

RECENT JUDGEMENTS UNDER GST LAW



I. Torrent Power Ltd. V. Union Of India & Ors.

Court: Gujarat High Court | **Date:** 14.08.2026 | **Citation:** — | **Case No.:** R/SCA No. 12175/2024 and connected matters | **Procedural posture:** Common CAV judgment | **Subject:** Corporate guarantees - taxability, Rule 28(2) valuation and Section 74

Point	What the Hon'ble High Court held
Core controversy	Whether a corporate guarantee furnished by a holding company for its subsidiary is a taxable supply under GST, and whether the special 1% per annum valuation rule in Rule 28(2) is constitutionally valid.
Taxability	YES. A corporate guarantee between related persons constitutes a supply under Section 7(1)(c) read with Entry 2 of Schedule I even without consideration. Having first found a supply, the Court characterised it as a service with reference to Schedule II, Entry 5(e); Schedule II is classificatory and does not independently create the supply.
Rule 28(2)	VALID, but the words "whichever is higher" are read down. The Court holds that actual commission/charge, where ascertainable, cannot be compulsorily displaced by the 1% benchmark.
Period before 26.10.2023	The special 1% per annum valuation mechanism in Rule 28(2) cannot be applied for the period prior to 26.10.2023. This does not mean that

	corporate guarantees were substantively non-taxable before that date. If an older guarantee continues beyond 26.10.2023, Rule 28(2) may operate prospectively from that date, subject to the judgment.
Foreign subsidiary	The 1% Rule 28(2) mechanism does not apply where the related recipient is located outside India; the specific SCN before the Court was set aside.
Section 74 / suppression	Impugned Section 74 actions were quashed. Mere non-payment/non-declaration in an interpretationally disputed area does not establish wilful suppression or intent to evade.
Practical result	Excess GST, if any, is refundable or adjustable; contrary portions of the CBIC circulars are set aside; Revenue may issue fresh instructions consistent with the judgment. Directions to be implemented within 3 months.

Background and Issues Before the Court

The batch concerned corporate guarantees furnished by holding companies in favour of banks/financial institutions to support borrowings of subsidiaries, generally without any guarantee fee. The petitioners challenged the very taxability of such guarantees, the vires of Section 15(4) of the CGST Act and Rule 28(2) of the CGST Rules, and CBIC Circular No. 204/16/2023-GST dated 27.10.2023 and Circular No. 225/19/2024-GST dated 11.07.2024. They also challenged demands/show cause notices issued under Section 74.

The principal questions were: (i) whether furnishing a corporate guarantee is a “supply” and “service” when no consideration is charged; (ii) whether the subsidiary is the recipient and whether the activity is in the course or furtherance of business; (iii) whether a guarantee is an actionable claim excluded by Schedule III; (iv) whether Rule 28(2) can validly prescribe 1% of the guaranteed amount per annum; (v) whether that rule can operate for periods prior to 26.10.2023; and (vi) whether Section 74 could be invoked on the footing of suppression.

What the Hon’ble High Court Held – Core Reasoning:

A. Corporate guarantee is a taxable supply of service even without a fee.

The Court treated a corporate guarantee as a tripartite arrangement involving the subsidiary/principal debtor, creditor bank and holding-company/surety. Reading Sections 126, 127, 140 and 145 of the Contract Act together, it held that the loan/credit facility granted for the benefit of the subsidiary supplies the legal and commercial setting for the guarantee, while the surety obtains rights of subrogation/indemnity if it is called upon to pay. Under GST, Section 7(1)(c) expressly brings Schedule I activities within “supply” even without consideration. Since a holding company and subsidiary are related persons and the guarantee supports the subsidiary’s business financing, Entry 2 of Schedule I is attracted. The Court therefore declined to

transplant the service-tax result in Edelweiss into GST and expressly disagreed with D.P. Jain to that extent.

B. It is in the course or furtherance of business; subsidiary is the recipient.

The definition of “business” in Section 2(17) is wide enough to cover activities connected with, incidental or ancillary to the principal business, even without a profit motive or recurring frequency. Facilitating finance for a subsidiary and protecting/advancing the holding company’s business interest was treated as such an incidental business activity. The subsidiary is the ultimate beneficiary and hence the “recipient” under Section 2(93), even though the guarantee is formally issued to the lender.

C. Schedule II and actionable-claim arguments rejected.

Having first found a “supply” under Section 7(1)(c) read with Entry 2 of Schedule I, the Court then characterised the guarantee as a service with reference to Entry 5(e) of Schedule II, as an agreement to undertake an obligation/to do an act. Schedule II does not independently create a supply; it operates only after the activity is first brought within Section 7. The Court also rejected the plea that a corporate guarantee is an “actionable claim”: the guarantor’s obligation is secondary and contingent, arising on default, and is not itself the direct transferable claim to an unsecured debt contemplated by Section 3 of the Transfer of Property Act.

D. Pledge of shares does not insulate the arrangement.

In the Torrent Power matters, the Court read the corporate guarantee and share-pledge documentation together. It held that substance prevails over nomenclature and that, where the pledge secures the same default obligation, the overall arrangement satisfies the features of a guarantee. The Court did not tax shares/securities as such; rather, it treated the pledge-linked undertaking as part of the guarantee service.

E. Time of supply / yearly operation.

The Court held that a corporate guarantee is a one-time undertaking with a continuing obligation, but is not “continuous supply of services” under Section 2(33) because periodic payment obligations are absent. For no-fee guarantees, it relied on Section 13(2)(c) and the recipient’s books to determine time of supply, and linked the outstanding guaranteed debt reflected each year with the “per annum” mechanism under Rule 28(2).

F. Section 15(4) and Rule 28(2) are intra vires – but the valuation formula is curtailed.

Relying materially on the Supreme Court’s valuation reasoning in Gameskraft, the Court upheld Section 15(4) and the rule-making power supporting Rule 28(2). It accepted the legitimacy of a special valuation benchmark because corporate guarantees may lack a readily ascertainable open-market value. However, following Wipro Ltd. and Munjaal

Manishbhai Bhatt, it found it arbitrary to force a 1% value where an actual, ascertainable guarantee commission/charge is lower. Accordingly, the words “whichever is higher” were read down. The 1% benchmark survives, particularly where no actual charge/commission is ascertainable; an ascertainable actual charge cannot be compulsorily overridden by 1%.

