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TAX JURISPRUDENCE

CASE LAW ALERT – SEP 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		
Saroj Rani [TS-1095-ITAT-2025(DEL)]	The issue was whether the deduction under Section 54 of the Income Tax Act, 1961 could be claimed for investments in multiple adjacent residential units on the same floor, or whether the exemption applies only to a single unit as per the amendment to the law effective from April 1, 2015.	The Hon'ble Delhi Tribunal ruled in favour of the assessee, allowing the exemption under Section 54 for the investment in seven residential units on the same floor, considering them as a single residential house, and directed the Assessing Officer to allow the exemption for the full amount claimed by the assessee.
IIT Ropar Technology [TS-1162-ITAT-2025(ASR)]	The assessee had applied for final registration u/s 80G under wrong clause of said section which was rejected by CIT(E) on the ground of mentioning of incorrect clause in view of the fact that activities were already commenced.	The Hon'ble ITAT has held that technical errors (wrong clause) are curable and not fatal. Approval can be denied only if activities are not genuine. Accordingly, CIT(E) was directed to treat provisional registration as valid as well as considering the application for final registration filed under correct clause and grant the

		registration after satisfying about genuineness of activities.
Indirect Tax		
<u>Eagle Security & Personnel Services Versus Union of India Writ Petition No. 1687 of 2024, decided on (18-8-2025)</u>	The primary issue was a constitutional challenge to the tax framework. The petitioner questioned whether the discriminatory RCM (Reverse Charge Mechanism) classification that excludes body corporates while denying ITC (Input Tax Credit) to non-corporate security service suppliers under Section 17(3) violates Articles 14 and 19(1)(g) of the Constitution and will create an artificial cost disadvantage for proprietorship entities compared to corporate competitors offering identical services.	Bombay High Court dismissed constitutional challenge , upholding RCM provisions and Section 17(2)-(3) as constitutionally valid, holding body corporate vs. non-corporate classification reasonable with intelligible differentia. Court rejected reading down petition, affirming ITC denial to RCM suppliers as permissible legislative policy, deferring to GST Council's administrative convenience rationale without substantive constitutional analysis.
<u>Thermo Fisher Scientific India Pvt. Ltd. (2025) 33 Centax 347</u>	The issue was with respect to seeking advance ruling primarily on whether the Applicant is required to take GST Registration in the state of Odisha where the applicant is providing	The AAR held that the applicant is required to take registration in the state of Odisha as the services rendered via FSE's and supply of spare parts either to FSE's location or to the client's location constituted

	repairs and maintenance services via FSE's. The questions involved were : 1. Whether the repair and maintenance services provided by the Head Office in Maharashtra through Field Service Engineers for Maintenance Contracts with customers in Odisha constitute a place of business in Odisha? 2. Whether the temporary storage of spare parts and tool kit at applicant's location constitutes a place of business? 3. Whether applicant's location would constitute "fixed establishment"? If the answer to question (a), (b), and (c) above is 'No', whether the applicant is required to take GST registration in Odisha?	ordinary business activity and that storing of Spare parts and toolkits satisfied the definitions of "Place of Business" and "Fixed Establishment". On the basis of above, the AAR held that the appellant is required to take registration and responded to all the questions as Affirmative.
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The brief analysis of above referred decisions and rulings are given below:

DIRECT TAX

Case 1 - Saroj Rani [TS-1095-ITAT-2025(DEL)]

Facts in brief & Issue Involved:

- ♦ The assessee had declared income from salary, rental income, and long-term capital gains arising from the sale of immovable properties. The issue arose when the assessee claimed an exemption under Section 54 for an investment of Rs. 2,55,83,750/- in seven residential units on a single floor of a residential complex.
- ♦ The units were adjacent to each other, located in Units Nos. 1001 to 1007 in the 'Foreste' Complex, Greater Noida (West). The Assessing Officer (AO) allowed a deduction of Rs. 36,54,821/- for one residential unit but denied the exemption of Rs. 1,86,36,599/- on the remaining units, reasoning that the investment was made in multiple residential units rather than in a single residential house.
- ♦ This was based on an interpretation of Section 54, which, post-2015 amendments, restricted the exemption to a "one residential house." The AO and the Commissioner of Income Tax (Appeals) [CIT(A)] took the stance that multiple residential units could not qualify for the exemption as a single house.
- ♦ The issue involved was whether the exemption could apply to multiple residential units on the same floor, given the provisions of Section 54, or whether the exemption was strictly limited to one unit, as contended by the AO and CIT(A).
- ♦ 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 investment in seven residential units on the same floor of the residential complex should be treated as a single residential house for the purposes of the exemption under Section 54 of the Income Tax Act.

