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TAX JURISPRUDENCE

CASE LAW ALERT – JULY 2026

VOL- 2

Executive Summary Of Judgements / Advance Rulings Under Direct and 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
Direct Tax		
Case 1 - Parag Gupta, ITA No. 661/Del/2026 Assessment Year: 2021-22	The issue before the Delhi ITAT was whether the assessee could be denied Foreign Tax Credit (FTC) of Rs.13.91 lakh merely because Form No. 67 (required for claiming FTC) was filed after the due date prescribed under Section 139(1) but within the time allowed for a belated return under Section 139(4).	The Delhi ITAT held that the assessee was entitled to the FTC and followed the Bangalore ITAT ruling in Brinda Ramakrishna. The Tribunal observed that filing Form No. 67 is directory and not mandatory, and Rule 128(9) does not provide for denial of FTC merely due to delayed filing of the form. It further held that the benefits available under the DTAA and Sections 90 cannot be curtailed by procedural requirements in the Rules. Accordingly, the ITAT allowed the taxpayer's appeal and directed that the FTC of Rs. 13.91 lakh be granted.

Case & Citation	Issue Involved	Decision
Indirect Tax		
Case 1 - Manoranjan Dash v. Commissioner, Odisha, Commissionerate of CT & GST & Ors [Filing No: 2025121101000004, decided on 8-7-2026]	Whether a fresh statutory pre-deposit is required for filing a second appeal if the pre-deposit already paid during the first appeal exceeds the total requirement calculated on the reduced tax demand.	The Tribunal held that no fresh statutory pre-deposit is required where the pre-deposit already made is sufficient to cover the reduced disputed tax; however, the prescribed differential court fee must be paid for admission of the appeal.
Case 2 – State Bank of India v. Commercial CGST & CE, Siliguri Commissionerate [2026] 187 taxmann.com 1127 (Calcutta HC)	Whether the GST department can validly issue a single composite Show Cause Notice and adjudication order clubbing multiple financial years together to circumvent statutory limitation deadlines.	The High Court held that clubbing multiple financial years to bypass limitation bars is illegal and without jurisdiction and consequently quashed the entire proceeding.

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

DIRECT TAX

Case 1 - Parag Gupta, ITA No. 661/Del/2026 Assessment Year: 2021-22

Facts in brief & Issue Involved

- The taxpayer a salaried employee of Amazon Seller Services Pvt. Ltd., earned income from both India and the USA and being a resident of India, offered his global income to tax in India.

- The taxpayer claimed Foreign Tax Credit (FTC) of Rs.13.91 lakh in respect of taxes paid in the USA and filed Form No. 67 along with supporting evidence of foreign taxes paid. However, Form No. 67 was filed after the due date prescribed under Section 139(1), though it was filed within the time allowed for a belated return under Section 139(4).

- The CPC denied the claim of FTC in 143(1) intimation solely on the ground that Form No. 67 had not been filed within the due date prescribed under Section 139(1)

- The issue before the Delhi ITAT was whether a valid FTC claim can be denied merely due to delayed filing of Form No. 67, whether the filing requirement is mandatory or directory, and whether a procedural lapse can override the substantive benefit available under Sections 90/90A read with the applicable DTAA.

Contentions of Taxpayer

- The taxpayer had paid taxes in the USA and being a resident of India, had offered his global income to tax in India; therefore, he was substantively entitled to FTC under Sections 90 read with the applicable DTAA.

- Form No. 67 was duly filed, though after the due date under Section 139(1); hence, a mere delay in filing a procedural form should not result in denial of a legitimate FTC claim.

Contentions of the Revenue

- Since Form No. 67 was filed after the due date of filing Return of Income, no credit for FTC was allowable.

