N. A. SHAH ASSOCIATES LLP
Chartered Accountants

TAX JURISPRUDENCE

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EXECUTIVE SUMMARY OF JUDGEMENTS / ADVANCE RULINGS UNDER INDIRECT TAXES

We are pleased to draw your attention to following important decisions which might be useful for you to take call on tax position.

Case & Citation	Issue Involved	Decision
	Indirect Tax	
[Sameera Hotels (Chennai) Pvt. Ltd. v. State Tax Officer [2026-44 Centax 144 (Mad)]]	• Whether the GST department was justified in invoking Section 74 for the extended limitation period on the grounds that the petitioner: - Claimed excess ITC beyond GSTR-2A, - Failed to pay GST under RCM on foreign booking agency commissions, & • Whether the assessment orders were time-barred for FY 18-19 and FY 19-20 when passed in November 2024?	• The Madras High Court held that claiming excess ITC and failing to pay GST under RCM amounted to suppression of facts, justifying action under Section 74. • The Court also held that the assessment orders were within the limitation period. Accordingly, the writ petitions were dismissed, with liberty to the petitioner to file a statutory appeal.
[Kuehne Nagel Pvt. Ltd. & Anr. vs UOI & ors [TS-497-HC(GUJ)-2026-GST]]	Whether interest is payable on refund from the date of fresh refund application filed after a court order, or from the date of the original refund application?	The Gujarat High Court held that interest must be calculated from the date of the original refund application. Since the delay in granting the refund was caused by the Department's wrongful rejection, the taxpayer should not suffer.

The brief analysis of above referred decisions and rulings are given below.

INDIRECT TAX

Case 1 – Sameera Hotels (Chennai) Pvt. Ltd. v. State Tax Officer [2026-44 Centax 144 (Mad)]

Facts in brief & issues of Petitioner

- Sameera Hotels (Chennai) Pvt. Ltd. was subjected to a surprise GST inspection on 9 May 2024.
- During the inspection, the GST department found that the company had:
  - Availed Input Tax Credit (ITC) more than the amount reflected in GSTR-2A and utilized the excess credit in GSTR-3B
  - Failed to pay GST under the Reverse Charge Mechanism (RCM) on commissions paid to foreign booking agencies.
- An Intimation in Form GST DRC-01A was issued on 2 July 2024, followed by Show Cause Notices (DRC-01) dated 31 July 2024 under Section 74 of the CGST/TNGST Acts for the financial years 2018–19 to 2022–23.
- The petitioner submitted replies, but the department passed assessment orders in November 2024, confirming the tax demand.
- Aggrieved by these orders, the petitioner filed writ petitions before the Madras High Court.

Contentions of Petitioner:

- The department had wrongly invoked Section 74, as the show cause notices did not specifically establish the essential ingredients of fraud, willful misstatement, or suppression of facts.
- The impugned orders merely used the word "willfulness" without providing adequate reasons or evidence.
- The proceedings were time-barred for FY 18-19 and FY 19-20, and therefore the assessment orders were liable to be annulled.
- Consequently, the orders passed under Section 74 were illegal and unsustainable.

Contention of the Respondent

- The petitioner had admittedly availed excess ITC beyond what was reflected in GSTR-2A and utilized the same to discharge GST liability. The petitioner had also failed to pay GST under the Reverse Charge Mechanism on commissions paid to foreign booking agencies.
- These acts amounted to suppression of facts with an intention to evade tax, thereby justifying invocation of Section 74 and the extended period of limitation.
- The petitioner had not challenged the jurisdiction under Section 74 in its reply to the show cause notice but had only replied on merits.
- The assessment orders were passed within the prescribed limitation period, and the writ petitions were also filed after the expiry of the statutory appeal period.

Observations & Decision of Court

The Madras High Court dismissed all the writ petitions and held that:

- The petitioner's wrongful availment and utilization of excess ITC, along with failure to pay GST under the Reverse Charge Mechanism, constituted suppression of facts with an intention to evade tax. Therefore, the invocation of Section 74 and the extended period of limitation was valid.
- The assessment orders passed in November 2024 were within the limitation period, even for Assessment Years 2018–19 and 2019–20, in view of statutory extensions and the earlier decision in Tata Play Ltd. v. Union of India.
- The threshold for invoking the extended period of limitation under Section 74 of the respective GST Enactments is much lower compared to the earlier Indirect Tax Legislations
- The writ petitions were dismissed, with liberty to the petitioner to file an appeal before the Appellate Commissioner.

NASA Comments:

The decision is a significant ruling which highlights that excess ITC claims and failure to discharge RCM liability can also justify invoking proceedings under Section 74. This shall adversely affect the taxpayers in defending demands raised under section 74.

Case 2 – Kuehne Nagel Pvt. Ltd. & Anr. vs. Union of India & Ors. (Gujarat High Court, 2026)

Facts in brief & issues of Applicant

- Kuehne Nagel Pvt Ltd (Appellant) had filed a refund application which was rejected by the Department on technical grounds relating to supporting documents.
- The Appellant challenged the rejection before the Gujarat High Court.
- The Court directed the Appellant to make a fresh application and the Respondent Department to process the refund accordingly. Further, the Respondent passed the impugned order sanctioning the refund but denying interest on the refund.
- Aggrieved by the rejection, the Appellant has preferred a petition.

Contentions of Petitioner:

- The petitioner contended that it had filed a valid refund application within the prescribed time.
- The delay in sanctioning the refund occurred solely because the GST Department had wrongly rejected the original refund application.
- The subsequent refund application was filed only to comply with the High Court's earlier directions and should not be treated as a fresh application.
- Therefore, under Section 56 of the CGST Act, interest on the delayed refund should be calculated from the date of the original refund application, and not from the date of the subsequent application.

Contention of the Respondent

- The Department contended that the petitioner's original refund application was not complete, and therefore the refund could not be processed.
- It argued that the petitioner had filed a fresh refund application which should be treated as the valid application for the purpose of Section 56 of the CGST Act.

- Accordingly, the Department submitted that interest on the refund was payable only from the date of the fresh refund application, and not from the date of the original application.

Observations & Decision of Court

- The Gujarat High Court observed that the petitioner's original refund application was validly filed and that its rejection by the GST Department had already been found to be wrongly rejected in the earlier round of litigation.
- The Court held that the subsequent refund application, filed pursuant to the Court's earlier directions, was merely a procedural requirement and could not be treated as a fresh application for the purpose of calculating interest under Section 56 of the CGST Act.
- Since the delay in granting the refund was caused by the Department's erroneous rejection, the petitioner could not be deprived of statutory interest.
- Accordingly, the High Court allowed the petition, directed the GST authorities to recompute and pay interest from the date of the original refund application, within the prescribed time.

NASA Comments:

This is a welcome and significant ruling by the High Court which shall help the taxpayers in claiming interest on delayed sanction of refunds which were rejected at inception on unjust grounds thereby upholding the principles of fairness and equity.

B 21-25, Paragon Centre,
Pandurang Budhakar Marg, Mumbai – 400013
Tel: 91-022-4073 3000
E-mail Id: info@nashah.com