JUDICIAL PRONOUNCEMENTS

1. Interest on Delayed GST Refund – CA/CMA Certificate Not Required Where Principal Refund Already Sanctioned *[Synchrony International Service Pvt. Ltd. Versus Assistant Commissioner (ST) - Telangana High Court - W.P. Nos. 12047 and Ors. of 2026 - decided on 30.07.2026]*

Background

The petitioners, Synchrony International Service Pvt. Ltd., had received refunds of the principal amounts for various tax periods from July 2018 to March 2021, either pursuant to orders of the Refund Sanctioning Authority or appellate authorities. As the refunds had been delayed, the petitioners subsequently claimed interest under Section 56 of the CGST Act, 2017.

The interest claims remained pending before the Proper Officer, and deficiency memos were issued requiring submission of various documents, including an undertaking under Section 16(2)(c) and certification under Rule 89(2)(m) of the CGST Rules, 2017.

Issue Involved

Whether, where the principal refund has already been sanctioned and disbursed, the taxpayer is required to furnish the CA/CMA certificate prescribed under Rule 89(2)(m) for claiming statutory interest on such delayed refund under Section 56 of the CGST Act.

Contentions of the Respondent

The Respondent Department relied upon Circular No. 125/44/2019-GST dated 18.11.2019, which prescribes the documents required to accompany a refund application. Since the petitioners had filed the application under "any other ground", the Department contended that the prescribed undertaking and supporting documents, including self-declaration/certification under Rule 89(2)(l)/(m), were required to be furnished.

Court's Observations

The Court noted that the petitioners' claim related only to interest on refunds that had already been sanctioned and disbursed. The Court observed that once the principal refund had already been sanctioned, the interest component could not have been passed on to any end consumer.

Accordingly, the Court held that insisting upon the Rule 89(2)(m) certification was unnecessary where the claim was confined to interest on the already sanctioned refund. The Proper Officer was directed to scrutinise the refund orders and the interest claim without insisting on such certification.

Order

The petitioners were directed to produce the summary of refund claims and the corresponding interest claims before the Proper Officer. The Proper Officer was directed to scrutinise and sanction the interest on the principal refund without insisting upon certification under Rule 89(2)(m) and to take a decision in accordance with law within two weeks. The writ petitions were accordingly disposed of, with no order as to costs.

2. ITC Recovery – Order Quashed for Denial of Personal Hearing and Non-Speaking Order *[Aarya Metals Versus State of Gujarat- Gujarat High Court - R/ Special Civil Application No. 7535 of 2026 -decided on 28.07.2026]*

Background

The respondent authorities issued a Show Cause Notice dated 04.08.2024 under Section 74(1) of the CGST Act proposing recovery of ITC of ₹7,63,026 along with applicable interest, alleging that the inward supplies received from M/s. RK Battery and Scrap were non-genuine as the supplier was found to be non-genuine and non-existent.

The petitioners subsequently received three reminders dated 12.09.2024, 07.11.2024 and 18.11.2024 and filed a reply in FORM GST DRC-06 on 21.11.2024, enclosing the relevant tax invoices. Thereafter, the authorities passed an order in FORM GST DRC-07 dated 07.12.2024, directing recovery of ITC along with interest and penalty.

Issue Involved

Whether an order confirming recovery of ITC, interest and penalty is sustainable when:

1. The SCN and subsequent reminders did not intimate the date, time and venue of personal hearing;
2. The taxpayer's reply and supporting documents were not properly considered; and
3. The impugned order was a cryptic, non-speaking order without reasons.

Contentions of the Respondent

The Respondent contended that the petitioners had been issued three reminders and had responded to the proceedings. It was further submitted that, in their reply, the petitioners had selected "No" in the column relating to personal hearing and were therefore fully aware of the proceedings. Accordingly, the Respondent argued that the writ petition ought not to be entertained.

Court's Observations

The Court observed that the SCN as well as the three subsequent reminders failed to specify the date, time and venue of personal hearing. The Court referred to Section 75(4) of the CGST Act, which requires an opportunity of hearing where an adverse decision is contemplated.