Temporal Operation, Section 74 and Ramifications:

A. No Rule 28(2) levy for the period prior to 26.10.2023.

This is a significant taxpayer relief on valuation. Although the Court upheld the substantive taxability of corporate guarantees under GST, it held that the special 1% per annum valuation rule introduced with effect from 26.10.2023 cannot be used to impose that valuation for an earlier period. The ruling therefore concerns the temporal operation of Rule 28(2), and should not be read as holding that corporate guarantees were necessarily outside the substantive charging framework before 26.10.2023. Where a guarantee executed earlier continues after 26.10.2023, the Court held that Rule 28(2) may attach prospectively from that date.

B. Foreign related recipients.

Rule 28(2), as amended, is confined to a related recipient “located in India”. In the petition involving guarantees to foreign subsidiaries, the Court applied Circular No.

225/19/2024-GST and set aside the demand based on 1% valuation. This ruling concerns the Rule 28(2) valuation mechanism; it should not by itself be read as deciding every separate requirement for export of service/zero-rating under the IGST Act.

C. Section 74 demands receive a major setback.

The Court found no deliberate fraud, wilful misstatement or suppression merely because taxpayers had not paid GST on corporate guarantees in an area involving substantial statutory ambiguity. It relied on the settled principle that “suppression” requires a positive, deliberate act with intent to evade. The impugned Section 74 actions were quashed. This materially strengthens challenges to legacy corporate-guarantee demands where Section 74 was invoked only because the transaction was not reported/taxed, without independent evidence of intent to evade.

D. Consequences for pending and future cases.

For pending SCNs, audits and appeals, the judgment creates a date-and-fact based framework: (1) demands for periods before 26.10.2023 based on Rule 28(2)/1% per annum are unsustainable under this judgment; (2) continuing guarantees become exposed from 26.10.2023; (3) where an actual guarantee fee/commission is ascertainable, the Department cannot mechanically insist upon the higher of 1% or actual fee; (4) where no

fee exists, the 1% benchmark remains available; (5) the full-ITC proviso to Rule 28(2) remains important because invoice value is deemed to be the value of supply where the recipient is eligible for full ITC; and (6) the nature of all contemporaneous financing/security documents should be examined together rather than relying on labels.

E. Refunds, circulars and future litigation.

The Court directed refund (or adjustment, if the parties so choose) of excess GST deposited and required implementation within three months. The CBIC circulars of 27.10.2023 and 11.07.2024 are set aside only to the extent inconsistent with the judgment; Revenue is free to issue fresh instructions aligned with it. The judgment also creates a notable divergence from the Bombay High Court approach in D.P. Jain on reliance upon Edelweiss in the GST context, making appellate scrutiny by the Supreme Court a realistic possibility. Until modified or stayed, however, the operative directions are highly significant for corporate-guarantee disputes, especially pre-26.10.2023 demands and Section 74 cases.

Bottom line: Corporate guarantees are taxable supplies under GST, but Rule 28(2) cannot be used for the pre-26.10.2023 period and cannot mechanically force the higher of 1% or actual commission. The judgment substantially weakens historical 1% demands and Section 74 allegations while preserving prospective taxability.

Practical Note / Caution: The foreign-subsidiary ruling concerns the Rule 28(2) valuation mechanism and does not, by itself, decide every condition for export of service or zero-rating under the IGST Act. Likewise, the invalidity of applying Rule 28(2) before 26.10.2023 does not amount to a general declaration that corporate guarantees were substantively non-taxable before that date.

the rule was omitted with effect from 08.10.2024 by Notification No. 20/2024-Central Tax, particularly when the amending notification contained no saving clause preserving pending proceedings. A connected issue was whether the omission could benefit assesseees whose proceedings had not attained finality as on the date of omission, and the consequential relevance of the same principle to Rules 89(4A) and 89(4B), which were also omitted without a saving clause.

Ratio / Holding:

The Hon'ble Supreme Court, relying upon the Constitution Bench decision in *Kolhapur Canesugar Works Ltd. v. Union of India*, (2000) 2 SCC 536, held that where a statutory provision is omitted without an express saving clause or other statutory mechanism preserving pending proceedings, proceedings founded upon the omitted provision cannot ordinarily be continued merely because the alleged contravention occurred when the provision was in force. The Court found that the omission of Rule 96(10) was intended to remove the complications created by the provision and that there was no statutory basis to keep those complications alive in pending matters. The GST Council's recommendation regarding prospective operation could not override the legal effect of the notification omitting the rule without a saving provision. Rules 89(4A) and 89(4B) were also omitted in the same exercise; the reasoning in *Goodluck India* may support an analogous omission argument in pending matters under those rules,

II. M/s Goodluck India Limited & Anr. v. Union of India & Ors.

Court: Supreme Court of India | **Date:** 06.08.2026 | **Citation:** 2026 INSC 821 (Non-Reportable) | **Case No.:** SLP(C) No. 24550/2025 and connected matters | **Procedural posture:** Civil appellate judgment; leave granted in Revenue matters and appeals dismissed | **Subject:** Omission of Rule 96(10) and pending IGST refund proceedings

Rule 96(10) GST Refund Disputes

Issue:

The principal issue before the Hon'ble Supreme Court was whether proceedings initiated or pending under Rule 96(10) of the CGST Rules, 2017 for alleged wrongful availment of IGST refund could continue after

but the Supreme Court did not separately adjudicate demands under Rules 89(4A) or 89(4B).

Court / Procedural Result:

The Supreme Court dismissed the two assessee SLPs challenging the vires of Rule 96(10) as infructuous. In the remaining matters, leave was granted and the Revenue's appeals were dismissed, thereby affirming that the omission of Rule 96(10), without a saving clause, applies to proceedings that were pending on the date of omission. The Court also directed circulation of its judgment to the High Courts in view of the large number of pending matters.

Practical Note / Caution: The ratio directly concerns Rule 96(10). The omission of Rules 89(4A) and 89(4B) may be relied upon by analogy, but the Supreme Court did not separately adjudicate demands or refund restrictions under those two provisions.

