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TAX JURISPRUDENCE

CASE LAW ALERT – OCTOBER 2026

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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		
Case Law 1: R M Bhuther and Co. v. DCIT (CEN) 5(1), Mumbai [ITA Nos. 2235/Mum/2026 and 2236/Mum/2026; AY 2016–17]	Whether unsecured loans of Rs.14.38 crore could be added under section 68 despite lender-wise confirmations, income-tax particulars, audited financial statements and bank records; whether the consequential interest disallowance and an ad hoc disallowance of 30% of business expenditure were sustainable; and whether the current-year business loss could be set off against long-term capital gains under section 71(2).	The ITAT deleted the addition under section 68, the consequential interest disallowance of Rs.9,39,288, and the ad hoc expenditure disallowance of Rs.32,06,980. It upheld assessment of the property gain under the head "Capital Gains" but directed the AO to recompute the current-year business loss and allow the eligible set-off under section 71(2).
Indirect Tax		
Case Law 1: Gopinath TM Vs Mukand Ltd (Chairman & Managing Director) [APL/258/BUR/2026]	Whether a retrospective upward price revision treated as a "deemed outward supply" relates back to the original date of clearance triggering interest?	The Hon'ble GSTAT held that retrospective upward price revisions relate back to the original clearance period, making mandatory interest automatically attach, though penalties are unwarranted in the absence of suppression
Case Law 2: Sandvik Coromant India Pvt Ltd vs The	Whether disallowance of ITC, invocation of Section 35(6) for accounted goods, interest	The Hon'ble GSTAT held that Section 35(6) cannot be invoked for accounted goods, interest

Commissioner of Commercial taxes Karnataka, Bengaluru. [2026-TIOL-113-GSTAT-BANG]	on ITC, and non-reporting of credit notes are legally sustainable?	applies only when the Electronic Credit Ledger balance falls below the wrongly availed ITC amount, and non-reporting of credit notes in GSTR-1 does not create a tax demand.

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

DIRECT TAX

Case Law 1: R M Bhuther and Co. v. DCIT (CEN) 5(1), Mumbai [ITA Nos. 2235/Mum/2026 and 2236/Mum/2026; AY 2016–17]

Facts of the Case:

- The assessee, a partnership firm engaged in the business of construction and property development, filed its income-tax return for AY 2016–17, declaring a total income of Rs.18,02,870.

- During the reassessment proceedings, the Assessing Officer (AO) made an addition of Rs.14.38 crore under section 68 of the Income-tax Act, 1961 (the Act), treating unsecured loans received from 13 corporate entities as unexplained cash credits.

- In response, the assessee submitted lender-wise confirmations, PAN and CIN details, income-tax particulars, audited financial statements, ledger accounts and bank statements to establish the identity and creditworthiness of the lenders and the genuineness of the transactions. The assessee also stated that the loans had been received and subsequently repaid through banking channels, with interest paid wherever applicable.

- In a subsequent reassessment, the AO disallowed 30% of the business expenditure, amounting to Rs.32,06,980. The AO also disallowed interest expenses of Rs.9,39,288 relating to two lenders, on the ground that the loans had been treated as non-genuine in the earlier reassessment.

- Another issue concerned the sale of Shop No. 8 for Rs.1.25 crore. Before the Income Tax Appellate Tribunal (ITAT), the assessee accepted that the gain from the sale should be assessed under the head "Capital Gains", but claimed set-off of its current-year business loss against the long-term capital gain.

Issues Involved:

- **Addition under section 68:** Whether the assessee had sufficiently discharged its initial burden of proving the identity and creditworthiness of all 13 lenders and the genuineness of the loan transactions. Also, whether general investigation findings could justify the addition without a specific enquiry into the individual loan transactions.

- **Disallowance of interest expenses:** Whether interest expenses relating to the two borrowings could be disallowed merely because the loans had been treated as non-genuine in the earlier reassessment proceedings.

