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TAX JURISPRUDENCE

CASE LAW ALERT – JULY 2025 VOL- 1

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		
Allauddin Noormohamed Kadiwala [TS-818-ITAT-2025(Mum)]	Whether the assessee is eligible for full deduction under Section 54F when part of the consideration for the new residential property was directly paid by the developer (in lieu of capital gain) to the seller, and not by the assessee himself within the stipulated time.	The Hon'ble ITAT held that the assessee is entitled to full deduction under Section 54F for the entire capital gain, holding that the assessee had effectively invested the entire capital gain in a residential house, by accepting the payment made by the developer directly to the seller as a valid discharge of the assessee's liability. The tribunal emphasized that constructive investment within the prescribed time, supported by agreements and confirmations, suffices for Section 54F compliance.
Indirect Tax		
Trendships Online Services Pvt Ltd. – Allahabad High	Whether taxpayer can claim input tax credit in case where the supplier's GST	Hon'ble Allahabad High Court dismissed the writ petition, upholding the tax

Court [(2025) 31 Centax 97 (All.)]	registration was cancelled and the supplier failed to deposit the tax with the Government, despite the taxpayer having valid tax invoices and having paid the supplier?	authority's order demanding reversal of ITC claimed by the taxpayer, along with interest and penalties.
Sundyne Pumps and Compressors India Pvt Ltd. – Bombay High Court [(2025) 31 Centax 387 (Bom.)]	Whether services by an Indian subsidiary to its foreign parent / group on fixed mark-up qualify as exports and be eligible for refund of unutilised ITC?	Hon'ble Bombay High Court held that the supply between the petitioner and the foreign recipient is covered under Circular No. 161/17/2021 and hence qualify as an export of services, thereby eligible for refund of unutilized ITC.

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

DIRECT TAX

Allauddin Noormohamed Kadiwala [TS-818-ITAT-2025(Mum)]

Facts in brief & Issue Involved

- The assessee, an individual engaged in dairy business, was a member of a society that entered into a Joint Development Agreement (JDA) with M/s. Delta Venture for development of land. Under the arrangement, the assessee received ₹50.59 lakh from the developer towards surrender of his tenancy/possessory rights.

- The amount was treated as long-term capital gain and the assessee claimed exemption under Section 54F by investing the gain in the purchase of a new residential flat.

- He entered into an agreement for sale for purchase of flat on 06.03.2012 from Mr. Jaferali Jalal Momin for a total consideration of ₹51 lakh. Out of this, ₹25 lakh was paid by the assessee via cheques within the stipulated period under Section 54F. The balance ₹26 lakh was directly paid by M/s. Delta Venture to the flat seller, Mr. Jaferali Jalal Momin, on behalf of the assessee, in terms of a letter dated 01.06.2012, which was also countersigned by the seller, confirming that no amount was due from the assessee.

- While the Assessing Officer accepted the payment of ₹25 lakh made by cheque as eligible investment, he disallowed the remaining ₹26 lakh on the ground that it was not paid by the assessee and was settled much later (on 30.03.2015) by the developer. The AO treated the payment as a journal entry not amounting to actual investment within the prescribed period.

- The above disallowance was upheld by the CIT(A), aggrieved by which the assessee preferred an appeal before the Income Tax Appellate Tribunal (ITAT).

Contentions of Taxpayer

- The assessee has treated the entire amount of ₹50.59 lakh received from the developer for surrender of tenancy rights, as long-term capital gains, and invested in the purchase of a residential flat, which is eligible for deduction under section 54F of the Act.

- The assessee contended that although ₹26 lakh was directly paid by the developer to the seller, it was done as per a written agreement dated 01.06.2012, duly acknowledged and countersigned by the seller, thereby discharging the assessee's liability.

- The assessee also submitted the confirmation that the seller confirmed that no amount was outstanding from the assessee and had also delivered possession and share certificates at the time of agreement, evidencing completion of the transaction within the prescribed time.

