JUDICIAL PRONOUNCEMENTS

1) **Challenge Against Rejection of Transitional Credit Claim Under the GST Regime** *[M/s Pinnacle Motor Works Pvt. Ltd. v. Deputy Commissioner (Adjudication) & Ors- High Court of Kerala - W.P.(C) No. 21609 of 2024]*

Background

The petitioner, M/s Pinnacle Motor Works Pvt. Ltd., a registered taxpayer under the GST regime, sought to carry forward input tax credit from the pre-GST regime under Section 140 of the CGST Act through TRAN-1 and TRAN-2 forms filed in 2017.

Later, pursuant to directions of the Supreme Court of India, taxpayers were permitted to revise TRAN-1/ TRAN-2 by 30.11.2022 to correct errors. The petitioner accordingly filed revised forms in 2022, but while doing so mistakenly reflected only additional credit of ₹6,84,886 in TRAN-1 and nil in TRAN-2, instead of including the earlier amounts claimed in 2017 (₹88,04,680 in TRAN-1 and ₹2,01,681 in TRAN-2). Subsequently, the tax authorities treated the earlier claims as effaced and denied the transitional credit through an assessment order under Section 73(9) of the CGST Act, leading to the filing of the writ petition before the High Court.

Points of Dispute

- Whether the revised TRAN-1/TRAN-2 filed in 2022 extinguished the earlier claims filed in 2017.
- Whether the petitioner should be allowed to rectify the revised forms due to a bona fide mistake.
- Whether the writ petition was maintainable despite the petitioner not availing the statutory appellate remedy within the prescribed time.

Submissions by Assessee

The petitioner contended that:

- The omission in the revised TRAN-1/TRAN-2 was a bona fide mistake caused by the belief that the revised forms were meant only to declare additional claims.
- The earlier credit claimed in 2017 was not intended to be withdrawn.
- Denial of an opportunity to correct the forms would result in loss of legitimate transitional credit and double taxation.
- Since statutory authorities lacked power to permit such rectification, the matter required intervention by the High Court under Article 226 of the Constitution.

Submissions by Revenue

The Revenue argued that:

- The revised TRAN-1/TRAN-2 filed in 2022 replaced the earlier forms, thereby nullifying the earlier claims.
- Consequently, the credit previously availed was wrongly taken and liable to recovery.
- The writ petition was not maintainable because the petitioner had failed to file an appeal within the time limit under Section 107 of the CGST Act.
- The petitioner should pursue the statutory appellate remedy instead of invoking writ jurisdiction.

Key Legal Principles

The High Court highlighted the following principles:

- Alternative remedy is not an absolute bar where the statutory remedy is ineffective or incapable of granting the relief sought.
- Courts can exercise writ jurisdiction under Article 226 where the dispute involves issues beyond the powers of statutory authorities.
- Bona fide mistakes in procedural compliances should be viewed liberally, especially where there is no allegation of tax evasion.
- Denial of rectification in such cases may lead to unjust enrichment of the revenue or double taxation.

Court's Decision

The Kerala High Court held that:

- The petitioner had provided a plausible explanation for the mistake in the revised forms.
- It was unlikely that a taxpayer would intentionally reduce the amount of credit in revised filings when earlier claims were significantly higher.
- Denial of correction would result in unjust consequences and possible double taxation.

Accordingly, the Court:

- Quashed the assessment order (Ext.P4) and consequential demand notice (Ext.P5).
- Directed the authorities to permit the petitioner to rectify TRAN-1 and TRAN-2.
- Ordered the competent authority to reconsider the claim after granting the petitioner an opportunity of hearing, and pass fresh orders within three months.

Conclusion

The judgment emphasises that procedural errors in transitional credit filings should not defeat substantive rights, especially where the mistake is bona fide and the eligibility of credit has already been verified to a significant extent.

The decision reinforces that High Courts may intervene in GST matters through writ jurisdiction when statutory remedies are inadequate, particularly in cases involving technical errors in TRAN-1/TRAN-2 filings. The ruling therefore promotes a liberal and equitable approach in dealing with transitional credit disputes under GST.

