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Recent landmark judgments in GST law

Important Case laws

CCCGST & Ors vs M/s Safari Retreats Private Ltd.: Supreme Court

Relevant provisions covered in this judgement:

- Section 17(5)(c) reads as, “works contract services when supplied for construction of an immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service”.
- Section 17(5)(d) reads as, “goods or services or both received by a taxable person for construction of an immovable property (other than plant or machinery) on his own account including when such goods or services or both are used in the course or furtherance of business.”
- Further, as per explanation to chapter V and VI, "plant and machinery" means apparatus, equipment, and machinery fixed to earth by foundation or structural support that are used for making outward supply of goods or services or both and includes such foundation and structural supports.

Important Case laws

CCCGST & Ors vs M/s Safari Retreats Private Ltd.: Supreme Court

- Term ‘Plant or Machinery’ is different from ‘Plant and Machinery.’
- The court held that, this distinction was made consciously, as seen from the Model GST Law in 2016, and no corrections were made by the legislature over the years.
- However, the definition of Plant or Machinery is not given.
- Now whether to qualify the building as plant, it will be based on the functionality test. The expression “plant or machinery” has a different connotation. It can be either a plant or machinery.
- The court established that if a structure is essential to the business operations, it could be considered a “plant” and potentially qualify for input tax credit.
- This suggests that malls constructed for renting purposes may satisfy the functionality test and be eligible for ITC. However, Supreme Court did not make a final decision on the ITC issue, instead remanding the case back to the Orissa High Court.

Important Case laws

CCCGST & Ors vs M/s Safari Retreats Private Ltd.: Supreme Court

- Importantly, after this landmark ruling, vide Finance Act, 2025, this word “Plant or Machinery” is proposed to be amended to “Plant and Machinery” with retrospective effect.
- It is submitted that the phrase “on its own account” should be read down and given a purposive construction instead of a myopic one. The phrase should be deemed to mean when construction is done for personal use and not for services, i.e., credit should be denied only when goods and services are utilised for the construction of immovable property for his own purposes, like an office building or factory building.
- One review petition was also filed in the hon’ble SC, but the court ruled on 30th May 2025 that the original judgement passed by the court on 3rd October 2024 is correct and no correction is needed.

Important Case laws

Radhika Agarwal vs. UOI [2025-VIL-11-SC]: Supreme Court

The Hon'ble Supreme Court has made the following observations while upholding constitutional validity of arrest provisions under Section 104 of the Customs Act and Section 69 of the CGST Act.

- The Officers can arrest individuals without a warrant in cases where the tax evasion or fraudulent credit exceeds Rs. 5 crores (under GST) or Rs. 50 lakh (under Customs for prohibited goods).
- The arrest must be based on credible material and must comply with constitutional safeguards.
- Article 246A grants Parliament the authority to legislate on GST, including ancillary powers such as arrest and summons.
- The Officer must record 'reasons to believe' which must be based on credible material and these 'reasons to believe' must be informed to assessee [Followed in Varun Goyal: Gauhati HC].
- Sections 69 and 70 do not violate constitutional principles as it is within the doctrine of 'pith and substance.'
- Arrested individuals must be informed in writing about the grounds for their arrest.
- Courts should intervene only in cases of manifest arbitrariness, mala fide intent, or statutory non-compliance. Sufficiency of material or officer's subjective satisfaction not reviewable at investigation stage.

Important Case laws

Radhika Agarwal vs. UOI [2025-VIL-11-SC]: Supreme Court

- The arrested person has the right to meet an advocate during interrogation, though only within visual but not hearing distance.
- The Court endorsed CBIC Instruction No. 02/2022-23 (GST-Investigation) dated 17.08.2022, requiring justification for arrests beyond legal pre-requisites, such as the risk of tampering evidence or absconding.
- Arrests can proceed if credible material establishes a non-bailable offense under Section 132(1)(a) (d) of the CGST Act.
- No mandatory adjudication or assessment order is required before initiating arrest.
- A taxpayer can seek anticipatory bail based on a reasonable apprehension of arrest, even without an FIR.
- Tax recovery requires adjudication and cannot be forced during investigation.
- Section 79 of the CGST Act allows recovery only after a 3-month period from an adjudication order.
- Voluntary payments under Section 74(5) (fraud cases) are permissible but must not be coercive.