- **Ad hoc disallowance of business expenditure: Whether the AO was justified in disallowing 30% of the business expenditure solely because the assessee had not earned any business receipts during the relevant year.**

- **Set-off of business loss against capital gains: Whether the assessee could set off its current-year business loss against long-term capital gains under section 71(2) of the Act, having regard to the separate regime under section 72 for the carry-forward and set-off of brought-forward business losses.**

Contentions of the Taxpayer:

- **Genuineness of Unsecured Loans:** The taxpayer submitted confirmations, PAN/CIN details, audited financial statements, tax records, ledger accounts and bank statements to establish the identity and creditworthiness of the lenders and the genuineness of the loan transactions.

- **Lack of Specific Enquiry by the AO:** The taxpayer argued that the Assessing Officer did not point out any specific defects in the documents submitted, conduct lender-wise verification, establish the presence of cash deposits immediately before the loans were advanced, or demonstrate that the funds had originated from the taxpayer.

- **Reliance on Investigation Reports and Third-Party Statements:** The taxpayer contended that general information received from the Investigation Wing and statements of third parties could not, on their own, justify the addition without evidence relating to the specific loan transactions. The taxpayer also submitted that the adverse material was not properly confronted and that an opportunity for cross-examination was not provided.

- **Disallowance of Business Expenditure:** The taxpayer submitted that the business continued to operate even though no business receipts were earned during the year. Fixed and establishment expenses could still be incurred in the ordinary course of business, and no specific expense was identified as bogus, personal or unrelated to business.

- **Disallowance of Interest Expenditure:** The taxpayer argued that the interest disallowance was consequential to the addition made under section 68. Since the underlying loan addition was liable to be deleted, the related interest disallowance could not be sustained merely on that basis.

- **Set-off of Current-Year Business Loss:** The taxpayer contended that the loss claimed for set-off was incurred during the relevant previous year and was not a brought-forward business loss. Accordingly, the claim was required to be considered under section 71(2) of the Income Tax Act, 1961.

Contentions of the Revenue:

- **Doubts Regarding the Genuineness of Loans:** The Revenue relied on information received from the Investigation Wing indicating that certain lenders were allegedly involved in providing accommodation entries. On this basis, the genuineness of the unsecured loans received by the taxpayer was questioned.

- **Insufficient Evidence to Establish the Loans:** The Revenue contended that the confirmations, banking transactions and other documents furnished by the taxpayer were not, by themselves, sufficient to conclusively establish the lenders' creditworthiness and the genuineness of the loan transactions.

- **Disallowance of Business Expenditure:** The Revenue argued that, in the absence of substantial business activity or business receipts during the relevant year, the allowability of the expenditure claimed by the taxpayer was questionable, warranting an ad hoc disallowance.

- **Disallowance of Interest Expenditure:** Since the unsecured loans had been treated as non-genuine, the Revenue considered the related interest expenditure to be inadmissible and liable to disallowance.

- **Treatment of the section 68 addition in the subsequent proceedings:** The Revenue maintained that the addition of Rs.14.38 crore made under section 68 was carried forward in the subsequent computation and was not made again as a separate addition.

Observations & Decision of the Hon'ble ITAT

- **Section 68 – Addition on Unsecured Loans:** The ITAT observed that the identity, creditworthiness and genuineness of each lender had to be examined individually. The taxpayer had furnished verifiable supporting documents to discharge the initial burden of proof. However, the Revenue failed to conduct effective lender-wise enquiries or bring on record convincing evidence to establish that the funds actually belonged to the taxpayer. General investigation inputs, without a clear link to the specific transactions, were not sufficient to sustain the addition. Accordingly, the addition of Rs.14.38 crore under section 68 was deleted.

- **Interest Expenditure:** The disallowance of Rs.9,39,288 was based on the treatment of two underlying loans as non-genuine. Once the addition under section 68 was deleted, the basis for the related interest disallowance no longer survived. Accordingly, the interest disallowance was also deleted.

- **Business Expenditure:** The ITAT held that the absence of business receipts during the year did not, by itself, mean that the taxpayer's business had ceased. The Assessing Officer had neither rejected the books of account nor identified any specific expenditure as fictitious, personal or unrelated to business. In these circumstances, making a blanket disallowance of 30% of the expenses without a clear basis was considered unjustified. The disallowance of Rs.32,06,980 was therefore deleted.

