TATTVAM

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Fortnightly Newsletter

Legal Zine

A digest of important judgments and rulings

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INDEX

JUDICIAL PRONOUNCEMENTS

SUPREME COURT AND HIGH COURT

(a) Statutory right to fifteen-day reply period under Rule 92(3) of the CGST Rules, 2017 and the necessity of a fair opportunity of personal hearing before rejection of a refund claim.

[M/s. CBF Component Private Limited & Anr. v. Union of India & Ors., 2026 (4) TMI 363 – Calcutta High Court]

Facts:

- The petitioner filed a refund application under Section 54 of the CGST Act, 2017, for the period May–June 2023. Pursuant to the said refund application, a notice dated 30 April 2024 was issued, requiring the petitioner to submit its reply within 'seven' days and fixing the personal hearing on 7 May 2024.
- On 5 May 2024, the petitioner applied for a single adjournment, seeking time until 22 May 2024 to file the reply. However, the refund authority rejected the adjournment request on 6 May 2024 but did not communicate that rejection to the petitioner.
- The petitioner did not appear on 7 May 2024. The authority passed a final refund rejection order on 17 May 2024, without granting any further opportunity of hearing and without receiving a reply on merits.

Issues:

Whether the refund rejection order was vitiated when the notice allowed only a seven-day reply period (contrary to the statutory fifteen days under Rule 92(3) of the CGST Rules), the petitioner's single adjournment request was refused without communication, and the rejection order was passed before the expiry of the statutory reply period, in the absence of the petitioner and without a personal hearing.

Held:

- The Hon'ble Calcutta High Court held that Rule 92(3) of the CGST Rules, 2017 unequivocally entitles the applicant to fifteen days from the receipt of the

show-cause notice to furnish a reply in FORM GST RFD-09. Directing a reply within seven days was contrary to the statutory mandate.

- While adjournment is not claimable as a matter of right, the authority cannot, consistently with fairness and the requirement of a personal hearing under Rule 92(3), refuse a single, reasonable adjournment request and proceed to reject the claim before the expiry of the fifteen-day period statutorily available for reply.
- The refund rejection order dated 17 May 2024 was passed without notice of the adjournment refusal and **without affording the petitioner an opportunity to present its reply or be heard in person**. The Court therefore set aside the rejection order.
- The refund authority was directed to permit the petitioner to file its reply within fifteen days from the communication of the Court's order, to give 72 hours' advance notice of the fresh hearing date, and to conclude the hearing within one month in accordance with law.

TATTVAM COMMENTS:

- This judgement reinforces that procedural timelines under the CGST Rules are not dispensable formalities—they confer a statutory entitlement. An officer cannot arbitrarily curtail the fifteen-day reply window prescribed by Rule 92(3); any order passed in breach of that timeline is liable to be quashed.
- Even where adjournments are discretionary, the principle of fairness and the statutory mandate of a personal hearing require that a bona fide first adjournment, sought within the statutory reply period, be considered liberally. Denying such a request without justification and proceeding ex-parte amounts to a violation of natural justice, rendering the subsequent order voidable.

(b) Compartmentalized jurisdiction under Section 140 of the MGST Act – Appellate authority cannot import MVAT-era discrepancies into transitional credit adjudication – Vague and non-speaking findings vitiate the appellate order.

[M/s. Gunjan Surgical and Scientific Co. v. The State of Maharashtra & Ors., 2026 (4) TMI 1731 – Bombay High Court]

Facts:

- The petitioner had filed a claim for Transitional Input Tax Credit (TRAN-1) under Section 140 of the Maharashtra Goods and Services Tax Act, 2017 (MGST Act). The original adjudicating authority partly disallowed the credit.
- On appeal, the Joint Commissioner of State Tax (Appellate Authority) partly allowed the appeal but reduced the transitional credit by ₹ 6,53,341/-. The reduction was based on a "match mismatch statement" generated through the system, which referred to figures and discrepancies originating from the Maharashtra Value Added Tax Act, 2005 (MVAT Act) regime, such as "mismatch in j2×j1".
- The appellate order acknowledged that the transitional credit claimed by the appellant "seems to be admissible" but nevertheless deducted the alleged mismatch amount from the relief granted, without examining whether such MVAT-era mismatches were legally relevant to a determination under Section 140 of the MGST Act.
- Aggrieved by the said appellate order, the petitioner filed a writ petition contending that the appellate authority had exceeded its jurisdiction by importing extraneous MVAT considerations into a confined transitional credit adjudication.

Issues:

Whether an Appellate Authority, while deciding a claim of transitional ITC under Section 140 of the MGST Act, can rely on discrepancies or mismatches emanating from the erstwhile MVAT Act regime, thereby reducing the credit on grounds outside the parameters of Section 140, and whether such findings—being vague and non-speaking—vitiate the appellate order.

Held:

- The Hon'ble Bombay High Court held that held that the observations made by the Appellate Authority lacked clarity and were vague. The findings did not reflect a legally structured or confined consideration of the transitional credit issue.
- The Court ruled that the appeal required independent and appropriate consideration, keeping strictly within the scope and ambit of the jurisdiction vested in the proper officer under Section 140 of the MGST Act.
- Accordingly, the impugned appellate order dated 25 January 2023 was quashed and set aside. The proceedings were restored to the Appellate Authority for fresh adjudication on the limited issue of transitional credit, in accordance with law, after affording an opportunity of hearing to the parties.

TATTVAM COMMENTS:

- This judgment lays down a principle of wide application across the GST framework: when an officer or appellate authority exercises power under a specific section (here, Section 140 for transitional credit), the inquiry must remain strictly confined to the legal and factual boundaries of that provision. Extraneous material from a different statute or tax regime cannot be casually imported to deny or reduce a statutory entitlement.
- The High Court's disapproval of the appellate order's lack of clarity reinforces that any quasi-judicial order must reflect a reasoned, structured application of mind to the specific legal provision invoked. Orders that rely on system-generated mismatches without explaining their relevance to the statutory criteria will not survive judicial scrutiny.

(c) Portal functionality cannot defeat substantive entitlement; where department does not dispute re-credit of ITC due to rejected refund claim, absence of online mechanism (PMT-03) must be overcome by manual intervention.

[RSWM Ltd. v. Union of India & Ors, 2026 (4) TMI 1341 – Rajasthan High Court]

Facts:

- The petitioner, RSWM Ltd., filed refund claims for Input Tax Credit (ITC) for the periods August, September, and October 2017 on 19.01.2018.
- On 23.05.2020, the respondent issued show-cause notices rejecting the refund claims.
- The petitioner did not appeal the rejection but instead requested re-credit of the debited ITC amount (Rs. 4,37,51,638/-) to its electronic credit ledger.
- However, the common GST portal did not have the functionality to re-credit ITC in such cases (where refunds were filed under "any other category" and ITC was debited via DRC-03).
- Despite multiple representations, grievances on CPGRAMS, and tickets raised on CBICMITRA, the issue remained unresolved due to systemic limitations, compelling the petitioner to approach the High Court.