- ♦ All seven units were adjacent to each other, forming part of a continuous block of apartments without any external flat intervening between them. Therefore, they should not be considered as separate properties but as a single residential unit, effectively meeting the requirement for a single residential house as per the provision of Section 54.
- ♦ The intention behind the law was to encourage the acquisition of residential properties for personal use, and since all seven units were being used together as one residence, the exemption should apply to the entire investment.
- ♦ Reliance was placed on the judgment of the Hon'ble Delhi High Court in the case of Gita Duggal (357 ITR 153), where it was held that the term "a residential house" should be construed to allow multiple adjacent units as a single residential house for the purpose of Section 54 exemption.
- ♦ The facts in the case at hand were distinguishable from those in Pawan Arya v. CIT, where the exemption was denied because the properties were in different locations, rather than being contiguous as in the present case.

Contentions of Revenue:

- ♦ The exemption under Section 54 of the Income Tax Act should apply only to a single residential unit and not to multiple units, even if they are adjacent to each other on the same floor. The Revenue argued that the provisions of Section 54, as amended in 2015, specifically refer to "one residential house" and not "a residential house," thereby limiting the exemption to a single unit.
- ♦ The AO had interpreted the amendment to restrict the exemption to one unit and had disallowed the claim for multiple units, regardless of their adjacency. The Revenue referred to the judgment in Pawan Arya v. CIT, where the exemption was denied on similar grounds, as the flats were located in different areas, which the AO argued created a distinction between single and multiple residential units. The Revenue further contended that the investment in seven separate units, even though adjacent, could not be treated as a single residential house.

- ♦ The CIT(A) had upheld this view, reinforcing that the exemption should be granted only for a single unit, consistent with the legislative changes and judicial interpretations post-2015. The Revenue maintained that this interpretation was in line with the legislative intent to restrict the benefit to one residential house and that the cases of Gita Duggal and Lata Goel, cited by the assessee, were not applicable in the present context due to the change in the law, which now explicitly requires the acquisition of "one residential house".

Observations & Decision of the Hon'ble ITAT:

- ♦ The key issue in this case was whether the exemption under Section 54 of the Income Tax Act could apply to multiple residential units located on the same floor of a residential complex. The Tribunal acknowledged the amendment to Section 54 effective from April 1, 2015, which introduced the term "one residential house" instead of "a residential house," which had been a central point in the dispute. The Assessing Officer and CIT(A) had denied the exemption for the remaining units, asserting that the law only allows a deduction for "one residential house" and thus disqualified the other adjacent units.
- ♦ However, the Tribunal referred to judicial precedents, particularly the decision in Gita Duggal (357 ITR 153) and Lata Goel (ITA 127/2025), which interpreted the term "a residential house" in Section 54/54F of the Act. The Tribunal noted that in these cases, the courts had ruled that multiple residential units could be considered a single residential house, provided they were adjacent to each other, were part of a single residential complex, and were used as one unit for residential purposes. The Tribunal found that the case at hand was analogous to the one in Lata Goel, where the Delhi High Court had emphasized that the physical configuration of multiple units should not be a barrier to claiming the exemption, especially when these units were contiguous and intended for use as a single residence.
- ♦ The Tribunal further examined the facts and determined that the seven units in question were located on the same floor, were adjacent to one another, and were part of the same residential complex. It held that these units, functioned as a single residential house in practical terms. The Tribunal concluded that the intention behind the law was to allow deductions for investments in residential properties used for personal residence, and restricting the exemption to a single

unit would defeat this purpose when the properties were used together as one dwelling

- ♦ Ultimately, the Tribunal set aside the findings of the CIT(A) and directed the Assessing Officer to allow the full exemption under Section 54 for the seven residential units.