- **Capital Gains on Sale of Shop No. 8:** Since the taxpayer accepted that the gain arising from the sale of Shop No. 8 was assessable under the head "Capital Gains", the ITAT upheld that treatment, subject to correct computation in accordance with law.

- **Set-off of Current-Year Business Loss:** The ITAT distinguished a business loss incurred during the relevant year from a brought-forward business loss. While brought-forward business losses are governed by section 72, the set-off of a current-year business loss against income under another head is governed by section 71(2), subject to the applicable conditions. The Assessing Officer was directed to recompute the current-year business loss after giving effect to the deletions and allow the eligible set-off against capital gains.

- **Effect on the Final Tax Computation:** While giving effect to the consolidated order, the Assessing Officer was required to ensure that the deleted addition of Rs.14.38 crore was not retained in the final computation. Interest under sections 234A to 234D was consequential in nature, while the ground relating to initiation of penalty proceedings was considered premature.

NASA Comments

- **Maintain Strong Documentation for Section 68:** The ruling highlights the importance of establishing the identity and creditworthiness of each lender and the genuineness of every loan transaction. Taxpayers should maintain a lender-wise record of confirmations, PAN/CIN details, financial statements, tax records, source of funds, bank statements, ledger accounts, repayments and interest payments, wherever applicable.

- **Challenge General Allegations with Transaction-Specific Evidence:** Information from the Investigation Wing may warrant further enquiry, but it must be correlated with the taxpayer's specific transactions. Where the Revenue relies on third-party statements or other adverse material, taxpayers should seek access to that material and, where legally warranted, an effective opportunity to respond and cross-examine the persons whose statements are relied upon.

- **No Receipts Does Not Automatically Mean Cessation of Business:** A year with low or no business receipts does not, by itself, establish that the business has ceased.

Taxpayers should preserve evidence of continued business operations or commercial intent and maintain clear records distinguishing fixed establishment costs from expenses directly linked to business activity.

- **Clearly Distinguish Current-Year and Brought-Forward Losses:** The year in which a loss arises can have a significant impact on its set-off treatment. Tax computations and supporting records should clearly identify current-year losses separately from brought-forward losses, with the relevant provisions applied to each category.

INDIRECT TAX

Case Law 1: Gopinath TM Vs Mukand Ltd (Chairman & Managing Director) [APL/258/BUR/2026]

Facts in brief & Issues Involved

- The Respondent, M/s. Mukand Ltd. cleared goods under the erstwhile pre-GST regime between April 2017 and June 2017.
- Subsequent to the introduction of GST on July 1, 2017, prices were revised upward pursuant to pre-existing contractual escalation clauses.
- The Respondent issued supplementary invoices/debit notes on September 29, 2018, and October 15, 2018, and voluntarily discharged differential tax.
- The Adjudicating Authority, confirmed the tax appropriation, demanded interest under Section 50, and imposed penalties under Section 122.
- On appeal, the First Appellate Authority set aside the interest and penalty demands, prompting the Revenue to appeal before the GSTAT.
- The central issue was whether a retrospective upward price revision treated as a "deemed outward supply" via Section 142(2)(a) of the CGST Act extinguishes historical interest liability on delayed tax payments, or whether the enhanced value relates back to the original date of clearance triggering Section 50 interest.

Contentions of Appellant (Revenue)

- The First Appellate Authority erred in holding that interest under Section 50 is not recoverable on differential tax paid via supplementary invoices.
- Section 39(7) and Section 34(4) are purely procedural portal-reporting mechanisms; the tax due date relates back to the original time of supply (Section 12), not the date of raising a debit note.
- Penalties under Section 122(2)(a) were wrongly dropped based on the flawed premise that no tax was due from the original date of supply.

Contention of the Respondent

- The Respondent, M/s. Mukand Ltd, argued that Declaring debit notes in GSTR-1 and paying GST in GSTR-3B for the month of issuance (Sept/Oct 2018) constitutes timely payment under Section 39(7) and Section 142(2)(a).
- Section 142(2)(a) treats supplementary invoices as "deemed outward supplies made under this Act," effectively creating a fresh tax point and eliminating past delays.
- The Department had rejected their pre-GST request for provisional assessment, forcing normal self-assessment; hence, Supreme Court precedents on provisional assessments do not apply to post-GST debit notes.
- If the primary interest demand fails, penalties under Section 122 automatically collapse.