Observations & Decision of the Hon'ble ITAT

- The Tribunal relied heavily on the coordinate bench ruling in **Brinda Ramakrishna v. ITO** (Bangalore ITAT, ITA No. 454/Bang/2021), which held:

  a) Rule 128(9) of the Income-tax Rules does not provide for disallowance of FTC merely because Form No. 67 is filed late.

  b) Form No. 67 is a procedural/directory in nature, not a mandatory one — its breach doesn't extinguish the taxpayer's substantive right to FTC.

  c) Under Section 90(2), treaty provisions apply where more beneficial to the taxpayer, and subordinate Rules cannot impose conditions contrary to the Act/treaty.

  d) Unlike provisions such as Sections 80AC, 80-IA(7), 10A(5), and 10B(5) — which expressly deny relief for late filing — Rule 128(9) contains no such express consequence, so such a consequence cannot be read into it.

  e) Supported by Supreme Court precedent (Mangalore Chemicals & Fertilizers, Sambhaji v. Gangabai) distinguishing mandatory/substantive conditions from directory/procedural ones, as well as rulings treating audit-report filing timelines as directory rather than mandatory.

- Following *Brinda Ramakrishna*, the Delhi ITAT held the delay in filing Form No. 67 could not defeat the assessee's substantive right to FTC. It directed the AO to grant FTC of Rs.13,91,287 and recompute tax liability accordingly, allowed the taxpayers Appeal.

NASA Comments

- This ruling reinforces a principle that has consistently found judicial support: substantive tax benefits should not be denied merely on account of procedural lapses, provided the taxpayer has satisfied the substantive conditions prescribed under the law and has furnished adequate documentary evidence in support of the claim. By drawing a distinction between procedural compliance and substantive entitlement, the decision adopts a purposive interpretation of the statutory provisions, thereby advancing the legislative intent rather than defeating genuine claims on technical grounds.

- Nevertheless, as a matter of sound tax compliance, taxpayers should endeavour to furnish Form No. 67 within the due date prescribed under Section 139(1) of the Income-tax Act. Reliance on the above judicial principle should be regarded as a protective measure in cases of inadvertent delay and not as a substitute for timely statutory compliance.

INDIRECT TAX

Case 1 - Manoranjan Dash v. Commissioner, Odisha, Commissionerate of CT & GST & Ors [Filing No: 2025121101000004, decided on 8-7-2026]

Facts in brief & Issue Involved

- The appellant was served with a show cause notice under Section 73 of the Central Goods and Services Tax Act, 2017 ("CGST Act"), for allegedly claiming excess Input Tax Credit. The adjudicating authority originally confirmed a heavy demand totalling Rs. 11,34,474/- in tax plus interest and penalties.

- To file the first appeal under Section 107(6) of the CGST Act, the appellant pre-deposited 10% of the disputed tax amount, which came to Rs. 1,13,447/-. The First Appellate Authority subsequently accepted the merits of the case and reduced the confirmed tax demand to just Rs. 1,02,012/- along with interest & penalty.

- When, the Appellant preferred a second appeal before the Goods and Services Tax Appellate Tribunal (GSTAT), the Registry issued a defect notice alleging short payment of the statutory pre-deposit and court fees.

- The issues for consideration were whether the Appellant was required to make a fresh pre-deposit despite the pre-deposit made in the first appeal exceeds the cumulative statutory requirement on the reduced demand.

Contentions of Appellant

- The appellant submitted that while filing appeal before the First Appellate Authority, they have already made a pre-deposit of 10% of the disputed tax, i.e. Rs. 1,13,447/- and based on modified original order the demand now amounts to Rs. 1,02,012/- and the pre deposit for filing the appeal before the Appellate Tribunal works out to be Rs. 10,201/- i.e. 10% of the tax in dispute of Rs. 1,02,012/-.

- The Appellant argued that when the tax liability drops substantially upon first appeal, the statutory pre-deposit baseline must be recalculated against the newly reduced demand.

- The appellant submitted that since they have already deposited Rs. 1,13,447/- during the First Appellate proceedings reflecting in their Electronic Liability Register, it duly covers the pre-deposit as required for filing appeal before the Appellate Tribunal and no further pre deposit should be demanded..