Important Case laws

Radhika Agarwal vs. UOI [2025-VIL-11-SC]: Supreme Court

- The decision reinforces the legal framework post **Om Prakash**, ensuring that arrest powers under special statutes are exercised judiciously, with accountability, and without undermining the rule of law.
- Arrests for cognizable, non-bailable offences do not require prior adjudication but must be based on credible material and recorded reasons [Article 21 & Article 22] re-affirming restrictions in CBIC Instructions dated 25.05.2022 & 17.08.2022.
- The Court's emphasis on procedural compliance such as informing grounds of arrest, maintaining records, and adhering to **D.K. Basu** guidelines addresses petitioners' concerns about misuse, particularly coercion for tax recovery.
- By limiting judicial review to statutory compliance and rejecting scrutiny of evidence sufficiency, the judgment balances individual rights with the state's need to combat economic offences effectively.
- The recognition of anticipatory bail & directive against coercive tax collection strengthens protections for taxpayers.

Important Case laws

Indian Medical Association Vs Union Of India [2025-VIL-338-KER]: Kerala High Court

- The case pertains to the levy and recovery of GST on services rendered by a club/association to its members, specifically by the Kerala State Branch of the Indian Medical Association (IMA). The amendments to Sections 2(17)(e) and 7(1)(aa) of the CGST and KGST Acts sought to classify such transactions as “deemed supply” and bring them under the GST net. However, under the principle of mutuality, a club and its members are considered the same entity, and there can be no supply of service to oneself.
- The Supreme Court in *Calcutta Club Ltd. v. Union of India (2019)* upheld that mutuality survives even post the 46th Constitutional Amendment, and the concept of supply or service inherently requires two distinct persons - which is absent in such cases. Since Article 246A of the Constitution uses the term “supply” without extending it to include deemed supply, and no constitutional amendment was made to redefine this term, the statutory amendments were held to be ultra vires.
- Furthermore, the retrospective application of these amendments was found to violate the Rule of Law, a basic feature of the Constitution. Clubs and associations were not in a position to collect GST from their members for past transactions, as they had no anticipation of such a levy.

Important Case laws

Indian Medical Association Vs Union Of India [2025-VIL-338-KER]: Kerala High Court

- The Hon'ble Court held the retrospective imposition of tax without adequate justification was arbitrary, unfair, and legally unsustainable. As a result, the amendments to the CGST and KGST Acts were declared unconstitutional and void, and their retrospective application was struck down as illegal.
- The judgment upholds the foundational principle of mutuality, reinforcing the view that a club or association and its members are not distinct persons for GST purposes. It also rightly struck down the retrospective application as unfair and unconstitutional, ensuring legislative actions remain within constitutional bounds.
- Applicable to cross charge?

Important Case laws

M/s Patanjali Ayurved Ltd. V/s Union Of India [Allahabad High Court-GST]

DGGI issued SCN to the Appellant and raised huge penalty u/s 122(1) alleging issuance of invoices without supply and availing fake ITC. The Appellant filed writ petition challenging the notice on two grounds as follows:

- a) Appellant submitted that the Section 122(1) can be enforced in case of criminal offences as the word used in the name of section is “Offences” and thereby the notices should be issued according to provision of CrPC. The court held that proceeding under Section 122 of the CGST Act is to be adjudicated by the adjudicating officer and is not required to undergo prosecution.
- b) Further, Appellant submitted that Section 122 can be invoked in cases where the demand is raised u/s 74 of CGST Act and cannot be invoked independently. The court held that both the sections are independent and the proceedings u/s 122 can be continued even in absence of demand under Section 74.