III. Union of India & Anr. v. Gujarat Chamber of Commerce and Industry & Ors.

Court: Supreme Court of India | **Date:** 21.07.2026 | **Citation:** — | **Case No.:** SLP(C) Nos. 24635-24683/2026 (Diary No. 33270/2025) and connected matters | **Procedural posture:** Admission-stage dismissal of Revenue SLPs | **Subject:** GST on assignment of GIDC leasehold rights

GST Case law on No GST on Assignment of GIDC Leasehold Rights: Supreme Court Declines to Interfere with Gujarat High Court Ruling

Issue:

The issue before the Hon'ble Supreme Court was whether the Special Leave Petitions filed by the Union of India challenging the common judgment and order dated 03.01.2025 passed by the Hon'ble Gujarat High Court in a batch of petitions could be entertained, particularly when the Supreme Court had already dismissed a similar Special Leave Petition, being SLP (C) No. 18772/2026, by order dated 22.05.2026. The principal question, therefore, was whether any ground remained for interference with the Gujarat High Court's judgment in view of the earlier dismissal of the similar SLP.

Ratio / Holding:

The Supreme Court recorded that it had already dismissed a similar Special Leave Petition, SLP (C) No. 18772/2026, by order

dated 22.05.2026. In view of that fact, the Court dismissed the present batch of Special Leave Petitions. The order does not contain an independent examination of the merits of the Gujarat High Court's reasoning on taxability of assignment of GIDC leasehold rights.

Court / Procedural Result:

By order dated 21.07.2026, the Supreme Court dismissed the Revenue's batch of SLPs after condoning delay, noting only that a similar SLP had already been dismissed on 22.05.2026. The Gujarat High Court judgment dated 03.01.2025 therefore remains undisturbed between the parties. However, the admission-stage dismissal does not independently amount to a reasoned declaration of law on the merits under Article 141 of the Constitution.

Practical Note / Caution: The Gujarat High Court ruling remains undisturbed, but the Supreme Court order is an admission-stage SLP dismissal without an independent merits analysis. It should not be described as a fresh binding merits declaration by the Supreme Court under Article 141.

IV. M.S. Steels v. Commissioner of Kerala State GST, Thiruvananthapuram

Court: GST Appellate Tribunal, Thiruvananthapuram | **Date:** 14.08.2026 | **Citation:** Final Order No. 01/TVP/KERALA/2026 | **Case No.:** APL/1/TVP/2026 | **Procedural posture:** Final second appellate order of GSTAT | **Subject:** Section 129 penalty; missing e-way bill; same-GSTIN stock transfer

Issue:

The issue before the Hon'ble GST Appellate Tribunal, Thiruvananthapuram was whether penalty under Section 129 of the CGST/KGST Act, 2017 could be imposed merely because goods were transported without an e-way bill when the movement was an intra-firm stock transfer between two premises of the same registered person/GSTIN. The Tribunal was required to examine whether such movement constituted a taxable "supply" under Section 7 and, consequently, whether any "tax payable" existed for computation of penalty under Section 129(1)(a), notwithstanding the contravention of the e-way bill requirement under Rule 138.

Ratio / Holding:

The Tribunal held that a stock transfer between two premises of the same registered person, without any transfer to another person and without consideration, does not constitute a "supply" under Section 7 of the CGST/KGST Act. Consequently, it cannot constitute an intra-State supply attracting the

charging provision under Section 9 and, therefore, no tax is payable on such movement. Since Section 129(1)(a) quantifies penalty with reference to the “tax payable on such goods”, penalty under Section 129 cannot be imposed where no tax is payable. The Tribunal further held that although an e-way bill may be required for movement of goods for reasons other than supply under Rule 138(1)(ii), a contravention of that requirement in a non-supply movement would attract the specific penal provision under Section 122(1)(xiv) rather than the tax-linked penalty mechanism under Section 129. The Tribunal relied substantially on *Fabricship Pvt. Ltd. v. Union of India* and also found support in *Vacmet India Ltd. and Goverdhan Oil Mill.*

Court / Procedural Result:

The Hon’ble GST Appellate Tribunal, Thiruvananthapuram, comprising Shri Subramanya V. Rayaprol, Member (Judicial), and Shri Ramamoorthi Sriram, Member (Technical), by Final Order No. 01/TVP/KERALA/2026 dated 14.08.2026, answered the question of law in the negative and held that penalty under Section 129 is not leviable for transportation of goods without an e-way bill where the movement is undertaken as a stock transfer between premises of the same registered person. The Tribunal specifically rejected the Revenue’s contention that the absence of an e-way bill could itself justify Section 129 proceedings or establish that the transaction was non-genuine. It accordingly set aside the impugned Order-in-

Appeal and allowed the appeals with consequential relief.

Practical Note / Caution: This is an important GSTAT decision and not a High Court or Supreme Court judgment. Its persuasive value is significant, but the proposition remains open to scrutiny by the jurisdictional High Court or Supreme Court.

V. Bhandari Scrap Traders v. Union of India & Ors.

Court: Supreme Court of India | **Date:** 24.07.2026 | **Citation:** Speaking order; SLP(C) No. 23931/2026 etc. | **Case No.:** SLP(C) Nos. 23931/2026, 24088/2026 and 24103/2026 | **Procedural posture:** Reasoned dismissal of SLPs expressly affirming Gujarat High Court | **Subject:** Constitutional validity and operation of Section 16(2)(c) - supplier tax payment condition for ITC

Issue:

The principal issue before the Hon’ble Supreme Court was whether Section 16(2)(c) of the CGST Act, 2017, which makes availment of Input Tax Credit (ITC) conditional upon the corresponding tax having been actually paid to the Government by the supplier, is constitutionally valid and whether such a condition could be enforced against a

bona fide purchasing dealer even where the supplier has failed to discharge the tax liability. The Court was also required to consider whether the principles applicable under the Delhi VAT Act, 2004, particularly in relation to bona fide purchasers, could be applied to the GST regime.

