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TAX JURISPRUDENCE

CASE LAW ALERT – APRIL 2026

VOL-1

EXECUTIVE SUMMARY OF JUDGEMENTS / ADVANCE RULINGS UNDER 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		
Mukesh Vasantkumar Chandan [TS-273-ITAT-2026(Mum)]	Whether a separate addition under Section 43CA can be made for the difference between sale consideration and stamp duty value when the assessee has opted for and the Revenue has accepted presumptive taxation under Section 44AD, where the turnover already reflects the stamp duty valuation.	The Hon'ble Mumbai ITAT held that once the presumptive scheme under Section 44AD is accepted, business income cannot be recomputed by importing individual provisions like Section 43CA in a piecemeal manner. The Tribunal ruled that such an approach results in an impermissible hybrid computation and amounts to taxing the same income twice.
Indirect Tax		
Bharat Aluminium Company Limited vs State of Chhatissgarh & ors [TS-1075-HC(CHAT)-2025-GST]	Whether ITC on electricity supplied from captive power plants to employee's township be admissible? Whether the amendment inserting Explanation 1(d) to Rule 43 of the CGST	The Hon'ble Chhattisgarh High Court held that electricity supplied to the residential township for employees does not qualify as an activity undertaken "in the course or furtherance of business" under the CGST Act, and therefore ITC on such supply is inadmissible The amendment inserting Explanation 1(d) to Rule 43 of the CGST Rules is prospective in

	Rules has retrospective applicability?	nature and does not have retrospective effect.
[Huawei Technologies India Private Limited vs State of Karnataka & Ors [TS-1074-HC(KAR)-2025-GST]]	Whether IGST is leviable on the salaries paid by the Petitioner to the foreign nationals, who are employed exclusively for a fixed period, under import of service of 'Manpower Recruitment and Supply Service' on reverse charge basis?	Quashing the order, the HC ruled that the no GST is payable as the arrangement is not of secondment of employees but there exists a direct employer-employee relationship. The foreign nationals, being employees are not performing any transaction in the capacity of principal or agent; and qualify as 'residents' in terms of the Income-tax Act and therefore cannot be considered as non-resident taxable persons under GST Act.

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

DIRECT TAX

Mukesh Vasantkumar Chandan ITA No. 3003/Mum/2023 Assessment Year: 2014-15 [TS-273-ITAT-2026(Mum)]

Facts in brief & Issue Involved:

- The assessee is an individual engaged in business of building and development activity through his h proprietary concern. The assessee filed return of income for A.Y. 2014–15 on 26.03.2015 declaring total income of INR 5,09,584/-.

- For the Assessment Year 2014-15, the assessee sold a flat for a consideration of INR 45,00,000/-, while the stamp duty valuation for the same was INR 58,23,600/- thereby resulting in a difference of INR 13,23,600/-.

- The assessee declared his business income under the presumptive taxation scheme of Section 44AD. The assessee submitted Profit and Loss Account, balance sheet, bank statements and other details during the course of assessment proceedings.

- The Assessing Officer (AO) accepted the computation under Section 44AD but made a separate addition of INR 13,23,600/- (the differential amount) under Section 43CA of the Act by invoking the deeming provision for substitution of actual sale consideration with stamp duty valuation.

- The Ld. CIT(A) confirmed the addition because the assessee had not challenged the stamp duty valuation before the appropriate authorities, leading the assessee to appeal before the ITAT.

Contentions of Taxpayer:

- The assessee contended that once income is declared under the presumptive scheme of Section 44AD, the standard provisions for computing business income (Sections 28 to 43C) do not apply in the usual manner.

- Section 43CA is a deeming provision whereby the stamp duty valuation is deemed to be the full value of consideration for the purpose of computing business income in respect of transfer of land or building held as stock-in-trade. Such deeming provisions cannot be invoked where income is declared under the presumptive scheme of Section 44AD.

- It was argued that Section 44AD is a complete code for determining business income, and the AO cannot substitute sale consideration with stamp duty value by invoking Section 43CA as a separate addition.

Contentions of the Revenue

- The Revenue relied on the orders of the lower authorities, which held that Section 43CA is a deeming provision that must apply independently when the stated consideration is less than the stamp duty value.

Observations & Decision of the Hon'ble ITAT:

- The Tribunal observed that Section 44AD substitutes ordinary computation with a legislative presumption linked to "total turnover or gross receipts".

- It held that once this presumptive scheme is accepted, the AO cannot recompute business income by applying individual computation provisions piecemeal.

- The ITAT noted that Section 43CA is a computation rule for the normal framework; if it is attracted, its effect is to determine the correct "turnover" base for Section 44AD, not to create a second layer of taxation.