Issue:

Whether the petitioner is entitled to re-credit of ITC debited for rejected refund claims, when the common GST portal lacks the functionality to effect such re-credit, and the department does not dispute the substantive entitlement?

Held:

- The Hon'ble Rajasthan High Court held that the Department itself, in its letter dated 01.10.2021 (Annexure-18), did not dispute the petitioner's entitlement to re-credit of the refund amount of Rs. 4,37,51,638/-.
- Any procedural lapse, whether attributable to the petitioner (such as the method of debit via DRC-03) or the respondents, is immaterial so long as the substantive entitlement to the credit remains undisputed.
- The Court emphasized that withholding vested ITC due to systemic inefficiencies constitutes a violation of Article 300A of the Constitution of India.
- The absence of portal functionality (non-availability of Form PMT-03 for this specific category) cannot override or defeat a taxpayer's substantive legal right.

- The Court directed the respondents to credit the amount back to the petitioner's electronic credit ledger through manual intervention within eight weeks. The writ petition was allowed.

TATTVAM COMMENTS:

- This judgment firmly establishes that systemic or technical limitations of the GST portal cannot negate a taxpayer's undisputed statutory entitlement. Substantive rights under the CGST Act prevail over procedural inconveniences.
- The ruling is significant for taxpayers facing similar issues where refunds are rejected but re-credit is blocked due to lack of portal functionality, especially in cases involving DRC-03 debits or non-standard refund categories.
- The Court's direction for manual intervention (bypassing the portal) provides a practical remedy and sets a precedent for authorities to develop offline mechanisms to give effect to legal entitlements where technology lags behind law.

(d) Multiple E-way bills for single invoice cannot be treated as tax evasion without proper verification of transportation feasibility.

[Cosmo Granites (P.) Ltd. vs. Joint Commissioner GST and Central Excise, Chennai South Commissionerate, (2026) 41 Centax 106 (Mad.)]

Facts:

- The petitioner, Cosmo Granites (P.) Ltd., sold 5154 Cubic Feet (Cft) of teak wood to M/s Renovo Enertech Private Limited under a single invoice.
- Due to the large quantity, the goods were transported in 11 canter trucks on different dates, and accordingly multiple E-way bills were generated against the same invoice.
- The department issued an Order-in-Original in Form GST DRC-07, alleging:
  - ✓ Duplicate E-way bills
  - ✓ Under-declaration in GSTR-1

- ✓ Short payment of GST
- ✓ Invocation of Section 74 for suppression

- A demand of approx. ₹3.99 crore including CGST and SGST along with interest and penalty was confirmed.
- The petitioner filed a rectification application under Section 161, which was rejected on the ground that the issue was not an "error apparent on record."
- Aggrieved, the petitioner approached the Madras High Court by way of writ petition.

Issue:

Whether generation of multiple E-way bills against a single invoice for transportation of bulk goods can be treated as evidence of tax evasion, suppression, and short payment of GST without verifying the practical feasibility of transporting such goods in one vehicle?

Held:

- The Hon'ble Madras High Court held that the impugned order was unsustainable due to lack of proper factual examination.
- The Court observed that the invoice involved 16,787 packages totalling 5154 Cft of teak wood, which required examination of transportation feasibility.
- The authority failed to determine whether such quantity could be transported in a single vehicle or required multiple vehicles.
- It was held that mere generation of multiple E-way bills on a single invoice cannot automatically be treated as duplication or suppression, without verifying logistical necessity.
- The conclusion regarding under-declaration and short payment of tax was premature and required re-adjudication.
- Accordingly, the impugned Order-in-Original was quashed, and matter was remanded for fresh adjudication.
- The petitioner was directed to submit proper evidence, including transportation details and bank statements.

TATTVAM COMMENTS:

- This judgment is significant in clarifying that multiple E-way bills for a single invoice are not per se indicative of tax evasion, especially in cases involving bulk goods requiring multi-vehicle transportation.
- The ruling emphasizes that practical and logistical aspects must be examined before drawing adverse conclusions under GST law.
- It reinforces the principle that adjudication must be based on proper factual verification, and not merely on presumptions arising from system-generated discrepancies.
- The judgment also serves as a safeguard against mechanical invocation of Section 74, highlighting that serious allegations such as suppression require proper inquiry and supporting evidence.

(e) Bank account of legal heir cannot be attached for recovery of deceased GST dues without prior adjudication under Section 93; violation of principles of natural justice.

[Navin Vishwanathan v. State of Maharashtra & Ors., 2026-VIL-368-BOM - Bombay High Court]

Facts:

- The Petitioner, proprietor of M/s Oriental Facility, is engaged in providing labour supply and employment services and holds an independent GST registration with a separate place of business. The Petitioner's father, who carried on business under the same trade name, was a separately registered taxable person under GST. His registration was cancelled and he subsequently passed away on 11.02.2024.
- Thereafter, the Department raised a demand against the deceased father and initially attached his bank accounts, which were later released. Subsequently, nearly one year later, the Department invoked Sections 79 and 93 of the CGST Act and proceeded to attach the Petitioner's bank account for recovery of dues allegedly payable by his deceased father.
- Notably, such attachment was carried out without issuance of any show cause

notice or grant of opportunity of hearing to the Petitioner. Aggrieved, the Petitioner filed the present writ petition challenging the attachment.

Issues:

- Whether the Department can attach the bank account of a legal heir for recovery of GST dues of a deceased taxable person without prior adjudication of liability under Section 93 of the CGST Act?
- Whether recovery proceedings under Section 79 can be initiated without establishing liability and in violation of principles of natural justice?

Held:

- The Hon'ble High Court held that the impugned action of attaching the Petitioner's bank account is unsustainable in law and violative of principles of natural justice. It was observed that although recovery powers under Section 79 are wide, such powers are conditional upon the existence of an established liability against the person from whom recovery is sought. Such liability must be determined based on material evidence and cannot be presumed.
- The Court emphasized that Section 93 contemplates liability of a legal heir only upon satisfaction of specific statutory conditions, including whether the business of the deceased has been continued by such person. Determination of such liability necessarily requires issuance of notice, consideration of material, and grant of hearing.
- Further, the Court observed that the Department had not examined whether the Petitioner's business was a separate and distinct entity or whether he had continued the business of the deceased. It was further noted that no determination was made as to whether the conditions prescribed under Section 93 of the CGST Act were satisfied. In absence of such determination, fastening liability on the Petitioner was held to be unsustainable.
- The Court further held that recovery proceedings cannot be initiated without prior adjudication of liability. It was emphasized that coercive action under Section 79 must follow due process and cannot be invoked directly without first establishing liability.
- The Court also observed that a bank account is "property" under Article 300A of the Constitution, and freezing the same without due process violates

constitutional rights. Accordingly, the Department was directed to de-freeze the Petitioner's bank account, with liberty to initiate proceedings in accordance with law.

