TATTVAM

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Legal Zine

A digest of important judgments and rulings

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JUDICIAL PRONOUNCEMENTS

SUPREME COURT AND HIGH COURT

a) Tax invoice issued during suspension of supplier's registration and absence of e-way bill cannot be treated as valid documents — detention of goods upheld.

[M/s Shri Baba Traders v. State of U.P. and Others, 2026(2) TMI 598 – Allahabad High Court]

Facts:

- The Petitioner, a registered dealer in Jharkhand dealing in iron bars and angles, purchased goods from M/s S.S. Enterprises, Haryana.
- The goods were intercepted during transit on 03.12.2025 on the ground that no e-way bill accompanied the goods.
- The department issued MOV-01, MOV-04 and MOV-06, followed by a show cause notice in MOV-07 proposing penalty under Section 129(1)(b) of the GST Act.
- The Petitioner contended that being the owner/recipient of the goods, the goods should have been released under Section 129(1)(a) in terms of Circular dated 31.12.2018.
- The department argued that the supplier's GST registration had already been suspended on 21.11.2025, yet a tax invoice was issued on 03.12.2025, and no e-way bill was generated for the movement of goods.

Held:

- The Hon'ble Allahabad High Court held that Rule 21A(3) of the GST Rules prohibits a person whose registration is suspended from issuing tax invoices or making taxable supplies.
- Since the supplier's registration was suspended at the time of issuing the tax invoice, the invoice could not be treated as a valid tax invoice or specified document under the GST law.

- The Court observed that no e-way bill was generated before movement of goods, which is mandatory under Rule 138(3).
- In the absence of prescribed documents accompanying the goods, the petitioner could not claim to be the owner for the purpose of release under Section 129(1)(a).
- Accordingly, the Court refused to interfere with the detention and penalty orders, and the writ petitions were dismissed.

TATTVAM COMMENTS:

- The judgment clarifies that tax invoices issued during suspension of GST registration have no legal validity.
- It reinforces that generation of e-way bill is mandatory for movement of goods and failure can justify detention under Section 129.
- The ruling highlights that administrative circulars cannot override statutory requirements where prescribed documents are absent.
- The decision distinguishes earlier cases where valid tax invoices and e-way bills existed at the time of movement of goods.
- It emphasizes strict compliance with documentation requirements during transit of goods under GST law.

b) Refund of tax paid twice under mistake cannot be denied merely on limitation under Section 54 — retention of excess tax violates Article 265.

[Rajendra Narayan Mohanty v. Joint Commissioner of State Tax, 2026 (2) TMI 1101 - ORISSA HIGH COURT]

Facts:

- The Petitioner had discharged GST liability for **FY 2019–20** by utilizing the **Credit Ledger through DRC-03 on 08.02.2021** while filing the annual return.

- Subsequently, due to mistaken advice, the Petitioner again deposited the same tax amount through Cash Ledger via DRC-03 on 18.09.2022, resulting in double payment of ₹12,03,290 (CGST ₹6,01,645 + OGST ₹6,01,645).
- The proceedings initiated earlier under Section 74 were later dropped by the department on 08.11.2024, accepting that the tax liability had already been discharged.
- After discovering the double payment, the Petitioner filed a refund application in Form RFD-01 on 23.08.2025 for the excess amount.
- The department rejected the refund application vide RFD-06 dated 22.10.2025, stating that the claim was filed beyond the limitation period prescribed under Section 54 of the GST Act.

Held:

- The Hon'ble **Orissa High Court** held that **retaining tax paid in excess of actual liability is contrary to Article 265 of the Constitution of India**, which prohibits collection or retention of tax without authority of law.
- The Court noted that the department itself accepted that the petitioner had deposited the tax twice, once through the Credit Ledger and again through the Cash Ledger.
- It was held that Section 54 limitation cannot defeat the constitutional mandate under Article 265, where the tax was deposited under mistake and was not legally payable.
- The Court relied on various precedents holding that amounts paid under mistake of law must be refunded and cannot be retained by the State.
- Accordingly, the rejection order was set aside and the writ petition was allowed, directing refund of the excess tax paid.

TATTVAM COMMENTS:

- The judgment reinforces that tax authorities cannot retain amounts paid in excess of legal liability, as it violates Article 265 of the Constitution.
- It clarifies that refund claims for amounts paid under mistake may not be strictly restricted by the limitation under Section 54.
- The ruling highlights the distinction between statutory refund claims and restitution of money collected without authority of law.
- It provides relief in cases where taxpayers inadvertently make double payments through credit and cash ledgers.
- The decision strengthens the principle that constitutional safeguards override procedural limitations in genuine refund cases.

c) Passing of a non-speaking adjudication order without consideration of reply and without granting opportunity of personal hearing violates principles of natural justice and cannot be sustained.

[M/s Ramnayan Yadav Contractor v. Union of India, 2026 (2) TMI 392 – Allahabad High Court]

Facts:

- The Petitioner was issued a Show Cause Notice dated 05.08.2024 under Section 74 of the CGST Act alleging short payment of GST, excess availment of ITC and wrong availment of ITC along with interest and penalty.
- The Petitioner disputed the allegations and filed a detailed reply to the Show Cause Notice on 19.08.2025, which was duly uploaded on the GST portal and acknowledgement of the same was available on record. Thereafter, the Adjudicating Authority passed the Order dated 18.12.2025 confirming the demand under Section 74 of the CGST Act, along with interest and penalty.
- The Petitioner challenged the said order before the High Court contending that no effective opportunity of personal hearing was granted after submission of the reply, and the adjudication order was passed without considering the submissions made in the reply.

- The Respondent contended that reminders were sent to the noticee fixing date 17.12.2024, 23.12.2024 and 06.01.2025 for personal hearing.
- Accordingly, aggrieved by the Order, the Petitioner filed a writ petition challenging the order passed by the Appellate Authority on the ground that no personal hearing was granted.

