JUDICIAL PRONOUNCEMENTS

1. **Whether Input Tax Credit can be denied to a bona fide purchasing dealer under Section 16(2)(c) of the CGST Act solely on account of the supplier's failure to remit the collected tax to the Government** *[M/s. Sahil Enterprises v. Union of India & Ors. - Tripura High Court- (WP(C) No. 688 of 2022)]*

   The Hon'ble Tripura High Court held that a genuine purchaser cannot be deprived of Input Tax Credit merely because the supplier failed to remit the collected tax to the Government. The Court observed that a literal application of Section 16(2)(c) of the CGST Act would cast an impracticable and unreasonable obligation on the recipient, who has neither control over nor any effective means to verify the supplier's tax compliance. Invoking the principle of "reading down," the Court clarified that the provision would operate only in situations involving fraud, collusion, or sham transactions. Placing reliance on On Quest Merchandising India Pvt. Ltd., as affirmed by the Supreme Court in Arise India Ltd., the Court noted that denying ITC in cases of bona fide transactions results in double taxation and undermines the fundamental objective of the GST regime. Accordingly, the impugned demand was quashed and ITC amounting to ₹1,11,60,830/- was ordered to be granted.

2. **Whether ITC can be denied under Section 74 without establishing fraud or suppression merely due to supplier default/cancellation.** *[M/s Khurja Scrap Trading Company v. Addl. Commissioner Grade-II (Appeals) & Anr.- Allahabad High Court- (Writ Tax No. 743 of 2023)]*

   The Court held that action under Section 74 of the CGST/UPGST Act can be sustained only where the essential ingredients of fraud, willful misstatement, or suppression of facts with intent to evade tax are specifically established, as also clarified in the CBIC Circular dated 13.12.2023. It observed that mere cancellation of the supplier's registration at a later stage or the supplier being untraceable does not, by itself, justify denial of Input Tax Credit when the supplier was duly registered on the date of the transaction, payments were made through banking channels, and the details reported in GSTR-1 and GSTR-3B were duly reflected in the purchaser's GSTR-2A.

   Placing reliance on Suraj Impex (India) Pvt. Ltd. v. Union of India [(2025) (SC)], S/s Agrawal Rolling Mills [2003 UPTC 1248], R.T. Infotech (Writ Tax No. 1330 of 2022, decided on 30.05.2025) and Solvi Enterprises (Writ Tax No. 1287 of 2024, decided on 24.03.2025), the Court set aside the impugned orders and remitted the matter to the authority for reconsideration in accordance with law.

3. **Whether Section 16(2)(aa) of the CGST Act, making ITC conditional upon supplier compliance and reflection of invoice details in GSTR-1, is unconstitutional for denying credit to a bona fide purchaser due to supplier default** *[M/s MCLEOD Russel India Ltd. v. Union of India -Guwahati High Court- (WPC No. 5725 of 2022)]*

   The Hon'ble Gauhati High Court examined the constitutional validity of Section 16(2)(aa) of the CGST Act and the corresponding provision under the AGST Act, which makes availment of Input Tax Credit (ITC) contingent upon the supplier furnishing invoice/ debit note details in GSTR-1 and such details being reflected to the recipient.

   The petitioner contended that the provision is arbitrary and inequitable as it makes a bona fide purchaser's ITC dependent upon supplier compliance—an act beyond the purchaser's control—resulting in denial of credit, double taxation, and frustration of the GST objective of eliminating cascading taxes. The Revenue justified the provision as a stricter anti-evasion measure aimed at preventing fraudulent ITC claims, promoting supplier compliance, and ensuring system transparency.

   The Court held that ITC is in the nature of a concession subject to statutory conditions and that the legislative intent behind Section 16(2)(aa) is legitimate. Accordingly, the provision cannot be struck down as unconstitutional. However, the Court recognised that automatic denial of ITC to a bona fide purchaser solely due to supplier default would defeat the object of GST and impose an onerous burden on the recipient.

   Therefore, the Court read down Section 16(2)(aa) to the limited extent that, before denying ITC, authorities must afford the purchasing dealer an opportunity to establish bona fides through tax invoices and supporting documents. ITC cannot be mechanically disallowed merely due to non-reflection of invoice details arising from supplier non-compliance.