- The Appellant also relied upon the judgment of the Jharkhand High Court in the case of *M/s Ashirwad Food Industries v. Union of India*, wherein it was held that where the demand is substantially reduced by the First Appellate Authority and the pre-deposit already made exceeds the amount required for the second appeal, the Tribunal cannot insist upon payment of a fresh statutory pre-deposit.

Observations & Decision of the GSTAT

- The GSTAT Cuttack Bench observed that the pre-deposit requirement stands completely satisfied if the quantum already deposited at the first stage covers the total percentage required for the balance demand.

- Drawing strength from the Jharkhand High Court's ruling in Ashirwad Food Industries, GSTAT ruled in favor of the taxpayer.

- The Tribunal quashed the defect notice and ruled that no further pre-deposit I required to be made.

NASA Comments

- This is a highly welcome order from the newly functional GSTAT. It provides immense relief to businesses facing situations where the initial massive demand is slashed and the taxpayers have already paid the higher pre deposit at the first level of appeal.

Case 2 – State Bank of India v. Commercial CGST & CE, Siliguri Commissionerate [2026] 187 taxmann.com 1127 (Calcutta HC)

Facts in brief & Issue Involved

- The GST department initiated proceedings against the petitioner (State Bank of India, Siliguri) and clubbed multiple financial years together to issue a single, composite Show Cause Notice (SCN) and a subsequent joint adjudication order under Section 74 of the CGST Act

- In response to the show cause notice, the petitioner specifically objected to the issuance of a single notice for multiple financial years and also furnished invoice-level details and supporting documents.

- The Adjudicating Authority rejected the objections and passed an Order-in-Original confirming the demand.

- Aggrieved by the composite show cause notice and the consequential Order-in-Original, the petitioner filed a writ petition before the Calcutta High Court challenging the validity of the proceedings.

- The issue before the Court was Whether the GST authorities have the jurisdiction to issue a single, consolidated Show Cause Notice and composite assessment order clubbing multiple distinct financial years together to circumvent statutory limitation bars.

Contentions of Petitioners

- The petitioner argued that each financial year is a self-contained tax period with its own specific statutory deadline for issuing notices and passing orders under Section 74.

- Clubbing dead or expiring periods with newer financial years under a unified notice is an arbitrary practice designed solely to artificially extend the limitation timeline.

- An adjudication order originating from a fundamentally flawed and combined notice is completely void, bad in law, and lacks legal jurisdiction.

Contentions of Respondents

- The Revenue Authorities contended that Writ court is not the forum to conduct a detail fact-finding enquiry. The statutory appellate remedy is vested with the power to go into the facts. Hence, appellate remedy is the appropriate remedy for the writ petitioner

- The respondents further submitted that in the event of fraudulent availment of benefit under the said 2017 Act, where transactions are spread across several years, a consolidated show-cause notice is permitted in law

Observations & Decision of the Calcutta High Court

- The Calcutta High Court observed that the scheme of the CGST Act treats individual financial years as distinct units for assessment, limitation, and maintenance of records.

- The Court held that clubbing multiple financial years in one notice would effectively enlarge the statutory limitation period and revive demands that may otherwise be time-barred.

- Relying on Hon'ble Supreme court judgement of *State of Jammu & Kashmir v. Caltex (India) Ltd.*, Hon'ble Madras High Court judgement in *Titan Company Ltd.* and *Milroc Good Earth Developers*, the Court reiterated that each assessment year is an independent unit and consolidated notices for multiple years are impermissible.

- The Calcutta High Court further observed that the scheme of the CGST Act treats individual financial years as distinct units for assessment, limitation, and maintenance of records.

- Based on reasons and discussions, the Hon'ble Calcutta High Court set aside and quashed the impugned Show Cause notice and consequent Order in Original

NASA Comments

- The order firmly re-establishes that statutory deadlines under the GST law are non-negotiable thresholds that cannot be stretched or bypassed through administrative convenience.