2) **Validity of Rule 39(1)(a) of the CGST Rules, 2017 – Distribution of Input Tax Credit by an Input Service Distributor (ISD)** *[Reliance Jio Infocomm Ltd. v. Union of India & Ors. - High Court of Madras - WP Nos. 27038 and 28371 of 2025]*

Background

- The petitioner, Reliance Jio Infocomm Ltd., functioning as an Input Service Distributor (ISD) under GST, distributed Input Tax Credit (ITC) to its units.

- The GST authorities issued Show Cause Notices dated 26.06.2025 and 27.06.2025, alleging that the petitioner failed to distribute ITC in the same month in which it became available, as required under Rule 39(1)(a) of the CGST Rules, 2017.
- Challenging these notices, the petitioner filed writ petitions before the Madras High Court, also questioning the constitutional validity of Rule 39(1)(a) on the ground that it imposed a time restriction not contemplated under the parent provision Section 20 of the CGST Act (prior to amendment w.e.f. 01.04.2025).

Points of Dispute

- Whether Rule 39(1)(a) of the CGST Rules, which requires ITC available for distribution in a month to be distributed in the same month, is ultra vires Section 20 of the CGST Act (as it existed prior to 01.04.2025).
- Whether the requirement of same-month distribution of ITC by an ISD is arbitrary and violative of Article 14 of the Constitution.
- Whether the show cause notices issued to the petitioner were valid.

Submissions by Assessee

- The petitioner argued that Section 20 of the CGST Act (before amendment) did not prescribe any time limit for distribution of ITC by an ISD.
- Therefore, Rule 39(1)(a) prescribing distribution of ITC in the same month went beyond the scope of the parent statute and was ultra vires the Act.
- It was also contended that the rule imposed an unreasonable restriction, making compliance difficult and therefore violative of Article 14 of the Constitution.
- On this basis, the petitioner sought quashing of the rule and the show cause notices.

Submissions by Revenue

- The Revenue argued that Section 20 of the CGST Act must be read along with Section 16, which prescribes conditions for availment of ITC.
- The expression "credit available for distribution" under Rule 39 refers only to credit that has legally become available after fulfilling the statutory conditions.
- The rule merely regulates the manner of distribution of ITC by ISD, which falls within the rule-making powers under the Act.
- Therefore, Rule 39(1)(a) was consistent with the statutory scheme and not ultra vires.

Key Legal Principles

- Statutory provisions must be interpreted harmoniously, considering the scheme of the Act as a whole.
- Section 20 (ISD provisions) cannot be interpreted in isolation but must be read along with Section 16 governing entitlement to ITC.
- The term "ITC available for distribution" means credit that has become legally available after satisfying statutory conditions.
- Rules framed under the Act are valid if they regulate the manner of implementation of statutory provisions and do not contradict the Act.

Court's Decision

- The Madras High Court upheld the validity of Rule 39(1)(a) of the CGST Rules.
- The Court held that the rule does not exceed the scope of Section 20 and is consistent with the statutory scheme governing ITC.
- The requirement that ITC available for distribution in a month should be distributed in the same month was held to be neither arbitrary nor unconstitutional.
- The High Court actually allowed the writ petitions to the extent of providing a harmonious interpretation of the law.
- While the Court upheld the validity of Rule 39(1)(a), it ruled that the expression 'input tax credit available for distribution' means credit that has become legally available only after fulfilling the mandatory conditions under Section 16(2) of the CGST Act. It clarified that mere receipt of an invoice does not trigger the same-month distribution mandate if Section 16(2) conditions aren't met yet.
- The Court directed the authorities to adjudicate the pending Show Cause Notices specifically in light of this favourable interpretation.

Conclusion

- The judgment clarifies the interpretation of ITC distribution by Input Service Distributors under GST.
- It confirms that Rule 39(1)(a) prescribing same-month distribution of ITC is valid and enforceable.
- The decision reinforces that ITC distribution provisions must be interpreted in harmony with the broader ITC framework under Section 16.
- The ruling strengthens the administrative framework governing ISD credit distribution and compliance under GST.

3) **No proceedings can be initiated against a deceased person unless a Show Cause Notice is issued to the legal representative** *[P.B. Sethi Plastics v. State of U.P - High Court of Allahabad - Writ Tax No. 357 of 2026]*

Background

- The case concerned a sole proprietorship firm, P.B. Sethi Plastics, whose proprietor passed away in July 2020.
- After the death of the proprietor, the GST registration of the firm was cancelled in October 2020.
- Despite this, the GST department issued a Show Cause Notice (SCN) under Section 73 of the CGST/UPGST Act in September 2023 for the tax period 2017–18 in the name of the deceased proprietor.
- Subsequently, an order confirming demand was passed in December 2023 against the proprietorship concern.

