

MONTHLY INDIRECT TAX NEWSLETTER

APRIL 2025

Dear Readers,

We bring you a concise analysis of important developments, recent publications and judgements and noteworthy regulatory amendments in the corporate and financial sectors on a monthly basis.

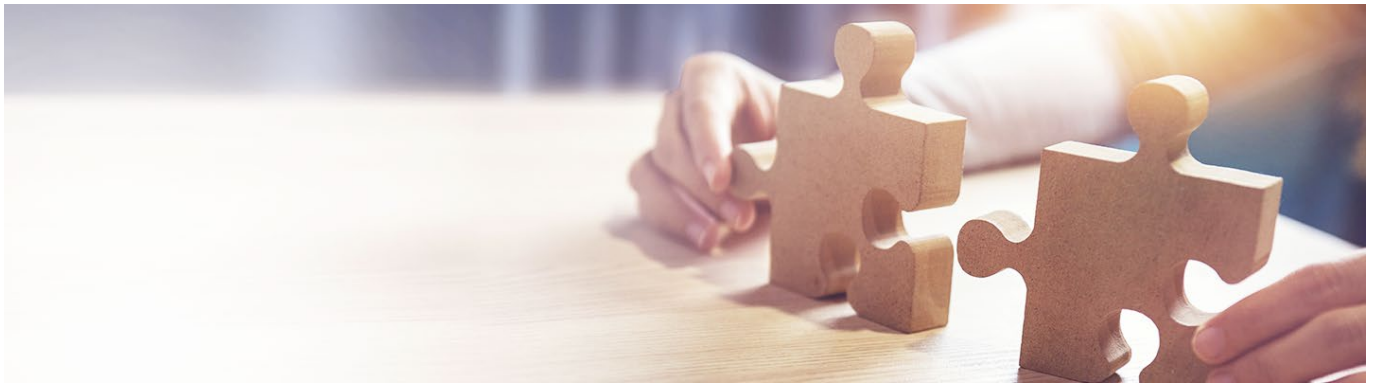
Our newsletter will cover updates from Trade & Indirect Taxes and Customs.

Perceiving the significance of these updates and the need to keep track of the same, we have prepared this newsletter providing a concise overview of the various changes brought in by our proactive regulatory authorities and the Courts!

Feedback and suggestions from our readers would be appreciated. Please feel free to write to us at mail@lexport.in.

Regards,

Team Lexport



ABOUT US

Lexport is a full-service Indian law firm offering consulting, litigation and representation services to a range of clients.

The core competencies of our firm's practice *inter alia* are Trade Laws (Customs, GST & Foreign Trade Policy), Corporate and Commercial Laws and Intellectual Property Rights.

The firm also provides Transaction, Regulatory and Compliance Services. Our detailed profile can be seen at our website www.lexport.in.

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A. COURT RULINGS

1. Kerala High Court on Jurisdiction of Joint Commissioner under Section 56 of KVAT Act

Case Summary

The Kerala High Court ruled that the Joint Commissioner has the jurisdiction to initiate proceedings under Section 56 of the Kerala Value Added Tax (KVAT) Act against an assessment order passed pursuant to a remand. The case revolved around the Joint Commissioner's powers to initiate actions after a remand order was issued, which was challenged on the basis that it was beyond the scope of jurisdiction.

Key Takeaway

This ruling clarifies the procedural rights of tax authorities in cases where remand orders are involved, emphasizing the importance of jurisdictional clarity when acting on remand decisions in VAT matters.

Judgment

The Court affirmed the Joint Commissioner's authority under Section 56 of the KVAT Act, stressing the need for proper adherence to legal frameworks during remand proceedings. This case provides a strong precedent for future cases where remand decisions may overlap with jurisdictional issues in tax matters.

2. Vodafone Mobile Services Ltd. v. Deputy Commissioner of Income Tax (ITA 660/2018)

Case Summary

The Delhi High Court ruled in favor of Vodafone Mobile Services Ltd., allowing depreciation claims on fixed assets related to provisioned expenditure for restoring mobile tower sites. Vodafone's claims had initially been rejected on the grounds that restoration costs were not part of their depreciable assets.

