

LEXPORT NEWSLETTER

FEBRUARY 2026 | WEEK 3

Dear Readers,

This weekly newsletter offers you a concise analysis of important developments, notable judgments, and noteworthy regulatory amendments and developments in the corporate and financial sectors.

This newsletter will cover updates inter alia from **Banking Laws & FEMA, Corporate Laws, Securities Laws and Capital Markets, Competition Laws, Indirect Taxes, Customs and Foreign Trade, Intellectual Property Laws, and Arbitration Laws.**

Acknowledging the significance of these updates and the need to stay informed, this newsletter provides a concise overview of the various changes brought in by our proactive regulatory authorities and the courts.

Feedback and suggestions will be much appreciated. Please feel free to write to us at mail@lexport.in.

Regards,
Team Lexport



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Indirect Tax

Calcutta High Court Directs Fresh Hearing Where Proper CA Certificate Obtained Post Appeal

CASE TITLE: Iliyash Sekh Versus Assistant Commissioner of CGST and C. Ex., Malda Division

CITATION: (2026) 39 Centax 215 (Cal.)

In Iliyash Sekh v. Assistant Commissioner of CGST & C. Ex., Malda Division, the Calcutta High Court granted limited relief to an assessee whose GST appeal was dismissed for failure to furnish a Chartered Accountant certificate with UDIN and relevant reconciliation documents.

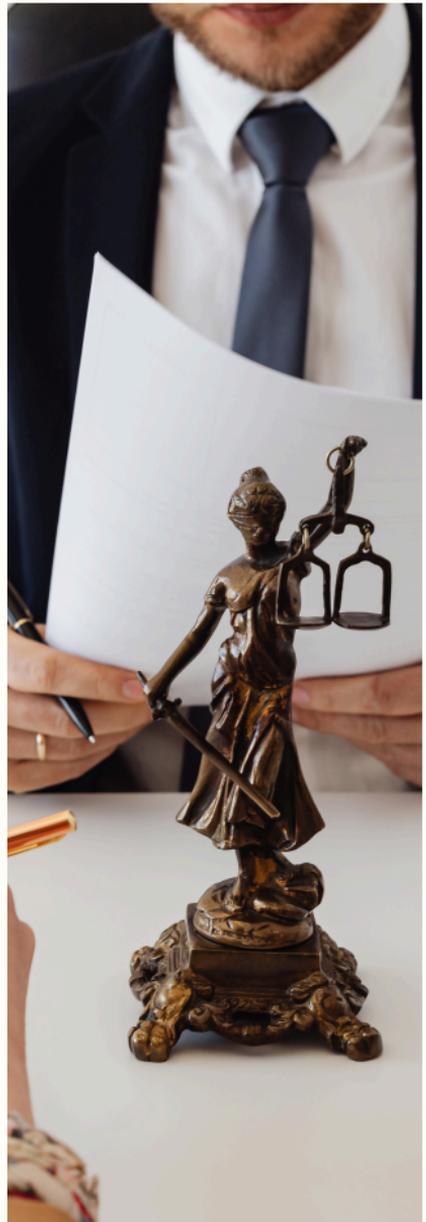
The dispute arose from an adjudication under Section 73 of the CGST/WBGST Act for alleged short payment based on differences between GSTR-1 and GSTR-3B for FY 2017-18. The Appellate Authority dismissed the appeal under Section 107, drawing adverse inference due to non-production of a proper CA certificate with UDIN and non-filing of GSTR-9 and GSTR-9C.

Before the High Court, the assessee contended that the discrepancy in March GSTR-1 had been rectified in GSTR-3B and reflected in GSTR-9, and that a proper CA certificate with UDIN was subsequently obtained. The Revenue argued that the certificate was not available at the time of appeal and therefore the appellate order could not be faulted.

The Court held that the Appellate Authority was justified in dismissing the appeal in the absence of a proper CA certificate at the relevant time. However, considering that the assessee had now obtained the requisite certificate and claimed reconciliation, the Court directed the Appellate Authority to grant a post-decisional hearing and reconsider the matter. The appellate order was kept in abeyance for eight weeks, with liberty to the assessee to file documents within two weeks.



Shelly Singh



Indirect Tax

GST Applicable Where Title Transfers in India Despite Offshore Delivery: TN AAR

CASE TITLE: IN RE : SNAG & BAG RETAIL PVT. LTD

CITATION: (2026) 39 Centax 202 (A.A.R. - GST - T.N.)