NASA Comments:

This case highlights an important interpretation of the term "one residential house" in Section 54, which may not be limited to a single unit but can encompass adjacent units. The ruling is in line with judicial precedents that emphasize the intention behind the law, which is to promote investment in residential properties.

Case 2 - IIT Ropar Technology [TS-1162-ITAT-2025(ASR)]

Facts in brief & Issue Involved:

- ♦ The assessee had been granted provisional approval u/s 80G(5) in the month of February 2024.
- ♦ Thereafter, it had filed an application for granting final registration u/s 80G(5)(iii) in Form 10AB in March 2024, after commencing charitable activities in FY 2019-20.
- ♦ The CIT(Exemption) rejected the said application on the ground that provisional approval was itself bad in law since activities had already been commenced before making an application for provisional registration and accordingly, the assessee ought to have directly applied for final registration.
- ♦ The issue before the Hon'ble Bench was whether a technical error in filing the application i.e. mentioning of wrong clause warrants outright rejection of 80G approval.

Contentions of Taxpayer:

- ♦ The assessee contended that the error of selecting the wrong clause in the application for final registration was bonafide.
- ♦ The assessee relied on CBDT Circular No. 14 XL-35 dated April 11, 1955, emphasizing that it is the duty of the Revenue to assist a taxpayer in every reasonable way, particularly in the matter of claiming and securing relief, and officers should take the initiative in guiding a taxpayer where proceedings or other particulars before them indicate that some refund or relief is due to him.

Contentions of Revenue:

- ♦ CIT(Exemption) held that since activities were already commenced before application for provisional registration, provisional approval is itself bad in law.
- ♦ Also, the technical error in filing the application for final registration is not curable and hence, the application for final registration is not maintainable.

Observations & Decision of the Hon'ble ITAT:

- ♦ The Hon'ble ITAT held that technical mistakes i.e. selection of wrong clause are curable, not fatal.
- ♦ It was further held that the approval can only be denied only upon non-fulfillment of conditions as stipulated under item (B) of section 80G(5)(iv) or genuineness of activities is not established and not for curable errors.
- ♦ Accordingly, CIT(E) was directed to treat the provisional approval as well as application for final registration as valid and to grant the final registration from the date of filing of the application for final registration after satisfying about genuineness of activities.

NASA Comments:

This decision underscores the principle that curable mistakes in filing the application cannot be the ground for rejection of registration u/s 80G and should not deprive a charitable institution from claiming legitimate benefits who are undertaking genuine charitable activities.

INDIRECT TAX

Case 1 – M/s Eagle Security & Personnel Services Versus Union of India Writ Petition No. 1687 of 2024, decided on (18-8-2025)

Facts in brief & Issue Involved

- ♦ Eagle Security & Personnel Services, a sole proprietorship, challenged the constitutionality of **the Reverse Charge Mechanism (RCM)** for security services. This challenge arose from a change introduced by **Notification No. 29/2018**, which amended **Notification No. 13/2017** from 1st January 2019.
- ♦ **Systemic Discrimination**
 - Before January 1, 2019:** Security services were taxed on a forward charge basis. This meant the supplier of the service was responsible for paying GST and was entitled to claim an Input Tax Credit (ITC).
 - Post January 1, 2019:** The tax system was bifurcated. For security services, the RCM was applied exclusively to non-corporate suppliers, while body corporate suppliers remained under the forward charge.
 - i. **Body Corporate Supplier:** Continued to pay GST and could claim ITC.
 - ii. **Non-Corporate Supplier:** Under RCM, the recipient of the service paid the GST. As a result, the non-corporate supplier's service was treated as an exempt supply under Section 17(3) of the GST Act, which led to the denial of ITC.
- ♦ The core legal issue was whether this classification, which treated corporate and non-corporate suppliers differently for the same service, violated Articles 14 (Right to Equality) and 19(1)(g) (Right to freedom of trade or business) of the Indian Constitution.

Contentions of Petitioners

The petitioner challenged the RCM framework on the following grounds:

- ♦ Violation of Article 14: They argued that the notification created a discriminatory classification without any intelligible differentia or a rational nexus to the legislative objective. The petitioner contended that treating

corporate and non-corporate entities differently for the same service was arbitrary and violated the principle of equality.