- The Tribunal emphasized: "*Any attempt to apply selected provisions to enhance profits, while simultaneously retaining the presumptive computation, results in an impermissible hybrid computation not contemplated by the Act.*"

- The Tribunal found that the AO had already recorded the turnover at the stamp duty value (i.e INR 58,23,600/-) for the presumptive calculation. Therefore, making

a further separate addition of the differential amount resulted in taxing the same income twice.

- The Tribunal held that, the addition of INR 13,23,600/- made under Section 43CA and sustained by the Ld. CIT(A) is not sustainable and results in duplication under a hybrid computation approach. The addition was deleted.

NASA Comments:

- This ruling provides critical clarity on the interplay between two deeming provisions: Section 44AD (presumptive income) and Section 43CA (stamp duty value).

- It reinforces the principle that presumptive taxation is intended to simplify compliance by replacing transaction-level profit computations with a turnover-linked presumption.

- The decision serves as a check against the Revenue attempting "hybrid computations" where they retain the benefits of presumptive tax (no deduction of expenses) while simultaneously adding specific adjustments from the normal computation provisions to enhance the total income.

INDIRECT TAX

Case – Bharat Aluminium Company Limited vs State of Chhattisgarh & ors. [TS-1075-HC(CHAT)-2025-GST]

Facts in brief & Issue Involved

- Bharat Aluminium Company Ltd ("the Petitioner/Appellant") is registered under GST and engaged in the manufacture and export of aluminium products.

- The Appellant imported coal on payment of GST Compensation Cess and used it to generate electricity in its captive power plant. The electricity was used mainly for manufacturing and partly supplied to the State Electricity Boards and the employees' residential township.

- The Appellant filed a refund claim under Section 54(1) of the CGST Act, 2017, seeking refund of unutilized ITC of Compensation Cess on imported coal.

- Although 90% refund was provisionally sanctioned, the Department later proposed rejection to the extent attributable to (i) electricity supplied to the township, treating it as not in the course or furtherance of business, and (ii) sale of Duty Credit Scrips, treating them as exempt supplies requiring proportionate ITC reversal under Rule 42.

- Aggrieved, the Petitioner filed an appeal before the Joint Commissioner Appeals. On receipt of adverse appellate order, the Appellant preferred to file a writ petition refuting the demand.

- Challenging the dismissal of writ petition, the Appellant has filed an appeal against the order of dismissal of writ petition.

Contentions of Petitioners

- It was submitted that electricity supplied to the employees' residential township is incidental and intrinsically connected to the Appellant's business operations within the scope of Section 2(17) read with Section 16(1) of the CGST Act. The township is situated in a remote area of Korba; to ensure uninterrupted manufacturing operations, it is essential to always ensure presence of skilled and technical personnel. Accordingly, such supply cannot be segregated as an independent exempt activity warranting proportionate reversal of ITC, as it is integrally connected with and necessary for the industrial establishment rather than a mere welfare measure.

- The Petitioner further relied upon the insertion of Explanation 1(d) to Rule 43 of the CGST Rules, 2017, vide Notification No. 14/2022–Central Tax dated 5 July 2022, contending that the amendment is clarificatory and retrospective in nature. It was argued that the amendment merely clarifies the treatment of exempt supplies, including the sale of Duty Credit Scrips, and therefore mandates non-reversal of ITC. The learned Single Judge, failed to appreciate the legislative intent and purpose underlying the said amendment.

Contentions of Respondents

- The Revenue contended that input tax credit is not admissible in respect of electricity supplied to the residential township, as such consumption is not directly in the course or furtherance of business. According to the Revenue, ITC is allowable only for electricity utilized in manufacturing operations, and not for electricity wheeled out or supplied for residential purposes.

- It was further argued that the amendment introduced vide Notification No. 14/2022 inserting Explanation 1(d) to Rule 43 is not clarificatory in nature but instead enlarges the scope of exempt supplies. Consequently, the said amendment cannot be applied retrospectively, particularly when the power under Section 164(3) of the CGST Act to give retrospective effect has not been expressly invoked.

- The Revenue also submitted that the provisions relating to ITC are concessional in character, and therefore no vested or accrued right exists in favour of the taxpayer to claim credit beyond the scope expressly permitted under the statute.

Observations & Decision of the Hon'ble High Court

- The Court observed that input tax credit is a concessional benefit and can be availed strictly in accordance with the statutory scheme. It held that electricity consumed for township purposes is neither used within the factory for manufacturing nor for captive consumption in relation to the production of goods; rather, it is supplied externally for residential use. Such supply was characterized as a welfare-related activity and not one integrally connected with the manufacturing or business operations of the Petitioner. Accordingly, ITC in respect thereof was held to be inadmissible.