- The legal heir became aware of the order only in March 2025 and filed an appeal, which was rejected as time-barred.
- Aggrieved, the legal heir approached the Allahabad High Court.

Points of Dispute

- Whether GST proceedings initiated and concluded against a deceased person are legally valid.
- Whether the department should have proceeded against the legal representative under Section 93 of the CGST/UPGST Act.
- Whether rejection of the appeal on the ground of limitation was justified when the original proceedings themselves were legally defective.

Submissions by Assessee

- The petitioner contended that the proprietor had already died before issuance of the SCN, therefore proceedings initiated in the name of the deceased were void ab initio.
- It was argued that under Section 93 of the GST law, if a taxpayer dies, liability may be enforced against the legal representative, but proceedings must be initiated against the legal heir and not the deceased person.
- The rejection of the appeal as time-barred was unjust because the entire adjudication process itself was fundamentally illegal.

Submissions by Revenue

- The Revenue maintained that the appeal filed by the legal heir was barred by limitation and therefore could not be entertained.
- The department defended the adjudication order passed under Section 73 of the CGST/UPGST Act confirming the demand.

Key Legal Principles

- Proceedings initiated against a deceased person are void in law.
- Section 93 of the CGST/UPGST Act governs the liability of legal representatives where a taxable person dies.
- Determination of tax liability must be initiated against the legal representative and not the deceased taxpayer.
- Procedural limitation cannot validate an inherently illegal proceeding.

Court's Decision

- The Allahabad High Court held that the entire proceedings were void, since the SCN and adjudication order were issued against a deceased person.
- The Court observed that the statute does not permit determination of liability against a dead person, though recovery may be pursued against the legal representative in accordance with law.
- Consequently, the orders passed by the department and the rejection of the appeal were set aside.
- The authorities were granted liberty to initiate fresh proceedings in accordance with law, if permissible.

Conclusion

- The judgment clarifies the legal position regarding GST proceedings after the death of a taxpayer.
- It reiterates that statutory procedures must be strictly followed, especially where the law provides a mechanism to proceed against legal representatives.
- The decision reinforces the principle that actions taken against a deceased person are null and void, and such fundamental defects cannot be cured by invoking limitation provisions.

4) The appeal filed under Section 107 is not time-barred if the rectification application was pending

[Vyas Traders v. Additional Commissioner, Grade 2 - High Court of Allahabad - Writ Tax No. 1054 of 2025]

Background

- The petitioner, Vyas Traders, was a registered taxpayer under the UPGST/CGST Act, 2017.
- The department issued a notice under Section 61 alleging that the petitioner had claimed excess Input Tax Credit (ITC) in GSTR-3B as compared to GSTR-2A.
- Subsequently, an order under Section 73 was passed confirming tax and penalty demand against the petitioner.
- The petitioner filed a rectification application under Section 161 against the order, which was later rejected by the authority.
- Thereafter, the petitioner filed an appeal under Section 107, but the appellate authority dismissed the appeal as time - barred.
- In another connected matter, the petitioner's vehicle was intercepted and penalty proceedings under GST MOV-09 were initiated, and the subsequent appeal against that order was also rejected as time-barred.
- Aggrieved by these orders, the petitioner approached the Allahabad High Court.

Points of Dispute

- Whether limitation for filing an appeal under Section 107 would continue to run when a rectification application under Section 161 is pending.
- Whether the appeal could be dismissed as time-barred despite the petitioner pursuing remedy in another forum or through rectification proceedings.
- Whether the petitioner was entitled to the benefit of Section 14 of the Limitation Act for time spent pursuing remedy before a wrong forum.

Submissions by Assessee

- The petitioner contended that before expiry of the limitation period, a rectification application under Section 161 had been filed.
- Therefore, the limitation period for filing appeal should remain in abeyance until the rectification application was decided.
- In the second matter, the petitioner argued that it had initially filed a writ petition challenging the penalty order, which was withdrawn with liberty to

file an appeal, and therefore the delay should be condoned by applying Section 14 of the Limitation Act as the petitioner was bona fide pursuing remedy before the wrong forum.