TATTVAM COMMENTS:

- This judgment reinforces the settled position that recovery proceedings under GST must necessarily be preceded by proper adjudication of liability. The Court has clearly held that such requirement assumes greater significance in cases involving legal heirs.
- It clarifies that liability under Section 93 is not automatic and cannot be presumed. A factual determination is required to examine whether the business has been continued or whether liability can be attributed to the estate of the deceased.
- The ruling further strengthens procedural safeguards by emphasizing adherence to principles of natural justice. It mandates that coercive powers under Section 79 can be invoked only after due process, including notice and opportunity of hearing.
- By recognizing attachment of bank account as deprivation of property under Article 300A, the Court imposes constitutional limitations on arbitrary recovery actions. Overall, the decision acts as a safeguard against premature recovery and ensures disciplined exercise of statutory powers.

(f) Second refund application cannot be rejected as non-maintainable merely because an earlier refund application covered the same period; substantive entitlement cannot be denied due to inadvertent omission.

[Valmet Flow Control Pvt. Ltd. v. Union of India & Ors., 2026 (4) TMI 1647 - Bombay High Court]

Facts:

- The Petitioner had filed a refund application under Section 54 of the CGST Act for the period July 2022 to September 2022, which was duly processed by the department. Subsequently, the Petitioner realized that certain invoices

pertaining to August 2022 were inadvertently omitted from the earlier refund application.

- Accordingly, the Petitioner filed a second refund application for the said period to claim the omitted amount. However, the department rejected the second application on the ground that the period had already been covered in the earlier refund claim, thereby rendering the subsequent application non-maintainable.
- The Petitioner challenged the rejection on the grounds that the omission was unintentional and that the second application was filed within the statutory limitation period.

Issue:

Whether a second refund application under Section 54 of the CGST Act is maintainable for a period already covered under an earlier refund application, particularly when the claim pertains to inadvertent omissions and is filed within the prescribed limitation period?

Held:

- The Hon'ble High Court held that Section 54 of the CGST Act does not impose any restriction on filing multiple refund applications, especially in cases where certain claims were omitted inadvertently in the earlier application.
- The Court observed that the only statutory requirement for filing a refund application is adherence to the limitation period of two years. Since the Petitioner had filed the second application within the prescribed time limit, the same could not be rejected on technical grounds.
- It was further held that rejection of refund claims solely on the basis that an earlier application had been filed for the same period is unsustainable in law. The Court emphasized that procedural technicalities cannot override substantive rights, particularly when the entitlement to refund is otherwise valid.
- The Court also clarified that the principles of res judicata are not applicable to refund proceedings under GST law, as such claims are statutory in nature and must be examined on their own merits.

- Accordingly, the impugned order rejecting the refund application was quashed and set aside, and the matter was remanded back to the concerned authority for fresh consideration on merits.

TATTVAM COMMENTS:

- This judgment reinforces the principle that refund provisions under GST must be interpreted in a manner that advances substantive justice rather than defeating legitimate claims on procedural or technical grounds.
- It provides significant relief to taxpayers by recognizing that inadvertent errors or omissions in refund applications can be rectified through subsequent filings, provided the claims are made within the statutory limitation period.
- The ruling also clarifies that refund proceedings are not strictly adversarial in nature and, therefore, doctrines such as res judicata cannot be rigidly applied to deny rightful claims.
- Further, the decision places an obligation on tax authorities to examine refund claims on merits rather than adopting a hyper-technical approach, thereby promoting fairness and equity in tax administration.
- Overall, the judgment serves as a strong precedent for taxpayers seeking to rectify genuine mistakes in refund filings and ensures that procedural lapses do not result in denial of substantive benefits under the GST framework.

(g) Opportunity of personal hearing mandatory under Section 75(4); taxpayer's selection of "No personal hearing" cannot override statutory requirement.

[Komal Jayeshbhai Hemavat v. State Tax Officer (4) & Anr., 2026-VIL-360-GUJ – Gujarat High Court]

Facts:

- The petitioner is a registered taxpayer under the provisions of the Gujarat Goods and Services Tax Act, 2017.

- The proceedings against the petitioner were initiated pursuant to a inspection conducted by the department, during which the petitioner's premises were raided, and books of accounts and relevant documents were seized.
- Thereafter, the respondent authorities issued a Show Cause Notice dated 21.09.2023 in Form GST DRC-01 under Section 74 of the GST Act, alleging tax discrepancies for the relevant period.
- The petitioner duly filed a detailed reply on 21.11.2023 in Form GST DRC-06, contesting the allegations made in the show cause notice.
- While filing the reply on the GST portal, the petitioner selected the option "No" in response to the column relating to requirement of personal hearing.
- Based on the reply filed and without issuing any further communication or notice for hearing, the respondent authority proceeded to pass an Order-in-Original dated 30.12.2023 under Section 74, confirming the demand.
- Notably, no opportunity of personal hearing was granted to the petitioner at any stage prior to passing of the impugned order.
- Aggrieved by the action of the department, the petitioner approached the Hon'ble Gujarat High Court by way of a writ petition, primarily contending that the impugned order was passed in complete violation of Section 75(4) of the CGST Act and the principles of natural justice, as no hearing was afforded before adjudication.

Issue:

Whether the adjudicating authority can pass an order under Section 74 without granting an opportunity of personal hearing as mandated under Section 75(4), merely because the taxpayer selected "No personal hearing" while filing the reply.

Held:

- The Hon'ble Gujarat High Court held that Section 75(4) mandates grant of personal hearing before passing any adverse order.
- It was observed that the provision requires grant of three opportunities of personal hearing, and such requirement is statutory in nature.
- The Court rejected the contention of the department that since the petitioner opted for "No personal hearing", no hearing was required.