Held:

- The Hon'ble Allahabad High Court observed that the reply to the show cause notice was filed on 19.08.2025, whereas the dates mentioned for personal hearing in the impugned order were 17.12.2024, 23.12.2024 and 06.01.2025, which were prior to the filing of the written reply.
- The Court held that once a reply is filed to the show cause notice, the opportunity of personal hearing must ordinarily be granted thereafter, so that the assessee may explain the submissions made in the reply. In the present case, there was no indication that any hearing was granted after the reply dated 19.08.2025, thereby resulting in violation of principles of natural justice.
- The Court further observed that the impugned order merely reproduced the contents of the show cause notice and the reply of the petitioner, and under the heading "Discussion and Findings" the Adjudicating Authority recorded only a generic conclusion that the submissions of the noticee were not appropriate and that the demand was sustainable.
- It was held that the Adjudicating Authority failed to examine the reply or assign any reasons for rejecting the contentions raised by the petitioner, thereby demonstrating a clear lack of application of mind.
- In view of the above, the Court set aside the impugned order dated 18.12.2025 and remanded the matter to the Adjudicating Authority to pass a fresh reasoned order after granting due opportunity of personal hearing to the petitioner.

TATTVAM COMMENTS:

- The judgment reiterates that GST adjudication orders must be reasoned and cannot be passed in a mechanical manner merely reproducing the show cause notice and reply.
- The ruling emphasizes that opportunity of personal hearing should ordinarily be granted after the written reply is filed, failing which the adjudication would suffer from violation of principles of natural justice.

d) Supply of mud engineering services along with supply of drilling chemicals and additives under a single contract for oil well drilling constitutes a "composite supply" under Section 2(30) of the CGST Act.

[Halliburton Offshore Services v. Union of India, 2026 (2) TMI 659- Andhra Pradesh High Court]

Facts:

- The Petitioner, a company registered outside India, had established a project office in Mumbai and another office in East Godavari District, Andhra Pradesh, and was engaged in providing oil field related services, including mud engineering services, drilling waste management services, fluid management services and operation of mud plants.
- The Petitioner was awarded a contract by M/s. Oil India Limited for providing mud engineering and related services in the Krishna-Godavari (KG) Basin project in Andhra Pradesh. The contract was awarded vide Letter of Award dated 30.03.2014 and a formal agreement was executed on 08.09.2014.
- Under the contract, the Petitioner was required to provide mud engineering services along with supply of drilling fluids, chemicals, additives and other consumables necessary for drilling operations. The chemicals and additives were supplied on consumption basis during drilling activities.
- Due to ambiguity regarding the classification and GST rate applicable to the contract, the Petitioner approached the Authority for Advance Ruling (AAR) seeking clarification on whether the supply of mud engineering services along with supply of mud chemicals and additives constituted a composite supply.

- The AAR, by order dated 13.05.2020, held that the supply of mud engineering services and supply of chemicals/additives were separate supplies and did not constitute a composite supply under Section 2(30) of the CGST Act.
- The Petitioner filed an appeal before the Appellate Authority for Advance Ruling (AAAR), which by order dated 09.11.2020, affirmed the findings of the AAR. The AAAR held that the supplies were not naturally bundled, as separate invoices were raised and the goods and services were capable of being supplied independently.
- Aggrieved by the orders of the AAR and AAAR, the Petitioner filed the writ petition before the Andhra Pradesh High Court, challenging the finding that the supplies were not composite supply.

Held:

- he Hon'ble Andhra Pradesh High Court examined the definition of **"composite supply" under Section 2(30) of the CGST Act**, which requires that two or more supplies must be **naturally bundled and supplied in conjunction with each other in the ordinary course of business**, with one being the principal supply.
- The Court observed that under the contract with Oil India Limited, the Petitioner was required to monitor drilling operations and determine the composition and quantity of drilling fluids and chemicals required to maintain safe and efficient drilling conditions.
- It was held that the supply of mud engineering services cannot be separated from the supply of drilling chemicals and additives, since the chemicals are used as part of the technical process of maintaining borehole stability and ensuring safe drilling operations.
- The Court further observed that the chemicals supplied were not standard off-the-shelf goods but were compounds specifically prepared for the particular drilling conditions, and their supply was integrally connected with the provision of mud engineering services.

- The Court held that the fact that separate invoices were raised for goods and services does not alter the nature of the transaction, where both supplies are necessary for execution of the contract and are intrinsically linked.
- Accordingly, the Court concluded that the supply of mud engineering services along with supply of chemicals and additives constituted a composite supply under Section 2(30) of the CGST Act.
- Consequently, the Court set aside the orders of the AAR dated 13.05.2020 and the AAAR dated 09.11.2020, while leaving the issue of determination of the applicable GST rate open for consideration by the appropriate authority.

TATTVAM COMMENTS:

- The ruling clarifies that **the determination of composite supply must be based on the true nature of the contract and the commercial reality of the transaction**, rather than merely on billing patterns or invoicing arrangements.
- The decision is particularly relevant for **oil and gas sector contracts and other technical service contracts**, where supply of consumables and technical services often occur together as part of a single operational arrangement.

e) Where a resolution plan is approved by NCLT after the Department has filed its claims during the Corporate Insolvency Resolution Process (CIRP), all pre-CIRP period liabilities stand extinguished, and the new management cannot be burdened with any prior tax dues, interest, or recovery proceedings.

[Era Infra Engineering Ltd. v. Joint Commissioner CGST Delhi South Commissionerate, [2025] 181 taxmann.com 698 (Delhi)]

Facts:

- The Petitioner, a construction company, underwent insolvency proceedings before the NCLT, Delhi, starting in 2017 due to financial difficulties.

- During the insolvency process, the GST Department filed its claims (totaling Rs. 4,02,30,448/-) before the Resolution Professional (RP). These claims were later crystallized to Rs. 1,94,26,381/-.
- The GST registration of the Petitioner was cancelled on 22nd July 2020.
- A resolution plan submitted by M/s S. A. Infrastructure Consultants Private Limited was approved by the NCLT, Delhi, on 11th June 2024, and the new management took over the company.
- Subsequently, the Department issued impugned orders on 14th November 2024 and 25th November 2024, demanding huge sums (ranging from Rs. 8 Crore to Rs. 9.9 Crore) along with interest for the Financial Years 2017-18, 2018-19, and 2019-20.
- The Petitioner challenged these demands, arguing that they pertained to the period prior to the approval of the resolution plan and that the Department's claims were already part of the resolution process.