Submissions by Revenue

- The Revenue argued that the appeals were filed beyond the prescribed limitation period under Section 107 of the CGST/UPGST Act.
- Therefore, the appellate authority was justified in rejecting the appeals as time -barred.

Key Legal Principles

- Filing of a rectification application under Section 161 keeps the limitation period for filing appeal in abeyance until the application is decided.
- Limitation cannot run simultaneously when a statutory rectification remedy is pending.
- Section 14 of the Limitation Act applies where a party bona fide pursues remedy before a wrong forum, allowing exclusion of such time for limitation purposes.
- Procedural provisions regarding limitation should be interpreted in a manner that advances justice rather than defeats it.

Court's Decision

- The Allahabad High Court held that the issue was covered by its earlier decision in Prakash Medical Stores v. Union of India.
- The Court ruled that filing a rectification application under Section 161 suspends the limitation period for filing an appeal under Section 107 until the rectification application is decided.
- In the connected matter, the Court held that the petitioner was entitled to the benefit of Section 14 of the Limitation Act since the writ petition was pursued bona fide.
- Accordingly, the orders dismissing the appeals as time-barred were set aside and the appellate authority was directed to decide the appeals on merits.

Conclusion

- The judgment clarifies the interaction between rectification proceedings under Section 161 and appeal limitation under Section 107 of the GST law.
- It emphasizes that limitation should not prejudice a taxpayer who has bona fide pursued available statutory remedies.
- The decision also recognizes the applicability of Section 14 of the Limitation Act in GST matters where proceedings are pursued before an incorrect forum.

5) Writ Not Maintainable Against Section 74 Order Where Statutory Appeal Under Section 107 Available *[Sunil Catering Services v. Union of India – High Court of Kerala - WP(C) No. 1588 of 2026]*

Background

The petitioner, M/s Sunil Catering Services, a registered assessee under the CGST/KGST Act, challenged an order passed under Section 74 of the CGST Act alleging wrongful availment of input tax credit (ITC) beyond eligibility. The order was appealable under Section 107; however, the petitioner directly approached the High Court under Article 226.

Points of Dispute

- Whether invocation of Section 74 (fraud/ suppression-based proceedings) was justified.
- Whether the High Court should exercise writ jurisdiction under Article 226 despite availability of an alternative statutory remedy (appeal under Section 107).

Submissions by Assessee

- The allegations were based entirely on returns filed by the petitioner.
- There was no wilful suppression or intent to evade tax, which is a mandatory condition for invoking Section 74.
- Therefore, proceedings under Section 74 were without jurisdiction.
- Reliance was placed on NCS Pearson Inc. v. Union of India (Karnataka HC) to argue that writ intervention is permissible even at the show cause stage in similar circumstances.

Submissions by Revenue

- The matter involved factual adjudication regarding ITC eligibility and suppression, which requires detailed examination of records.
- Since an effective statutory remedy of appeal under Section 107 exists, the writ petition was not maintainable.

Key Legal Principles

- Section 74 invocation requires examination of facts such as fraud, wilful misstatement, or suppression.
- Writ jurisdiction under Article 226 should not be exercised when:
  - The matter involves disputed questions of fact, and
  - A statutory appellate remedy is available.
- High Courts should refrain from acting as adjudicating authorities in tax disputes requiring factual verification.

Court's Decision

- The High Court held that:
  - Determining absence or presence of wilful suppression requires detailed factual analysis, which cannot be undertaken in writ proceedings.
  - The petitioner has an effective alternative remedy under Section 107.
- Accordingly, the writ petition was dismissed.
- However, the Court granted liberty to file an appeal within 2 weeks, which would be treated as filed within time.

Conclusion

- The judgment reinforces the principle of exhaustion of alternative remedies in GST matters.

- It clarifies that issues relating to:
  - o Invocation of Section 74, and
  - o Existence of suppression or intent must be examined by appellate authorities, not in writ jurisdiction.
- The ruling discourages premature writ petitions in tax disputes involving factual adjudication.