- The mode of payment—whether made directly by the assessee or through the developer—should not affect eligibility under Section 54F, as the investment in the new residential house was substantively complete.

- Also, the journal entry in the developer's books acknowledging the liability and payment direction substantiates that the assessee's investment obligation stood fulfilled within the time limit.

Contentions of Revenue

- The assessee was eligible for Section 54F deduction only to the extent of ₹25 lakh actually paid through cheques within the prescribed time limit from the date of transfer.

- The balance ₹26 lakh was paid by the developer (M/s. Delta Venture) to the seller on 30.03.2015, well beyond the time allowed under Section 54F, and hence could not be treated as valid investment by the assessee.

- The developer's promise to pay the seller, as evidenced by the letter dated 01.06.2012, was merely a facilitative arrangement to help the assessee claim exemption and did not amount to actual investment by the assessee.

- The developer had no funds to discharge the assessee's liability as of 01.06.2012, and the letter of undertaking was not supported by any real-time financial transaction or actual payment within the required time frame.

- Since the developer paid the amount directly and not by the assessee, and the actual payment occurred after the limitation period, the condition of "investment" under Section 54F was not satisfied to that extent.

Observations & Decision of the Hon'ble ITAT

- The ITAT noted that the assessee entered into a valid agreement for purchase of a residential flat on 06.03.2012, well within one year from the date of transfer of the original asset. It also observed that the developer's letter dated 01.06.2012, countersigned by the seller, clearly discharged the assessee's liability for the balance ₹26 lakh, constituting constructive investment.

- The Tribunal emphasized that actual payment timing by the developer was not material since the seller never disputed the transaction and had confirmed receipt and possession handover.

- It also noted that even the capital gain received by the assessee was largely through book entries, so the Revenue could not selectively disregard the developer's payment.

- Accordingly, the ITAT held that the assessee was entitled to full deduction under Section 54F for the entire investment and allowed the appeal.

NASA Comments

- This judgement provides liberal interpretation of section 54F wherein the Tribunal rightly upheld that third-party payments made on behalf of the assessee, when backed by proper documentation and possession so as to qualify as valid investment in a residential property. This affirms that the essence of the transaction, not just the mode of payment, is key to eligibility under Section 54F.

- Tribunal's observation that the Revenue cannot accept journal entries to assess capital gains and simultaneously reject similar entries when computing exemption can be agreed. This ruling brings much-needed clarity for cases involving redevelopment or joint development arrangements, where consideration and investment often involve indirect or adjusted payment mechanisms.

INDIRECT TAX

Case 1 – M/s Trendships Online Services Pvt Ltd. – Allahabad High Court [(2025) 31 Centax 97 (All.)]

Facts in brief & Issue Involved

- The petitioner made purchases from Shree Radhey International, Delhi (hereinafter referred to as 'the supplier') during March 2018 and April 2018, when the supplier was a registered dealer.

- For the said inward supplies, the petitioner made payment through the banking channel via RTGS and claimed Input Tax Credit (ITC) in its GSTR-3B returns.

- Subsequently, the supplier's GST registration was cancelled on 11-Sept-2019 after the transaction took place.

- GST Authorities issued a show-cause notice to the petitioner u/s 74(1) of the CGST Act, 2017, alleging wrongful ITC claim due to the supplier's non-payment of tax and subsequently issued an order u/s 74(9) confirming the demand along with interest & penalty.

- The petitioner filed an appeal before the Appellate Authority against the said order. However, the Appellate Authority upheld the demand. Thus, being aggrieved by the order, the writ petition was filed.

Contentions of Petitioners

- The supplier was registered at the time of supply of the goods and all the payments were made through RTGS. The registration of supplier was cancelled after the transaction had taken place. Also, the Petitioner possessed valid tax invoices and other necessary documents for claiming the ITC. The Petitioner further contended that it is fault of the supplier who had not deposited the tax and not of the petitioner.