- It was held that statutory mandate cannot be overridden by any option selected by the taxpayer in the reply.
- The Court emphasized that failure to provide personal hearing amounts to:
  - ✓ Violation of Section 75(4).
  - ✓ Breach of principles of natural justice (Audi Alteram Partem) · The impugned order was therefore held to be unsustainable in law.
- Accordingly, the Court:
  - ✓ Quashed and set aside the Order-in-Original dated 30.12.2023
  - ✓ Remanded the matter back to the adjudicating authority
  - ✓ Directed the authority to pass a fresh order after granting three opportunities of personal hearing
  - ✓ Directed completion of proceedings within 12 weeks

TATTVAM COMMENTS:

- This judgment reinforces that procedural safeguards under GST law are mandatory and cannot be waived, even by the taxpayer.
- It clarifies that Section 75(4) creates a statutory obligation on authorities to provide personal hearing, irrespective of the response filed by the assessee.
- The ruling strengthens the principle that natural justice is inherent in GST adjudication, and any order passed without hearing is liable to be quashed.
- It also acts as a caution to tax authorities against mechanical adjudication based solely on written replies, without ensuring compliance with statutory hearing requirements.

(h) Amendment to Rule 89(5) vide Notification No. 14/2022 held retrospective – Assessee entitled to refund under inverted duty structure even for prior applications.

[CHEC-TPL Line 4 Joint Venture C/o TATA Projects Limited Versus Union of India, 2026 (4) TMI 1649 - Bombay High Court]

Facts:

- The Petitioner, an unincorporated joint venture engaged in execution of metro rail works for MMRDA, discharged GST at 12% on output services, while procuring inputs and input services taxed at higher rates of 18% and 28%, resulting in accumulation of Input Tax Credit ("ITC") under an inverted duty structure.
- The Petitioner filed multiple refund applications under Section 54(3) of the CGST Act for the period from November 2018 to March 2021. Such refund claims were initially rejected by the authorities. Subsequently, the Petitioner refiled the refund claims as per the formula prescribed under Rule 89(5), which were again rejected by the Original Authority and upheld by the Appellate Authority vide order dated 31 October 2023.
- The Petitioner contended that Notification No. 14/2022-Central Tax dated 5 July 2022, amending Rule 89(5), being curative in nature, was applicable retrospectively. Reliance was placed on the decision of the Gujarat High Court in *Ascent Meditech Ltd.*, which had attained finality.
- Aggrieved by rejection of refund claims, the Petitioner approached the Hon'ble Bombay High Court under Article 226.

Issue:

Whether the amendment to Rule 89(5) vide Notification No. 14/2022 is retrospective in nature, thereby entitling the assessee to recomputation and grant of refund under Section 54(3) even for applications filed prior to 5 July 2022.

Held:

- The Hon'ble Bombay High Court held that the issue is no longer res integra in view of the decision of the Gujarat High Court in *Ascent Meditech Ltd.*, which has attained finality upon dismissal of SLP and review petitions by the Supreme Court.
- The Court observed that the amendment to Rule 89(5) brought by Notification No. 14/2022 is **curative and clarificatory in nature**, intended to remove anomalies in the refund formula as noted by the Supreme Court in *VKC Footsteps India Pvt. Ltd.*

- It was held that such curative amendments must be applied retrospectively, particularly where refund applications are filed within the statutory time limit under Section 54.
- The Court rejected the findings of the Appellate Authority, noting complete non-application of mind to the amended provisions, relevant circulars, and binding judicial precedents prevailing at the time of passing the order.
- Accordingly, the Court:
  - ✓ Quashed the Orders-in-Original dated 16 March 2023 and the Appellate Order dated 31 October 2023
  - ✓ Held that the Petitioner is entitled to refund under Section 54(3) on account of inverted duty structure
  - ✓ Directed grant of refund as per the amended formula under Rule 89(5)
  - ✓ The writ petition was allowed.

TATTVAM COMMENTS:

- This judgment settles that the amendment to Rule 89(5) is **retrospective**, being curative in nature, and applies even to past refund claims filed within limitation.
- It reinforces that beneficial amendments correcting formula anomalies cannot be denied on technical timelines, and must be applied uniformly.
- The ruling also underscores that binding precedents cannot be ignored by appellate authorities, especially when the legal position has attained finality.

(i) Non-grant of effective personal hearing despite request vitiates adjudication order as violation of principles of natural justice.

[M/s Poddar Ispat Pvt. Ltd. v. Office of the Deputy Commissioner, 2026 (4) TMI 1576 – Uttarakhand High Court]

Facts:

- The Petitioner, M/s Poddar Ispat Pvt. Ltd., was issued a Show Cause Notice dated 14.05.2025 under Section 74(1) of the Uttarakhand GST Act, 2017, alleging utilization of inadmissible Input Tax Credit amounting to Rs. 8,49,98,096/-.
- The proceedings were followed by issuance of Form GST DRC-01 and a subsequent Show Cause Notice dated 08.12.2025.
- The Petitioner filed its reply on 26.12.2025 and specifically requested for grant of personal hearing.
- On the very same date, i.e., 26.12.2025, the Proper Officer passed the adjudication order under Section 74(9) along with Form GST DRC-07, without issuing any prior notice fixing a date for personal hearing.
- Recovery proceedings were also initiated pursuant to the said order.
- Aggrieved, the Petitioner approached the High Court challenging the order on the ground of violation of principles of natural justice.

Issues:

- Whether passing an adjudication order on the same day as filing of reply, without prior intimation of date of personal hearing despite specific request, amounts to violation of Section 75(4) of the GST Act?
- Whether mere recording in the order that opportunity of hearing was granted is sufficient compliance with principles of natural justice?

Held:

- The Hon'ble Uttarakhand High Court held that under Section 75(4) of the Act, grant of personal hearing is mandatory where a request is made by the assessee.
- It was observed that an effective opportunity of hearing necessarily requires prior intimation of the date of hearing, enabling the assessee to prepare and present its case.
- The Court rejected the contention of the Revenue that the Petitioner was heard on the same day as filing of reply, holding that such a procedure is merely an "eyewash" and does not constitute valid compliance with statutory requirements.

- It was further held that where the Show Cause Notice only calls for submission of reply and does not indicate that hearing would take place on the same date, the assessee cannot be expected to be ready for oral submissions.
- The Court emphasized that mere recital in the adjudication order stating that opportunity of hearing was granted is not sufficient, in absence of actual and meaningful opportunity.
- Accordingly, the impugned adjudication order dated 26.12.2025 and consequential proceedings were set aside for violation of principles of natural justice.
- The matter was remanded back to the Proper Officer with direction to fix a fresh date of personal hearing with due prior intimation and thereafter pass a fresh order in accordance with law.