Ratio / Holding:

In a speaking order dismissing the Special Leave Petitions, the Supreme Court expressly stated that it was in complete and respectful agreement with the Gujarat High Court and affirmed and upheld the impugned judgment. The detailed comparative analysis between the Delhi VAT regime and the CGST regime - including the statutory mechanism for reversal and subsequent re-availment of ITC once the supplier pays tax - is principally contained in the Gujarat High Court judgment, which the Supreme Court adopted and affirmed. Accordingly, Section 16(2)(c) was not declared unconstitutional or read down in favour of bona fide purchasers.

The Gujarat High Court in **Maruti Enterprise v. Union of India & Ors., 2026 (5) TMI 127**, upheld the constitutional validity of Section 16(2)(c) of the CGST Act, holding that payment of tax by the supplier to the Government is a mandatory and cumulative condition for availment of ITC. The Court rejected the plea to read down the provision in favour of bona fide purchasers, distinguishing the earlier DVAT/On Quest line of decisions on the ground that the GST framework

contains a distinct statutory mechanism under Sections 16(2)(c), 41(2), 155 and Rule 37A, whereby ITC may be reversed when the supplier defaults and subsequently re-availed once the tax is paid. The Court further held that ITC is a statutory entitlement/concession and not an absolute or vested constitutional right, and the burden of proving eligibility rests on the claimant. Considering the destination-based nature of GST and the inter-State revenue implications under Section 53, the Court concluded that reading down Section 16(2)(c) would disturb the statutory balance and revenue mechanism. Accordingly, the constitutional challenge was rejected and Section 16(2)(c) was upheld without reading it down, while the Court nevertheless urged the Government to consider suitable legislative, technological and administrative measures to protect genuine purchasers from disproportionate hardship caused by supplier defaults.

Court / Procedural Result:

The Supreme Court, comprising Justice Sanjay Kumar and Justice Sanjeev Sachdeva, by speaking order dated 24.07.2026 in SLP(C) No. 23931/2026 and connected matters, expressly affirmed and upheld the Gujarat High Court judgment and dismissed the Special Leave Petitions. Procedurally, this was a reasoned dismissal at the SLP stage, not a civil appeal decided after grant of leave.

Practical Note / Caution: The Supreme Court expressly affirmed the Gujarat High Court's

view. Nevertheless, for accurate citation, the procedural posture should be stated as a speaking dismissal of SLPs rather than as a civil appeal judgment after grant of leave.

penalty applicable where the owner does not come forward.

Ratio / Holding:

The Court held that Section 129 is a complete statutory mechanism for detention, seizure and release of goods in transit and provides for release upon payment of the prescribed penalty either by the owner or by a person other than the owner. On a strict and harmonious interpretation of Section 129, the provision does not contemplate continued detention of goods as a charge or lien for the disputed demand. Once the statutory conditions for release are fulfilled, the Revenue is required to release the goods, while any finally crystallised tax or penalty demand can subsequently be recovered in accordance with law. The Court further held that, at the stage of release, adjudication of the ultimate ownership of the goods was not decisive where the petitioner asserted ownership and the Revenue had not produced any concrete or unimpeachable material demonstrating that such claim was untenable. Accordingly, the petitioner was entitled to release of the consignment under Section 129(1)(a) upon payment of the applicable penalty.

Court / Procedural Result:

The Court distinguished S.N. Trading Company, Assam Supari Traders and JJ Traders on the facts. In the present case, the petitioner asserted ownership and the Revenue had not produced concrete or unimpeachable

VI. Ranjeet Kumar Poddar v. Assistant Commissioner of CGST & CX Headquarter, Anti Evasion Unit, Siliguri Commissionerate & Anr.

Court: Calcutta High Court, Circuit Bench at Jalpaiguri | **Date:** 14.05.2026 | **Citation:** 2026 SCC OnLine Cal 5291 | **Case No.:** WPA 622/2026 | **Procedural posture:** Writ petition concerning release of detained goods | **Subject:** Section 129(1)(a); ownership dispute and release of perishable goods

Issue:

The issue before the Hon'ble Calcutta High Court was whether a detained consignment could be released under Section 129(1)(a) of the CGST Act, 2017 upon payment of the prescribed penalty by the petitioner claiming to be the owner, despite the Revenue disputing the petitioner's ownership and also questioning the quantity, quality, genuineness of the goods, and correctness of the tax invoices and e-way bills. The Revenue contended that, since ownership was disputed, release should be governed by Section 129(1)(b), requiring payment of the higher

material at the release stage to demonstrate that the claim was untenable; the goods were also perishable. The Court therefore directed release within three clear days upon payment under Section 129(1)(a), while preserving the Revenue's right to recover if the statutory appeal was not filed and the demand attained finality.

Practical Note / Caution: The Section 129(1)(a) release direction is fact-sensitive. A bare assertion of ownership will not invariably suffice where the Department has concrete material creating a genuine ownership dispute.

whether separate show-cause notices are mandatorily required for each financial year in view of the limitation prescribed under Sections 73(10) and 74(10). The Petitioners contended that the GST scheme treats each financial year/tax period as a separate unit and, relying principally upon Milroc Good Earth Developers, argued that clubbing multiple years in one SCN is without jurisdiction. The Revenue, on the other hand, contended that Sections 73/74 do not expressly prohibit consolidated notices and that the limitation under sub-sections (10) governs the passing of the adjudication order, and not the issuance of the SCN.