The Court further held that merely because the petitioners had selected "No" for personal hearing in FORM GST

DRC-06, the statutory obligation to afford an effective opportunity of hearing was not dispensed with. The Court relied upon its earlier decisions, including Aarti Enterprise and Komal Jayeshbhai Hemavat, concerning the requirement of proper hearing under Section 75.

The Court identified three grounds vitiating the impugned order:

- Failure to intimate the date, time and venue of personal hearing;
- Passing of a non-speaking order; and
- Failure to afford the petitioner three opportunities of personal hearing contemplated under Section 75(4).

Order

The High Court quashed and set aside the impugned order and remanded the matter to the jurisdictional State Tax Officer for passing a fresh order after affording the petitioners an opportunity of hearing in accordance with law.

The fresh order was directed to be passed within 12 weeks from the date of receipt of the certified copy of the order. The Court further clarified that the petitioners' claim for refund along with interest would remain subject to the fresh order passed in the remanded proceedings.

3. GST Appeal – Delay Condoned Due to Proprietor's Hospitalisation; Appeal to be Decided on Merits *[Usha Enterprises Versus State of Andhra Pradesh - Andhra Pradesh High Court - W.P. No. 17704 of 2026 - decided on 03.07.2026]*

Background

The petitioner, Usha Enterprises, a proprietary concern registered under the APGST and CGST Acts, was subjected to an assessment for the period 1 April 2023 to 31 March 2024, resulting in a demand of ₹11,75,523 through FORM GST DRC-07.

The petitioner contended that the assessment order was not duly served and that its sole proprietor was hospitalised and under continuous medical treatment from March 2025 to June 2025. Since the proprietor alone had access to the GST portal, the appeal could not be filed within the prescribed period. The appeal was ultimately filed with a delay of 17 days.

Issue Involved

Whether the Appellate Authority was justified in rejecting the appeal at the admission stage on the ground of limitation, without examining whether sufficient cause existed for the delay of 17 days.

Contentions of the Respondent

The Respondent contended that the Appellate Authority's endorsement rejecting the appeal was valid and legal and did not warrant interference by the High Court.

It was further submitted that the petitioner had an alternative remedy of appeal against the impugned endorsement and, accordingly, the writ petition should be dismissed.

Court's Observations

The Court observed that the Appellate Authority had not examined whether sufficient cause existed for condonation of the delay. Instead, the rejection was based merely on reliance upon an earlier decision, without independently examining its applicability to the facts of the present case.

The Court further observed that, considering the statutory limitations, the alternative appellate remedy would not be efficacious in the circumstances.

Relying upon Mastek Engineering (P.) Ltd. v. Appellate Authority and Additional Commissioner, State Tax, the Court emphasised that an appeal is a valuable statutory right and that, where sufficient cause exists, the interest of justice may warrant condonation of delay to enable adjudication on merits.

Order

The High Court set aside the endorsement dated 23.08.2025 and condoned the 17-day delay, subject to payment of ₹25,000 as costs.

The petitioner was directed to deposit the costs before the Appellate Authority within two weeks, following which the Appellate Authority was directed to consider and decide the appeal on merits in accordance with law.

4. GST Proceedings Against Deceased Proprietor Held Void for Want of Notice to Legal Representatives *[Gita Rani Pan Versus Union of India & Ors. - Calcutta High Court - W.P.A. No. 10402 of 2025 - decided on 27.08.2025]*

Background

The petitioner challenged the Order-in-Original dated 21.01.2025 passed under Section 74 of the CGST Act, 2017, whereby a tax demand of ₹38,44,674 along with applicable interest and penalty was raised for the period July 2017 to September 2021.

The proprietor, Late Haradhan Pan, had died on 20.05.2021. Despite his death, the Department issued a Show Cause Notice dated 08.03.2022 in his name. The petitioner, his wife, had subsequently obtained a fresh GST registration in her own name. The Department thereafter passed the Order-in-Original and initiated recovery proceedings in the name of the deceased proprietor.

Issue Involved

Whether a Show Cause Notice and consequential tax determination under the CGST Act, 2017, issued in the name of a deceased proprietor, without issuing notice to and providing an opportunity of hearing to his legal representatives, are legally sustainable.

Contentions of the Respondent

The CGST authorities contended that:

- The petitioner had not intimated the Department within the prescribed time regarding the death of the proprietor; hence, the objection regarding issuance of notice in the name of a deceased person was not acceptable.