The Tamil Nadu Authority for Advance Ruling has held that GST is payable where goods are procured from abroad and delivered outside India, if the supply is between two persons located in India and title transfers in India.

The applicant, an Indian company, purchased goods from Spain and the USA and sold them to another Indian entity. Though the goods were stored, labelled and delivered entirely outside India, invoices were raised by the applicant on the Indian buyer, and consideration was received in INR. The applicant argued that the transaction should fall under Para 7 of Schedule III of the CGST Act, which excludes supplies from a place in non taxable territory to another place in non taxable territory without goods entering India.

Rejecting this contention, the AAR held that the transfer of title occurred in India when the invoice was raised on the Indian buyer. Accordingly, the supply was between two persons in the taxable territory. Para 7 of Schedule III was held inapplicable since it covers only offshore supplies between two non taxable territories.

The Authority ruled that GST is applicable under Section 9 read with Section 22 of the CGST Act and that registration is mandatory. Other queries relating to classification, refund and procedural advice were either rejected or left to be determined by the applicant in accordance with law.



Shelly Singh



Indirect Tax

GST Neutralisation Claim Cannot Be Denied on Technical Grounds: MP High Court

CASE TITLE: TRISHUL CONSTRUCTION VERSUS UNION OF INDIA

CITATION: (2026) 39 Centax 106 (M.P.)

The Madhya Pradesh High Court has held that a contractor's claim for GST neutralisation cannot be rejected merely because the final bill was passed and a no claim certificate was submitted, when GST payment was duly verified by the authorities.

The petitioner was awarded a pre GST railway works contract. After GST was introduced in July 2017, the contractor deposited GST on the executed works and sought reimbursement in terms of the Railway Board's GST neutralisation policy. The claim was made prior to completion of the work. Although the GST payment was verified by the Assistant Commissioner, GST, the Railways rejected the claim on the ground that the final bill had already been passed and a no claim certificate was furnished.

The Court held that such rejection was unjustified and based on technicalities. It noted that the supplementary agreement had been duly signed by the contractor and submitted, but was not executed by the respondent authorities. No fault could be attributed to the petitioner. The Court further observed that the contractual position was clear that the GST burden was to be borne by the respondent, though paid by the contractor.

Accordingly, the writ petition was allowed and the respondent department was directed to accept the GST neutralisation claim and reimburse the amount due.



Shelly Singh



Indirect Tax

CESTAT Sets High Evidentiary Threshold in Clandestine Removal Cases

CASE TITLE: GEETHAM STEELS PVT. LTD. VERSUS COMMISSIONER OF GST & CENTRAL EXCISE, SALEM

CITATION: (2025) 36 Centax 41 (Tri.-Mad)

In *Geetham Steels Pvt. Ltd. v. Commissioner of GST & Central Excise, Salem*, the CESTAT, Chennai has reiterated that allegations of clandestine manufacture and removal must be supported by clear and convincing evidence, not mere suspicion.

The Department's case was primarily based on electronic data retrieved from pen drives, CPU and hard disk, along with statements recorded under Section 14 of the Central Excise Act, 1944. However, the Tribunal found serious gaps in investigation, including absence of proof regarding excess raw material consumption, power usage, production capacity or unaccounted procurement. The digital evidence was held unreliable due to non compliance with Section 36B and absence of mandatory certification under Section 65B of the Evidence Act.

Further, the Tribunal noted violation of Section 9D, as statements relied upon were not tested through examination and cross examination. Untested statements could not be used to sustain the demand. Emphasising that in fiscal penalty matters the standard is higher than mere preponderance of probability, the Tribunal held that fraud or wilful suppression must be established through cogent and credible evidence. In the absence of such proof, the charge of clandestine removal failed.

All appeals were allowed in favour of the assesseees.



Shelly Singh



Indirect Tax

No Anti Profiteering Liability Where ITC Ratio Shows No Additional Benefit

CASE TITLE: DGAP Versus Resizone Buildwell Pvt. Ltd.

CITATION: (2026) 39 Centax 142 (Tri. - GST - Delhi)

The GST Appellate Tribunal, Principal Bench, New Delhi, in DGAP v. Resizone Buildwell Pvt. Ltd., accepted the Directorate General of Anti Profiteering report and closed proceedings after finding no violation of Section 171 of the CGST Act, 2017.

The case arose from complaints alleging that the real estate developer had failed to pass on the benefit of additional Input Tax Credit following the transition to the GST regime. Upon investigation, the DGAP compared the ratio of credit availed to purchase value in the pre GST and post GST periods. The ratio stood at 5.4072 percent in the pre GST period and 5.3934 percent in the post GST period, reflecting a marginal negative difference of 0.0138 percent.