Held:

- The Hon'ble Delhi High Court, relying on the Supreme Court's judgment in *Ghanashyam Mishra & Sons (P.) Ltd. v. Edelweiss Asset Reconstruction Co. Ltd.*, observed that once a resolution plan is duly approved by the NCLT under Section 31 of the IBC, all claims that are not part of the resolution plan stand extinguished. No person is entitled to initiate or continue any proceedings in respect of a claim not forming part of the plan.
- The Court also referred to *Sundaresh Bhatt, Liquidator of ABG Shipyard v. CBDT and Customs*, which held that while tax authorities can assess the quantum of dues, they cannot execute or recover claims beyond the ambit of the IBC, especially when a moratorium is in effect or a plan is approved.
- The Court held that no demand can be raised after the resolution plan has been approved for a period prior to such approval.
- It was emphasized that the GST Department, having already participated in the insolvency proceedings and filed its claims, could not raise further

demands. Allowing such demands would defeat the finality of the insolvency proceedings.

- The Court further noted that the new management cannot be saddled with any additional demands pertaining to the previous period.
- Accordingly, the impugned orders-in-original dated 14th November 2024 and 25th November 2024, along with the consequential demands, were set aside.

TATTVAM COMMENTS:

- This judgment reinforces the "clean slate" principle under the IBC, affirming that an approved resolution plan is binding on all stakeholders, including government departments.
- Tax authorities must file all their claims during the CIRP; they cannot issue fresh demands for periods prior to the NCLT's approval of the plan after the process is concluded.
- The ruling protects resolution applicants (new management) from being pursued for hidden or crystallized liabilities of the corporate debtor that were not part of the approved plan, ensuring the viability of the resolution process.

f) A Circular issued by the Board assigning functions to proper officers is presumed to be validly made, and the burden lies on the petitioner to prove it was issued without authority. Where the Commissioner is part of the Board, the issuance of such circulars under Section 168(2) is deemed to be with the approval of the Board, and summons issued pursuant thereto cannot be quashed.

[Lovelesh Singhal v. Central Board of Indirect Taxes & Customs, [2026] 183 taxmann.com 493 (Delhi)]

Facts:

- The Petitioner was served with a summon dated 03.11.2025 under Section 70 of the CGST Act by Respondent No. 3 (Superintendent/Appraiser/Senior

Intelligence Officer) in connection with an inquiry relating to M/s Midas Marketing Inc.

- The summon was issued based on Circular No. 3/3/2017-GST dated 05.07.2017, issued by the CBIC, which assigned duties to officers mentioned therein to function as "proper officers" in relation to various sections of the CGST Act.

- The Petitioner challenged the circular itself, contending that the Board was not empowered to assign duties to proper officers. It was argued that such powers exclusively vest in the "Commissioner in the Board" as defined under Section 2(25) of the CGST Act, and therefore the circular was without authority of law.

- The Petitioner also contended that the summon was served on 11.11.2025, after the scheduled date of appearance (10.11.2025), and sought rescheduling of the date.

Held:

- The Hon'ble Delhi High Court observed that under Section 168(1), the Board has the power to issue orders, instructions, or directions for uniformity in implementation of the Act. Sub-section (2) of Section 168 contemplates that assignment of functions to Central Tax Officers is upon a proposal of the "Commissioner in the Board."

- The Court noted that it is not in dispute that the Commissioner is also a part of the Board. Once the Commissioner is part of the Board, there is no reason to disbelieve that the circular was issued under the authority of the Commissioner and approved by the Board as required under Section 168(2).

- Relying on State of Tamil Nadu v. P. Krishnamurthy, the Court held that there is a presumption of validity in favour of subordinate legislation/circulars, and the burden is on the petitioner to prove that the circular was issued without authority or legal approval. The petitioner failed to discharge this burden.

- The Court further relied on G.M. (Operations), SBI v. R. Periyasamy and Ram Krishna Dalmia v. S.R. Tendolkar to reiterate the principle that all things are presumed to be done in due form (omnia praesumuntur rite esse acta).

- The Court found no merit in the challenge to the circular and declined to interfere with its validity.

- However, considering the service of summon after the scheduled date, the Court permitted the petitioner to appear before the competent officer on 23rd March 2026.

TATTVAM COMMENTS:

- This judgment clarifies that circulars issued by the CBIC assigning functions to proper officers are statutorily valid and enjoy a presumption of regularity. Taxpayers cannot challenge such circulars merely on the ground that the word "Board" is used, without proving that the mandatory procedure under Section 168(2) was not followed.

- The ruling reinforces that the "Commissioner in the Board" is an integral part of the Board, and functions assigned by circulars are deemed to have been routed through the Commissioner and approved by the Board.

- Assessees must comply with summons issued under Section 70 by officers authorized under such circulars; failure to do so may invite adverse proceedings. The proper recourse is to appear and contest the matter on merits, rather than challenging the circular collaterally.

g) Refund under inverted duty structure allowable even where principal input and output attract same tax rate; Circular restricting refund held inapplicable.

[M/s South Indian Oil Corporation v. Assistant Commissioner of Central Tax & Ors., TS-1072-HC(KAR)-2025-GST]

Facts:

- The petitioner is engaged in the business of procuring edible oils (such as sunflower oil, rice bran oil, cottonseed oil, palm oil) in bulk and packing them into containers of 250 ml, 500 ml, 1 litre, and 5 litres for sale in B2B and B2C segments.

- Both the inputs (bulk oil) and the output supplies (packed oil) attract GST at the rate of 5%.

- However, the petitioner also uses various other inputs (such as printing and stationery, repair and maintenance materials, etc.) which attract GST at higher rates of 12%, 18%, or 28%.

- Due to this, the petitioner accumulated unutilised Input Tax Credit (ITC) and filed refund applications under Section 54(3)(ii) of the CGST Act, 2017, claiming refund on account of inverted duty structure.

- The Revenue issued show cause notices and rejected the refund claims, relying on Circular No. 135/05/2020-GST dated 31.03.2020, which contained a clarification that refund of accumulated ITC under Section 54(3)(ii) would not be applicable in cases where the input and output supplies are the same.

- The appeals filed by the petitioner were also dismissed by the Appellate Authority. Aggrieved, the petitioner approached the Hon'ble Karnataka High Court.

Held:

- The Hon'ble Karnataka High Court, relying on its earlier decision in Indian Oil Corporation Ltd. v. Assistant Commissioner of Central Tax (W.P. No. 14414 of 2024 decided on 20.08.2024), allowed the petition and set aside the impugned orders.

- The Court held that Section 54(3)(ii) of the CGST Act does not proscribe or forbid the grant of refund where the input and the output are the same. The provision only requires that credit has accumulated on account of the rate of tax on inputs being higher than the rate of tax on output supplies.