- Section 93(1)(b) of the CGST Act creates liability upon the legal representatives where tax, interest or penalty is determined after the death of the taxable person. Therefore, the liability does not get extinguished merely because the tax was not determined during the lifetime of the proprietor.
- The application for cancellation of the deceased proprietor's GST registration was filed belatedly and, therefore, could not invalidate the proceedings.
- Reliance was placed on Section 29(3), which provides that cancellation of registration does not affect liability for tax and other dues pertaining to the period prior to cancellation.
- Reliance was also placed on Section 93(1)(b) to contend that the legal representative is liable to pay the tax, interest and penalty due from the deceased to the extent of the estate capable of meeting the charge.

Court's Observations

The Court held that issuance of a notice in the name of a dead person is a nullity, non-est and void ab initio.

The Court observed that although Section 93(1)(b) creates liability upon the legal representative, the liability has to be determined through the appropriate machinery provisions. Sections 73 and 74 require issuance of a Show Cause Notice to the person liable. Therefore, where the proprietor has died, the Show Cause Notice must be issued to the legal representative in his/her own capacity as legal representative of the deceased, followed by an opportunity to respond and be heard.

The Court specifically distinguished between the charging provision and the machinery provision. Section 93(1) creates liability of the legal heirs, limited to the extent of the estate of the deceased, whereas the machinery for determination of such liability is contained in Sections 73 and 74. The Department cannot issue a notice to the deceased and thereafter require the legal heirs to respond to that notice.

Accordingly, the Court held that tax determination against a non-existing person is legally impermissible and stands vitiated.

Order

The Calcutta High Court:

- Quashed and set aside the Show Cause Notice dated 08.03.2022, the Order-in-Original dated 21.01.2025 and the recovery notice dated 08.06.2024.
- Directed the Department to issue a fresh Show Cause Notice in the names of the legal heirs of the deceased proprietor.
- Directed the legal heirs to file their replies within three weeks of receipt of the fresh notice and thereafter to be afforded an opportunity of personal hearing.
- Directed the Department to determine the liability in accordance with Section 93(1)(b), restricted to the extent to which the estate of the deceased is capable of meeting the tax, interest and penalty liability.
- Directed that the adjudication exercise be completed within six weeks from receipt of the replies.
- Disposed of the writ petition without examining the merits of the underlying tax demand.

5. Consolidation of Multiple Financial Years in a Single SCN under Section 73 of the CGST Act is Impermissible *[M/s. Mehadia & Sons C & F Division Versus Assistant Commissioner of CGST & Central Excise, Nagpur-II - Bombay High Court - Writ Petition No. 4844 of 2026 - decided on 28.08.2026]*

Background

The petitioner challenged a Show Cause Notice (SCN) dated 24 April 2025 issued under Section 73 of the CGST Act, 2017, alleging suppression of taxable value and consequent short payment of CGST for the financial years 2021-22 to 2023-24. The SCN clubbed the alleged tax shortfalls pertaining to multiple financial years.

Issue Involved

Whether a Show Cause Notice issued under Section 73 of the CGST Act can consolidate alleged tax shortfalls pertaining to multiple financial years/tax periods in a single notice.

Contentions of the Respondent

The respondents contended that clubbing of multiple financial years in a single SCN is permissible. They relied upon the Delhi High Court's decision in M/s. Mathur Polymers v. Union of India, wherein it was held that a consolidated notice may be warranted where fraudulent availment of ITC involves transactions spread over several years.

The respondents further submitted that the Delhi High Court judgment had been challenged before the Supreme Court, which declined to interfere and therefore the Delhi High Court's view had attained finality. They also referred to the subsequent Delhi High Court decision in M/s. Technosys Integrated Solutions Pvt. Ltd. and submitted that the Bombay High Court's earlier decisions in Milroc Good Earth Developers and Rite Water Solutions were proposed to be challenged before the Supreme Court.

Court's Observations

The Court relied upon its earlier decisions in M/s. Milroc Good Earth Developers v. Union of India and Rite Water Solutions (India) Ltd. v. Joint Commissioner, CGST & Central Excise, which held that there is no scope for consolidating different financial years/tax periods in a Section 73 SCN.