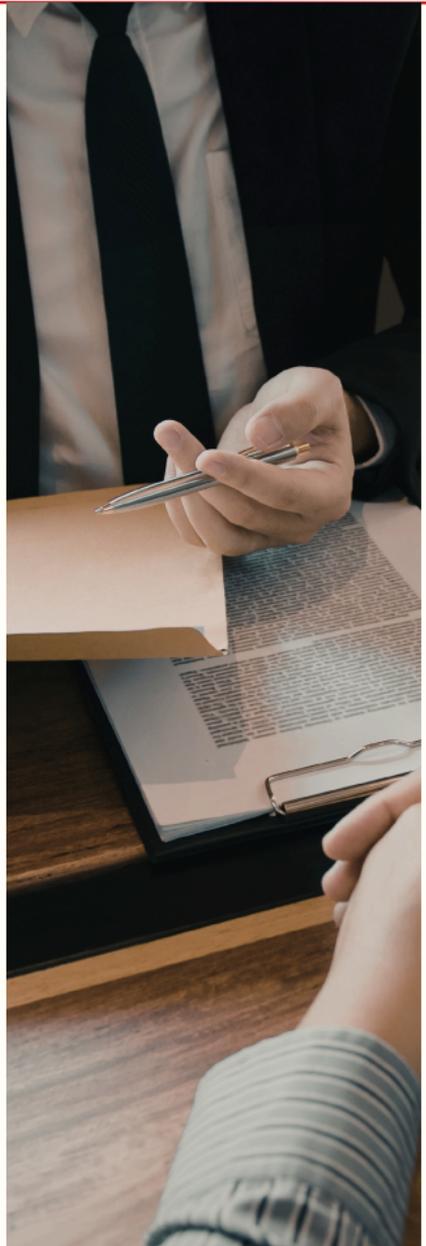
Based on this analysis, the DGAP concluded that there was no apparent additional ITC benefit accruing to the respondent and, consequently, no profiteering within the meaning of Section 171.

The Tribunal also noted that both complainants had independently settled their disputes with the developer and formally withdrawn their complaints. In view of the absence of any quantifiable ITC gain and the withdrawal of grievances, the Tribunal accepted the DGAP's findings and ordered closure of the proceedings.

The ruling reiterates that anti profiteering action cannot be sustained in the absence of demonstrable tax benefit retained by the supplier.



Shelly Singh



Indirect Tax

Allahabad High Court Bars Deduction of Advances and GST from Retiral Dues

CASE TITLE: Satish Kumar Verma v. Shri Kamta Prasad, Executive Director, U.P. State Employees Welfare Corporation

CITATION: CONTEMPT APPLICATION (CIVIL) No. - 2193 of 2025

The Allahabad High Court has held that there is no legal provision permitting deduction of "Protsahan Agrim" (incentive advance), "Tyohar Agrim" (festival advance) or GST from the retiral dues of employees of the U.P. State Employees Welfare Corporation.

Justice Rohit Ranjan Agarwal expressed strong disapproval of the Corporation's conduct, observing that the Court was shocked to learn that such deductions had been made from retiral benefits. The matter arose in contempt proceedings filed by employees alleging non compliance of earlier directions to release retiral dues and salary arrears.

The Corporation submitted that while retiral dues had been paid, arrears of salary could not be cleared due to financial constraints. However, the Court noted that affidavits filed by the Corporation disclosed only the amounts deducted under various heads and failed to specify the total retiral dues paid or the outstanding salary amounts.

Terming the conduct of the Executive Director as an attempt to buy time and mislead the Court, the Bench granted one final opportunity to clear all retiral dues without the disputed deductions. The Court further directed the Principal Secretary, Food and Civil Supplies, to examine the matter and file an affidavit detailing action taken against responsible officers.