Key Takeaway

The Court's ruling underscores the eligibility of restoration costs in the telecommunications sector for depreciation, further extending the interpretation of depreciable assets to infrastructure-related expenses.

Judgment

The Court determined that restoration costs associated with mobile tower sites are a legitimate part of depreciable assets, providing clarity on asset depreciation related to infrastructure businesses, and reinforcing the deductibility of such business expenses.

3. Amirhossein Alizadeh v. The Commissioner of Customs & Ors. (W.P.(C) 3002/2025)

Case Summary

In this case, the Delhi High Court ruled that Amirhossein Alizadeh, an Iranian national, was entitled to the benefits of the Baggage Rules, 2016, for his silver-coated gold chains seized by Customs at Delhi Airport. The Court emphasized that personal effects like jewelry should not be subject to customs duty if they are intended for personal use.

Key Takeaway

This case highlights the importance of respecting the Baggage Rules, 2016, particularly in relation to personal effects and the need for reasonable proof of intent for personal use to avoid unnecessary penalties or customs seizures.

Judgment

The Court quashed the seizure order by Customs, affirming that personal effects, including jewelry, should not be seized or subjected to duty unless clearly proven to be intended for resale or other commercial purposes.

4. Pr. Commissioner of Income Tax-1 v. M/S East Delhi Leasing Pvt. Ltd. (ITA 61/2025)

Case Summary

In this ruling, the Delhi High Court clarified that the principle of "proof beyond reasonable doubt" is not applicable under Section 148 of the Income Tax Act, 1961 for reopening of assessments. This decision came after the Revenue's appeal against the ITAT ruling that allowed an assessee to challenge the reopening of their assessment.

Key Takeaway

The judgment is significant for businesses facing income tax reassessments, as it strengthens the notion that the burden of proof in reopening an assessment is much lower than the standard of criminal cases. This decision provides clarity on the legal thresholds for Income Tax authorities to act under Section 148.

Judgment

The Supreme Court ruled that while income can be reopened under Section 148, the burden of proof does not require the level of certainty required in criminal matters. It established that the "reason to believe" standard is enough for reassessment, and beyond reasonable doubt does not apply in tax matters.

5. Cargill India Private Limited v. Central Board of Direct Taxes (W.P.(C) 399/2022)

Case Summary

The Supreme Court issued a notice to the Central Board of Indirect Taxes and Customs (CBIC) regarding the rectification of bonafide errors in GST forms after the expiration of the prescribed deadlines. This was in response to the Bombay High Court's decision, which allowed the rectification of returns despite the expiry of the stipulated timeline under the CGST Act.

Key Takeaway

This case underscores the need for flexibility and fairness in the GST rectification process, especially for errors that occur due to clerical mistakes, and reflects the Court's stance on administrative leniency when no revenue loss occurs.

Judgment

The Court issued a notice to the CBIC, directing it to consider revising provisions for correcting bonafide GST errors, particularly in cases where clerical mistakes do not lead to financial loss. It emphasized that the rigid timelines for rectifications may need reevaluation to benefit taxpayers.

6. *Surender Gupta v. Appellate Authority State GST / Additional Commissioner Grade-II and 2 Others* (Writ Tax No. - 1892 of 2024)

Case Summary

The Allahabad High Court directed NOIDA to compensate Surender Gupta for penalties imposed under Section 73 of the GST Act. The case stemmed from a tax deposit made by the petitioner under the wrong head due to an error by NOIDA.

Key Takeaway

The ruling is significant as it reinforces the principle that businesses should not be penalized for administrative mistakes made by tax authorities. It underscores the importance of accountability for government departments in handling tax payments and correcting their errors.

Judgment

The Court quashed the penalty imposed on Surender Gupta and ordered NOIDA to compensate the petitioner, noting that the error in depositing the tax under the wrong head was NOIDA's fault, and the taxpayer should not bear the consequences.

7. *M/S Raj International v. Additional Commissioner CGST Delhi West & Ors.* (W.P.(C) 4096/2025)

Case Summary

The Delhi High Court flagged the growing number of GST-related cases and directed the Department to depute officials to expedite the disposal of cases, especially those concerning procedural issues like non-communication of notices and delay in refund processing.