Prima facie observations / Larger Bench reference:

The Division Bench observed that Sections 73 and 74 constitute a self-contained adjudicatory machinery and, on a prima facie reading, found no express statutory prohibition against issuing a consolidated SCN for different periods. Particular significance was attached to the expressions “for any period” and “for such periods” appearing in Sections 73(3)/74(3), which indicate that proceedings may encompass periods other than the period covered by the initial notice. The Court held that Sections 73(10) and 74(10) prescribe limitation for passing the adjudication order and do not, by themselves, impose a limitation or embargo upon issuance of the SCN under Sections 73(1)/74(1). The Court also noted the conflicting judicial views: Milroc Good Earth Developers and several High Courts had held consolidated notices impermissible, whereas

VII. Rollmet LLP v. Union of India & Ors.

Court: Bombay High Court | **Date:** 17.04.2026 | **Citation:** 2026:BHC-AS:18153-DB | **Case No.:** W.P. No. 16848/2025 and connected matters | **Procedural posture:** Division Bench reference of questions to Larger Bench; interim orders continued | **Subject:** Consolidated SCNs for multiple financial years under Sections 73/74

Issue:

The primary issue before the Hon'ble Bombay High Court was whether the Department is legally empowered under Sections 73(1) and 74(1) of the CGST Act, 2017 to issue a single consolidated show-cause notice covering multiple financial years/tax periods, or

the Delhi High Court in Mathur Polymers and Ambika Traders, and the Allahabad High Court in S.A. Aromatics, had taken the contrary view. The speaking dismissal by the Supreme Court of the SLP in Mathur Polymers was also considered significant. However, the Court did not finally determine the validity of consolidated SCNs and held that the substantial conflict in precedent and interpretation of Sections 73/74 warranted consideration by a Larger Bench.

Court / Procedural Result:

The Court was of the prima facie view that there ought not to be an absolute embargo on the Department issuing a consolidated SCN for multiple financial years, particularly where the allegations involve interconnected or fraudulent/wrongful availment of ITC extending across different periods. At the same time, the Court clarified that consolidation cannot be used to defeat the independent limitation applicable to each financial year; the assessee remains entitled to raise limitation objections in respect of any particular period, and the adjudicating authority must confine the demand to the period legally within limitation. The Court therefore framed five questions of law concerning the interplay between Sections 73(1), 73(3), 73(10), 74(1), 74(3), 74(10), Section 160, the correctness of Milroc, and the legal effect of the Supreme Court's speaking order in Mathur Polymers. The matters were consequently referred to a Larger Bench, with existing interim orders directed to continue

until the Larger Bench decides the issue. Thus, the judgment does not conclusively uphold or invalidate consolidated SCNs; it primarily recognises the conflict of judicial opinion and refers the issue for authoritative determination.

Current status of conflict: The conflict has sharpened after M/s Tata Projects Ltd., Assam v. Union of India & Ors., 2026 SCC OnLine Gau 3798 (Gauhati High Court, decided 08.06.2026), which held that a consolidated SCN and consolidated order for multiple financial years are permissible under Sections 73/74, provided limitation is independently satisfied for each financial year. Thus, the Bombay Larger Bench reference in Rollmet assumes particular importance; the issue is not nationally settled.

Practical Note / Caution: Rollmet does not finally decide the permissibility of consolidated multi-year SCNs. The Division Bench referred the conflict to a Larger Bench, and the existing interim orders were continued.

VIII. M/s. Spandan Electrical v. State of West Bengal & Ors.

Court: Calcutta High Court | **Date:** 17.02.2026 | **Citation:** — | **Case No.:** WPA 28120/2025 | **Procedural posture:** Writ disposed with verification directions | **Subject:** Sections 107(6), 112(8) and 112(9); pre-deposit, deemed stay and excess recovery

Issue:

The issue before the Hon'ble Calcutta High Court was whether, where the petitioner asserted that the statutory pre-deposit under Section 107(6) and the further pre-deposit under Section 112(8) of the CGST/WBGST Act, 2017 had been made for pursuing the appellate remedy before the Tribunal, the GST Authorities could continue recovery and whether amounts recovered beyond the cumulative statutory pre-deposits were liable to be refunded.

Ratio / Holding:

The Hon'ble Court held that where the taxpayer establishes that the required pre-deposit under Section 112(8) has been duly made, the GST Authorities are required to give effect to Section 112(9), under which recovery proceedings for the balance amount are deemed to be stayed until disposal of the appeal. Accordingly, any amount recovered in excess of the amounts required to be deposited under Sections 107(6) and 112(8), taken cumulatively, is liable to be refunded to the taxpayer. The Court directed the petitioner to make a representation with supporting

evidence, which the GST Authorities were required to verify and consider expeditiously, preferably within two weeks.

Court / Procedural Result:

The Hon'ble Court did not adjudicate upon the merits of the petitioner's claim regarding the pre-deposit. Instead, it provided an opportunity to the petitioner to place the relevant payment details before the GST Authorities and directed the Authorities to verify whether the payments satisfied the requirements of Section 112(8). If satisfied, the Authorities were directed to respect the statutory protection under Section 112(9) and refund any recovery made beyond the permissible cumulative pre-deposit. The writ petition was accordingly disposed of.

Practical Note / Caution: The Court did not record a final finding that the Section 112(8) pre-deposit had in fact been made. The statutory stay under Section 112(9) and refund of excess recovery were made conditional upon verification of the payment/deposit.

IX. Sampoornam (Deceased), Proprietor of M/s. Murugan Tex v. Assistant Commissioner (ST) (FAC) / Commercial Tax Officer, Salem & Anr.

Court: Madras High Court | **Date:** 08.06.2026 | **Citation:** 2026:MHC:2294 | **Case No.:** W.P. Nos. 29744 and 29747/2025 | **Procedural posture:** Writ petitions; ex parte orders set aside and matters remanded | **Subject:** Proceedings against deceased assessee; Sections 73/74, 75(2) and 93

Issue:

The issue before the Hon'ble Madras High Court was whether the assessment proceedings initiated under Section 74 of the GST enactments against a deceased assessee were sustainable, particularly when the assessee had died before the proceedings, whether the extended period of limitation under Section 74 was validly invoked, and whether the legal representative could be held liable for the tax dues of the deceased assessee under Section 93(1)(b).

Ratio / Holding:

The Court held that since the Department had not been informed about the assessee's death, initiation of proceedings in the name of the deceased assessee could not, by itself, invalidate the proceedings. The Court further held that even if proceedings under Section 74 were not maintainable, proceedings under Section 73 could remain maintainable in view of the limitation extensions under Section 168A and the Supreme Court's orders on

exclusion of limitation. Further, under Section 93(1)(b), the legal representative remains liable, out of the estate of the deceased, for the tax, interest and penalty payable by the deceased assessee.