Shelly Singh



Intellectual Property Rights

Delhi High Court Blocks Rogue Websites Streaming UEFA Champions League

The Delhi High Court granted an ex parte ad interim injunction in favour of the Union of European Football Associations (UEFA), restraining multiple rogue websites including livetv.sx, streameast, and rojadirecta from illegally streaming UEFA Champions League matches. UEFA demonstrated that these websites were systematically making its copyrighted broadcasts available without authorisation, undermining its exclusive licensing arrangements. The Court noted that UEFA has licensed the exclusive media rights for the UEFA Champions League in the Indian subcontinent to Culver Max Entertainment Pvt Ltd, whose broadcasts are carried on Sony Sports Network and streamed via SonyLIV. Any unauthorised streaming by third party websites was held to directly infringe UEFA's copyright and dilute the value of its licensed rights. Justice Jyoti Singh restrained the defendants from hosting or streaming the matches and directed domain registrars, ISPs, and telecom authorities to block access to the infringing websites and disclose operator details. The Court also granted a dynamic injunction, allowing UEFA to notify authorities of newly discovered mirror or redirect websites for immediate blocking.

[Union of European Football Associations v LiveTV.sx & Ors., CS(COMM) 106/2026]



Anushka Tripathi



Intellectual Property Rights

Delhi High Court Sets Aside Refusal of “DISOPIL” Trademark, Faults Registry for Ignoring Key Submissions

The Delhi High Court set aside the Trade Marks Registry’s refusal to register the pharmaceutical mark “DISOPIL” and remanded the matter for fresh consideration, holding that the Registrar failed to apply his mind to the applicant’s detailed submissions. Psychotropic India Limited had applied to register “DISOPIL” in Class 05, but the Registrar rejected the application citing similarity with the existing mark “DESOPILL.” The Court found that the refusal order did not consider Psychotropic’s core arguments, including its longstanding use and registration of multiple trademarks with the suffix “PIL,” derived from its company name, and its prior registrations such as “BISOPIL.” The Court held that a quasi judicial authority must pass a reasoned and speaking order and cannot reject an application without addressing the applicant’s explanations and supporting material. Holding that the impugned order suffered from non application of mind, the Court remanded the application to the Registrar for fresh consideration, directing a reasoned decision after granting hearing, to be completed within eight weeks.

[Psychotropic India Limited v Registrar of Trade Marks, C.A.(COMM.IPD-TM) 14/2025]



Anushka Tripathi



Intellectual Property Rights

Procedure vs. Substantive Rights: Madras High Court Overrules in “Deemed Abandonment” Under Trade Marks Law

The Madras High Court set aside an order of the Trade Marks Registry that had treated a trademark application as “deemed abandoned” for non-compliance with procedural requirements. The dispute arose in opposition proceedings relating to Application No. 4015733 (Class 35). Although the applicant had filed its affidavit of evidence on 01.06.2020 within the prescribed timeline, the affidavit was neither signed nor attested due to COVID-19 lockdown constraints. The signed and notarised version was filed later through an interlocutory application in October 2024.

The Registry rejected the interlocutory petition and declared the application abandoned under Rule 46(2) of the Trade Marks Rules, 2017, holding that the affidavit was not filed in the “prescribed manner” within limitation.

The High Court disagreed and held that:

- 1) The original filing on 01.06.2020 reflected clear intent to prosecute the application.
- 2) The opponent had already filed a reply to that affidavit in August 2020.
- 3) Procedural lapses, especially during the pandemic, cannot be interpreted rigidly to extinguish substantive rights.
- 4) Rule 46(2), to the extent it provides for deemed abandonment of the application itself, travels beyond Section 21 of the Trade Marks Act, 1999.

The Court read down Rule 46(2), clarifying that non-compliance may at best result in loss of the right to adduce evidence not abandonment of the entire application.

The Registry’s order was set aside, and directions were issued to proceed on merits within six months.



Swagita Pandey



Intellectual Property Rights

Dominant Element Prevails: Kenyan High Court Blocks “BUDABOSS” Over Likelihood of Confusion with “BOSS”

The High Court of Kenya (Commercial & Tax Division) allowed an appeal by Hugo Boss and set aside the Registrar’s decision permitting registration of “BUDABOSS & Device” in Class 25 (clothing). The dispute arose after the Assistant Registrar dismissed the Appellant’s opposition to Trademark Application No. 96083 filed by Frederick Omondi Owino. Although the Registrar acknowledged that both marks shared the dominant element “BOSS” and covered identical goods, she held that the prefix “BUDA” and figurative elements sufficiently distinguished the marks.

The High Court disagreed. Relying on the classical test in *The Pianotist Co. Ltd [1906] RPC 774* and Section 14(1) of Kenya’s Trade Marks Act (Cap 506), the Court reaffirmed that trademark comparison must consider the overall commercial impression, the nature of the goods, and the perspective of the average consumer with imperfect recollection.