Important Case laws

M/s R.T. Infotech Vs Additional Commissioner Grade 2 [ALH High Court]: Whether the purchasing dealer (R.T. Infotech) can be denied Input Tax Credit (ITC) under Section 16(2)(c) of the CGST Act, 2017, due to non-deposit of tax by the seller (M/s Bharti Airtel Ltd.), despite the buyer having paid GST through banking channels against valid tax invoices?

The Hon'ble Allahabad High Court held that the buyer has no control over whether the seller files GST returns or deposits the collected tax. The buyer should not be penalized for the seller's fault. Authorities failed to reasonably consider the facts or take effective steps against the defaulting supplier. Order was quashed.

- Similar judgment was recently given by Gauhati High Court in the case of *Mcleod Russel India Limited vs. UOI*.
- This judgment follows the principles laid down in the judgments of *Arise India Limited* by Delhi High Court affirmed by Hon'ble Supreme Court in *Onquest Merchandising* given in context of Delhi VAT Act having similar provisions as Section 16(2)(c) of CGST Act.

Important Case laws

MS Dott Services Limited vs State of Telangana : Telangana High Court

- Central authorities issued DRC-07 on a matter on 31.10.2023 and not uploaded the same on GST portal. The matter is currently pending in this High Court.
- The Telangana State authorities issued that DRC-07 on the same matter on 30.12.2023.
- The State authorities contended that the no such information regarding the order of Central authorities was provided by the Appellant and the order was also not uploaded on portal.
- The Hon'ble court of Telangana mentions that, although the State authorities are not in fault being unaware of Order, as the proceedings have already been drawn and finalized on the same set of facts and issue, there cannot be subsequent proceedings drawn again.
- As per Section 6 of the CGST Act, the two grounds raised by the State Authorities would not be sustainable and the impugned order passed by State authorities stand quashed.

Important Case laws

M/s. Eicher Motors Limited vs The Superintendent Of GST: Madras High Court

- It was held by the High Court that the assessee is not liable to pay interest on the amount deposited in the ECL, within the due date of filing GSTR-3B, even where GSTR-3B is filed belatedly.
- On the same matter, proviso is added to rule 88B w.e.f. 10.07.2024 vide NN 12/2024. Proviso provided that interest will not be applicable on delayed filing of GSTR-3B if the amount debited from the cash ledger was available in the cash ledger from the due date of filing the return to the actual date of filing the return.
- It is important to note that the relief if interest liability is available if the payment is deposited in cash ledger on or before the due date of filing the GSTR-3B. If the payment is deposited after the due date and return is filed thereafter, then interest will be charged from the due date of return to the date of filing the return.

Important Case laws

M/s Cotton Corporation of India Vs. UOI [2025-VIL-124-AP]: AP High Court

- The last date for filing annual return for FY 2020-21 was 28.02.2022. Therefore, the last date to pass an order under Section 73 was 28.02.2025.
- It was held that when a period for certain action is defined in terms of months, it would mean that the corresponding date of the corresponding month would be the cutoff date. Therefore, the cutoff date for issuing an order was 28.02.2025 and the 3 months period for issuance of SCN was 28.11.2024 and SCN issued on 30.11.2024 was time barred.
- It is not known how many cases will be hit by such interpretation as huge number of SCNs were issued just before the due date or what was considered as the due date (i.e. 29.11.2024 and 30.11.2024). This judgement will apply for deadline of issuing notice u/s 73 for FY 2018-19, the last date of passing order is 30th April 2024 and notice is 30th Jan 2024 and not 31st Jan 2024.