6. **Proceedings Cannot Continue After Omission of Rule 96(10) – Demand Based on Omitted Rule Not Sustainable** *[Hikal Ltd. vs Union of India - High Court of Bombay - Writ Petition No. 78 of 2025]*

Background:

- The Petitioner (Hikal Ltd.) operates manufacturing units, including a 100% Export Oriented Unit (EOU) and a Domestic Tariff Area (DTA) unit, where it imported raw materials duty-free under Advance Authorisation and exported finished goods with or without payment of IGST.
- The Petitioner claimed and was sanctioned IGST refunds on exports made with the payment of IGST.
- The Department issued a Show Cause Notice (SCN) on 04.08.2024 proposing a GST demand of ₹67,11,55,626/-, alleging that the IGST refund was claimed in violation of Rule 96(10) of the CGST Rules, 2017.
- During the pendency of the writ petition challenging the SCN and the constitutional validity of the rule, the Government omitted Rule 96(10) vide Notification No. 20/2024-Central Tax on 08.10.2024.
- Despite being informed of the rule's omission, the adjudicating authority passed an Order in Original on 23.01.2025 confirming the demand, prompting the Petitioner to amend the writ petition.

Points of Dispute:

- Whether the omission of Rules 89(4B) and 96(10) of the CGST Rules without an explicit savings clause results in the lapsing of all pending proceedings and SCNs.
- Whether Section 6 of the General Clauses Act, 1897, which saves pending proceedings upon the repeal of a "Central Act", applies to the omission of subordinate legislation (CGST Rules).

Submissions by Assessee:

- The 2024 Amendment Rules omitted the impugned rules without any savings clause to protect pending proceedings.
- Under the common law principle, an omitted or repealed provision is completely obliterated from the rule book as if it never existed, except regarding "transactions past and closed".
- Section 6 of the General Clauses Act is inapplicable to the omission or repeal of subordinate Rules.
- Therefore, the impugned SCNs and orders citing non-compliance with the omitted rules are invalid and must lapse.

Submissions by Revenue:

- Section 6 of the General Clauses Act is applicable because the 2024 Amendment Rules were enacted exercising powers under Section 164 of the CGST Act, meaning the Rules must be regarded as a "Central Act".
- Section 174(3) of the CGST Act invokes the general application of the General Clauses Act, which preserves the pending proceedings.
- Clause 1(2) of the Notification dated 08.10.2024, which states the rules come into force on the date of publication, acts as a savings clause by granting prospective effect to the omission.
- Section 166 of the CGST Act, which requires rules to be laid before Parliament, functions as a savings clause that protects pending proceedings.

Key Legal Principles:

- Rules 89(4B) and 96(10) of the CGST Rules, 2017: Governed the conditions for claiming IGST refunds on exports when inputs were procured under certain duty-free schemes.
- Notification No. 20/2024-Central Tax (08.10.2024): The notification that formally omitted Rules 89(4B) and 96(10).
- Section 6 of the General Clauses Act, 1897: Protects pending proceedings, rights, and liabilities when any "Central Act" or "Regulation" is repealed.
- Section 174(3) and Section 166 of the CGST Act, 2017: Relate to the repeal and savings of erstwhile tax laws, and the procedural laying of rules before Parliament, respectively.

Court's Decision:

- **Constitutional Validity Left Academic:** The Court chose not to decide the constitutional validity of the rules, observing that the Petitions could be fully resolved on the ground of the effect of the rule's omission. *Inapplicability of Section 6 of General Clauses Act: Relying on Supreme Court Constitution Bench judgments (Rayala Corporation and Kolhapur Cane Sugar Works), the Court held that Section 6 applies strictly to the repeal of a "Central Act" or "Regulation", not to the omission of subordinate "Rules".
- **Rules are not a "Central Act":** The Court rejected the Revenue's argument that Rules framed under Section 164 of the CGST Act should be elevated to the status of a Central Act.
- **Section 174(3) Does Not Apply:** Section 174(3) of the CGST Act only saves proceedings under the specific erstwhile Acts repealed by Section 174(1); it cannot act as a savings clause for CGST Rules omitted in 2024.
- **Clause 1(2) is Not a Savings Clause:** The clause specifying the commencement date of the notification is not a savings clause and does not prevent the lapsing of inconclusive proceedings.
- **Section 166 is Directory:** The requirement to lay rules before Parliament under Section 166 is directory, not mandatory, and does not save pending proceedings unless Parliament specifically modifies or annuls the rules.