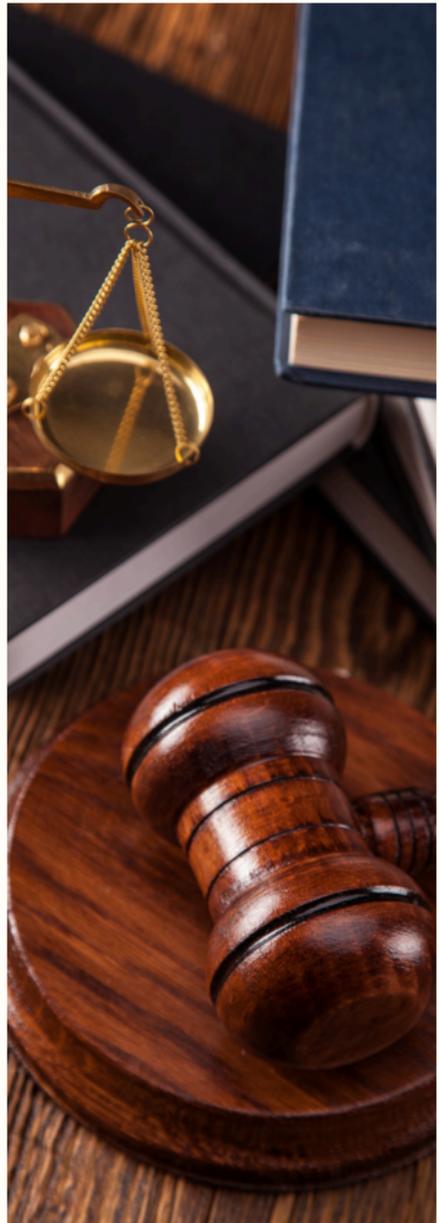
Key findings:

- 1) “BOSS” is the dominant and distinctive element.
- 2) The addition of “BUDA” does not materially alter the commercial impression.
- 3) In the fashion industry where brand recognition drives consumer behavior, the likelihood of confusion is substantial.
- 4) The Registrar misapplied the legal test by overemphasizing visual distinctions and underweighting dominant identity.

The Court also clarified that issuance of a registration certificate does not divest the Court of appellate jurisdiction or its power to rectify the register. The registration of “BUDABOSS & Device” in Class 25 was refused, and costs were awarded to the Appellant.



Swagita Pandey



Intellectual Property Rights

AI Patentability Redefined: UK Supreme Court Reframes the Test for “Programs for Computers”

In *Emotional Perception AI Ltd v Comptroller General of Patents, Designs and Trade Marks*, the UK Supreme Court delivered a landmark judgment clarifying how artificial intelligence inventions particularly artificial neural networks (ANNs) are to be assessed under Article 52 EPC and the Patents Act 1977

The case concerned a patent application for an AI-driven recommendation system using an ANN trained to replicate human emotional perception of media files by mapping physical properties (e.g., tempo, tone) to semantic similarity. Two core issues were addressed:

1) The Demise of Aerotel

The Court decisively rejected the long-standing Aerotel four-step approach to patent exclusions. Following the Enlarged Board of Appeal decision in G1/19, the Court held that the question whether a claim discloses an “invention” must be addressed before novelty and inventive step and the UK must align with EPO jurisprudence on interpreting Article 52.

However, the traditional Pozzoli approach to inventive step remains intact. This reorders the analytical framework for UK patent eligibility especially in computer-implemented inventions.

2) Are ANNs “Programs for Computers”?

The Court held that ANNs do fall within the concept of a “program for a computer.” It rejected narrow definitions tied to conventional CPUs or instruction sequences. Instead:

A) A “computer” includes devices performing computational data manipulation.

B) A “program” includes structured parameter sets (such as ANN weights) that determine computational behaviour.

The weights and biases of a trained ANN function as operative instructions. However, because exclusions apply only to subject matter “as such,” further technical contribution analysis remains necessary.

Key Takeaway

- 1) The decision modernises UK patent doctrine for AI:
- 2) It harmonises UK law with the EPO on Article 52 interpretation.
- 3) It confirms that ANN-based systems are not automatically outside the “computer program” exclusion.
- 4) Patentability now turns more sharply on whether the claimed invention delivers a technical contribution, not merely computational sophistication.