- The Court observed that Clause (ii) of the proviso to Section 54(3) does not contemplate comparing the rate of tax on the principal input with the rate of tax chargeable on the principal output supply. There is no scope to further confine the refund of unutilised ITC only to cases where the rate on the main input is higher than the rate on the principal output.

- The use of the word "inputs" (plural) in the provision clearly indicates that refund is not confined to ITC accumulated on a singular input. Where there are multiple inputs attracting different rates of tax, the expression "Net ITC" under Rule 89(5) covers ITC availed on all inputs in the relevant period, irrespective of their rate of tax.

- The Court held that Circular No. 135/05/2020-GST has no application in the present case. The said Circular addresses situations where ITC accumulates on account of different rates being applicable at different points in time (i.e., due to reduction in GST rates), and not where inversion exists at the same point in time due to multiple inputs with varying tax rates.

- The Court further noted that the restrictive portion of Para 3.2 of Circular No. 135/05/2020 was deleted vide Circular No. 173/05/2022-GST dated 06.07.2022. Being beneficial and clarificatory in nature, the amended circular operates retrospectively and is binding on the Department.

- The Court also directed the Revenue to pay interest under Section 56 of the CGST Act from the expiry of 60 days from the date of receipt of the refund application.

- Accordingly, the impugned orders were quashed, and the respondents were directed to refund the amount claimed by the petitioner along with applicable interest within three months.

TATTVAM COMMENTS:

- This judgment provides significant relief to taxpayers engaged in businesses where multiple inputs attract varying tax rates, even if the principal input and output are classified under the same heading and attract the same tax rate.
- It reaffirms that the inverted duty structure refund under Section 54(3)(ii) is not limited to cases where the principal input has a higher tax rate than the principal output; the accumulation of ITC on *any* inputs with higher tax rates entitles the taxpayer to refund.
- The ruling also clarifies that restrictive circulars cannot override the plain language of the statute, and any clarification that narrows down the statutory benefit must be disregarded if it is ultra vires the Act.
- The judgment aligns with the consistent view taken by various High Courts (Delhi, Calcutta, Gauhati, Kerala, Rajasthan, Madras) on the interpretation of Section 54(3)(ii) and the inapplicability of Circular No. 135/05/2020 in such cases.
- Taxpayers who were denied refund on the ground that input and output are the same can rely on this precedent to re-file claims or challenge rejections and also claim interest on delayed refunds.

h) Affiliation fees collected by university from affiliated colleges is amenable to GST; not covered under exemption for services relating to admission or conduct of examinations.

[Bharathidasan University Vs. The Joint Commissioner of GST (ST-Intelligence) & Anr., 2026-VIL-181-MAD]

Facts:

- The petitioner received show cause notices under Section 74(5) of the TNGST Act, 2017, for various periods (2019-20 to 2022-23) proposing to levy GST on affiliation fees collected by the University from colleges affiliated to it.

- The respondent Department contended that affiliation fees are not exempt from GST, as they are not services provided to students in connection with admission or conduct of examinations.

- The petitioner University contended that affiliation fees are collected for services provided to educational institutions, which admit students and conduct examinations for courses recognized under law. Therefore, such fees should be exempt under Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017.

- When the writ petitions came up before the learned Single Judge, it was noticed that there was a cleavage of opinion between two Hon'ble Judges of the Madras High Court on this issue:

- **Madurai Kamaraj University (2021-VIL-639-MAD-ST):** Held that affiliation fees are exempt, as a purposive interpretation should be adopted and the university granting affiliation is also an educational institution.

- **Manonmaniam Sundaranar University (2024-VIL-1575-MAD):** Held that affiliation fees are not exempt, taking a strict interpretation of the exemption notification.

- Accordingly, the matter was referred to a Division Bench to authoritatively answer: "Whether affiliation charges collected by a university from the affiliating Institution is amenable to levy of GST?"

Held:

- The Division Bench of the Madras High Court answered the reference by holding that affiliation fees collected by a University from affiliated colleges is amenable to levy of GST and is not covered under the exemption notification.

- The Court examined Notification No. 12/2017-CT (Rate), which exempts services provided by an educational institution to its students, faculty, and staff, and also services provided to an educational institution by way of, inter alia, "services relating to admission to, or conduct of examination by, such institution" [Entry 66(b)(iv)].

- The Court held that the exemption is restricted to services relating to admission of students and conduct of examinations. The affiliation process is independent of and prior to these activities. Affiliation is a pre-requisite for a college to admit students, but it is not a service relating to the actual act of admission or examination.

- The Court relied on Circular No. 234/28/2024-GST dated 11.10.2024, issued pursuant to the 54th GST Council Meeting, which clarified that the activity of affiliation by educational boards or councils is not a service related to admission of students or conduct of examinations, and hence is liable to GST. The Court noted that the earlier judgment in Madurai Kamaraj University did not have the benefit of considering this circular.

- The Court held that a strict interpretation must be applied to exemption notifications in taxing statutes. An extended meaning cannot be given to the expression "services relating to admission or conduct of examination" to cover affiliation fees.

- It was found the reasoning in the Pondicherry University and Manonmaniam Sundaranar University judgments to declare the correct legal position and disagreed with the purposive interpretation adopted in Madurai Kamaraj University.

- The Court also distinguished the Bombay High Court's decision in Goa University (2025-VII-358-BOM), which had taken a contrary view, by noting that the circular dated 11.10.2024 was not apparently considered in that judgment in the same manner.

- Accordingly, the order of reference was answered in favor of the Revenue, holding that affiliation fees are taxable. The matter was remitted back to the learned Single Judge to decide the case on other grounds, if any.

TATTVAM COMMENTS:

- This Division Bench judgment from the Madras High Court provides clarity on a long-standing contentious issue regarding the taxability of affiliation fees under GST.
- It firmly establishes that the exemption under Entry 66(b)(iv) of Notification No. 12/2017 is narrowly confined to services directly linked to the acts of admission and examination. Upstream activities like granting affiliation, which enable an institution to exist and function, fall outside the scope of the exemption.
- The ruling underscores the principle that exemption notifications in tax laws must be construed strictly. A purposive or liberal interpretation cannot be adopted to expand the scope of an exemption beyond its plain language.
- However, given the existence of multiple conflicting judicial pronouncements on this issue, the legal position remains unsettled pending further authoritative determination by a higher forum.

i) Salary Paid to Foreign National Employees not Liable to GST – Employer-Employee Relationship Covered under Schedule III.

