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TAX JURISPRUDENCE

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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		
Commissioner of Income Tax LTU vs M/s Reliance Industries Ltd [TS-48-HC-2025(BOM)]	Whether the interest under section 234B of the Income Tax Act, 1961, be leviable on the addition made in Book Profit under MAT being provision for doubtful debts on account of retrospective amendment.	The Bombay High Court ("HC") held that no interest under section 234B could have been levied consequent to retrospective amendment to include various items in computing book profits as per explanation to section 115JB.
Indirect Tax		
Gillette India Limited vs Assistant Commissioner, Chennai [TS-865-HC(MAD)-2024-GST]	Whether an order can be raised demanding additional liability beyond the show cause notice?	The Hon'ble High Court of Madras quashes the order on the ground that the order traverses beyond the scope of SCN.
M/s. Rashtriya Ispat Nigam Limited vs State of West Bengal & Ors [TS-19-HC(CAL)-2025-GST]	Whether an appeal can be rejected only on ground of delay in filing?	The Hon'ble High Court of Calcutta condones delay in appeal filing owing to furnishing of 'adequate reasoning'.

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

CIT vs. M/s Reliance Industries Ltd (Bombay High Court) [TS-48-HC-2025(BOM)]

Facts in brief & issues involved:

- ♦ The taxpayer is engaged in the business activities spanning across hydrocarbon exploration and production, Oil to Chemicals, Retail and Digital Services.
- ♦ In the Return of Income for A.Y 2005-06, the taxpayer has not considered the effect of 'provision of doubtful debts' while computing the book profit under section 115JB of the Act.
- ♦ In the assessment order, the AO had added "Provision for doubtful debts" created by the assessee to the book profit computed u/s. 115JB of the Act.
- ♦ The Learned CIT(A), however, deleted the same by following the decision rendered by Hon'ble Supreme Court in the case of HCL Comet System & Services Ltd. (Civil Appeal No. 5800 of 2008 dated 23.9.2008).
- ♦ Subsequently, Finance (No. 2) Act of 2009, has amended Explanation 1 to section 115JB with retrospective effect from 1.4.2001 by inserting clause (i) which provides that while computing book profit, the amount or amounts set aside as provision for diminution in the value of any asset is required to be added to the net profit disclosed in the profit and loss account.
- ♦ Since the above amendment was brought with retrospective effect from 01.04.2001, AO filed a rectification petition dated 22.4.2010 with the learned CIT(A) with a request to amend the order passed by adding Provision for doubtful debts.
- ♦ Accordingly, CIT(A) passed a rectification order on 27.3.2014 confirming the addition of "Provision for doubtful debts" made by the Assessing Officer to the book profit computed u/s 115JB of the Act.
- ♦ The CIT(A) also charged the interest under section 234B of the Act on the addition so made based on subsequent amendment.
- ♦ Aggrieved by the above order, assessee has filed appeal before the Hon'ble Income tax Appellate Tribunal. The assessee has also filed additional ground with regard to chargeability

of interest u/s 234B of the Act on the addition so made by Ld CIT(A) on the basis of subsequent amendment.

- ♦ ITAT confirmed the addition of said provision to the book profit. However, on the issue of chargeability of interest u/s 234B of the Act, ITAT directed the Ld .AO to delete the interest levied on account of shortfall in payment of tax for addition on account of Provision for doubtful debts.
- ♦ Aggrieved by the order of ITAT, Department has preferred an appeal before the High Court.

Contentions of the Department:

- ♦ Order passed by coordinate benches in the case of i.e. **PCIT Vs Mangalore Refinery & Petrochemicals Ltd** and **CIT Vs JSW Energy Ltd** were in conflict with the decision of the **Hon'ble Supreme Court in CIT Vs Anjum M. H. Ghaswala & Ors (2001) 252 ITR 1 (SC)**.
- ♦ The above judgments do not take note of the circulars issued by the Central Board of Direct Taxes (CBDT), which provide that the assessee should have approached the Chief Commissioner to redress the grievances.
- ♦ Coordinate Benches have failed to consider that there is no equity in tax matters, and since the imposition of interest was mandatory, there was no escape even though the assesses were not even expected to compute their book profits by imagining that several years later the law would be amended.

Contentions of the Respondent:

- ♦ Bombay High Court in the case of Mangalore Refinery & Petrochemicals Ltd has considered the decision of the Hon'ble Supreme Court in Anjum M.H.Ghaswala & Ors (supra). Hon'ble Supreme Court in Anjum M.H.Ghaswala & Ors (supra) held that the settlement commission acting under Sections 245D(4) and 245D(6) does not have the power to reduce or waive interest statutorily payable under Sections 234A, 234B and 234C of the Income Tax Act.
- ♦ Taxpayer could not have visualised the subsequent amendments that may be made in the Act while estimating the amount of advance tax payable by it and so it wouldn't enable the assessee to compute the interest payable thereon.