Swagita Pandey



Intellectual Property Rights

Rectification Allowed: “AiC ARUN” Modified for Infringing Satya Paul’s “ARUN” Mark

In a petition under Sections 47, 57 and 125 of the Trade Marks Act, 1999, the Hon'ble Court allowed rectification sought by Satya Paul against Alka Industrial Corporation's registered mark “AiC ARUN.” The petitioner established prior adoption and continuous registration of the trademark “ARUN” since 1962, demonstrating that “ARUN” was the dominant and essential feature of its mark. Relying on precedents including Greaves Cotton Ltd. and The Himalaya Drug Company, the Hon'ble Court held that mere addition of a prefix does not avoid infringement when the essential part of a registered mark is lifted. It found “AiC ARUN” deceptively similar and violative of the petitioner's statutory rights. However, considering the respondent's localized and limited business operations since 2004, the Court exercised powers under Section 57 to vary the registration rather than cancel it entirely. The word “ARUN” was directed to be deleted from Registration No. 1524226, permitting continued use of “AiC” alone, subject to maintaining a safe distance from the petitioner's mark. The Registrar of Trade Marks was directed to carry out the rectification within six weeks. [Satya Paul vs Alka Industrial Corporation And Anr. (C.O. (COMM.IPD-TM) 651/2022)]



Anya Singh



Hon'ble Delhi District Court Acquits Accused in Counterfeit Auto Parts Case for Want of Proof

In *State v. Satish Gupta & Anr.*, the Hon'ble Delhi District Court acquitted Vinod Rathore and Satish Gupta of offences under Sections 63 and 65 of the Copyright Act and Sections 103 and 104 of the Trade Marks Act arising from alleged seizure of counterfeit automotive parts bearing marks such as Kirloskar, Bosch and TATA. The Hon'ble Court held that the prosecution failed to establish infringement, as the complainant and material witnesses did not testify, creating an irreparable evidentiary gap. It emphasized that mere allegations or filing of a chargesheet cannot substitute proof, and no adverse inference can be drawn against the accused for prosecutorial lapses. Reiterating that criminal charges must be proved beyond reasonable doubt and that infringement cannot be presumed, the Hon'ble Court found the foundational elements of counterfeiting unsubstantiated. Observing that prolonged trials without key witnesses violate the right to speedy trial under Article 21, the Hon'ble Court concluded that the prosecution's case had collapsed, extended the benefit of doubt to the accused, and ordered their acquittal. [State vs Satish Gupta Etc (CIS No. 292454/2016)]



Anya Singh

Litigation



No Interest Payable on Delayed Payments If Contract Expressly Bars It

The Supreme Court held that when a contract expressly prohibits payment of interest on delayed payments, a party cannot claim such interest. A bench of Justices MM Sundresh and N Kotiswar Singh set aside the Kerala High Court's decision granting interest to a contractor in a dispute with the Kerala Water Authority over delayed payment for a sewage treatment project. The Court ruled that the Interest Act, 1978 applies only where a contract is silent on interest. Section 3(3) bars interest if prohibited by contract, and Section 34 CPC does not create an independent right to claim interest.

THE KERALA WATER AUTHORITY & ORS.
VERSUS T I RAJU & ORS. (with connected
matter), SLP(C) NO(s). 17823/2023



Ananya Jain

Bail Principles Applicable to Heinous Crimes Apply Equally to Serious Economic Offences

The Supreme Court held that bail principles applicable to heinous offences equally govern serious economic crimes, as such offences undermine citizens' economic well-being and quality of life. A bench of Justices Sanjay Kumar and K Vinod Chandran set aside the Allahabad High Court's order granting bail to an accused in a large-scale financial fraud case. The Court found that bail was wrongly granted on parity without considering criminal antecedents, absconding conduct, fake identities, and likelihood of repeat offences. Holding the order perverse, the Court emphasized that economic offenders who habitually exploit victims pose a societal risk. The appeal was allowed.

RAKESH MITTAL VERSUS AJAY PAL GUPTA,
ALIAS SONU CHAUDHARY & ANR., Special
Leave to Appeal (Crl.) No. 19708/2025



Ananya Jain



Litigation



Compensation Cannot Substitute Punishment in Heinous Offences

The Supreme Court deprecated the practice of reducing imprisonment in heinous offences by enhancing victim compensation. A bench of Justices Rajesh Bindal and Vijay Bishnoi set aside the Madras High Court's order that reduced the sentence of two convicts in an attempt to murder case to two months already served, in lieu of a ₹1 lakh fine. The Court held that compensation is restitutory and cannot replace punitive sanctions. Emphasizing proportionality, societal impact, and evaluation of aggravating and mitigating factors, the Court warned that allowing offenders to "purchase" liberty undermines deterrence and public confidence in criminal justice.