[Huawei Technologies India (P.) Ltd. v. State of Karnataka, 2026 183 taxmann.com 531 (Karnataka)]

Facts:

- The Petitioner, Huawei Technologies India (P.) Ltd., is part of the global Huawei Group headquartered in China and is engaged in providing software development services and IT enabled services to group entities in India and abroad.
- The Petitioner employed certain foreign nationals for fixed-term assignments in India based on employment contracts executed directly between the Petitioner and the employees.
- These foreign nationals:

- ✓ Worked under the control and supervision of the Petitioner.
- ✓ Were **on the payroll of the Petitioner.**
- ✓ Received **salary, bonus, allowances, and other benefits** in Indian bank accounts.
- ✓ Were subject to **TDS under the Income-tax Act** and filed income tax returns in India.
- ✓ Were treated **at par with Indian employees** in terms of service conditions and benefits.

- The Department issued a Show Cause Notice dated 23.12.2023 proposing to demand IGST of ₹85.51 crore under RCM on the remuneration paid to these employees, alleging that the Petitioner had imported "Manpower Recruitment and Supply Services" from foreign nationals treated as non-resident taxable persons.

- Aggrieved, the Petitioner filed a writ petition before the Karnataka High Court.

Held:

- The Hon'ble Karnataka High Court held that a direct employer-employee relationship existed between the Petitioner and the foreign nationals.

- As per Entry 1 of Schedule III of the CGST Act, services provided by an employee to the employer in the course of employment are neither supply of goods nor supply of services, and therefore outside the ambit of GST.

- The Court observed that the existence of an employer-employee relationship was evident from:

  - ✓ Employment contracts executed with the Petitioner.
  - ✓ Salary payments made directly by the Petitioner.
  - ✓ Deduction of income tax on salary.
  - ✓ Administrative and supervisory control exercised by the Petitioner.

- The contention of the Department that the foreign nationals were "Non-Resident Taxable Persons" under Section 2(77) of the CGST Act was rejected since:

- ✓ The employees were working and residing in India during the relevant period.
- ✓ They were not making occasional supplies of goods or services in India.
- ✓ The location of supplier was in India, and therefore the conditions of import of services under Section 2(11) of the IGST Act were not satisfied.

- The Court also relied on Central Board of Indirect Taxes and Customs Circular No. 210/4/2024-GST, which clarifies that where no invoice is raised and full ITC is available, the value of supply may be treated as 'Nil'.
- Since no invoice was raised in the present case, the taxable value would be deemed to be Nil, and therefore no GST liability would arise.
- Accordingly, the impugned show cause notice was quashed and all consequential proceedings were set aside.

TATTVAM COMMENTS:

- This judgment reiterates that salary paid to employees, including expatriates, cannot be subjected to GST where a genuine employer-employee relationship exists.
- The decision clarifies that foreign national employees cannot automatically be treated as non-resident taxable persons merely because of their nationality.
- The ruling is significant in disputes where the Department seeks to treat expatriate employment arrangements as "import of manpower supply services" liable to GST under RCM.

j) Mismatch between GSTR-1 and GSTR-3B – Tribunal can Re-appreciate Facts; Matter Remanded for Re-determination under Section 73.

[Sterling & Wilson Pvt. Ltd. v. Commissioner, Odisha, 2026 (2) TMI 726 – GSTAT New Delhi]

Facts:

- The Appellant, Sterling & Wilson Pvt. Ltd., is engaged in EPC services and is registered under GST.
- For FY 2018-19, the Department noticed a mismatch between outward supplies declared in GSTR-1 and tax paid in GSTR-3B, resulting in an alleged short payment of Rs. 27,06,634.
- The Proper Officer issued an order under Section 74, demanding tax, interest and equivalent penalty.
- The First Appellate Authority held that no fraud or suppression was established, converted the proceedings to Section 73, and reduced the penalty to 10% of the tax amount, while confirming tax and interest.
- Aggrieved, the Appellant filed a second appeal before GSTAT, contending that the mismatch arose due to credit notes, advances, and timing differences, all duly recorded in books of accounts.

Held:

- The GSTAT held that under Section 112 of the CGST Act, the Tribunal has the power to examine and re-appreciate both facts and evidence, unlike second appeals under Section 100 of the CPC, which are restricted to substantial questions of law.
- Further, it was observed that where a case initiated under Section 74 is found to be actually covered under Section 73, the Proper Officer must re-determine the liability, and such determination cannot be undertaken by the appellate authority or the Tribunal.
- Accordingly, the matter was remanded to the Proper Officer under Section 73 for fresh adjudication after granting opportunity of hearing and considering reconciliation documents.

TATTVAM COMMENTS:

- The ruling reinforces GSTAT is the final fact-finding authority under GST and can re-examine evidence in second appeals.
- The order also highlights that when a case is converted from Section 74 to Section 73, the proper officer must re-determine the tax liability, and therefore the matter is required to be remanded for fresh adjudication.

k) Mere initiation of confiscation proceedings under Section 130 does not authorize retention of goods without valid detention under Section 129 of the CGST Act.

[M/s. Authentic Metals v. Enforcement Officer & Assistant State Tax Officer – 2026 (2) TMI 1150 (Kerala HC)]

Facts:

- The petitioner, M/s. Authentic Metals, is a GST registered dealer engaged in trading of scrap materials.
- The petitioner transported copper scrap along with a valid tax invoice and e-way bill. During transit, GST authorities intercepted the vehicle and initiated inspection proceedings by issuing Forms MOV-1 and MOV-2. Physical verification was conducted and a report in Form MOV-4 was prepared.
- Subsequently, the department issued Form MOV-10 proposing confiscation under Section 130 and proposed a fine in lieu of confiscation.
- The petitioner deposited the amount proposed as fine and sought provisional release of goods pending confiscation proceedings.
- The department refused release and continued to retain the goods even though no formal detention order under Section 129 had been passed.
- Aggrieved, the petitioner approached the Kerala High Court challenging the continued detention of goods.

- Thus, the issue is whether goods can be retained by GST authorities merely because confiscation proceedings under Section 130 of CGST Act are initiated, and whether goods can be released provisionally on payment of fine in lieu of confiscation.