- ♦ Violation of Article 19(1)(g): The petitioner claimed the denial of ITC to non-corporate entities created a significant competitive disadvantage, constituting an unreasonable restriction on their freedom to trade. This increased their cost of services and placed them at a disadvantage against their corporate counterparts.
- ♦ Defeat of GST Objective: The petitioner highlighted that the denial of ITC for RCM supplies perpetuated the cascading effect of taxes, which is contrary to the core principle of a seamless credit chain under GST. They also pointed out the absence of a refund mechanism for such cases, akin to the inverted duty structure.
- ♦ Relief Sought: The petitioner sought a "reading down" of Sections 17(2) and 17(3) of the CGST Act to exclude proprietorships from the "exempt supply" treatment, thereby allowing them to claim ITC.

Contentions of Respondents

The respondents defended the validity of the provisions with the following arguments:

- ♦ Legislative Competence & Policy Wisdom: The government's authority to specify categories for RCM under Section 9(3) of the CGST Act was a matter of fiscal policy and administrative convenience, well within its legislative competence.
- ♦ Constitutional Validity: The respondents asserted that the classification between body corporates and non-corporates is a valid and constitutionally permissible one, based on a well-established and intelligible differentia.
- ♦ No Fundamental Right to ITC: They contended that ITC is a statutory benefit, not a constitutional right. They argued that the fundamental principle of GST is that ITC is available only where there is an output tax liability. The RCM system, they submitted, ensures a seamless credit chain because the recipient can claim the credit, preserving the overall efficiency of the system.

Observations & Decision of the Bombay High Court

- ♦ The Court held that fiscal laws are subject to minimal judicial scrutiny, and the legislature has considerable leeway in designing tax policies.
- ♦ The court accepted the argument that body corporates and non-corporates form separate classes. It found this classification to have a reasonable basis, thus not violating Article 14.
- ♦ The Court adopted a narrow interpretation, holding that while Article 19(1)(g) guarantees the freedom to carry on a business, it does not guarantee the competitiveness of that business. Economic hardship resulting from tax policy does not render it unconstitutional.
- ♦ The Court reiterated that the right to claim ITC is not a fundamental right, but a statutory benefit strictly governed by the GST law. Since the supplier has no output tax liability under RCM, there can be no set-off of ITC.
- ♦ Based on the above observations, the Bombay High Court dismissed the petition, upholding the constitutional validity of Notification No. 29/2018 and Sections 17(2) and 17(3) of the CGST Act.
- ♦ In conclusion, the Court upheld legislative wisdom and deferred to the government's policy decision. It held that the denial of ITC to suppliers under RCM for security services does not violate Articles 14 or 19(1)(g) and saw no reason to "read down" the statutory provisions.

NASA Comments

- ♦ The ruling solidifies the government's authority to deploy the **Reverse Charge Mechanism (RCM)** for administrative convenience. It establishes that the denial of **Input Tax Credit (ITC)** to suppliers under RCM is constitutionally valid, as **ITC is a statutory benefit**, not a fundamental right.

Facts in brief & Issue Involved

- ♦ Thermo Fisher has its Head Office (HO) in Maharashtra and is in business of supplying goods to the customers all over India. It also provides repair and maintenance services in all the states via Field Service Engineers (FSE) under Annual Maintenance Contract (AMC) /Comprehensive Maintenance Contract (CMC).
- ♦ Spare parts and tool kits for maintenance are stored at the HO's Mother Warehouse located in Bhiwandi and are then supplied to various locations, either at FSE's premises or directly at customer sites as per the request.
- ♦ Under the CMC plan, the FSE's inspects the goods and identifies the requirement for replacement of faulty spare parts. Upon identification, the HO dispatches the spare parts either to the FSE's location or to the customer's location directly by issuing a delivery challan. The spare parts are in some cases 'shipped to' the applicant's location in Odisha, which are then carried to the customer's location by FSE and billed to the customer. There is no additional supply relating to movement of spare parts as it is already billed.
- ♦ Under AMC plan, the customer directly contacts the HO and HO dispatches the spare parts to the customer by issuing a tax invoice.
- ♦ AMC plan covers cost of service whereas CMC plan covers cost of service including the cost of spare parts that may need to be replaced as identified during inspection by their FSE.
- ♦ The applicant does not maintain any stock in Odisha except for the temporary stock which is shipped to the FSE's location for replacement of the customer's spare parts. In case such spare parts are not utilized, the same are returned back to the HO within 27 days.