PARAMESHWARI VERSUS THE STATE OF TAMIL NADU & ORS., SLP (CRIMINAL) NO. 7495 OF 2021



Ananya Jain

Surviving Partner in Suicide Pact Liable for Abetment To Suicide

The Supreme Court held that a surviving partner in a suicide pact can be convicted for abetment of suicide under Sections 306 and 107 IPC, as mutual commitment provides the psychological impetus for the act. A bench of Justices Rajesh Bindal and Manmohan upheld the conviction of Gudipalli Siddhartha Reddy in the 2002 death of actress Prathyusha. The Court ruled that abetment includes psychological instigation, not merely supplying means. It rejected allegations of rape and strangulation, relying on medical and forensic evidence confirming organophosphate poisoning. Holding that a suicide pact does not dilute liability, the Court directed the accused to surrender.

GUDIPALLI SIDDHARTHA REDDY v STATE C.B.I., CRIMINAL APPEAL NO. 457 OF 2012



Ananya Jain



Litigation



Atlanta Tele Cables Vs. The Deputy Commissioner State Goods and Service Tax, 2025: UHC: 105505-DB

The Uttarakhand High Court quashed a GST demand order issued under Section 73 of the CGST/SGST Act after the adjudicating authority ignored the petitioner's written adjournment request despite being informed that he was abroad. The Court noted, based on passport records, that the petitioner was outside India from 20.07.2025 to 31.07.2025 and was entitled to seek up to three adjournments, yet his request for one adjournment was neither considered nor decided before passing an adverse order. Holding the action violative of principles of natural justice, the Court set aside the demand of tax, interest, and penalty and remanded the matter for fresh proceedings.



Shyam Kishor Maurya

Intas Pharmaceuticals Limited Vs. State of H.P and another, 2025: HHC: 46183

The Himachal Pradesh High Court quashed the State's order forfeiting Intas Pharmaceuticals' Rs. 2,00,000 EMD and imposing a three-year debarment, holding that once the 180-day bid validity period (reckoned from 23.05.2023) expired on 24.11.2023, the bidder was under no obligation to extend validity. The Court rejected the State's contention that the validity should run from submission of allegedly deficient documents, terming it ill-founded and holding that Clause 5(F) could not be invoked after expiry of the bid validity. It further ruled that blacklisting entails serious civil consequences and cannot be imposed without a prior show-cause notice, relying on the principle of audi alteram partem. Finding the forfeiture illegal and arbitrary, the Court allowed the writ petition and declined to remand the matter for fresh blacklisting proceedings.



Shyam Kishor Maurya



Litigation



Union of India and others Vs. SICPA India Private Limited and others, W.A. No. 02/2025

The Sikkim High Court held that unutilised Input Tax Credit (ITC) on closure of business is not refundable under Section 54 of the CGST Act and must instead be reversed in terms of Section 29(5). In the case of SICPA, which discontinued operations in Sikkim and sought refund of accumulated ITC under Section 49(6) read with Section 54 by filing FORM GST RFD-01, the Court found that Section 54 does not contemplate refund of ITC on business closure. The Bench observed that accumulated ITC, though lawfully earned, can be refunded only within the statutory framework, and reversal under Section 29(5) is mandatory upon cancellation of registration. Accordingly, it upheld the rejection of the refund claim, set aside the Single Judge's order, and allowed the State's appeal, holding that no constitutional or statutory right of the assessee was violated.



Shyam Kishor Maurya

Mr. Gagan Baghel Vs. M/s G.S. Promoters Pvt. Ltd., CC No. 1046/2017

The Delhi State Consumer Disputes Redressal Commission held M/s G.S. Promoters Pvt. Ltd. liable for deficiency of service for failing to complete construction and deliver possession of an apartment in the "Sikka Karmic Green" project within the agreed timeline, despite receiving the entire sale consideration. Observing that the Occupation Certificate was obtained only on 21 November 2017, well beyond the contractual and extended deadlines, and rejecting the plea of cancellation, the Commission reiterated that housing construction constitutes "service" under the Consumer Protection Act. Accordingly, it directed refund of Rs. 69,27,130 with 6% interest per annum (enhanced to 9% upon default beyond 27 March 2026), along with Rs. 3,00,000 as compensation for mental agony and Rs. 35,000 towards litigation costs.



Shyam Kishor Maurya



Corporate

Non-Borrower Flat Buyer Has Remedy Before DRT Under SARFAESI: Rajasthan HC

The Rajasthan High Court held that a flat purchaser whose property is declared a secured asset under the SARFAESI Act can approach the DRT under Section 17, even if he is neither a borrower nor a guarantor.