The Court observed that the GST statutory framework operates on a year-wise basis, with separate returns, annual-return due dates and limitation periods for each financial year. Consolidating different years into one SCN would therefore aggregate tax periods having distinct statutory timelines, which is inconsistent with the scheme of the CGST Act.

The Court also held that the Supreme Court's dismissal of the challenge to the Delhi High Court judgment in limine and not on merits did not attract the doctrine of merger. Further, as the Bombay High Court had subsequently taken a contrary view, the authorities within its jurisdiction were bound by the Bombay High Court's decisions.

Order

The Bombay High Court partly allowed the petition and quashed and set aside the SCN dated 24 April 2025. However, the respondents were granted liberty to issue a fresh notice strictly in accordance with Section 73 of the CGST Act, subject to there being no other legal impediment. The petition was accordingly disposed of with no order as to costs.

6. Section 74 cannot be invoked through a mechanical allegation of Fraud *[G.R. Infra Projects Limited Ratlam Versus The State of Madhya Pradesh & Ors – Supreme Court of India – Appeal (C) No. 11277 of 2026 arising out of SLP (C) No. 33594 of 2025 - decided on 19.08.2026]*

Background

The petitioner is a company engaged in the design and construction of roads and highway projects. The dispute arose after a Show Cause Notice (SCN) dated 13 June 2025 under Section 74 of the CGST Act, 2017 for the assessment year 2018-19 was issued. The petitioner contended that the proceedings were, in substance, beyond the limitation period prescribed under Section 73 and that the requirements for invoking Section 74 had not been satisfied in the SCN itself. Subsequently, the company challenged the SCN before the High Court of Madhya Pradesh. The High Court declined to interfere, holding that the taxpayer had already replied to the SCN and a statutory appeal under Section 107 could be pursued. Hence, it was held that a writ petition was not maintainable at the SCN stage. The petitioner challenged the decision before the Supreme Court by way of a Special Leave Petition (SLP).

Issue Involved

Whether a Show Cause Notice (SCN), which was otherwise time-barred under Section 73, could be sustained under Section 74 merely by referring to fraud or concealment of facts without setting out the factual basis for such allegations in the notice itself.

Contentions of the Respondent

The Revenue contended that the taxpayer had already filed replies to the SCN and had an alternative remedy of appeal under Section 107 of the CGST Act, 2017. Therefore, the writ petition challenging the SCN was held to be non-maintainable. It was further stated that a counter-affidavit had been filed to explain and elaborate on the allegations of fraud and suppression.

Court's Observations

The Supreme Court observed that :

- A counter-affidavit cannot cure a defective notice. Where the validity of a notice or order is questioned, the requirements necessary to sustain that notice or order must be contained within the notice or order itself. It cannot be subsequently cured by explanations in a counter-affidavit.
- The due date for filing the annual return for FY 2018-19 had been extended to 31 December 2020. Hence, the limitation for issuing notice under Section 73 expired on 31 December 2023. Considering the COVID-19 limitation exclusion, the period was further extended, expiring on 28 February 2025. Since the SCN was issued only on 13 June 2025, the demand was time-barred under Section 73.
- The SCN was issued based on a bland statement of fraud or concealment of facts without an explanation of how fraud was inferred or how concealment of facts was detected. What is required for the extended time to be applied are allegations that lead to the inference of fraud or concealment as attempted by the taxpayer, resulting in the suppression of facts; these should emanate from the notice itself.
- Expressions like 'fraud', 'wilful misstatement', or 'suppression of facts' cannot be invoked mechanically.

Order

The Supreme Court set aside the High Court's order upholding the Show Cause Notice (SCN). The Show Cause Notice (SCN) dated 13 June 2025 was also set aside. The respondent-State was directed not to take any further proceedings in pursuance of the SCN. Consequently, the Civil Appeal was allowed.