Court / Procedural Result:

The Court, however, found that the impugned assessment orders were ex parte and therefore set them aside and remitted the matters to the assessing authority for fresh adjudication on merits. The petitioner was directed to file replies to the respective SCNs and deposit 10% of the disputed tax in cash within 30 days. Upon compliance, the authority was directed to pass fresh orders preferably within three months, and the bank attachment was to be vacated subject to the stipulated conditions.

Practical Note / Caution: The fact that the Department had not been informed of the assessee's death was material to the Court's approach. The orders were set aside on the facts and remanded; the Court did not finally adjudicate the underlying tax merits. Liability of the legal representative is confined by Section 93 to the extent contemplated by law and the estate.

X. Rajendra Narayan Mohanty v. Joint Commissioner of State Tax, CT & GST Circle, Cuttack & Anr.

Court: Orissa High Court | **Date:** 12.02.2026 |

Citation: 2026 Latest Caselaw 1317 Ori |

Case No.: W.P.(C) No. 2271/2026 |

Procedural posture: Writ petition allowing refund challenge | **Subject:**

Duplicate/mistaken DRC-03 payment; Section 54 limitation and Article 265

Issue:

Whether the refund claim of ₹6,01,645/- each towards CGST and OGST, arising from duplicate payment of the same tax liability through Form GST DRC-03, could be rejected merely on the ground that the refund application was filed beyond the limitation prescribed under Section 54 of the CGST/OGST Act, despite the Revenue having accepted that the tax had in fact been paid twice.

Ratio / Holding:

The Hon'ble Orissa High Court held that the duplicate payment was conclusively established from the two DRC-03s and the departmental records. Retention of the second set of tax payments, when the liability had already been discharged, would amount to collection/retention of tax without authority of law and violate Article 265 of the Constitution. The Court further held that Section 54 limitation does not govern a refund claim arising from duplicate payment/mistaken payment, as such amount

cannot properly be treated as tax legally payable under the GST Act. Consequently, the authority could not deny the refund solely by invoking the two-year limitation under Section 54. The Court also relied upon the principles laid down in Delhi Metro Rail Corporation, Comsol Energy, KVR Construction, Union of India v. ITC Ltd., and other precedents concerning refund of amounts collected without authority of law.

Court / Procedural Result:

The Court found the refund rejection order legally unsustainable and factually incorrect, particularly because the Proper Officer himself acknowledged that the tax had been paid twice, while the order nevertheless rejected the refund on limitation. The Court emphasized that the Revenue cannot retain the excess amount merely by invoking a statutory limitation provision where the amount itself was not lawfully payable. Accordingly, the rejection order was quashed, and the petitioner was directed to pursue the refund, which the authority was required to consider and grant in accordance with law.

Practical Note / Caution: The judgment concerns an amount admittedly paid twice / paid under mistake and retained without authority of law. It should not be cited as a blanket proposition that the limitation in Section 54 is inapplicable to every statutory GST refund.

XI. M/s G.R. Infra Projects Limited, Ratlam v. State of Madhya Pradesh & Ors.

Court: Supreme Court of India | **Date:** 19.08.2026 | **Citation:** 2026 LiveLaw (SC) 852 | **Case No.:** Civil Appeal No. 11277/2026 arising out of SLP(C) No. 33594/2025 | **Procedural posture:** Civil appeal allowed; High Court order and Section 74 SCN set aside | **Subject:** Extended limitation under Section 74; particulars of fraud/suppression must appear in SCN

Issue:

Whether the Show Cause Notice (SCN) dated 13.06.2025 issued for FY 2018-19 could validly invoke the extended limitation under Section 74 of the CGST Act read with the MPGST Act, when the ordinary limitation under Section 73 had already expired, merely on the basis of a general allegation of “fraud or concealment of facts”, without setting out specific facts or circumstances establishing fraud, wilful misstatement or suppression of facts.

Ratio / Holding:

The Hon’ble Supreme Court held that an SCN seeking to invoke the extended limitation under Section 74 must itself disclose the specific allegations and factual circumstances which demonstrate or justify an inference of fraud, wilful misstatement or suppression of facts. A mere mechanical or bland reference to “fraud or concealment of facts” is insufficient. The validity of the notice must be determined

from the contents of the notice itself, and the deficiencies in the SCN cannot be supplemented or cured through a counter-affidavit filed before the Court. In the present case, the ordinary limitation under Section 73 for FY 2018-19, even after giving effect to the Supreme Court’s COVID-related exclusion of limitation, expired on 28.02.2025, whereas the SCN was issued on 13.06.2025. Since the SCN did not disclose the factual basis for invoking Section 74, the extended limitation was not validly invoked and the SCN was therefore unsustainable.

Court / Procedural Result:

The Supreme Court adopted a strict approach towards invocation of the extended limitation under Section 74, emphasizing that the jurisdictional foundation for alleging fraud, wilful misstatement or suppression must be evident from the SCN itself. Importantly, the Court rejected the State’s attempt to rely upon the counter-affidavit to elaborate allegations that were absent from the SCN, reaffirming that an authority cannot improve or supplement a defective statutory notice through subsequent pleadings. The Court also noted that the use of the expression “fraud or concealment of facts” itself demonstrated uncertainty on the part of the authority and could not satisfy the statutory requirement. Accordingly, the Supreme Court set aside both the High Court order and the SCN, and directed the State not to pursue any further proceedings pursuant to the said notice. The decision is significant for taxpayers because it

establishes that Section 74 cannot be invoked merely by reproducing statutory terminology; the SCN must contain concrete and specific facts forming the basis for the allegation of fraud, wilful misstatement or suppression of facts.

Practical Note / Caution: The computation that the ordinary Section 73 limitation for FY 2018-19 expired on 28.02.2025 was specific to the facts, applicable notifications and COVID-period exclusion considered in that case. The wider ratio is that the jurisdictional facts for invoking Section 74 must be stated in the SCN itself and cannot be supplied later through pleadings.

XII. Directorate General of Goods and Services Tax Intelligence (HQs) & Ors. v. Gameskraft Technologies Pvt. Ltd. & Ors.

Court: Supreme Court of India | **Date:** 27.05.2026 | **Citation:** 2026 INSC 595 (Reportable) | **Case No.:** Civil Appeal Nos. 8241-8244/2026 and connected matters | **Procedural posture:** Batch judgment in civil/criminal appeals, Article 32 petitions and transferred cases | **Subject:** GST on online gaming, fantasy sports, casinos, actionable claims and valuation.