Justice Sunil Beniwal ruled that any “aggrieved person” whose rights are affected by measures under Section 13(4) has a statutory remedy before the DRT. Relying on *United Bank of India v. Satyawati Tondon*, the Court held that the petitioner, though not a borrower, could challenge the notice before the Tribunal.

Since an effective alternative remedy was available, the writ petition was dismissed.

Case: *Rajeev Bhandari v. Jodhpur Development Authority & Ors.*

Citation: 2026 LiveLaw (Raj) 40



Siddharth Dewalwar



SC Remands Flipkart Competition Case to NCLAT for Fresh Decision

The Supreme Court set aside the 2020 order of the National Company Law Appellate Tribunal (NCLAT) directing a Director General investigation into alleged abuse of dominance by Flipkart under Section 4 of the Competition Act, 2002. The Court held that the NCLAT had relied upon observations in an Income Tax Assessment Order which had subsequently been set aside by the Income Tax Appellate Tribunal, and therefore required reconsideration. Clarifying that all issues remain open, the Court directed the NCLAT to decide the appeal afresh in light of the principles laid down in *Coal India Ltd.* and other precedents, including whether a prima facie case of dominance and abuse is made out and whether remand to the CCI is warranted. The matter was accordingly remanded for fresh adjudication.

Case: *Flipkart India Private Limited v. Competition Commission of India* | C.A. No. 2770/2020

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Siddharth Dewalwar

Corporate

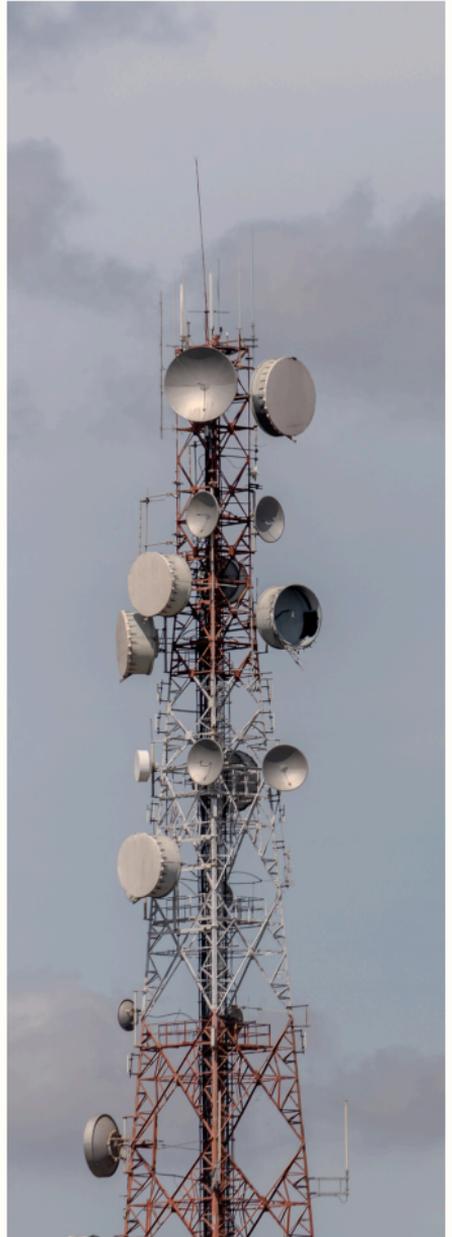
IBC Cannot Override Telecom Regime; Spectrum Outside CIRP: Supreme Court

The Supreme Court held that telecom spectrum, being a material resource of the community in the constitutional sense, cannot be treated as an asset of a corporate debtor under the Insolvency and Bankruptcy Code, 2016. Interpreting Section 4 of the Indian Telegraph Act, 1885 and constitutional principles governing natural resources, the Court ruled that spectrum ownership and control vest exclusively in the Union, and that a telecom licence grants only a limited, conditional and revocable right to use spectrum. The Court clarified that accounting recognition of spectrum as an intangible asset does not determine legal ownership, and that the IBC cannot be used to restructure or override the statutory telecom regime. Consequently, spectrum cannot form part of the insolvency estate nor be subjected to CIRP proceedings. The appeals were allowed in favour of the Union of India.

Case: State Bank of India v. Union of India & Ors.
with connected cases
Citation: 2026 LiveLaw (SC) 152



Siddharth Dewalwar



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