TATTVAM COMMENTS:

- Affirms that Section 75(4) creates a mandatory right to personal hearing once requested, not a procedural formality.
- Clarifies that same-day hearing and order without prior notice is invalid, as it denies a meaningful opportunity to present the case.
- Labels such practice as an "eyewash", signalling judicial disapproval of mechanical adjudication under GST.
- Reinforces Audi Alteram Partem — opportunity must be real, informed, and effective, not merely recorded on paper.
- Provides a strong litigation ground where no separate hearing notice is issued or order follows immediately after reply.

(j) Affiliation fees collected by statutory university not liable to GST; statutory functions do not constitute "supply" in course of business

[University of Mumbai v. Union of India & Ors., 2026 (4) TMI 1800 - Bombay High Court]

Facts:

- The petitioner, University of Mumbai, is a statutory university established under the Bombay University Act, 1953, and presently governed by the Maharashtra Public Universities Act, 2016.
- A show cause notice dated 18 July 2024 was issued to the university under Section 74 of the CGST Act, proposing to demand GST on **"affiliation fees"** collected by the university from colleges seeking affiliation, along with interest and penalty for the financial years 2017-18 to 2022-23.
- The university replied contending that it was engaged in statutory duties of granting affiliation under Chapter X of the Maharashtra Public Universities Act, 2016, and that affiliation fees were collected in discharge of statutory functions, not as consideration for any taxable service.
- Respondent No. 2 passed an order-in-original dated 27 January 2025 confirming GST demand of Rs. 16,90,05,337/- along with interest and penalty under Section 74(1) of the CGST Act.
- The university filed a rectification application under Section 161, which was rejected by respondent No. 3 on 23 June 2025.
- Aggrieved, the university filed the present writ petition challenging the order-in-original, rectification order, and related circulars.

Issues:

- Whether the collection of affiliation fees by a statutory university in discharge of its statutory functions under the Maharashtra Public Universities Act, 2016, constitutes a "supply" under Section 7 of the CGST Act, thereby attracting levy under Section 9?
- Whether such activities can be considered as being undertaken "in the course or furtherance of business" under Section 7(1)(a) of the CGST Act?
- Whether, even if considered a supply, the affiliation fees would be exempt under the exemption notification for educational services (Entry 66 of Notification No. 12/2017-CT(Rate))?

Held:

On whether affiliation fees constitute "supply" under Section 7:

- The Court held that the expression "supply" under Section 7(1)(a) includes forms of supply such as sale, transfer, barter, exchange, licence, rental, lease or disposal made for consideration "in the course or furtherance of business."
- The statutory activities of the university in granting affiliation under Chapter X of the Maharashtra Public Universities Act, 2016, involve verification of infrastructure, expert consultation, inspection of facilities, etc. These activities are within the framework of a statutory scheme and not for any profit or commercial purpose.
- The words "furtherance of business" in Section 7(1)(a) cannot be read in isolation. They must be read in the context of preceding words (sale, transfer, barter, exchange, licence, rental, lease, disposal). None of these commercial concepts apply to the statutory function of granting affiliation.
- The definition of "business" under Section 2(17)(a) (any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity) must be read *ejusdem generis* – activities of a commercial or pecuniary character. The university's functions are singularly and purely intended to further the object of education and cannot be categorized as trade or commerce.
- The Court examined Sections 3, 4, 5, and Chapter X (Sections 107-124) of the Act, which deal with incorporation, objects (dissemination of knowledge, teaching, research), powers and duties, and the entire code for grant and withdrawal of affiliation.
- The Court observed that granting affiliation is a statutory and regulatory function embedded in the educational mandate of the university. It involves expenditure and activities that are not commercial in character. The university is a mission to disseminate education, where considerations of commerce are alien.

On educational exemption (alternative finding):

- The Court additionally observed that even assuming (without admitting) that affiliation involved a service, the exemption under Entry 66 of Notification No. 12/2017-CT(Rate) would apply.

- Following the view taken in ***Goa University v. Joint Commissioner of CGST (2025 SCC OnLine Bom 1262)***, the Court held that the term "educational institution" includes not only affiliated colleges but also the university itself. Students of affiliated colleges are ultimately students of the university that grants the degree.
- Affiliation is intrinsically connected with admission of students, conduct of examinations, and conferment of degrees. The exemption cannot be read so narrowly as to exclude the university when affiliation forms part of the educational framework.
- The writ petition was allowed. The impugned order-in-original dated 27 January 2025 and the rectification order dated 23 June 2025 were quashed and set aside.

TATTVAM COMMENTS:

- This judgment from the Bombay High Court provides authoritative clarity that affiliation fees collected by statutory universities are not liable to GST. It follows the consistent view taken by the Karnataka High Court (*Rajiv Gandhi University of Health Sciences* – upheld by Supreme Court), the Bombay High Court (Goa Bench) in *Goa University*, and the Rajasthan High Court (*Rajasthan Technical University, Kota*).
- The judgment also reinforces the principle that the definition of "business" under Section 2(17)(a) must be read *ejusdem generis* – only activities of a commercial or pecuniary character are covered. Statutory functions of a university do not fall within this scope.

(k) Relevant date for refund of unutilised ITC (exports & inverted duty structure) for FY 2017-18 is end of financial year as per unamended Explanation 2(e); amendment operates prospectively.

[M/s Kanika Exports v. Union of India & Ors. & M/s Malik Seasoning and Spices Pvt. Ltd. v. Commissioner of GST, TS-270-HC(DEL)-2026-GST]

Facts:

- **Petitioner 1:** The petitioner, engaged in export of readymade garments, exported goods without payment of IGST (zero-rated supplies). It filed a refund application dated 29.03.2020 claiming refund of unutilised ITC accumulated as on 31.03.2018 (July 2017 to March 2018) amounting to Rs. 21,88,802/-. The Adjudicating Authority rejected the claim as time-barred, applying Explanation 2(a) to Section 54 (relevant date = date of exports: 06.10.2017 and 20.03.2018). The Appellate Authority upheld the rejection.
- **Petitioner 2:** The petitioner filed refund applications dated 28.03.2021 (for July 2017-March 2018, Rs. 6,61,234/-) and 30.03.2021 (for April 2018-March 2019, Rs. 17,46,013/-) claiming refund of unutilised ITC accumulated due to inverted duty structure. The Adjudicating Authority rejected the claims as time-barred applying the amended Explanation 2(e) (relevant date = due date for furnishing return under Section 39). The Appellate Authority upheld the rejection.

Issues:

- What is the "relevant date" for computing the two-year limitation period under Section 54 of the CGST Act for refund claims of unutilised ITC arising from (i) zero-rated exports without payment of tax, and (ii) inverted duty structure, for the financial year 2017-18?
- Whether the amendment to Explanation 2(e) of Section 54 (w.e.f. 01.02.2019), which changed the relevant date from "end of the financial year" to "due date for furnishing return under Section 39", applies retrospectively to refund claims pertaining to periods prior to the amendment?

