
- The Delhi High Court directed GSTN officials in New Delhi to provide in-person assistance to the Uttarakhand assessee for enabling the PMT-03 form submission, with compliance to be reported by July 10, 2025.

DJST TRADERS PRIVATE LIMITED VERSUS UNION OF INDIA & ORS.– 2025 (5) TMI 43 (HC-DELHI)

Relevant paras of the judgment order dated 22.04.2025:

“8. The Court has heard ld. Counsels for the parties for a substantial period today. A perusal of the above would show that various High Courts have taken a view and the matter is squarely now pending before the Supreme Court.

9. Apart from the challenge to the notifications itself, various counsels submit that even if the same are upheld, they would still pray for relief for the parties as the Petitioners have been unable to file replies due to several reasons and were unable to avail of personal hearings in most cases. In effect therefore in most cases the adjudication orders are passed ex-parte. Huge demands have been raised and even penalties have been imposed.

10. Broadly, there are six categories of cases which are pending before this Court. While the issue concerning the validity of the impugned notifications is presently under consideration before the Supreme Court, this Court is of the prima facie view that, depending upon the categories of petitions, orders can be passed affording an opportunity to the Petitioners to place their stand before the adjudicating authority. In some cases, proceedings including appellate remedies may be permitted to be pursued by the Petitioners, without delving into the question of the validity of the said notifications at this stage.

11. The said categories and proposed reliefs have been broadly put to the parties today. They may seek instructions and revert by tomorrow i.e., 23rd April, 2025.”

Remarks:

- The validity of notifications extending deadlines is pending before the Supreme Court, and High Courts have given differing opinions.
- Even if the notifications are upheld, petitioners request relief since many could not file replies or attend hearings, leading to ex-parte orders and heavy demands.
- The Court identified six case categories and is considering interim orders to allow petitioners to present their case or pursue appeals, without deciding the validity of the notifications at this stage.

Relevant paras of the judgment order dated 23.04.2025

“5. As observed by this Court in the order dated 22nd April, 2025, since the challenge to the above mentioned notifications is presently under consideration by the Supreme Court in S.L.P No 4240/2025 titled M/s HCC SEW-MEIL-AAG JV v. Assistant Commissioner of State Tax & Ors., the challenge made by the Petitioner to the impugned notification in the present proceeding shall also be subject to the outcome of the decision of the Supreme Court.

11. The reply filed by the Petitioner to the SCNs along with the submissions made by the Petitioner during the personal hearing proceedings shall be duly considered by the Adjudicating Authority and fresh orders with respect to the SCNs shall be passed accordingly.”

Remarks:

- The petitioners challenged the validity of multiple notifications that extended deadlines for issuing show cause notices and passing adjudication orders under GST, arguing that proper procedure and GST Council recommendations were not followed.
- The Court indicated that, depending on the category of each case, interim relief may be granted to allow petitioners to present their case or pursue appeals, without deciding the validity of the notifications at this stage.

M/S ARENA SUPERSTRUCTURES PRIVATE LIMITED VERSUS UNION OF INDIA AND 3 OTHERS– 2025 (5) TMI 40 (HC-ALLAHABAD)

Relevant paras of the judgment:

“4. Sri Rahul Agarwal, learned counsel appearing on behalf of the petitioner, to buttress his argument that once the Resolution Plan has been approved by the NCLT, the G.S.T. Department cannot create further dues by way of passing orders, has relied upon the following judgments, viz. (i) *Ghanshyam Mishra and Sons (P) Ltd. Vs. Edelweiss Asset Reconstruction Co. Ltd.*, reported in [SC] [2021] 126 Taxmann.com 132/166 SCL 237 (SC), (ii) *N.S. Papers Ltd. Vs. Union of India and Others* [Writ Tax No. 408 of 2021, decided on December 11, 2024], (iii) *Vaibhav Goyal & Another Vs. Deputy Commissioner of Income Tax & Another* [Civil Appeal No. 49 of 2022, decided on March 20, 2025] (SC) and (iv) *Committee of Creditors of Essar Steel India Ltd. Through Authorised Signatory Vs. Satish Kumar Gupta & Others* [2019] 16 S.C.R. 275].

7. In view of the above law laid down by the Supreme Court, we are of the view that the principle is crystal clear that once Resolution Plan has been approved by the NCLT, all other creditors are barred from raising their claims subsequently, as the same would disrupt the entire resolution process. The Supreme Court has categorically held the same as indicated above.

8. We accordingly find no reason to keep this matter pending and accordingly the impugned Assessment Order dated January 27, 2025 bearing Reference No: ZD090125310437L passed under Section 74 of CGST/UPGST Act, 2017 by the Superintendent [Respondent No.4] as well as the impugned Demand Notice issued in pursuance to the impugned Order dated January 27, 2025 passed under Section 74 of the CGST/UPGST Act, 2017 against the Petitioner relating to financial year 2017-2018, are quashed.”

Remarks:

- Once the Resolution Plan is approved by the NCLT, no further claims or dues can be raised by creditors, including the GST Department, for the period prior to approval.
- The Supreme Court and various High Courts have consistently held that allowing new claims after plan approval would undermine the insolvency resolution process.
- The Court quashed the assessment order and demand notice issued against the petitioner for the relevant financial year, setting aside all related proceedings.

INDIAN MEDICAL ASSOCIATION, KERALA VERSUS UNION OF INDIA– 2025 (4) TMI 872 (HC-KERALA)

- The core issue was whether the amendments to Sections 2(17)(e) and 7(1)(aa) of the CGST Act, 2017 and the Kerala GST Act, 2017, which sought to tax services rendered by a club/association to its members by treating them as "deemed supply" were constitutionally valid, especially in light of the principle of mutuality.
- The court reaffirmed the principle of mutuality, holding that a club or association and its members are not distinct persons for the purposes of GST.
- The court declared the amendments to the CGST and KGST Acts unconstitutional and void, as they sought to artificially create a "deemed supply" where the principle of mutuality should apply. The court relied on the Supreme Court's decision in Calcutta Club (2019), which upheld the survival of the mutuality principle even after the 46th Constitutional Amendment.



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