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# TAX JURISPRUDENCE

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CASE LAW ALERT – DECEMBER 2025

## 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
<b>Direct Tax</b>		
<a href="#"><u>Arrow Electronics India Pvt. Ltd. [TS-1438-ITAT-2025 (Bang)]</u></a>	<p>The issue before the Hon. ITAT was whether the assessee is eligible to avail the benefit of concessional rate of tax of 22% for AY 2021-22 where –</p> <p>(i) the option was exercised for the first time for AY 2020-21 by filing Form 10IC belatedly i.e. after the due date of filing the original return for the said year</p> <p>(ii) no separate Form was filed for AY 2021-22 and</p> <p>(iii) for AY 2021-22, the option was exercised by filing an updated return instead of original return.</p>	<p>The Hon'ble ITAT has held that Form 10IC filed for AY 2020-21 belatedly on 01.04.2021 is valid for AY 2021-22 and subsequent years and the assessee had rightly opted the same in its return of income filed for AY 2021-22 and therefore, the assessee is eligible for concessional rate of tax for AY 2021-22 and subsequent years.</p>
<b>Indirect Tax</b>		
<a href="#"><u>Zakir Hussain V. Union of India [2025] 179 taxmann.com 538]</u></a>	<p>Whether a demand order may be sustained when the taxpayer's reply to a show-cause notice (SCN) is submitted after the due date but before</p>	<p>The Hon'ble High Court J&amp;K and Ladakh quashed the demand order, holding that the adjudicating officer must consider a taxpayer's reply even if filed after the SCN's</p>

	the final assessment / demand order is passed?	stipulated date, so long as it is submitted before the final order, and any order passed without such consideration is unsustainable and violation of the principles of natural justice.
<a href="#"><u>Meghmani Organocem Ltd. v. Union of India [2025] 35 Centax 297 (S.C.)</u></a>	Whether an SEZ unit is entitled to claim refund of unutilized ITC distributed to it through an Input Service Distributor (ISD), despite Rule 89 stating that refund for supplies to SEZ must be filed by the supplier?	The Hon'ble Supreme Court dismissed the SLP filed by the Union of India against the Gujarat High Court's order which had allowed refund of unutilised ITC to the SEZ unit.

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

## DIRECT TAX

**Arrow Electronics India Pvt. Ltd. [TS-1438-ITAT-2025 (Bang)]**

### **Facts in brief & Issue Involved**

- ◆ The concessional tax regime of 22% as provided u/s. 115BAA of the Act was opted for the first time for AY 2020-21 by filing Form 10IC on 01.04.2021 which was after the due date of filing original return of income.
- ◆ For AY 2021-22, updated return of income was filed declaring total income under normal provisions of the Act of Rs. 26.88 Crores and tax liability was computed on the basis of concessional rate of tax. No form 10IC was filed for the said year.
- ◆ Return for AY 2021-22 was processed by CPC vide Intimation dated 27.03.2024. Even though income returned by the assessee was accepted, benefit of concessional rate of tax was denied.
- ◆ The assessee's appeal before the Ld. CIT(A) was dismissed on the ground that Form 10IC was not filed on or before the due date for filing the original return of income and also the return of income was filed after the due date.

### **Contentions of Taxpayer:**

- ◆ The assessee contended that mere filing an updated return does not imply that Form 10IC was filed beyond the due date.
- ◆ The option of concessional tax regime was first exercised for AY 2020-21 by filing Form 10IC on 01.04.2021 and accordingly, for AY 2021-22, the option was exercised prior to the due date of filing the return of income for the said year.
- ◆ Once the option is exercised, same applies to subsequent years as well unless there is non-compliance to other conditions laid down therein.
- ◆ There is no requirement to file said Form separately for each assessment year.

### **Contentions of Revenue:**

- ◆ The assessee cannot opt concessional tax regime for AY 2021-22 as the assessee has filed updated return which is beyond the due date of filing the original return of income and Form 10IC was not filed for the said year.

### **Observations & Decision of the Hon'ble ITAT:**

- ◆ The concessional tax regime was first opted for AY 2020-21 by filing Form 10IC belatedly.
- ◆ For AY 2021-22, the concessional tax regime was opted by filing an updated return and not original return of income.
- ◆ Where the assessee has exercised option by filing form 10IC in the initial assessment year belatedly i.e. after the due date of filing return of income, there is no requirement under the law to file the Form 10IC again for subsequent years on or before the due date of filing return for said years. Therefore, form 10IC filed on 1.4.2021 is valid for AY 2021-22 even though belatedly filed for AY 2020-21. The option was exercised prior to due date for filing return of income for AY 2021-22 and thus, the option once exercised is applicable perpetually.
- ◆ There is no requirement to file form 10IC for each assessment year separately. Once the option is exercised, it applies to subsequent years and same cannot be withdrawn. This position is made clear in FAQs as well as instructions issued by CBDT for filing of ITR-6.
- ◆ Also, the assessee has not violated any of the conditions stipulated therein.
- ◆ Accordingly, the Hon. ITAT held that Form 10IC filed for AY 2020-21 on 01.04.2021 is valid for AY 2021-22 and subsequent years and the assessee had rightly opted the same in its return of income filed for AY 2021-22 & therefore, the assessee is eligible for concessional rate of tax for AY 2021-22 and subsequent years.

**NASA Comments:**

- ◆ This decision underscores the well-settled principle that beneficial provisions are required to be interpreted liberally in order not to deprive the assessee from claiming legitimate benefits merely on account of procedural defects/ technical lapses to which the assessee is otherwise entitled to.