Held:

- The Hon'ble Court held that mere initiation of confiscation proceedings under Section 130 of CGST Act does not authorise the department to retain the goods.
- Further, it was held that under Section 130(5), the title in goods vests with the Government only after a final confiscation order is passed. Therefore, until such order is passed, ownership continues with the taxpayer.
- It was further observed that if authorities intend to retain goods during transit proceedings, they must pass a valid detention order under Section 129 following the prescribed procedure.
- It was also held that after completion of inspection under Section 68, the authorities cannot continue to hold goods unless detention proceedings are properly initiated.
- Section 130(2) providing release on payment of fine in lieu of confiscation applies only after confiscation is adjudicated and does not permit provisional release during pending confiscation proceedings.
- Since no valid detention order existed, continued retention of goods violated the taxpayer's property rights under Article 300A of the Constitution.
- The Court therefore directed the department to release the goods upon furnishing a simple bond, while allowing the confiscation proceedings to continue.

TATTVAM COMMENTS:

- It reiterates that confiscation proceedings alone do not justify detention of goods, unless a valid detention order under Section 129 is issued.

- The ruling also clarifies that fine in lieu of confiscation under Section 130(2) becomes relevant only after confiscation is ordered, and cannot be used as a mechanism for provisional release.
- Importantly, the Court recognized that continued possession of goods by authorities without statutory backing violates constitutional protection of property under Article 300A.
- The decision provides significant relief to taxpayers by restricting arbitrary retention of goods by GST officers during confiscation proceedings.

l) Leasing of Residential Premises for Student Accommodation is Exempt from GST.

[Bhandary Gas Agency vs Joint Commissioner of Commercial Taxes & Anr, TS-979-HC(KAR)-2025-GST]

Facts:

- The Petitioner, engaged in pharmaceutical R&D, operated two units with separate GST registrations under the same PAN. The Petitioner had leased a property to Bhandary Foundation for providing accommodation to students, teachers and staff. The property was certified by the Gram Panchayat as a residential dwelling.
- During an audit conducted under Section 65 of the CGST Act, the Department included the rent received from the said property in the taxable turnover and treated the same as liable to GST.
- The Petitioner submitted that the property was a residential premises used for accommodation purposes and therefore, the rent received was exempt from GST under Entry 13 of Notification No. 9/2017, which covers "services by way of renting of residential dwelling for use as residence.
- The Petitioner had paid GST amounting to Rs. 62,50,716 under protest and subsequently filed a refund application dated 26.09.2022 claiming that the tax had been wrongly paid.

- Although the initial audit report acknowledged that the property was residential in nature, the Department later rejected the refund claim and the rejection was upheld in appeal by the Joint Commissioner.

- Aggrieved by the rejection of the refund claim, the Petitioner filed a writ petition before the High Court.

- The issues involved in the matter were:

  - ✓ Whether renting residential premises used for accommodation of students, staff and teachers qualifies for **GST exemption under Entry 13 of Notification No. 9/2017**.
  - ✓ Whether the Petitioner is entitled to refund of GST paid under protest.

Held:

- The Hon'ble Karnataka High Court relied on the decision of its division bench in the case of **Taghar Vasudeva Ambrish vs Appellate Authority for Advance Ruling Karnataka [TS-39-HC(KAR)-2022-GST]**, which held that leasing residential premises as hostel accommodation qualifies as "renting of residential dwelling for use as residence.

- The Court observed that the property was certified as a residential dwelling and was being used for accommodation of students, teachers and staff.

- Accordingly, the impugned order rejecting the refund was set aside and the Revenue was directed to reconsider the refund application within six weeks in light of the above precedent.

TATTVAM COMMENTS:

- The ruling reiterates that leasing residential premises for hostel accommodation falls within the exemption for renting of residential dwelling for use as residence.

- It also underscores that refund claims should not be rejected where the residential character and usage of the premises are clearly established.

m) Assignment of Leasehold Rights in Industrial Plot is Not a 'Supply' under GST.

[M/s. Vidarbha Beverages & Ors. v. Union of India & Ors. [TS-87-HC(BOM)-2026-GST]]

Facts:

- The Petitioner, a partnership firm, had obtained a **95-year lease of an industrial plot from Maharashtra Industrial Development Corporation (MIDC), Hingna, Nagpur**, on which a factory building had been constructed**.**
- Subsequently, the Petitioner decided to transfer the entire industrial unit and **assigned its leasehold rights in the MIDC plot along with the factory building to a third party** after obtaining prior approval from MIDC and paying the required additional premium to MIDC.
- By virtue of the said transaction, **all rights, title and interest of the Petitioner in the leasehold property stood extinguished and were transferred to the assignee**, and the Petitioner ceased to have any rights in the property.
- The Department issued a **Show Cause Notice under Section 74 of the CGST Act,** alleging that the assignment of leasehold rights amounted to a **"supply of services"** under Section 74 of the CGST Act and was taxable at **18% under "other miscellaneous services" (Sr. No. 35 of Notification No. 11/2017-CT (Rate)**.
- Aggrieved by the proposed demand of GST along with interest and penalty, the Petitioner filed the present writ petition before the Bombay High Court challenging the levy.
- The issues involved in the matter was whether assignment of leasehold rights in an industrial plot along with factory building amounts to a "supply" under Section 7 of the CGST Act.

Held:

- The High Court held that the **transaction was not a lease or sub-lease but a complete assignment**, whereby the Petitioner's leasehold rights were **fully extinguished and transferred to the assignee**.
- Further, leasehold rights are **benefits arising out of immovable property,** and their assignment cannot be treated as a **supply of services in the course or furtherance of business under Section 7(1)(a) of the CGST Act.**
- The Court rejected the Department's classification under **"other miscellaneous services",** observing that the said entry covers minor services such as washing, cleaning, beauty or similar services and **cannot be extended to assignment of leasehold rights in immovable property.**
- The Court also relied on the decision of **Gujarat Chamber of Commerce and Industry vs Union of India**, holding that **assignment of leasehold rights does not constitute supply** under GST.
- Accordingly, the impugned demand was quashed, and the writ petition was allowed.

TATTVAM COMMENTS:

- The judgment clarifies that assignment of leasehold rights resulting in complete transfer and extinguishment of the assignor's rights does not constitute a supply of services under GST.
- It reiterates that transactions involving transfer of rights in immovable property cannot be artificially brought within the ambit of residual service categories merely to levy GST.

n) ITC cannot be denied to bona fide purchaser merely because the supplier failed to deposit tax with the Government.