Held:

On the applicable "relevant date" for refund of unutilised ITC on exports (Kanika Exports):

- The Court held that Explanation 2(a) to Section 54 (date of exports) applies only to refund of "tax paid" on goods themselves or inputs/input services used in such goods. In contrast, Section 54(3) read with first proviso deals with refund of "unutilised ITC" in cases of zero-rated supplies (exports without payment of tax) and inverted duty structure.

- These are two distinct species of refund. For refund of unutilised ITC, the provision that applies is unamended Explanation 2(e), which defines the relevant date as the "end of the financial year in which such claim for refund arises" (i.e., 31.03.2018 for FY 2017-18).
- The Court observed that applying Explanation 2(a) uniformly to all exports, including those involving unutilised ITC, would create an anomaly. The right to claim unutilised ITC accrues only after statutory compliances (Sections 16, 17) and after such ITC is reflected in the Electronic Credit Ledger and remains unutilised at the end of the financial year. The limitation period cannot commence before the right to claim such refund accrues.

On prospective application of the amendment to Explanation 2(e):

- The Court held that the amendment to Explanation 2(e), brought into effect from 01.02.2019, is prospective in nature and cannot be applied retrospectively to refund claims pertaining to periods prior to the amendment.
- Relying on the Bombay High Court decision in *Babasaheb Keda Shetkari Sahakari Soot Girni Limited* and the Jammu & Kashmir High Court decision in *Bharat Oil Traders v. Assistant Commissioner*, the Court held that the applicable provision is the one that existed on the date of the transaction (i.e., when the supplies/exports were made). The period of limitation prescribed when the transaction took place cannot be curtailed by a subsequent amendment that was not in the knowledge of the taxpayer.

- The vested right to claim refund for periods preceding the amendment cannot be taken away by a subsequent amendment unless expressly made retrospective.

TATTVAM COMMENTS:

- This judgment provides **authoritative clarity** on the distinction between refund of "tax paid" (Explanation 2(a): date of exports) and refund of "unutilised ITC" (Explanation 2(e): end of financial year). Taxpayers claiming refund of unutilised ITC on zero-rated exports need not compute limitation from the date of each export shipment.
- The ruling confirms that the amendment to Explanation 2(e) is prospective and does not apply to claims pertaining to FY 2017-18 and

FY 2018-19 (where transactions occurred before 01.02.2019). This protects taxpayers' vested rights and prevents curtailment of limitation periods by subsequent amendments.

(I) Inter State Transit Goods Cannot Be Detained By Transit State Officers Under Sections 129/130; Valuation Disputes Do Not Confer Jurisdiction.

[Golden Traders, M/s. FM Trading, Sri P. Abdul Askar v. The Deputy Assistant Commissioner of State Tax, The Assistant Commissioner of State Tax, Guntakal, State of Andhra Pradesh, 2026 (4) TMI 288 - Andhra Pradesh High Court]

Facts:

- The petitioners were various traders transporting goods in inter-State trade (e.g., Kerala to Delhi, Karnataka to Maharashtra, Kerala to Maharashtra) passing through the State of Andhra Pradesh.
- Officers appointed under the APGST Act intercepted the consignments at check posts within Andhra Pradesh.
- In all cases except one, the consignments were accompanied by all necessary documents under Section 68 of the GST Act.
- Proceedings were initiated under Section 129 (detention/seizure) and/or Section 130 (confiscation) on grounds of alleged undervaluation, mismatch of description, or excess quantity as against documents.
- The goods originated outside Andhra Pradesh and were destined for destinations also outside Andhra Pradesh.
- The petitioners challenged the jurisdiction of APGST officers to act under Sections 129/130 for inter-State goods moving through Andhra Pradesh and also contended that valuation issues cannot be taken up under these provisions.

Issues:

- Whether officers appointed under the APGST Act can exercise powers under Section 129 or 130 of the APGST Act or CGST Act for intercepting, detaining or confiscating goods whose movement falls under the ambit of the IGST Act (inter-State transit)?
- Whether valuation-related discrepancies (undervaluation, mismatch of description, excess quantity) justify detention, seizure or confiscation under Sections 129 or 130 of CGST Act?

Held:

- The Court held that cross-empowerment under Section 6 of the CGST Act and Section 4 of the IGST Act is not automatic in the abstract. It operates only in relation to a taxpayer who has been administratively allotted to the State and in respect of functions assigned to the State officer as the proper officer.
- For inter-State supplies originating outside Andhra Pradesh and terminating outside Andhra Pradesh, no part of the tax is allocable to Andhra Pradesh under Section 17 of the IGST Act. Consequently, detention, seizure or confiscation by Andhra Pradesh officers under Sections 129 and 130 would result in recovery of penalty, fine or sale proceeds by an intermediary State which has no statutory entitlement to that transaction.
- APGST officers may act under the IGST regime only where Andhra Pradesh is entitled to allocation of a share of tax. For inter-State movement that neither originates nor terminates in Andhra Pradesh, they have no jurisdiction under Sections 129/130. Instead, they may only forward discrepancies to the proper officers of the consignor and consignee.
- Agreeing with *Panchi Traders v. State of Gujarat* (2025 (12) TMI 941 - Gujarat High Court) and other High Courts, the Court held that questions of valuation do not by themselves justify action under Sections 129 and 130. Those provisions are intended to address contraventions connected with evasion, not to permit the intercepting officer to undertake an assessment or valuation exercise at the point of transit.
- For the case where absence of e-way bill was alleged (W.P. No. 3258/2026), the Court found no basis to depart from its interlocutory observations since

the alleged first inspection had not been recorded in the manner required under Rule 138C of the CGST Rules.

- The Court laid down the following principles:

  i) A State officer is cross-empowered under CGST/IGST only when the taxpayer has been administratively allotted to the State and the officer is the assigned proper officer.

  ii) A proper officer under APGST assigned functions under Sections 129/130 can discharge such functions under the CGST Act for intra-State sales.

  iii) Such officer can act under the IGST Act only when Andhra Pradesh is entitled to an allocation of tax share under Section 17 of the IGST Act.

  iv) Such officer cannot act under the IGST Act for inter-State sales that originate and terminate outside Andhra Pradesh.

  v) For discrepancies found in IGST movements, the State officer may forward the same to the proper officers of consignor and consignee.

- The impugned proceedings under Sections 129 and 130 were set aside as without jurisdiction, with liberty to the respondents to forward the records and samples to the respective proper officers of the petitioners.