Observation and Decision of the Bombay High Court:

- ♦ The HC observed that this is hardly the manner of attacking the judgments of the Coordinate Benches of this Court. First, submitting that some judgment was “obtained” is quite objectionable. Secondly, this is hardly a case of any suppression.
- ♦ The revenue was the appellant in those matters and Ld. DR could not explain why the Counsel for the revenue, after hearing the Coordinate Benches made the orders, could not have pointed out such circulars and developed an argument based upon the same.
- ♦ Both the cited cases i.e. Mangalore Refinery & Petrochemicals Ltd (supra) and JSW Energy (supra) also considered Anjum M.H. Ghaswala (supra) and therefore, cannot be said to have been obtained by suppressing the CBDT circulars.
- ♦ High Court cannot bypass or ignore the decisions of the Coordinate Benches, which answers the substantial question of law against the revenue and in favour of the assessee
- ♦ Also, at least three Coordinate Benches have taken the view that where an assessee computed book profits as per the prevailing law, no interest under Section 234B could have been levied consequent to the inclusion of various items in computing book profits as per explanation to Section 115JB which were brought on the statute by the Finance Act, 2008 with retrospective effect from 1 April 2001.

NASA Comments:

The High Court judgement once again confirms the position that the department cannot charge the interest u/s 234B on the addition made on account of retrospective amendment.

Case 1 – Gillette India Limited vs Assistant Commissioner, Chennai [TS-865-HC(MAD)-2024-GST]

Facts in brief & Issue Involved

- ♦ Gillette India Limited ("Petitioner") is engaged in manufacturing and trading of various personal grooming and oral care products.
- ♦ The department had issued a show cause notice (SCN) for mismatch of ITC between GSTR-3B and GSTR 2A/2B.
- ♦ Subsequent to the SCN, an Order confirming the demand was issued, however with an amount which was excess to the tax demanded proposed in the SCN. The Petitioner challenged the said Order.

Contentions of Petitioners

- ♦ The petitioner contended that the impugned order of levying additional demand traverses beyond the show cause notice and thus hit by section 75(7) of the CGST Act, 2017.
- ♦ They further contended that since the SCN forms the foundation, it is necessary that the petitioner is put on notice on the basis of which the order was intended to be made. Else, the opportunity to reply becomes illusory and the notice would be an empty formality if the order is made on new / different grounds from the notice

Contentions of Respondents

- ♦ The Respondent contended that the petitioner had not responded to the reply and since the petitioner failed to file its reply, the petitioner may no longer be in position to challenge the impugned order.

Observations & Decision of the Madras High Court

- ♦ The Hon'ble High Court of Madras held that the show cause notice forms the foundation for any subsequent order and if order traverses beyond show cause notice, then it is necessary that the petitioner is provided with notice regarding the basis of which the order was intended to be made.

- ♦ The Court found procedural lapses in issuing the impugned order, particularly the additional demand beyond the show cause notice. It quashed the order, allowing Gillette to file its reply after depositing the additional pre deposit amount,
- ♦ The Court also directed the GST authorities to reassess the matter while giving Gillette a fair opportunity to present its case.

NASA Comments

- ♦ This judgment underscores the importance of following the statutory framework, respecting jurisdictional boundaries, and ensuring taxpayers' right to a fair hearing before finalizing demands.

Case 2 – M/s. Rashtriya Ispat Nigam Limited vs State of West Bengal & Ors [TS-19-HC(CAL)-2025-GST]

Facts in brief & Issue Involved

- ♦ The petitioner is a Central Public Sector Undertaking registered under GST in West Bengal, engaged in supplying steel products.
- ♦ A certain mismatch in the petitioner's GST returns led to the issuance of an ASMT-10 notice which was uploaded on the GST portal without any formal communication, leaving the petitioner unaware of the proceedings.
- ♦ An ex-parte order was passed confirming the demand, prompting the petitioner to file an appeal which was delayed by 246 days due to procedural anomalies.
- ♦ The appellate authority dismissed the appeal solely on limitation grounds, without considering the merits, prompting the petitioner to approach the Hon'ble Court.

Contentions of Petitioners

- ♦ The petitioner argued that the delay in filing the appeal was due to the lack of proper communication of notices, as these were uploaded on the GST portal under tab "View additional Notices and Orders" without direct intimation.


- ♦ The petitioner contended that the appellate authority erred in dismissing the application for condonation of delay without considering valid reasons and procedural anomalies.
- ♦ The petitioner relied on the judgment in **Anhad Impex & Anr. v. Assistant Commissioner (2024)**, asserting that the original order under Section 73(9) of the CGST Act violated natural justice principles, as no fair opportunity was provided to present their case.

Observations & Decision of the Court

- ♦ The Court observed that the petitioner adequately explained the reasons for the delay in filing the appeal, citing procedural anomalies and lack of proper communication of notices.
- ♦ The appellate authority dismissed the application for condonation of delay mechanically without considering the petitioner's explanation, rendering the order perverse.
- ♦ The Court also referred a Division Bench ruling in **S.K. Chakraborty & Sons v. Union of India (2023)**, which held that appellate authorities are empowered to condone delays beyond the statutory period under Section 107(4) of the CGST Act.
- ♦ The Court condoned the delay and directed the appellate authority to hear the appeal on merits, ensuring a fair hearing to the petitioner within 12 weeks.

NASA Comments

- ♦ This ruling of Hon'ble High Court is a welcome judgement which would provide relief to the taxpayers who have genuinely delayed in filing an appeal.



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