Important Case laws

Lord Vishnu Construction Pvt. Ltd vs. Commr., SGST, Patna [2025-VIL-239-PAT]: Patna High Court

- The petitioner contested that the show-cause notice (SCN) was not properly served as it was placed under “Additional Notices and Orders” instead of the main “Notices and Orders” section on the GST portal.
- Held that while Section 169 of the CGST Act allows service of notices through the common portal, notices should be placed in an accessible manner. As the petitioner was unable to notice the SCN due to its placement, impugned order was set aside, and petitioner was granted an opportunity to respond to SCN before GST dept.
- The purpose of serving a notice is to ensure awareness, and GST dept. must ensure that notices are duly served. The court suggested that GST dept. should also send an email to taxpayers for better communication.
- Department needs to adopt best practices like email/SMS to avoid disputes regarding deemed service under Section 169. Principle reinforced that non-compliance due to inadequate service cannot be penalized.
- Favorable judgments on similar issue also passed by various other High Courts like Delhi HC (*Anhad Impex*) and Allahabad HC (*Ola Fleet Technologies Pvt. Ltd.*).

Important Case laws

CBIC vs. M/s Aberdare Technologies Private limited & ors.: Supreme Court

- The Supreme Court upheld the Bombay High Court's ruling that taxpayers should be allowed to rectify bonafide errors in GSTR-1 beyond the statutory deadline if no revenue loss occurs. The Court rejected CBIC's argument that post-deadline corrections would disrupt GST compliance, emphasizing that rigid timelines should not lead to denial of legitimate ITC.
- It held that tax laws should facilitate compliance rather than penalize human errors, as strict adherence to deadlines often results in double taxation. The petition was dismissed, reinforcing a taxpayer-friendly interpretation of GST provisions.
- This judgment was followed in the case of *Brij Systems* by Hon'ble Apex Court. It gives an important relief to taxpayers for rectification of GSTR 1 beyond prescribed timelines. It is on same lines as the landmark judgment of *Bharti Airtel* which allowed rectification of GSTR 3B for genuine reasons.
- As the Special Leave Petition filed by CBIC is summarily dismissed without giving a detailed order, this judgment will have limited precedential value for future judgments.

Important Case laws

M/s Empire Steel Holdings Vs. UOI : Madhya Pradesh High Court

- The Petitioner challenged the Order passed by Department regarding cancellation of GST registration of the Petitioner. The Department cancelled GST registration of the Petitioner since its premises were found locked during physical verification conducted by officers. The Department presumed the firm was bogus just because the registered office was locked.
- The Madhya Pradesh High Court held that no investigation was conducted by the Department to verify the genuineness of the transaction i.e. inward and outward supply of the Petitioner before issuance of SCN. It has been further held that the suppliers of the Petitioner were active and existed which reflects that the entire action of the Department is based on the presumption that the firm is bogus because the office/place of business was found locked. Accordingly, the Department Order was set aside.

It is a very important judgment for taxpayers as this type of action has been taken by GST department on mass scale for multiple taxpayers and usually entails cancellation of GSTIN of concerned party and subsequently, issuance of notices to suppliers and customers of concerned party as well. This judgment is a welcome relief against such actions of GST department.

Important Case laws

M/s Asiatic Drugs & Pharmaceuticals Private Limited versus Commissioner, CGST [2025-VIL-748-CESTAT Delhi – Central Excise]

- The Appellant imported goods under Advance Authorization before 01.07.2017 and paid Countervailing Duty (CVD) and Special Additional Duty (SAD) after 01.07.2017 (post-GST). Due to partial non-fulfilment of export obligations, the appellant voluntarily paid applicable customs duties (including CVD and SAD) after GST was implemented. A refund claim for Rs. 68,06,074/- (CENVAT credit of CVD and SAD) was filed under Section 142(3) of the CGST Act, 2017.
- The Hon'ble CESTAT, Delhi observed that Section 142(3) allows refund of duties paid under the pre-GST regime, even if paid after July 1, 2017. The department's contention was rejected that refund should be barred for duty paid post-GST. Accordingly, it has been held that refund of CENVAT credit of CVD and SAD paid post July 1, 2017 is allowed in cash under Section 142(3) of the CGST Act, provided such credit was admissible under the old law.