- ♦ The company has deployed FSE's at various locations in India including Odisha as it is essential to maintain operational efficiency and minimize equipment downtime for customers, which would increase if the FSE's were to travel from HO. The FSE's to ensure timely response and to avoid any delay have access to requisite tools for service performance. However, such access is strictly for operational purposes and **does not signify any significant independent presence or fixed establishment in Odisha.**
- ♦ The major question is regarding whether the applicant is liable to take registration in the state of Odisha for providing Post sale maintenance service.
- ♦ The applicant had sought advance ruling on following matters:
 1. Whether the repair and maintenance services provided by the Head Office in Maharashtra through Field Service Engineers for Maintenance Contracts with customers in Odisha constitute a place of business in Odisha?
 2. Whether the temporary storage of spare parts and tool kit at applicant's location constitutes a place of business?
 3. Whether applicant's location would constitute "fixed establishment"?
 4. If the answer to question (1), (2), and (3) above is 'No', whether the applicant is required to take GST registration in Odisha?

Contentions of Applicant

- ♦ For question 1, the applicant is of the view that the event of the supply of service takes place at the time of entering into the contract with the HO. The subsequent execution of the contract by the FSE at Odisha is mere contractual obligation. Since the taxable event occurs at the HO at Mumbai as the contracts are undertaken, invoice is raised and payment is received at Mumbai and mere execution of contract does not alter the location of service provider and mere presence of FSE to carry out repairs & maintenance service does not constitute additional place of business and accordingly does not require GST registration. Providing post-sale services does not satisfy legal criteria for place of business or fixed establishment.
- ♦ For question 2, the applicant is of the view that mere shipping of spare parts and keeping of tool kits at FSE's location at Odisha for the purpose of providing

service to the customers who have purchased the goods does not constitute place of business as these are kept and stored to reduce the service time and product downtime. Without keeping the same, there would be delays in providing services which would be significantly longer and impractical for the customers.

- ♦ For question 3, the applicant is of the view that shipping of spare parts is temporary in nature for a short duration and hence, it does not meet the test of permanence or sufficiency required under the CGST Act to qualify as a fixed establishment.
- ♦ With respect to Question "4" above, the applicant believes that GST registration is not required in the state of Odisha.

Observations & Decision of Advance Ruling

- ♦ The AAR held that applicant's activities in Odisha satisfy the GST definitions of "place of business" and "fixed establishment": regular storage of spare parts/tool kits and deployment of FSE's satisfy the required degree of permanence and operational structure. The AAR held that the applicant provides services for a certain period of time which means that the applicant will not close the temporary place of business.
- ♦ The Authority also found that supply of post-sale maintenance and goods through FSE, combined with temporary storage, constitutes ordinary business activity "carried on" in Odisha as per Section 2(85) of CGST Act.
- ♦ The applicant stores taxable goods in FSE location which is meant to be supplied to the customers having AMC plan after making payment of such taxable goods. The applicant has appointed FSE which are employees of the applicant for executing services under CMC.
- ♦ Applying Section 22 and Section 2(71) of CGST/OGST Act, the location for GST registration should be considered as Odisha, not just Maharashtra.

- ◆ Since all points were answered in affirmative, i.e., such services and storage constitute a place of business and fixed establishment, thereby necessitating registration in Odisha, Thermo Fisher must obtain GST registration in Odisha for its post-sale services and temporary storage of spares/tool kits.

NASA Comments

- ◆ While the ruling of AAR is fact-specific and applicant specific, the current ruling will have wider implications for taxpayer's providing post sale repairs & maintenance services across various states by widening the scope of phrase "Fixed Establishment" & "Place of Business" without any actual outward supply.
- ◆ A more balanced approach—recognizing the difference between operational convenience (temporary deployment of resources) and a true "fixed establishment"—would ensure clarity and reduce the need for multiple state-wise registrations without compromising tax revenue.



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