Issue:

Whether online gaming, fantasy sports and casino transactions involving stakes give rise to taxable supplies of actionable claims under GST; whether the distinction between games of skill and chance excludes such transactions from betting and gambling; whether the relevant CGST provisions, valuation rules and 2023 amendments are constitutionally and statutorily valid; and how taxable value is to be determined.

Ratio / Holding:

The Supreme Court held that, for the GST framework under consideration, the taxable event is the supply of actionable-claim interests arising from staking money or money's worth on uncertain outcomes. Once the essential elements of betting and gambling are present, the characterisation of the underlying game as one of skill or chance does

not by itself take the transaction outside the impugned GST levy.

Online gaming companies operating organised staking arrangements were held to be suppliers of the actionable claims, and not merely intermediaries between participants. The stake amount constitutes consideration. The Court rejected the contention that GST should be confined only to the platform fee/commission and held that there is no statutory basis to deduct winnings, prize pools or payouts from the statutory valuation measure.

The constitutional challenges to the GST levy on actionable claims arising from betting and gambling were rejected. The Court upheld the relevant provisions of the CGST Act and Rules, including Rules 31A, 31B and 31C. It further held that the 2023 amendments, including the amendment to Entry 6 of Schedule III and the insertion of Rules 31B and 31C, are clarificatory and explanatory and operate retrospectively in the manner stated in the judgment. Pending SCNs and adjudication concerning online gaming/fantasy sports are therefore to be examined in light of that framework.

Court / Procedural Result:

The Court allowed the Revenue's principal appeals, set aside the Karnataka High Court judgment in the Gameskraft matter, restored the proceedings/SCNs to be dealt with in accordance with the Supreme Court's ruling, and vacated interim orders in the connected

matters. Casino computation issues were left for determination/reconsideration in conformity with the statutory valuation framework and the judgment.

Practical Note / Caution: This is a major and wide-ranging GST judgment, but the conclusions are tied to the Court's analysis of staking, actionable claims, betting/gambling and the specific statutory valuation framework. The precise computation in an individual case must still be tested against the applicable rule, records and tax period.

XIII. Radhika Agarwal v. Union of India & Ors.

Court: Supreme Court of India | **Date:** 27.02.2025 | **Citation:** 2025 INSC 272 (Reportable) | **Case No.:** W.P. (Crl.) No. 336/2018 and connected matters | **Procedural posture:** Constitutional challenge and connected criminal matters | **Subject:** GST/Customs arrest powers, anticipatory bail and safeguards protecting personal liberty.

Issue:

Whether the arrest provisions under the GST and Customs enactments are constitutionally valid and, if valid, what statutory and constitutional safeguards govern the exercise of the power of arrest, including the

requirement of reasons to believe, written grounds of arrest and the availability of anticipatory bail.

Ratio / Holding:

The Supreme Court upheld the statutory arrest framework, but emphasised that the power is drastic and cannot be exercised routinely or mechanically. Under Section 69 read with Section 132 of the CGST Act, the Commissioner's reasons to believe must be based on credible material and must clearly demonstrate satisfaction of the statutory conditions, including the relevant offence and monetary threshold.

The reasons to believe must be explicit and recorded in writing. The arrest must comply with the applicable procedural safeguards under the criminal procedure law and with the principles in D.K. Basu. The grounds of arrest are required to be explained and furnished in writing in accordance with the governing instructions and the constitutional protection of personal liberty.

The Court also recognised that anticipatory bail is maintainable in appropriate GST/Customs cases. Coercion cannot be used to extract tax payments under the threat of arrest; any purported voluntary payment must truly be voluntary. Judicial review remains available to test whether the statutory jurisdictional conditions for arrest were met, without converting such review into a mini-trial.

Court / Procedural Result:

The constitutional challenges to the arrest provisions were rejected subject to the safeguards and interpretation set out by the Court. The judgment consolidated and strengthened procedural protections governing GST/Customs arrest and investigation.

Practical Note / Caution: The judgment does not grant immunity from arrest. It requires that the statutory preconditions and constitutional safeguards be demonstrably satisfied in each case. The factual material supporting the Commissioner's satisfaction and the manner in which arrest is authorised remain critical.

XIV. M/s Armour Security (India) Ltd. v. Commissioner, CGST, Delhi East Commissionerate & Anr.

Court: Supreme Court of India | **Date:** 14.08.2025 | **Citation:** 2025 INSC 982 (Reportable) | **Case No.:** SLP(C) No. 6092/2025 | **Procedural posture:** Reasoned judgment dismissing SLP after examining Section 6(2)(b) | **Subject:** Cross-empowerment; parallel Central/State GST action; meaning of proceedings and same subject matter.

Issue:

Whether summons, search or investigation by one GST administration amount to initiation of proceedings so as to trigger the bar in Section 6(2)(b) when another GST administration has already acted; and how the expressions “initiation of any proceedings” and “same subject matter” are to be understood.

Ratio / Holding:

The Supreme Court held that Section 6(2)(b) bars initiation of proceedings by the other GST administration on the same subject matter. However, evidence-gathering measures such as inquiry, summons, search and seizure do not by themselves amount to the formal initiation of adjudicatory proceedings. Formal proceedings ordinarily commence when a show cause notice is issued.

The Court held that “subject matter” is tied to the specific tax liability/contravention and relief or demand articulated in the SCN. It laid down a twofold test: whether the authority has already proceeded on an identical tax liability or alleged offence on the same facts, and whether the demand or relief sought is identical. Mere overlap in an inquiry does not automatically establish the same subject matter.

The Court also issued coordination guidelines for situations in which one authority has commenced inquiry/investigation and another authority later acts, with the object of avoiding

harassment, duplication and conflicting proceedings while preserving intelligence-based enforcement within the statutory framework.

Court / Procedural Result:

The Supreme Court declined to interfere with the summons in the case and dismissed the SLP, while laying down authoritative guidance on Section 6(2)(b), cross-empowerment and parallel action.