[M/s. Malaya Rub-Tech Industries v. Union of India, The Assistant Commissioner, Department of Revenue, CGST Tripura, Sri Sentu Dey & Ors., 2026 (2) TMI 654 – Tripura High Court]

Facts:

- The Petitioner is a partnership firm engaged in the business of rubber and was registered under the GST Act. For manufacturing finished products, the Petitioner purchased raw materials from a supplier during the period March 2018 to November 2018 and claimed Input Tax Credit (ITC) on such purchases.
- The tax amount for the said purchases had been paid by the Petitioner to the supplier, and the purchased goods were utilized in the manufacturing process.
- The Petitioner claimed ITC under a bona fide belief that the supplier had deposited the tax collected from it with the Government.
- However, the department issued a Show Cause Notice dated 14.01.2021 under Section 73 of the CGST Act alleging that ITC amounting to ₹22,09,964 had been wrongly availed.
- Subsequently, an order dated 17.02.2022 was passed confirming the demand and directing the Petitioner to repay the said amount.
- Aggrieved by the order denying ITC on the ground that the supplier had failed to deposit the tax with the Government, the Petitioner filed a writ petition before the High Court.

Held:

- The Hon'ble Tripura High Court observed that neither the show cause notice nor the adjudication order contained any finding that the transactions between the Petitioner and the supplier were fraudulent, collusive or not bona fide.
- The Court noted that the proceedings were initiated under Section 73 of the CGST Act, which applies in cases where there is no allegation of fraud, wilful misstatement or suppression of facts. If the department had suspected fraud or collusion, proceedings would have been initiated under Section 74.
- Relying on its earlier decision in M/s Sahil Enterprises v. Union of India, the Court held that Section 16(2)(c) of the CGST Act cannot be interpreted in a manner that denies ITC to a bona fide purchasing dealer merely because the supplier failed to deposit the tax collected from the purchaser.

- The Court held that a purchasing dealer cannot be expected to ensure that the supplier deposits the tax with the Government and denying ITC in such circumstances would impose an unreasonable and arbitrary burden on the purchaser.

- Accordingly, the High Court allowed the writ petition, set aside the order dated 17.02.2022, and directed the authorities to allow the Petitioner ITC amounting to ₹22,09,964.

TATTVAM COMMENTS:

- This judgment reiterates that ITC cannot be denied to a bona fide purchasing dealer solely because the supplier failed to deposit the tax collected from the purchaser with the Government.

- The ruling emphasizes that Section 16(2)(c) of the CGST Act must be read down to avoid arbitrariness and cannot be applied to penalize genuine purchasers where transactions are bona fide and there is no allegation of fraud or collusion.

o) Whether ITC availed by a bona fide purchaser can be denied and recovered merely because the supplier failed to deposit tax or could not be located.

[Pushpa Devi Jain v. State of West Bengal & Ors.- WPA 2335 of 2025]

Facts:

- The Petitioner availed an input tax credit (ITC) of Rs. 73,099.55 each under CGST and SGST and the tax component was duly paid to supplier under a bonafide and firm intent. The Appellant also placed on record valid tax invoices along with bank statements which substantiated the payments made to the supplier.

- Supplier's registration was later cancelled, returns not being filed and the Department initiated proceedings under Section 73 of the CGST/ WBGST Act, 2017 against the purchaser/ recipient/ petitioner.

- The Petitioner contended that Tax was duly paid to supplier; obligation discharged and the ITC has been rightly claimed in accordance with the provisions of Section 16(2), CGST Act.

- It was further submitted that the proceeding under Section 73 is not a proceeding against someone who has fraudulently availed of ITC. Recovery from purchaser is purely arbitrary in nature and hence, the burden cannot be shifted simply because supplier is untraceable.

Held:

- The Hon'ble Calcutta High Court while relying upon judicial precedents namely ***Sancraft Energy (P) Ltd. versus Assistant Commissioner, State Tax (2023) 153 taxmann.com 81 (Calcutta), Sahil Enterprises versus Union of India (2026) 182 taxmann.com 144 (Tripura),*** have noted that there can only be exceptional cases under which purchasers can be made liable to pay the tax if the supplier failed to do so or when the ITC availed of by the purchaser in such situation, has to be reversed, thereby reinforcing that bona fide purchasers cannot be burdened merely due to supplier non-compliance.

- It was further recorded that merely stating "supplier cannot be located" is insufficient and the Assessing officer has failed to record satisfaction on these parameters.

- In view of the above, the Hon'ble Calcutta High Court set aside the impugned order, and the matter was remanded for reassessment in line with Court's observations and earlier precedents relied upon by the Court.

TATTVAM COMMENTS:

- This judgment is a significant reaffirmation of the principle that bona fide purchasers cannot be penalized for supplier defaults. The Court has drawn a

clear line that ITC denial or reversal requires factual satisfaction of fraud, collusion, or exceptional circumstances such as missing dealer, closure of business by the supplier or supplier not having adequate assets, etc., not mere administrative convenience.

- Practically, the said judgement reinforced the importance of maintaining robust documentation (invoices, bank statements) to establish bona fide status.
- Strategically, this case strengthens the argument that compliance by the purchaser in respect to Section 16(2) of the CGST Act, is sufficient to safeguard ITC availed by it, and any departmental attempt to reverse credit solely on the basis of supplier's non traceability must withstand strict judicial scrutiny.

p) Whether the commission paid by foreign universities to consultants providing consultancy to Indian students for admission into foreign universities is taxable under GST, or whether the respondent is acting as an intermediary/agent in terms of section 2(13) of IGST Act, 2017.

[Commissioner of Delhi GST v. Global Opportunities Pvt. Ltd. 2026 (2) TMI 112 - SC Order]

Facts:

- The respondent is engaged in educational consultancy for Indian students seeking admission in foreign universities and then receives commission from foreign universities upon successful student admissions.
- Question arose as to whether Respondent's services qualify as "export of services" under Section 2(6) IGST Act or is the Respondent an "intermediary" under Section 2(13) IGST Act. Since if the respondent is regarded as intermediary → GST payable in India; if export → eligible for refund.
- The Hon'ble Delhi High Court via W.P.(C) 10189/2025 & CM APPL. 42299/2025 (Sept 25, 2025) categorically held that the respondent, being engaged in educational consultancy for foreign universities, was **not to be considered as an "intermediary"** under Section 2(13) IGST Act and the consultancy

services qualified as **export of services**, entitling the company to GST refunds since the substance of principal to principal basis was involved in the relationship between the foreign universities and the Respondent.

- The Department challenged the said order before the Hon'ble Apex Court via Special Leave petition.