- The Court further held that the amendment introducing Explanation 1(d) to Rule 43 is prospective in nature and extends the scope of exempt supplies only with effect from 5 July 2022. Since ITC is a statutory concession and not a vested or substantive right, it cannot be claimed for periods prior to the effective date of the amendment.

NASA Comments

- The finding rests on the interpretation of the phrase "in the course or furtherance of business" under Section 16(1), with the Court preferring a narrow operational nexus test over a broader commercial expediency approach that could have treated employee housing in remote areas as necessary for business continuity.

- The ruling also reiterates that delegated legislation cannot operate retrospectively without express authorization, though the question whether the amendment is clarificatory or substantive in nature remains open and may be viewed differently by other judicial forums.

Huawei Technologies India Private Limited vs State of Karnataka & Ors [TS-1074-HC(KAR)-2025-GST]

Facts in brief & Issue Involved

- M/s Huawei Technologies India Private Limited (Hereinafter referred as "Petitioner") is a part of Huawei Group of companies having headquarters in China which has group companies across various parts of the world providing software development services and information technology enabled related services.

- In case of vacancy for a position in the petitioner's Company, prospective candidates were shortlisted from foreign nationals, who were earlier employed in other companies of Huawei Group. Such foreign nationals were evaluated basis the job description and later presented with a job offer if found appropriate for the role. the petitioner paid remuneration to such foreign nationals.

- The Deputy Commissioner of Commercial Taxes, Bengaluru ("Respondent") initiated proceedings and issued SCN demanding IGST liability on reverse charge basis on above payments made to foreign nationals.

- Aggrieved by the SCN, the petitioner preferred to file a writ petition before the Karnataka High Court.

Contentions of Petitioner

- The petitioner argued that they have entered an employment contract with foreign nationals/employees which stipulates fixed period of employment, reporting authority, working hours, cost to company and other terms and conditions of employment.

- The employees are on the payroll of the petitioner itself, and such salaries are paid along with annual performance bonus, house rent allowance, provident fund etc in their Indian Bank Accounts and applicable income tax is also being deducted by the petitioner in conformity of Income Tax Act 1961. Income Tax Returns are also being filed by the foreign nationals concerned.

- Foreign nationals are treated at par with the Indian Employees in terms of salary and other perquisites indicating that the demand of IGST cannot be imposed on salary paid for employment which is specifically covered by entry 1 of the schedule III of the CGST Act 2017.

- Even if secondment services are being provided, then the clarification rendered by the CBIC vide Circular No. 210/4/2024-GST dated 26.06.2024, which clarifies that in cases where supply is between related parties and the recipient is eligible for full input tax credit, then the taxable value shall be the open market value, which shall be the value as declared in the invoice; in case no invoice is raised, then the open market value is to be deemed to be 'Nil' and accordingly, no tax is liable to be paid.

Contentions of Respondents

- The Respondent contended that the amount paid to foreign nationals is outside the employer-employee relationship and such services fall under the definition of supply.

- The amounts paid to foreign nationals is consideration for import of service of Manpower recruitment and Supply service' who are supplying the said services in the capacity of non-resident taxable person.

Observations & Decision of the High Court

- The High Court held that the arrangement is not one of secondment of employees from other entities in the group; in fact, there exists a direct employer- employee relationship between the Petitioner and the foreign nationals/ employees.

- The entire transaction is outside the ambit of GST as the transaction is covered under Entry 1 of the Schedule III of the CGST Act, 2017. The relationship is borne out from the employment contract between the Petitioner and foreign nationals/ employees which stipulates fixed period of employment, reporting authority, working hours, cost to company and other terms and conditions of the employment; the employees are

on the payroll of the Petitioner itself and such payment of their salaries along with annual performance bonus, house rent allowance, provident fund, etc., are paid in their Indian bank accounts; applicable income tax is also being deducted by the Petitioner in conformity with the Income Tax Act, 1961 and Income tax returns are also filed by the foreign nationals; foreign nationals are treated at par with the Indian employees of the Petitioner, in terms of salary, social security benefit, etc.

- The foreign nationals, being employees are not performing any transaction in the capacity of principal or agent; and qualify as 'residents' in terms of the Income-tax Act and therefore cannot be considered as non-resident taxable persons in terms of Section 2(77) of the CGST Act

- Since the location of supplier is in India and consequently, the conditions under Section 2(11) of the IGST Act also not being fulfilled, the subject transaction is not that of import and thus no liability shall lie on the Petitioner. The impugned notices, orders, proceedings etc., deserve to be quashed.

NASA Comments

- The above ruling is a welcome judgment which provides considerable relief to Corporates having secondment arrangements with foreign nationals. It also highlights that proper compliance under other laws along with proper conduct backed by supplementing documentation plays a crucial role in managing the GST exposure.

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