TATTVAM COMMENTS:

- This judgment provides crucial clarity on the territorial limits of cross-empowerment under the GST regime. State officers cannot assume jurisdiction over inter-State goods that merely pass through their State without any tax allocation entitlement.
- The ruling protects taxpayers from harassment by intermediary States seeking to levy penalties and confiscate goods on valuation grounds during transit, a common pain point in GST implementation.
- The decision aligns with the consistent view of multiple High Courts (Kerala, Chhattisgarh, Gujarat, Allahabad) and reinforces the principle that free movement of goods under self-assessment cannot be arbitrarily obstructed.

(m) Anti-profiteering proceedings set aside – Absence of proper methodology and violation of principles of natural justice.

[DG Anti-Profiteering v. Sobha Ltd., 2026 (4) TMI 360 – GSTAT, New Delhi]

Facts:

- The proceedings were initiated against the Respondent under anti-profiteering provisions alleging that the benefit of input tax credit post implementation of GST was not passed on to buyers by way of commensurate reduction in prices.
- The Director General of Anti-Profiteering (DGAP), after investigation, concluded that the Respondent had profiteered by not passing on the benefit of additional ITC and quantified the alleged profiteering amount. Based on such findings, the Authority passed an order confirming the demand.
- The Respondent challenged the findings, contending that the methodology adopted by DGAP for computation of profiteering was arbitrary and lacked statutory backing. It was further contended that no prescribed mechanism or formula existed under the law for determination of profiteering, resulting in ad hoc conclusions.
- It was also argued that the proceedings suffered from violation of principles of natural justice, including lack of proper opportunity to rebut computations and absence of transparency in determination.
- Aggrieved by the anti-profiteering order, the Respondent preferred an appeal before the GST Appellate Tribunal.

Issue:

Whether anti-profiteering determination made in absence of a prescribed methodology and without adherence to principles of natural justice is sustainable in law.

Held:

- The GST Appellate Tribunal held that the anti-profiteering order was unsustainable in law.

- The Tribunal observed that the determination of profiteering must be based on a clear, transparent, and legally sanctioned methodology, and in absence of such prescribed mechanism, the computation cannot be upheld.
- It was noted that the methodology adopted by DGAP lacked statutory backing and resulted in arbitrary quantification of alleged profiteering.
- The Tribunal further held that principles of natural justice were not adequately followed, as the Respondent was not provided sufficient clarity or opportunity to effectively contest the basis of computation.
- Emphasizing that anti-profiteering provisions have serious civil consequences, the Tribunal held that strict adherence to due process and fairness is mandatory.
- Accordingly, the Tribunal had set aside the anti-profiteering order and held that the demand based on such computation cannot be sustained.

TATTVAM COMMENTS:

- This ruling underscores that anti-profiteering actions cannot rest on ad hoc methodologies and must be backed by clear statutory framework. The ruling also highlights the importance of strict interpretation of fiscal statutes, reiterating that tax authorities cannot rely on presumed legislative intent to override the plain language of the provision.
- It reinforces that transparency and natural justice are central to such proceedings, given their significant financial implications.
- The decision provides strong support against arbitrary profiteering allegations lacking robust computation basis.

(n) Section 76 is not invocable where tax collected has already been paid to Government through another GST registration of the same entity.

[Gail (India) Ltd. v. Additional Commissioner, GST & Central Excise, Tiruchirappalli, 2026 (4) TMI 1062 – Madras High Court]

Facts:

- The Petitioner, *Gail (India) Ltd.*, is a Public Sector Undertaking engaged in the business of sale of natural gas and provision of transmission services.
- The Petitioner had obtained separate GST registrations for its trading vertical and transmission vertical within the same State.
- The sale of natural gas (trading vertical) was subject to VAT, whereas GST was applicable only on the transmission charges collected by the Petitioner (transmission vertical).
- The Petitioner discharged GST liability on transmission services through its transmission vertical and recovered the same from customers through its trading vertical in the form of reimbursement.
- There was no discrepancy between the GST amount collected from customers and the GST amount deposited with the Government.
- A Show Cause Notice dated 17.08.2020 was issued under Section 76 of the CGST Act alleging that the Petitioner had collected tax but failed to deposit the same with the Government, and accordingly proposed recovery along with interest and penalty.
- Aggrieved by the said notice, the Petitioner filed a writ petition before the High Court on the ground that the entire amount collected had already been deposited with the Government and that invocation of Section 76 was without jurisdiction.

Issues:

- Whether a writ petition is maintainable against a show cause notice in cases where only a pure question of law arises and no further factual enquiry is required?
- Whether Section 76 of the CGST Act can be invoked in a case where the tax collected from customers has already been deposited with the Government, albeit through another GST registration of the same assessee?

Held:

- The Hon'ble Court observed that no further factual verification is required and only a pure question of law remained for consideration and therefore the writ petition was maintainable.

- The Court further held that Section 76 of the CGST Act is attracted only in cases where a person collects an amount as tax and fails to remit the same to the Government. In the present case, it was an admitted fact recorded in the show cause notice itself that the entire amount collected from customers had been duly deposited with the Government.
- It was further held that although separate GST registrations are treated as distinct persons under Section 25(4) of the CGST Act, the payment of tax through another registration of the same entity within the same State cannot be treated as non-payment of tax.
- The Hon'ble Court categorically held that Section 76 cannot be invoked to disregard actual payment made to the Government or to create a situation of double taxation merely because the payment was routed through a different GST registration of the same assessee.
- It was further observed that the show cause notice, despite acknowledging that the amount collected matched the amount deposited, proceeded to raise a demand by ignoring such payment, which rendered the invocation of Section 76 unsustainable in law.
- Accordingly, the Hon'ble High Court quashed the impugned show cause notice dated 17.08.2020

TATTVAM COMMENTS:

- This judgment is a significant precedent clarifying that Section 76 of the CGST Act applies strictly to cases involving non-remittance of tax collected, and not to cases involving mere procedural deviations in the mode of payment.

(o) Writ maintainable despite alternative remedy; order quashed as passed by officer lacking jurisdictional competence under GST law.

[M/s Subhash Chandra Narendra Kumar Nahar & Anr. v. State of Madhya Pradesh & Ors., 2026 (4) TMI 1730 – Madhya Pradesh High Court]

Facts:

- The Petitioners, *M/s Subhash Chandra Narendra Kumar Nahar* and *M/s Nahar Traders*, were subjected to adjudication proceedings wherein a demand of ₹7.01 crores was raised vide order dated 30.12.2025.
- The impugned order was passed by the Assistant Commissioner, State Tax (Anti-Evasion Bureau), Indore.
- The Petitioners challenged the order before the High Court on the ground that the officer passing the order was not a "Proper Officer" under Section 2(91) of the CGST Act and therefore lacked jurisdiction.