Key Takeaway

This decision emphasizes the need for expedited action on GST procedural issues and sets a precedent for streamlining the litigation process. It reflects the Court's concern with the volume of GST-related cases and the urgency in addressing them.

Judgment

The Court directed the Department to depute at least two officials to help expedite case handling. It called for more efficiency in dealing with procedural matters like GST refunds and communication delays.

Conclusion

This April 2025 edition of the Indirect Taxation Newsletter reviews key court rulings impacting GST, customs, and income tax assessments. These rulings address critical issues from rectification of errors to reopening of assessments and customs duties on personal effects, providing valuable insights for taxpayers, legal professionals, and businesses

involved in tax litigation.

8) Vijay Gaur vs Delhi State GST (W.P. (C) No. 2553 of 2025, Delhi HC)

Case Summary

The petitioner challenged an ex-parte assessment order passed under Section 73(9) of the CGST Act, 2017 for FY 2018–2019. The notice issued on 11 December 2023 alleged mismatches in the petitioner’s GSTR-01, GSTR-3B, and GSTR-09 filings. The petitioner did not reply to the SCN or appear for the personal hearing, resulting in an adverse order being passed without detailed reasoning.

Key Takeaway

A non-speaking ex-parte order is not sustainable in law. Even in cases of non-response, the adjudicating authority is obligated to apply its mind and pass a reasoned, speaking order. Summary disposal without addressing the core issues violates principles of natural justice.

Judgment

The Delhi High Court set aside the impugned order and remanded the matter for fresh adjudication. It directed that a proper opportunity be given to the petitioner to present his case and that the final order must reflect proper reasoning and application of mind.

9) Jammu & Kashmir Bank Ltd. vs UOI (W.P. (C) No. 287 of 2025, J&K HC)

Case Summary

The petitioner bank received a show cause notice under the CGST, IGST, and JKGST Acts for alleged tax liability. The bank contended that the Commissioner lacked jurisdiction and that the GST laws did not apply to the transactions in question. The challenge was raised before the adjudicating authority could pass a final order.

Key Takeaway

A taxpayer has the right to contest jurisdictional issues and the applicability of statutory provisions at the stage of reply to a show cause notice. SCNs are not final and are open to challenge before adjudication.

Judgment

The Court upheld the petitioner’s right to reply to the SCN and raise all legal and factual objections, including jurisdiction. It directed the authority not to take coercive steps until a reasoned decision is passed after considering the petitioner’s reply.

10) Braun Medical India Pvt. Ltd. vs UOI (W.P. No. 114 of 2025, Delhi HC)

Case Summary

The petitioner was denied Input Tax Credit (ITC) amounting to ₹5.65 crore due to a vendor's clerical error, where invoices mentioned the petitioner's Mumbai GSTIN instead of the Delhi GSTIN. The revenue department treated these invoices as invalid under Section 16(2) of the CGST Act.

Key Takeaway

Clerical errors in GSTIN or place of business on invoices should not defeat legitimate ITC claims if the identity of the recipient, the transaction, and tax payment are otherwise verifiable and genuine.

Judgment

The Court held that substantive compliance should prevail over procedural lapses. Since the tax was duly paid, goods/services received, and other conditions under Section 16 were met, the denial of ITC on technical grounds was arbitrary. The order was quashed, and the petitioner was allowed the ITC.

11) JL Enterprises vs ACST, Ballygunge (W.P.A. No. 30968 of 2024, Calcutta HC)

Case Summary

The petitioner's bank account was provisionally attached under Section 83 of the CGST Act in relation to a demand order that had already been passed more than a year earlier. The petitioner had filed an appeal against the order with the statutory pre-deposit.

Key Takeaway

Under Section 83(2) of the CGST Act, a provisional attachment ceases to have effect after one year. It cannot be enforced beyond that period even if the appeal against the underlying order is still pending.

Judgment

The High Court declared the attachment unenforceable as it had lapsed by the operation of law. However, it allowed the revenue department to pursue other remedies if the appeal is eventually dismissed. The Court emphasized the need for timely and lawful exercise of coercive powers.

END OF THE NEWSLETTER