7. Gujarat High Court Upheld Taxability of Corporate Guarantee Under GST, Rule 28(2) "Whichever is Higher" Read Down *[Torrent Power Ltd Versus Union of India & Ors – High Court of Gujarat - R/Special Civil Application No. 12175 of 2024 - decided on 14.08.2026]*

Background

The petitioners were holding companies that had furnished corporate guarantees in favour of banks or financial institutions to secure credit facilities availed by their subsidiaries. The challenge was primarily directed against the levy of GST on corporate guarantees under Rule 28(2) of the CGST Rules, 2017, and the validity of Section 15(4) of the CGST Act dealing with the valuation and taxability of corporate guarantee transactions. The petitioners contended that a corporate guarantee without consideration does not constitute a "supply" under Section 7 of the CGST Act. It was also argued that Rule 28(2)—which deems the value of a corporate guarantee service at one percent of the guarantee amount per annum or the actual consideration, whichever is higher—is arbitrary and ultra vires. The pre-26.10.2023 levy under Rule 28(2) on guarantees issued was also challenged. A group of writ petitions were filed by holding companies before the Gujarat High Court to challenge the levy of GST on corporate guarantees.

Issue Involved

The principal issues before the High Court were:

- Whether a corporate guarantee furnished by a holding company for its subsidiary without consideration constitutes a "supply" under Section 7(1)(c) read with Schedule I of the CGST Act.
- Whether a corporate guarantee constitutes a "continuous supply of services" under Section 2(33) of the CGST Act.
- Whether Rule 28(2) prescribing the valuation of corporate guarantees and Section 15(4) of the CGST Act are valid.
- Whether the GST levy under Rule 28(2) can be applied to corporate guarantees furnished before 26.10.2023, and whether impugned Circular No. 204/16/2023 – GST dated 27.10.2023 and Circular No. 225/19/2024 – GST dated 11.07.2024 were valid.
- Whether proceedings under Section 74 for corporate guarantee transactions were sustainable.

Contentions of the Respondent:

The Revenue contended that GST is a supply-based levy, unlike the Service Tax regime, which was a consideration-based levy. GST contains a specific deeming fiction under Section 7(1)(c) read with Schedule I, under which certain supplies between related persons are treated as supplies even without consideration. Therefore, the absence of consideration does not prevent the transaction from being treated as a supply.

The Revenue further submitted that furnishing a corporate guarantee helps the subsidiary obtain finance and is an activity connected with or incidental to business under Section 2(17). Referring to Sections 15(4) and 15(5) of the CGST Act, it was contended that recourse must be made to rules prescribed under the Act to value a supply between related parties since related parties fall outside the scope of Section 15(1). Rule 28(2) of the CGST Rules was amended on 10.07.2024 w.e.f 26.10.2023, the date of its original insertion. The value of supply, which was fixed at 1%, was deemed to be 1% of the amount of guarantee offered per annum. It is either 1% of the guarantee per annum or actual consideration, whichever is higher. If an agreement is entered into for a higher consideration for providing the guarantee, then such a transaction would be valued at the higher consideration and not 1%.

It was further argued that the value deemed under Rule 28(2) is treated as deemed consideration for corporate guarantee transactions; following such interpretation, Schedule I transactions fall within the scope of Section 2(33) of the CGST Act, which defines continuous supply of services even in the absence of periodic payment obligations.

Court's Observations

- The Court accepted that GST applies to a corporate guarantee even where the holding company does not charge a separate guarantee fee. It was held that a corporate guarantee furnished between related persons falls within the scope of Schedule I read with Section 7(1)(c) of the CGST Act.
- The Court observed that the furnishing of guarantees need not itself constitute the taxpayer's principal business. Where a guarantee enables a subsidiary to secure finance, it is connected with the group's financial and commercial interests, and the activity can be treated as incidental or ancillary to business.
- Section 2(33) defines "continuous supply of services" as a supply of services provided or agreed to be provided on a recurrent basis under a contract for a period exceeding three months with periodic payment obligations. A corporate guarantee may create a continuing obligation, but it does not involve periodic payment obligations. Therefore, it does not fall within the definition of continuous supply of services.
- The validity of Rule 28(2) and Section 15(4) was upheld. However, the expression "whichever is higher" was found arbitrary. Where the actual consideration is ascertainable and lower than one percent, compelling a valuation at one percent would be unreasonable. Accordingly, the Court read down the words "whichever is higher".
- Rule 28(2) has been inserted with effect from 26.10.2023. The corporate guarantees were furnished before GST and 26.10.2023. Applying the rule to such past guarantees was treated as retroactive.
- A taxpayer adopting a particular interpretation of a complicated GST provision cannot, by that fact alone, be said to have committed fraud, wilful misstatement, or suppression of facts. Consequently, where the dispute was about the interpretation of GST provisions concerning corporate guarantees, the extended Section 74 machinery could not be automatically invoked. Show cause notices and orders passed under Section 74 were quashed.