Issues:

- Whether a writ petition is maintainable despite availability of an alternative remedy where the impugned order is alleged to be without jurisdiction?
- Whether an order passed by a State tax officer without proper authorisation under Section 6 of the GST law is sustainable in law?

Held:

- The Hon'ble High Court held that the existence of an alternative remedy does not bar the exercise of writ jurisdiction where the impugned order is passed without jurisdiction.
- The Court observed that as per Section 2(91) of the CGST Act, a "Proper Officer" must be duly assigned functions in accordance with law, and Section 6 permits State tax officers to act as Proper Officers only subject to conditions specified through notification based on the recommendation of the GST Council.
- The Court noted that in the present case, the State had admitted that no such recommendation of the GST Council existed for authorising the concerned officer. In absence of such authorisation, the officer lacked jurisdictional competence and the order passed by him was held to be without authority of law.
- Accordingly, the impugned order dated 30.12.2025 was quashed, with liberty granted to the competent authority to pass a fresh order in accordance with law.

TATTVAM COMMENTS:

- This judgment reinforces the principle that Orders passed by officers without proper authorisation are void and challengeable in writs.

(p) Re-import of goods exported under LUT – IGST liability restricted to ITC availed; no automatic levy on re-import.

[Nar Spice Products v. Union of India, 2026 (185) taxmann.com 320 – Kerala High Court]

Facts:

- The Petitioner, a partnership firm engaged in export of spices, exported curcumin to a US buyer under LUT without payment of IGST.
- Due to a tariff hike by the US Government, the overseas buyer refused to accept the consignment, resulting in re-import of the same goods into India.
- At the time of re-import, the Bill of Entry was assessed and IGST was imposed. It is in this regard, the Petitioner challenged the levy of IGST since no taxable event had occurred.
- The Department contended that in terms of Notification No. 45/2017-Cus., the importer is required to repay the applicable IGST, which may have been claimed as a refund of unutilized input tax credit of CGST,SGST/UTGST and IGST as per Section 16(3) of the IGST Act, 2017, if goods were exported under LUT/Bond.
- Aggrieved by the levy of IGST on re-import, the Petitioner filed a writ petition challenging the Bill of Entry and consequent demand.

Issue:

Whether IGST can be levied on re-import of goods exported under LUT, irrespective of availment of input tax credit, or whether such liability is restricted only to the extent of ITC availed/refund claimed by the exporter?

Held:

- The Hon'ble Kerala High Court held that in case of re-import of goods exported under LUT, the liability of the assessee is confined to reversal or repayment of input tax credit, if any, availed at the time of export.
- The Court observed that where no ITC has been availed, and the assessee furnishes a certificate from the jurisdictional officer to that effect, the goods are liable to be cleared without payment of IGST.
- It was held that even where ITC has been availed, the liability on re-import cannot exceed the amount of such credit, and full IGST cannot be levied mechanically.
- The Court noted that the impugned levy arose due to an apparent mistake in the reply furnished by the Petitioner or its clearing agent, and such procedural lapse cannot justify imposition of excessive tax liability.
- Accordingly, the impugned Bill of Entry assessing IGST was set aside, and the Petitioner was permitted to submit a fresh response along with necessary certification, to be reconsidered by the authorities.

TATTVAM COMMENTS:

- The ruling clarifies that re-import of goods exported under LUT does not constitute an independent taxable event warranting full IGST levy. The judgment reinforces the principle that tax liability on re-import is intrinsically linked to the benefit availed at the time of export (i.e., ITC/refund), and cannot exceed such benefit.

ADVANCE RULING

(q) Eligibility for Input Tax Credit (ITC) on input services and capital goods under the Margin Scheme for used motor vehicles—Notification No. 08/2018-Central Tax (Rate) restricts ITC only on the used motor vehicles themselves and not on ancillary business expenses.

[M/s Toyota Mobility Solution and Services India Pvt. Ltd., 2026 (3) TMI 342 – Karnataka Authority for Advance Ruling]

Facts:

- The applicant is engaged in the business of buying and selling used motor vehicles (passenger cars, SUVs, etc.).
- They procure used cars, undertake minor refurbishment/repairs, and sell them to end customers.
- The applicant discharges GST at 18% on the margin (selling price minus purchase price) as per Notification No. 08/2018-Central Tax (Rate).
- In the course of business, the applicant incurs several ancillary expenses, including Refurbishment, Marketing, Professional fees, housekeeping, rent, software subscriptions, and manpower recruitment, Laptops, office equipment, and furniture.
- The applicant sought a ruling on whether ITC can be claimed on these expenses while availing the benefit of the Margin Scheme.

Issue:

Whether a registered person availing the Margin Scheme under Notification No. 08/2018 is eligible to claim ITC on inward supplies (input services and capital goods) other than the purchase of the motor vehicle itself?

Held:

- The Authority for Advance Ruling (AAR) observed that the prohibition on ITC in Paragraph 2 of Notification No. 08/2018 uses the expression "such goods".
- Following settled principles of literal statutory interpretation, "such goods" refers back to the specific goods listed in the notification table (i.e., the old and used motor vehicles).

- Consequently, the ITC bar is confined only to the motor vehicles and does not extend to other inputs or input services procured in the course or furtherance of business.
- The Authority confirmed that expenses like refurbishment, marketing, rent, and capital goods are essential for business operations and directly link to the enhancement of the sale value, leading to a higher tax margin for the exchequer.
- There is no statutory bar under Section 17(5) of the CGST Act preventing ITC on these specific inward supplies.
- The Applicant is eligible to claim ITC on the listed services and capital goods, subject to fulfilling standard conditions under Sections 16 to 21 and Rules 36 to 45 of the CGST/KGST Act and Rules.

TATTVAM COMMENTS:

- This ruling provides significant clarity for the used vehicle industry, confirming that the "Margin Scheme" is not an "all-or-nothing" ITC restriction. While you cannot claim ITC on the car you bought to resell, you **can** claim ITC on the costs incurred to run the business and improve that car.
- The distinction between the **main subject matter** (the used car) and **ancillary supplies** (services/admin) is critical. If the intent of the legislature were to block all ITC, the notification would have used broader language.
- Taxpayers should ensure that refurbishment expenses are clearly documented as services or parts separate from the vehicle purchase price to satisfy the conditions of Sections 16-21.
- From a compliance perspective, taxpayers who paid GST during the interim period cannot claim a refund, while those who did not pay face no demand creating a fair, pragmatic outcome given the legislative flip-flop.

TATTVAM

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