- **Transactions Past and Closed:** The SCNs and orders challenged by the Petitioners had not attained finality (being under appeal or writ challenge), and thus did not qualify as unaffected "transactions past and closed".

Conclusion:

- Following the omission of Rules 89(4B) and 96(10) via the Notification dated 08.10.2024, and in the absence of any saving clauses or the protection of Section 6 of the General Clauses Act, all pending proceedings stand lapsed.
- The impugned show cause notices and the corresponding orders in original were quashed and set aside.
- The Authorities were directed to restore and process the Petitioners' refund applications within four months.

7. Whether One Show Cause Notice Under Section 74 Can Be Issued for Multiple Tax Periods *[M/s. Hakikatrai and Sons, Akola Versus Union of India and Ors. - High Court of Bombay – Writ Petition 6118 of 2025]*

Background:

- The Petitioner challenged a Show Cause Notice (SCN) dated 26/06/2025 issued by the Respondent under Section 74 of the CGST Act, 2017.
- The impugned SCN pertained to a consolidated period covering financial years 2018-19 to 2022-23.
- The SCN alleged that the Petitioner had suppressed taxable value and made short payments of Central Goods and Service Tax during this aggregated period.

Points of Dispute:

- Whether a consolidated Show Cause Notice under Section 74 that clubs multiple financial years/tax periods is legally permissible under the CGST Act.
- Whether allegations of fraudulent availment of Input Tax Credit create an exception that permits the Revenue to consolidate different tax periods into a single notice.

Submissions by Assessee:

- Clubbing of tax periods while issuing a notice under Section 74 is strictly not permissible.
- Even in cases where fraudulent availment of Input Tax Credit is alleged, the provisions of Section 74 do not permit such clubbing.
- Relied heavily on previous Division Bench judgments of the Bombay High Court (M/s. Milroc Good Earth Developers and Rite Water Solutions (India) Ltd.), which established that there is no statutory scope for consolidating various financial years into a single assessment.

Submissions by Revenue:

- Argued that because the case involves the fraudulent availment of Input Tax Credit, issuing a consolidated SCN for various periods is permissible.
- Relied on a Delhi High Court judgment (M/s Mathur Polymers), which held that consolidated notices may be required in fraud cases spanning multiple years to establish the illegal modality adopted by the entity.
- Contended that the Delhi High Court's view had attained finality because the Supreme Court declined to interfere with it by dismissing the Special Leave Petition in limine.

Key Legal Principles:

- Section 74 of the CGST Act, 2017: Pertains to the determination of tax not paid or short paid by reason of fraud or any willful misstatement.
- Sections 73(10) and 74(10) of the CGST Act: Prescribe separate limitation periods for issuing assessment orders, running year by year (from the due date of furnishing the annual return for the specific financial year).
- Section 2(106) of the CGST Act: Defines "tax period" as the period for which the return is required to be furnished.

Court's Decision:

- The Court affirmed that the GST statutory scheme assesses tax with reference to specific tax periods linked to returns for each financial year.
- Time limits operate strictly year by year. Aggregating different financial years into a single SCN collapses distinct tax periods with different due dates and limitation timelines, violating the explicitly year-wise structure of the Act.
- The Court categorically rejected the Revenue's argument regarding fraud. While fraud extends the limitation period to five years for a particular financial year, it does not create an exception authorizing the consolidation of distinct tax periods.
- The Court declined to follow the Delhi High Court's ruling, clarifying that the Supreme Court's dismissal of the SLP in limine did not equate to a decision on merit, and therefore the doctrine of merger did not apply.
- The Court noted that the Delhi High Court failed to consider the statutory niceties of year-by-year limitations that were thoroughly analyzed in the binding Bombay High Court precedents.

Conclusion:

- The consolidated Show Cause Notice covering financial years 2018-19 to 2022-23 was declared impermissible and quashed.
- Fraudulent availment allegations do not permit the clubbing of years.
- The Revenue was granted the liberty to re-issue notices strictly year-wise in conformity with Section 74, provided there is no other legal impediment.
- The Court also granted the Revenue liberty to seek a revival of the petition if higher courts eventually overturn the binding Bombay High Court precedents.