Practical Note / Caution: The distinction between inquiry and proceedings is central. Once the subject matter crystallises through an SCN, a second adjudicatory proceeding on the same liability may attract Section 6(2)(b); prior summons or search alone do not necessarily create that bar.

XV. Union of India v. Sunil Biyani

Court: Supreme Court of India | **Date:** 12.08.2026 | **Citation:** 2026 INSC 849 (Reportable) | **Case No.:** Criminal Appeal No. 3795/2026 arising out of SLP (Crl.) No. 12535/2026 | **Procedural posture:** Union appeal against protective arrest direction after rejection of anticipatory bail | **Subject:** Communication of Section 69 arrest authorisation and limits on protective orders.

Issue:

Whether a High Court, after rejecting anticipatory bail, can simultaneously grant protective relief against arrest; and whether an order/authorisation under Section 69 of the CGST Act must be communicated to the person sought to be arrested so that the statutory remedy of pre-arrest bail can effectively be invoked.

Ratio / Holding:

The Supreme Court held that an order under Section 69 is a sine qua non for an application seeking anticipatory bail in the GST context considered by it. To make the remedy meaningful, the Section 69 order/authorisation must be communicated to the person sought to be arrested; otherwise, the right to approach the court for pre-arrest protection would become illusory.

The Court permitted communication through electronic means in addition to other legally permissible modes. It further held that a court which rejects anticipatory bail cannot, as a matter of course, grant a separate protective window from arrest that effectively neutralises its own rejection; interim relief must remain ancillary to a live substantive proceeding.

Court / Procedural Result:

The Union's appeal was allowed to the extent indicated by the Supreme Court, and the judgment added a communication requirement to the procedural safeguards surrounding

Section 69 arrest, building upon Radhika Agarwal.

Practical Note / Caution: The case should be read together with Radhika Agarwal. Communication of the Section 69 authorisation does not by itself invalidate a lawful arrest or guarantee anticipatory bail; it ensures that the person has a real opportunity to invoke the legal remedy available.

XVI. M/s ASP Traders v. State of Uttar Pradesh & Ors.

Court: Supreme Court of India | **Date:** 24.07.2025 | **Citation:** 2025 INSC 890 (Reportable) | **Case No.:** Civil Appeal No. 9764/2025 arising out of SLP(C) No. 17995/2022 | **Procedural posture:** Civil appeal allowed; final order under Section 129(3) directed | **Subject:** Section 129 payment for release; adjudication; right of appeal.

Issue:

Whether payment of tax and penalty to secure release of detained goods after a Section

129(3) notice concludes the proceedings in every case under Section 129(5), or whether the Proper Officer must pass a reasoned final order when liability is disputed and the payment is made under protest/compulsion.

Ratio / Holding:

The Supreme Court held that payment made to secure release, particularly where objections have been filed and the liability is disputed, cannot automatically be treated as a voluntary admission or abandonment of the right to challenge the levy. The statutory appeal under Section 107 must remain meaningful.

Where objections are filed, or payment is stated to have been made under protest or due to business exigencies, adjudication is indispensable. The deeming provision in Section 129(5) cannot be used to avoid the statutory obligation to pass a reasoned final order under Section 129(3), after granting the opportunity contemplated by Section 129(4).

Court / Procedural Result:

The High Court order was set aside. The Proper Officer was directed to pass a reasoned final order under Section 129(3) in Form GST MOV-09, after hearing the assessee, and upload the summary in Form GST DRC-07 so that statutory remedies could thereafter be pursued.

Practical Note / Caution: The judgment is especially useful where tax/penalty is paid only to obtain release of goods or vehicle. The

record should, wherever factually correct, clearly preserve the assessee's objections and the fact that payment was not intended as unconditional acceptance of liability.

XVII. M/s Radhika Furniture @ Radha Devi v. Commissioner, State Goods and Services Tax & Ors.

Court: Uttarakhand High Court | **Date:** 17.07.2026 | **Citation:** A.F.R.; lead case W.P.(M/B) No. 317/2025 | **Case No.:** W.P.(M/B) No. 317/2025 and connected writ petitions | **Procedural posture:** Common decision on limitation of statutory GST appeals | **Subject:** Section 107 appeal limitation; exclusion of Section 5 of Limitation Act; Article 226

Issue:

Whether the Appellate Authority under Section 107 can entertain an appeal after expiry of the prescribed three-month period and the additional one-month condonable period by invoking Section 5 of the Limitation Act, 1963; and whether the writ court's constitutional jurisdiction survives despite dismissal of the statutory appeal as time-barred.

Ratio / Holding:

The Uttarakhand High Court held that the appellate authority has no jurisdiction to condone delay beyond the period expressly

permitted by Section 107(4). The scheme of Section 107 excludes Section 5 of the Limitation Act by necessary implication.

At the same time, the Court treated the separate question of exercise of jurisdiction under Article 226 as distinct from the statutory power of the appellate authority. It left individual petitions to be examined on their own facts to determine whether extraordinary writ jurisdiction should be invoked against the original orders despite the statutory appeal having been dismissed as barred by limitation.

Court / Procedural Result:

The common legal question on the appellate authority's power was answered against condonation beyond the statutory outer limit; individual writ petitions were to be dealt with

on their respective facts for the separate Article 226 issue.

Practical Note / Caution: Do not conflate the two propositions. The Appellate Authority cannot extend Section 107 beyond the statutory outer limit, but that does not extinguish the High Court's constitutional jurisdiction; exercise of Article 226 remains exceptional and fact-dependent.

NOTE:

Please note that a simple dismissal of SLP by Hon'ble Supreme Court without assigning any reason, does not merge the order of lower court with that of Hon'ble Apex Court and it remains the order/judgment of lower court for the purpose of authority and binding precedentiary value. Where a civil appeal is decided by Hon'ble Apex Court, whether by way of elaborate judgment or simple words "allowed / dismissed" as the case may be OR where the SLP is dismissed by assigning reasons for the same, the decision of the High Court or Tribunal under challenge attains finality, and the doctrine of merger will operate, resulting in the lower Court's order merging with the judgment of the Hon'ble Supreme Court and it becomes the law of the land under Article 141 of the Constitution of India.

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