4. **Whether discrepancy between GST returns, Income Tax portal figures, and bank receipts justifies treating the differential amount as suppressed turnover liable to tax, interest, and penalty** *[M/s. K.N. Raj Constructions, Rep. by its Managing Partner, Sri. N. Santhamoorthy Versus The State Tax Officer-Madras High Court- (W. P. No. 26637 of 2025)]*

   The dispute originated from assessment orders issued under Section 74 of the GST Acts. The GST Department raised a significant tax demand after noticing a major mismatch between the turnover declared in the GST returns and the turnover reported on the Income Tax portal. While the petitioner's GST turnover was about ₹29.69 crore, the turnover reflected in the Income Tax portal was around ₹166.93 crore, leading the department to treat the difference as suppressed turnover and raise tax, interest and penalty demand. The petitioner argued that the turnover shown on the Income Tax portal was intentionally inflated merely to meet eligibility criteria for government tenders and did not reflect the actual business transactions carried out. It was argued that tax liability under GST cannot be fastened merely on figures declared before the Income Tax Dept, especially when bank receipts were significantly lower and no real supply existed to that extent.

   The High Court observed that the huge variation between bank receipts and declared turnover required deeper verification and that liability could not be conclusively determined only on the basis of Income Tax portal figures. The Court directed forensic audit and fresh examination of records to determine actual turnover. Consequently, the assessment orders were set aside and the matter remanded for fresh adjudication, subject to conditions including cooperation in audit and pre-deposit of ₹30 lakh.

5. **Whether an assessee can be compelled to make an additional pre-deposit for filing an appeal before the GST Appellate Tribunal when the amount already deposited exceeds the statutory requirement, especially when the Tribunal is not fully operational.** *[M/s. Ashirwad Food Industries vs. Union of India) - Jharkhand High Court (W.P. (T) No. 469 of 2026)]*

   In the case of M/s. Ashirwad Food Industries vs. Union of India (2026), the Jharkhand High Court intervened to protect taxpayer rights during the transition to a functional GST Appellate Tribunal (GSTAT). The petitioner challenged a demand of approximately ₹40 Lakhs, which had been significantly scaled down from an original ₹2.38 Crores after the first appeal. Although the statutory remedy lay with the GSTAT, the petitioner approached the High Court because the Tribunal was not yet fully operational for adjudication.

   The core of the dispute involved the pre-deposit requirement. The petitioner had already deposited ₹23.85 Lakhs (10% of the original demand) at the first appellate stage. Since the revised demand was only ₹40 Lakhs, the mandatory 20% pre-deposit for a second appeal (approx. ₹8 Lakhs) was already more than covered by the existing surplus.

   The Court ruled that no further pre-deposit was necessary and granted the petitioner four weeks to file the appeal. Importantly, the Court instructed the Tribunal to decide the matter on merits, disregard the issue of limitation, and permit physical filing in case the e-portal was not functioning. This judgment ensures that the lack of judicial infrastructure does not deprive taxpayers of their right to appeal or subject them to coercive recovery.

6. **The case involved dismissal of the petitioner's GST appeal as time-barred by the Appellate Authority under Section 107 of the UPGST Act** *[M/s Prakash Medical Stores vs Union of India & Others, -Allahabad High Court (Writ Tax No. 5865 of 2025)]*

   The case involved dismissal of the petitioner's GST appeal as time-barred by the Appellate Authority under Section 107 of the UPGST Act. The original ex-parte adjudication order was passed on 23.04.2024. Instead of immediately filing appeal, the petitioner first filed a rectification application under Section 161, which was rejected on 22.10.2024, after which an appeal was filed. The appellate authority refused to entertain the appeal on limitation grounds, holding that it was filed beyond the permissible period.

   The Allahabad High Court held that although Section 5 of the Limitation Act does not apply due to specific statutory limitation, the underlying principle of Section 14 applies to GST proceedings where remedies are pursued bona fide and with due diligence. It ruled that when a rectification application under Section 161 is filed within time, the limitation period for appeal remains in abeyance during its pendency. Accordingly, the period consumed in rectification proceedings was excluded, the appeal was held to be within limitation, and the writ petition was allowed with restoration of the appeal for decision on merits.