Order

- The writ petitions were allowed in part with the following reliefs:
- The provision of Rule 28(2) of the GST Rules, 2017 is held to be intra vires the CGST Act and Articles 14, 19(1)(g), and 265 of the Constitution of India, except to the extent that the expression "whichever is higher" shall be read down.
- The levy of GST on corporate guarantees furnished prior to 26 October 2023 under Rule 28(2) is declared violative of Articles 14 and 19(1)(g) of the Constitution of India; however, the levy gets attracted from this date in case the guarantees continue.

- The proceedings under Section 74 of the GST Act are quashed and set aside.
- The clarification issued vide Circulars dated 27.10.2023 and 11.07.2024 is set aside to the extent it runs contrary to the observations and directions issued by this Court.

8. Services Rendered by an Advocate Registered as an Insolvency Professional Were Not Classified as Legal Services and Not Covered Under Reverse Charge – Professional Liable Under Forward Charge *[Kanwal Chaudhary Versus Insolvency and Bankruptcy Board of India - High Court of Delhi – Writ Petition No. 9410 of 2021 - decided on 13.08.2026]*

Background

The petitioner, Mr. Kanwal Chaudhary, is an advocate registered with the Bar Council of Delhi and had been practising since 1995. Upon the enactment of the Insolvency and Bankruptcy Code, 2016, he qualified for the Limited Insolvency Examination and was registered as an Insolvency Professional on 27.07.2017. The National Company Law Tribunal (NCLT), Delhi Bench, appointed the petitioner as the Interim Resolution Professional (IRP) of Ireo Fiveriver Private Ltd. Invoices for his professional fees as Interim Resolution Professional were raised on 13.08.2019 and 31.10.2019 upon the corporate debtor. Subsequently, another professional, Mr. KV Jain, was appointed as Resolution Professional and took over the assignment from the petitioner. Since the payments had not been made to the petitioner by the Corporate Debtor, the petitioner preferred applications before the NCLT seeking appropriate directions for the release of the payments. The NCLT ultimately directed payment of the outstanding amount of Rs. 49,04,988 and sought clarification from the Insolvency and Bankruptcy Board of India (IBBI) pertaining to the payment of GST. The IBBI, by order dated 9 March 2021, issued a clarification that "Insolvency and Receivership" services were not covered by the Reverse Charge Mechanism (RCM). It was therefore required that the petitioner submit GST-compliant invoices for his professional fees as an Insolvency Resolution Professional. Challenging this decision, the petitioner approached the Delhi High Court.

Issue Involved

Whether an advocate who acts as an Insolvency Professional under the IBC Code 2016 continues to act as an advocate providing "legal services" with GST payable by the recipient under the Reverse Charge Mechanism, or whether the services are "Insolvency and Receivership Services" taxable under the Forward Charge Mechanism by the Insolvency Professional himself.

Contentions of the Respondent

The Revenue contended that whenever an advocate is appointed as an Insolvency Professional, the nature of the services is different from conventional legal services. It was submitted that the nature of services determines the GST taxability and not the professional status of the person rendering such service. When an advocate acts as an Insolvency Professional, he performs functions under IBC, such as managing the affairs of the corporate debtor, inviting claims, convening meetings of the Committee of Creditors, and taking steps in the corporate insolvency resolution process. These functions are not conventional legal services. The Revenue relied on the separate classification of services under GST. Legal services fall under heading 99821, whereas insolvency and receivership fall under the specific entry 998241. Since insolvency and receivership services are specifically and separately classified, they cannot be categorized as legal services. The Bar Council of India also supported the view that an advocate acting as an Insolvency Professional provides services distinct from conventional legal services. Consequently, it was submitted that advocates who are Insolvency Professionals have to be governed by the forward charge mechanism and not by the reverse charge mechanism.