Contentions of Respondent

- Section 16(2)(c) of the CGST Act mandates that ITC is permissible only if tax has been actually paid to the Government by the supplier.

- The respondent further argued that the petitioner failed to demonstrate actual tax deposit by the supplier.

Observations & Decision of High Court

- The Hon'ble High Court observed that Section 16(2) is a non-obstante clause stating that notwithstanding anything contained in Section 16, no registered dealer shall be entitled to credit of any input tax unless the conditions laid down under section 16(2) are satisfied.

- The Hon'ble High Court also held that there is no ambiguity with respect to the actual payment of tax by supplier to the Government. Once the supplier has not deposited the tax mandated U/s 16(2)(c) the petitioner cannot claim the benefit.

- It further held that apart from the tax invoice the petitioner could not demonstrate that the supplier had supplied goods and had deposited the tax with government as mandated U/s 16(2)(c).

- The Hon'ble High Court dismissed the writ petition and upheld the Appellate Authorities order.

NASA Comments

- This judgment underscores a strict compliance culture which may create legal uncertainty and commercial risk even in cases of genuine purchases with valid documents and payment through banking channels.

Case 2 – M/s Sundyne Pumps and Compressors India Pvt Ltd. – Bombay High Court [(2025) 31 Centax 387 (Bom.)]

Facts in brief & Issue Involved

- The petitioner is engaged in supplying engineering services for industrial and manufacturing projects, specialized office support services, management consulting and management services, etc. to its group companies located outside India. The services were provided under a cost-plus markup arrangement.

- The petitioner filed a refund application for the period of July to September 2021 and October to December 2021 which was rejected by holding that the petitioner did not qualify the conditions of export of services by invoking clause (v) of Section 2(6) of the IGST Act.

- The petitioner filed an appeal before the Appellate Authority. However, the Appellate Authority upheld the rejection of refund on the grounds that the petitioner has acted as an agency of the foreign recipient thereby violating the condition of clause (v) of Section 2(6) of the IGST Act which requires the supplier of service and the recipient of service to not merely be establishments of a distinct person.

- Being aggrieved, the petitioner filed the present writ.

Observations & Decision of High Court

- The Hon'ble High court observed that the agreement is unambiguous and clearly provides that the petitioner is an independent contractor and that neither the petitioner nor its officers, directors, employees or sub-contractor are servants, agents or employees of the foreign recipient. The agreement does not in any way bring out that the petitioner is providing services to the foreign recipient as its agent or that the recipient is carrying business in India through the Petitioner

- The Hon'ble court further stated that merely because consideration is fixed) and the petitioner receives a fixed mark-up, the same does not become commission paid to the petitioner as an agent.

- The Hon'ble court further relied on CBIC Circular No. 161/17/2021-GST dated 20-Sept-2021 which has specifically clarified that the transactions between sister / group companies, holding / subsidiary companies are not covered under condition (*v*) to Section 2(6) of the IGST Act and in the present case the petitioner is not a mere establishment of the recipient of services located outside India by reason of supplies being made to sister / group companies or holding /subsidiary companies.

- The Hon'ble court additionally observed that the primary requirement to satisfy the definition of an "agent" is that the agent supplies goods or services or both on behalf of another person viz. third party to transaction. Undisputedly, in present case there are only two parties viz. petitioner and its foreign recipient and thus, the petitioner, by no stretch of imagination, could qualify as an agent. Hence it is beyond doubt that the petitioner is not an agency of the foreign recipient, and both are independent and distinct persons. Therefore, the condition of clause (v) of Section 2(6) of IGST Act is fully satisfied and the supply of services by the petitioner qualifies as export and thereby zero rated supplies.

NASA Comments

- The Bombay High Court's decision is a welcome and progressive move that upholds both the letter and spirit of the GST law. It removes a cloud of uncertainty for numerous Indian subsidiaries providing services to foreign affiliates.

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