Taxpayers who paid CVD/SAD or similar duties after July 01, 2017, for imports or obligations arising under pre-GST licenses (e.g. Advance Authorisation), can claim refund under Section 142(3) of the CGST Act. Such judgment would be useful for exporters and importers affected by late fulfilment of Advance Authorisation conditions.

Important Case laws

Mineral Area Development Authority v/s. Steel Authority of India: Supreme Court

- The court clarified that royalty is a contractual consideration paid by the lessee (mining operators) to the lessor (Central Government) for enjoyment of mineral rights. It arises out of a contractual obligation in the mining lease. Therefore, royalty is not a tax but a contractual payment for mineral extraction.
- Earlier confusion caused by India Cement Ltd. v. State of Tamil Nadu (1990), which held royalty as a tax, was overruled.

Commissioner of Central Tax & GST v/s. Raghav Agarwal : Supreme Court

- High Court ruled that the power under Rule 86A to block ITC can only be exercised with respect to the amount actually available in the ECL at the time of such order. Blocking of credit beyond available balance, creating negative balance, is held impermissible.
- Revenue's broader interpretation of blocking ITC beyond ITC balance available in ledger is rejected as inconsistent.

Important Case laws

Suncraft Energy Private Limited and Another v/s. The Assistant Commissioner: Calcutta High Court

- The Hon'ble High Court of Calcutta held that ITC cannot be denied to the buyer solely because the supplier had not reported the transaction in GSTR-1, and it was not reflected in GSTR-2A.
- The reversal of Input Tax Credit (ITC) under Section 16(2) of the WBGST Act, 2017 was held to be unjustified. The appellant had fulfilled all statutory conditions — possession of a valid tax invoice, receipt of goods/services, and payment made to the supplier.
- Similar cases on this issue ruled the same, i.e., Laxmi Traders V/s AC of State Tax (Calcutta high court) dated 22.11.2023 and DY BeatheI Enterprises v/s the STO (Madras high court) dated 24.02.2021

Kavin HP GAS Gramin Vitrak v/s. Commissioner of Commercial Taxes: Madras High Court

- Petitioner filed GSTR-3B belatedly, after the due date prescribed under section 16(4) due to financial crunch and availed the input tax credit and therefore, the proceeding for recovery of ITC is initiated by the respondent.
- As GSTR-2 Form is not available, then electronic filing is not possible, and the petitioner has filed physical return, and all tax liability is paid and there is no loss of revenue to the department.
- The Hon'ble High Court of Madras acknowledged the practical difficulty and ruled that, until the GSTN allows full online filing, dealers should be allowed to file manual returns and availment of ITC on belated returns.

Important Case laws

Rejimon Padickapparambil Alex v/s. Union of India: Kerala High Court

- The petitioner availed CGST and SGST credit instead of IGST credit. There was no outward supply of IGST head.
- The court held that as this wrong head availment is a technical error and as there is no outward supply of IGST, thus there is no loss to revenue.
- The court considered that there is not excess ITC availment and thus the proceedings u/s 73 cannot be initiated.

Mcleod Russel India Limited v/s. Union of India & others: Gauhati High Court

- The petitioner challenged the validity of section 16(2)(c) and 16(2)(aa) of CGST Act.
- The Hon'ble High Court of Gauhati held the following:
 - ✓ For validity of Section 16(2)(c), court relied on Delhi HC ruling and held that ITC cannot be denied solely because the supplier failed to pay GST. Department must recover tax from the seller in absence of the collusion.
 - ✓ For validity of Section 16(2)(aa), court admitted the appeal and granted hearing.

THANK YOU

See You Next Time



+91 9717587750
+91 8077648656



mohit.gupta@aniveshgroup.com
ayush.agarwal@aniveshgroup.com



aniveshgroup.com
anivesh.in



C-2465, Basement, Opposite Peach Tree
Gate no. 1, Sushant Lok 1, Sector 43,
Gurgaon 122002.



Anivesh
Legal Consultants