Court's Observations

The Court held that Reverse Charge is applicable to advocates in respect of legal services pursuant to Notification No. 13/2017 – Central Tax (Rate) covering legal services supplied by advocates to business entities. The Court examined the Insolvency and Bankruptcy Code, 2016, and IBBI Regulations and observed that Insolvency Professionals operate under a comprehensive and self-contained regulatory framework. The Court applied the principle that a specific entry prevails over a general entry. Accordingly, insolvency and receivership services cannot be classified as legal services merely because the service provider is an advocate. The specific description under heading 998241 governs the classification.

Order

The Court held that advocates enrolled with the Bar Council, who act as Insolvency Professionals under the IBC, shall be governed by the 'forward charge mechanism'. Accordingly, they shall be liable to obtain GST registration and comply with the consequential requirements of the CGST Act, rules, and notifications applicable to Insolvency Professionals. It was further clarified that the aforesaid direction shall apply only insofar as services rendered by an advocate in the capacity of an Insolvency Professional and shall not, in any manner, affect or alter the GST payment mechanism otherwise applicable to advocates in respect of legal services rendered by them, which shall continue to be governed by the 'reverse charge mechanism'. The petitioner was directed to furnish GST-compliant invoices in respect of the professional fee charged by him for services rendered as an Interim Resolution Professional.

9. Protection of Bona Fide Purchasers from Arrest and Criminal Prosecution for Alleged Wrongful ITC *[Abdul Majid v. The Assistant Commissioner of Commercial Taxes, Bengaluru - High Court of Karnataka - CRL.P No. 9260 of 2026 - decided on 05.08.2026]*

Background

The petitioners were the proprietors of M/s. ANZ Traders, M/s. Z.M.S Enterprises, and M/s. AF Trading, dealing in steel and old scrap materials. The petitioners had purchased aluminium scrap from supplier firms, namely M/s. KH E-Waste Recyclers and M/s. SKS Traders. The authorities conducted raids at the suppliers' premises and arrested their proprietors on allegations that the suppliers were fictitious entities that had issued fake invoices without any actual movement of goods, fraudulently availing Input Tax Credit of Rs. 231.7 crores and Rs. 567 crores respectively, and routing part of the proceeds to petitioners through hawala transactions. Thereafter, summons under Section 70 of the CGST Act, 2017 were issued to the petitioners, requiring them to appear before GST authorities and produce supporting documents concerning their purchases of aluminium scrap. Apprehending arrest in connection with the investigation under Section 132 of the KGST Act, the petitioners approached the Sessions Court for the grant of anticipatory bail. The applications were rejected on 19.06.2026. Following this, the petitioners approached the Karnataka High Court seeking anticipatory bail. The petitioners contended that they had purchased goods against tax invoices, paid the invoice value and GST through banking channels, filed periodic returns, and were willing to cooperate with the investigation.

Issue Involved

The principal issue before the High Court was whether purchasers holding valid GST registrations who have invoices and have made payments through banking channels are entitled to anticipatory bail where suppliers are alleged to have fraudulently availed ITC, in the absence of any proof that the purchaser colluded in the fraud. The Court also examined whether custodial interrogation of purchasers is necessary merely to verify the actual receipt of goods.

Contentions of the Respondent

The revenue authorities opposed the anticipatory bail. The Revenue argued that the petitioners were involved in large-scale economic offences involving fraudulent availment and passing of bogus Input Tax Credit (ITC). According to the respondents, the suppliers were fictitious firms that issued fake invoices without actual supply of goods. Suppliers had availed ITC of Rs. 231.7 crores and Rs. 567 crores, respectively, and had paid part of the amount in cash to petitioners through hawala transactions. The respondent countered that the fact that the alleged offence was compoundable could not by itself constitute a ground for granting anticipatory bail. Consequently, it was argued that custodial interrogation of the petitioners was necessary to identify the involvement of other firms in the alleged racket.

Court's Observations

The High Court explained that the GST framework is based upon self-assessment and voluntary compliance. A registered person claiming ITC must possess tax invoices, receive goods or services, ensure that tax is charged on the invoice, file returns, and pay the invoice value plus tax within the statutory framework.