7. **Whether proceedings initiated under Section 74 can continue when fraud, suppression, or wilful misstatement is not established. Whether mismatch between GSTR-1 and GSTR-3B automatically establishes tax evasion without detailed reconciliation.** *[M/s Sterling & Wilson Pvt. Ltd. vs Commissioner, Odisha CT & GST & Ors, - GSTAT — Principal Bench (Appeal No.: APL/1/PB/2026)]*

   The appeal arose from demand proceedings for FY 2018-19 alleging mismatch between GSTR-1 and GSTR-3B, resulting in a tax demand on the ground of short payment. The department treated the difference as suppressed liability, while the assessee contended that the variation was due to credit notes, advance adjustments and reconciliation issues, all duly recorded in books of account. The First Appellate Authority had already held that there was no intent to evade tax, converted proceedings from Section 74 to Section 73, but still upheld tax and interest liability. Before GSTAT, the appellant argued that the mismatch was merely reconciliatory and caused by technical constraints in amendment of returns and timing differences relating to credit/debit notes. The Revenue opposed the plea, stating that credit notes were beyond the time limit under Section 34(2), reconciliation was incomplete, and ITC reversal by recipients was not established.

8. **Whether GST proceedings are valid when notices are uploaded in an obscure tab of the GST portal, resulting in lack of proper service and denial of opportunity of hearing.** *[Bambino Agro Industries Ltd. vs. State of Uttar Pradesh – Allahabad High Court -(WRIT Tax No. - 2701 of 2025)]*

   In the case of Bambino Agro Industries Ltd. vs. State of Uttar Pradesh [2025], the Allahabad High Court addressed the recurring issue of GST notices being uploaded to obscure sections of the GST portal. The petitioner challenged a Show Cause Notice and a subsequent ex-parte demand order, arguing they were completely unaware of the proceedings because the documents were uploaded under the “Additional Notices and Orders” tab rather than the standard “View Notices and Orders” tab. Because of this, the petitioner could neither appear before the authority nor file an appeal within the period of limitation.

   The Court relied on its earlier coordinate Bench decision in Ola Fleet Technologies Pvt. Ltd. v. State of U.P., which recognized this specific portal design issue. The Court noted that assessing officers do not have the choice to select which tab a notice reflects under, making it a systemic portal issue.

   Consequently, the Court held that the petitioner was entitled to the “benefit of doubt” regarding the service of the notice. The Court quashed the ex-parte demand order and the Show Cause Notice, and remitted the matter back to the Assessing Officer with directions to issue a fresh notice providing at least 15 days’ clear time to the petitioner to ensure a fair hearing.

9. **Whether an assessment under Section 74 is sustainable when initiated without jurisdiction, without affording personal hearing, and without establishing fraud or suppression despite documented genuine transactions** *[Raghuvansh Agro Farms Ltd. vs. State of U.P.- Allahabad High Court- (WRIT Tax No. - 3827 of 2025)]*

   In Raghuvansh Agro Farms Ltd. vs. State of U.P., the Allahabad High Court struck down a tax assessment passed under Section 74 of the GST Act. The decision was primarily based on a lack of jurisdiction, as State GST officials proceeded against a taxpayer assigned to the Central GST authorities without presenting any relevant cross-empowerment notification. Furthermore, the proceedings were legally flawed because the assessee was entirely denied the opportunity for a personal hearing.

   The Bench also stressed that the severe provisions of Section 74 can only be triggered by concrete evidence of fraud, deliberate misstatement, or suppression of facts, which the tax department failed to establish. The Court observed that the company’s transactions were legitimate and the physical transport of goods was adequately proven through standard statutory documentation, such as e-way bills, tax invoices, bank statements, and GST returns. Crucially, the Court dismissed the tax department’s insistence on toll plaza receipts, ruling that the law does not mandate their production to verify the movement of goods. As a result, the Court ruled in the taxpayer’s favor, invalidating the demand and ordering the return of any funds already deposited.