Held:

- The Hon'ble Supreme Court dismissed the SLP, refusing to interfere with the Delhi High Court's judgment. Thus, the High Court's finding that consultancy services to foreign universities are export of services, not intermediary services, stands upheld and affirmed.

- In view of the above, the SLP was dismissed and no inference was drawn upon the judgement and order of the Hon'ble Delhi High Court.

TATTVAM COMMENTS:

- This ruling consolidates judicial clarity on education consultants who are tied to foreign universities shall not be regarded as intermediaries if services are rendered on a principal-to-principal basis.

- Practically, this strengthens refund claims for similar consultancy setups, while curbing arbitrary departmental reliance on "intermediary" classification.

- It is now apparent to ensure agreements with foreign institutions reflect principal-to-principal relationships and maintain robust documentation of foreign exchange receipts to safeguard refund entitlements.

ADVANCE RULINGS

a) Where an applicant is engaged in the plantation and maintenance of trees in non-forest areas for the preservation of the environment, such activity qualifies as a "charitable activity" under Entry No. 1 of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017, and is eligible for exemption from GST, provided the entity is registered under Section 12AB of the Income-tax Act, 1961.

[Sadbhavna Seva Foundation, In re [2026] 182 taxmann.com 671 (AAR - Gujarat)]

Facts:

- The Applicant, Sadbhavna Seva Foundation, is a company incorporated under Section 8 of the Companies Act, 2013, and is registered under Section 12AB of the Income-tax Act, 1961, for the salient activity of "preservation of environment (including watersheds, forests and wildlife)."
- The Applicant is engaged in charitable activities, primarily the plantation and maintenance of trees in non-forest areas such as unutilized barren lands, roadsides, lane dividers, and private lands. This includes activities like digging, watering, applying manure/fertilizer, trimming, and ensuring the survival of the plants.
- The Government of Gujarat floated the "Harit Van Path Yojna" on a PPP basis to increase tree cover. Under this scheme, the Applicant (as a sister arm of Manav Seva Charitable Trust) was entrusted with planting and maintaining 7,62,712 trees across various districts, with a total project outlay of Rs. 113.65 crores to be paid over three years.
- The Applicant sought an advance ruling on whether its activity of tree plantation and maintenance is covered under Entry No. 1 of Notification No. 12/2017-CT(R) (exempting charitable activities) and whether it is liable to pay GST on such activities.

Held:

- The Gujarat Authority for Advance Ruling observed that for an activity to be exempt under Sl. No. 1 of Notification No. 12/2017-CT(R), two conditions must be satisfied: (a) the entity must be registered under Section 12AA or 12AB of the Income-tax Act, and (b) the services provided must fall within the definition of "charitable activities" as defined in clause 2(r) of the said notification.

- The AAR noted that the Applicant is duly registered under Section 12AB of the Income-tax Act, 1961, thereby satisfying the first condition.

- Regarding the second condition, clause 2(r) of the notification specifically includes activities "relating to preservation of environment including watershed, forests and wildlife" within the definition of charitable activities.

- The AAR referred to the National Forest Policy, 1988, which aims to ensure environmental stability and ecological balance. One of its strategies is to encourage tree plantation alongside roads, railway lines, and other unutilized lands to check erosion and improve the microclimate. The Gujarat Government's "Harit Van Path Yojna" is a direct implementation of this policy.

- The AAR held that the Applicant's activities—planting and maintaining trees in non-forest areas in line with the said policy—are necessary for the preservation of the environment and squarely fall within the definition of "charitable activities."

- Relying on its earlier ruling in *Vikas Centre For Development, In re* (which held that mangrove plantation is a charitable activity), the AAR ruled that the Applicant is eligible for exemption from GST under Sl. No. 1 of Notification No. 12/2017-CT(R).

TATTVAM COMMENTS:

- This ruling provides clarity that environmental preservation activities, specifically tree plantation and maintenance in non-forest areas, are recognized as "charitable activities" under GST law, even when undertaken pursuant to government contracts on a PPP basis.

- The key conditions for exemption are: (i) registration under Section 12AB of the Income-tax Act, and (ii) the activity must directly relate to preservation of environment. The source of funding (government contract) does not alter the charitable character of the activity.
- Entities engaged in similar activities (e.g., afforestation, social forestry, green belt development) can claim GST exemption, provided they meet the above conditions. However, they must ensure that the activities are not merely commercial in nature but are aligned with environmental conservation objectives.

b) GST Exemption on Transfer of Business as a Going Concern, Classification if Not Exempt, and Continuity of Taxability for Post-Transfer Work Orders

[In Re: M/s. Horizen Edge Technologies Pvt. Ltd. 2025 (12) TMI 982- AAR WEST BENGAL]

Facts:

- The Applicant incorporated to take over business assets and liabilities of M/s. Horizen, engaged in digitalisation, GIS mapping, and consultancy services for the Public Health Engineering Directorate (PHE), West Bengal. The Transfer involved all business assets and liabilities (except personal assets like buildings/investments).
- In light of the above, the Applicant sought ruling on:
    - Whether transfer amounts to "service by way of transfer of a going concern" exempt under Sl. No. 2 of Notification No. 12/2017-CT (Rate).
    - If not exempt, classification and rate of tax.
    - Taxability of supplies/invoices issued post-transfer in continuation of earlier work orders.

Held:

- The Authority of Advance ruling, West Bengal via detailed analysis of the facts and the legal provisions, ruled that the transfer of business as a going concern amounts to supply of service, not goods, under Section 7(1A) r/w Schedule II, CGST Act, but such a transfer is specifically exempt under Sl. No. 2 of Notification No. 12/2017-CT (Rate).

- Thus, the takeover squarely qualifies as an exempt supply with no GST liability arise on the transfer itself. Furthermore, all subsequent work orders and invoices executed by the petitioner are to be treated as pure services, consistent with the nature of supplies rendered, and therefore continue to enjoy exemption under the applicable notification.

TATTVAM COMMENTS:

- This ruling is a clear affirmation that business transfers as a going concern are exempt supplies under GST while highlighting the importance of documenting financial stability and operational continuity to establish "going concern" status. AAR's reliance on Schedule II and Section 7(1A) clarifies that transfers are treated as services but exempt when structured as a going concern.

- Strategically, this ruling strengthens the compliance position of entities undergoing mergers, acquisitions, or takeovers, ensuring that tax neutrality is preserved in genuine business transfers.

TATTVAM

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