It was accepted by the Court that the petitioners possessed invoices, had paid the invoice value and GST through bank transactions, and had filed periodic returns. Therefore, for the purpose of anticipatory bail, the petitioners could not be treated at par with the suppliers because the suppliers were alleged to have committed fraud.

With respect to custodial interrogation, the Court observed that the actual receipt of goods can be verified through documentary evidence. The Court relied on Radhika Agarwal v. Union of India (2025), SC, where the Supreme Court held that arrest must be based on reasons supported by material, not on suspicion alone. Arrest cannot be made merely to investigate whether the conditions for arrest are satisfied.

The Court also observed that under Section 132, in cases involving the issue of invoices without supply, the principal offender would be the supplier. In the present case, the suppliers had already been granted regular bail. The Court further held that the nature of punishment, absence of antecedents, willingness to cooperate, banking channel payments, and readiness to produce documents are relevant factors when considering anticipatory bail.

Order

The High Court granted anticipatory bail to the petitioners, directing them to appear before the investigating authorities on 10.08.2026 for interrogation, subject to the following conditions:

The authorities were permitted to take them into custody, if necessary, for interrogation on that date but were required to release them on the same day on or before 6 pm, subject to the execution of a personal bond of Rs. 5,00,000 each with two sureties.

To cooperate with the investigation, appear when summoned, not induce or threaten any person acquainted with the facts, keep their mobile phones operational, and drop a PIN on Google Maps for location availability.

Surrender their passports and not leave India without prior permission.

Breach of conditions would entitle the authorities to seek cancellation of anticipatory bail.

10. GST Refund Cannot be Withheld Due to Pendency of Revenue Appeal *[KPIL-JWIL Joint Venture Versus The State of Bihar, Joint Commissioner – High Court of Patna - Civil Writ Jurisdiction Case No. 5398 of 2026 - decided on 13.08.2026]*

Background

The petitioner is a works contractor and had applied for a refund of excess balance in its Electronic Cash Ledger of Rs. 1,75,00,000/- on 15.12.2023. The refund application was rejected on 31.05.2024 for the reason of availment of ineligible Input Tax Credit of Rs. 24,13,37,314 for the year 2022-23. The petitioner challenged the rejection of the refund claim before the Appellate Authority. The Appellate Authority set aside the refund rejection order on 31.12.2024. A revision application was filed by the Revenue on 28.01.2025, challenging the order passed by the Appellate Authority before the Commissioner of Taxes under Section 108. The petitioner filed a fresh refund application on 05.02.2025. A Deficiency Memo in Form GST – RFD 03 dated 01.03.2025 was issued. The Revenue contended that the refund was not admissible because of undischarged assessed tax liability for previous years as per data available on GSTBO. During the pendency of the writ application, the respondent authorities filed an appeal on 30.06.2026 under Section 112 of the CGST Act, 2017 before the GST Appellate Tribunal, Patna.

Issue Involved

Whether a GST refund can be withheld during the pendency of the Revenue's appeal without a specific order passed by the Commissioner under Section 54(11) of the CGST Act, 2017.

Contentions of the Respondent

The Revenue contended that the Show Cause Notices (SCN) had been issued to the petitioner. But the petitioner, without awaiting the final order of the Joint Commissioner, had filed the writ application before the High Court, which was premature in nature.

Court's Observations

The High Court accepted that the withholding of a refund during the pendency of the Revenue's appeal has to be considered specifically under Section 54(11) of the CGST Act, 2017.It was further observed that the Commissioner had not undertaken any proceeding under Section 54(11) warranting the Revenue to withhold the Rs. 1,75,00,000 refund.

It was held that the pendency of an appeal by the Revenue is not, by itself, sufficient authority to withhold the refund. The statutory mechanism under Section 54(11) of the CGST Act, 2017 has to be followed.

Order

The writ petition was disposed of. A direction was issued to the Commissioner to issue a Show Cause Notice to the petitioner within one week from the date of the judgement. The petitioner was given the liberty to file a reply within a further period of one week after the receipt of the Show Cause Notice. After receipt of the reply filed by the petitioner, a date shall be fixed by the Commissioner with prior information to the petitioner for a personal hearing. After considering the reply and hearing the petitioner, the Commissioner shall pass a reasoned order within a period of one month from the date of closure of the hearing.

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