## INDIRECT TAX

### Case 1 – Zakir Hussain V. Union of India [(2025) 179 taxmann.com 538]

#### Facts in brief & Issue Involved

- ◆ The petitioner is a contractor registered under GST who received a show-cause notice (SCN) for alleged short payment of tax for FY 2020-21. The petitioner submitted his reply to the notice after the due date but before the final order was passed.
- ◆ The Adjudicating Officer ignored the reply solely because it was submitted after the due date and passed final order confirming the demand.
- ◆ The petitioner challenged the demand order before the High Court, contending violation of the principle of natural justice as his reply had not been considered.

#### Contentions of Petitioner

- ◆ The petitioner submitted that the reply was filed before the final order, hence consideration of “any representation” before determination of tax should be considered by the adjudicating officer.
- ◆ The adjudicating officer should not have declined to consider the reply and pass the order as if there was no reply / explanation or representation submitted by the petitioner.
- ◆ Ignoring the reply merely because it was filed after the time limit to file the reply to the SCN but before final order violates the principles of natural justice and an opportunity of personal hearing.

#### Contentions of Respondent

- ◆ The Respondents contended that the petitioner's reply was filed after the deadline stipulated in the SCN.

- ◆ Hence it has been argued that the demand order was validly passed on the basis of available records, and that no violation of natural justice occurred since the delay was attributable solely to the taxpayer.

### **Observations & Decision of the High Court**

- ◆ The Hon'ble High Court of Jammu & Kashmir and Ladakh observed that before passing an order of demand, the adjudicating officer shall consider the reply / representation, if any, made by the taxpayer.
- ◆ The Hon'ble High Court noted that the GST law does not prescribe a rigid statutory time-bar for submission of reply to SCN (beyond the SCN's suggested due date). Thus, there is no legal basis to treat a reply as "automatically invalid" if filed after the due date.
- ◆ The Hon'ble High Court held that the officer's failure to consider the reply, submitted before the final order, amounts to violation of principles of natural justice.
- ◆ When the reply / representation is received before passing of order, it is incumbent upon the adjudicating officer to consider the same. Therefore, the demand order was set aside. The Court directed to pass a fresh order after considering the taxpayer's reply and offering opportunity for personal hearing.

### **NASA Comments**

- ◆ The decision reinforces that procedural fairness and right to be heard are fundamental in GST adjudications. This decision reinstates and reaffirms the fair hearing, meaningful opportunity, and substantive justice take precedence over rigid procedural timelines.

## Case 2 – Meghmani Organocem Ltd. v. Union of India [(2025) 35 Centax 297 (S.C.)]

### Facts in brief & Issue Involved

- ◆ Meghmani Organochem Ltd. is an SEZ Unit engaged in manufacturing of chemical products and exported goods without payment of tax under LUT.
- ◆ The SEZ Unit received input services through its Input Service Distributor (ISD) registration, resulting in accumulation of ITC in its electronic credit ledger.
- ◆ The SEZ Unit filed a refund claim for the period May 2021 to March 2022, which was sanctioned by the Assistant Commissioner, but the Commissioner later directed filing of an appeal on the grounds that only the supplier of goods/services can apply for refund under Rule 89 for supplies made to an SEZ, not the SEZ Unit.
- ◆ The Appellate Authority reversed the refund order, leading to a writ petition being filed by Meghmani Organochem Ltd.
- ◆ The Hon'ble High Court of Gujarat relying on the case of Britannia Industries Ltd., held that where ISD receives tax invoices towards receipt of input services and issued a prescribed document for purpose of distributing credit of CGST, SGST or IGST paid on such services and, therefore, it was not possible for a supplier of services to file a refund application to claim refund of input tax credit distributed by ISD and, hence, therefore, SEZ unit was entitled to refund of ITC.
- ◆ The Department has filed a Special Leave Petition (SLP) before the Supreme Court against the order of Hon'ble High Court of Gujarat in Meghmani Organochem Ltd.

### Contentions of Petitioner (Department)

- ◆ The Department contended that the respondent, being an SEZ unit and merely the recipient of taxable supplies, is not entitled to claim refund of ITC under Rule 89 of

the CGST Rules, 2017, only the supplier of goods or services is eligible to file a refund claim.

- ◆ The petitioner further stated that the SLP in case of Britannia Industries Ltd was dismissed by the Hon'ble Supreme Court solely due to low tax effect, without deciding the question of law on merits.

### **Contentions of Respondent**

- ◆ The Respondent during the writ petition had contended that it is entitled to claim refund of the IGST lying in the Electronic Credit Ledger as there is no specific supplier who can claim the refund under the provisions of the CGST Act and the CGST Rules as input tax credit is distributed by the input service distributor.
- ◆ Further, the respondent has fully complied with all GST procedural requirements, including the proper maintenance of electronic credit and cash ledgers, filing of GSTR-3B returns, and accurate reporting of all transactions before the jurisdictional GST authorities.

### **Observations & Decision of the Supreme Court**

- ◆ The Hon'ble High Court of Gujarat relied on Britannia Industries Ltd. and held that the SEZ unit was entitled to refund and, because the ITC was distributed by an Input Service Distributor (ISD), making it impossible for suppliers to claim the refund.
- ◆ The Hon'ble Supreme Court of India, considering the peculiar facts and circumstances of the case, dismissed the SLP. However, the question of law has been kept open.

### **NASA Comments**

- ◆ The Apex Court's ruling provides substantial relief to entities operating in SEZ units where ITC has accumulated due to distribution of ITC through ISD.

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