Observations & Decision of Hon'ble GSTAT

- The Hon'ble GSTAT observed and stated that the deeming fiction under Section 142(2)(a) serves a purely procedural and administrative purpose (providing a statutory gateway to report differential transactions and issue GST-compliant debit notes). It does not rewrite economic history or erase the time-value of money.
- Further the GSTAT relied on the binding Larger Bench ratio of the Supreme Court in Steel Authority of India Ltd. (alongside SKF India Ltd. and International Auto Ltd.), that an upward price revision is retrospective, and the finalized price becomes the true value even at original clearance.
- Regarding the penalty under Section 122, the differential tax arose from a genuine contractual price escalation during a complex legal transition rather than fraud, suppression, or willful misstatement, making penalties legally unjustified.

- Thus, the revenue's appeal was partly allowed. The OIA setting aside the interest demand was set aside, and the original interest demand under Section 50 was restored and upheld. The relief granted by the Appellate Authority regarding the quashing of the penalty under Section 122 was upheld.

NASA Comments

- This ruling clarifies that discharging differential tax via debit notes under Section 142(2)(a) does not absolve a taxpayer of historical interest liability, as upward price revisions relate back to the original clearance period making Section 50 interest automatically inescapable.

- The decision establishes that the levy of interest does not automatically warrant a penalty under Section 122; instead, penal consequences must be examined independently based on the taxpayer's bonafide belief and conduct during complex legislative transitions.

- The ruling is adverse from the companies' perspective, as it may expose them to interest liability on differential tax paid through debit notes. Accordingly, companies should review their past transactions and assess potential interest exposure and the risk of litigation.

Case Law 2: Sandvik Coromant India Pvt Ltd vs The Commissioner of Commercial taxes Karnataka, Bengaluru. [2026-TIOL-113-GSTAT-BANG]

Facts in brief & Issue Involved

- The Appellant (M/s. Sandvik Coromant India Pvt Ltd) is engaged in the manufacturing and supply of cutting tools and mining machinery.

- Following an audit for the period April 2019 to March 2020, an adjudication order dated June 29, 2024, confirmed demands for excess ITC, tax on unaccounted inward supplies, short-paid tax, and associated interest and penalties under Section 73(9).

- The First Appellate Authority upheld the adjudication order without addressing the reconciliation statements and documentary evidence submitted by the Appellant, leading to the present appeal before the GSTAT.

- The issues presented before the GSTAT is

  - Whether disallowance of ITC based on GSTR-2A vs. GSTR-3B mismatches is sustainable when reconciliation and accounting documents are provided.

- Whether Section 35(6) of the CGST Act can be invoked to demand tax on "deemed sales" with a 10% gross profit addition when goods transported via E-way bills are properly recorded in books.
- Whether interest under Section 50(3) is attracted on ITC reversal when Electronic Credit Ledger balances never dipped below the disputed amount.
- Whether failure to report credit notes for sales returns in Form GSTR-1 creates an independent tax liability.

Contentions of the Appellant

- The Appellant contended that both lower authorities failed to examine the detailed reconciliation statements, purchase registers, and accounting document references submitted across 20 exhibits, rendering the orders non-speaking.

- Further, appellant stated that all disputed E-way bills were duly accounted for in the purchase register and books of accounts; hence, arbitrary additions for "deemed sales" under Section 35(6) are legally flawed.

- Under Section 50(3) read with Rule 88B(3) of the CGST Rules, interest is triggered only when the Electronic Credit Ledger balance falls below the wrongly availed ITC. Since the balance never fell below that threshold, no interest was payable.

- Additionally, credit notes issued for sales returns reduce output tax liability and do not increase tax liability or create a fresh demand merely due to an omission in GSTR-1 reporting.

Contentions of the Respondent

- As per the respondent, the adjudication and first appellate orders are concurrent, reasoned, and speaking, passed after providing full opportunities of hearing.

- Further, under Section 16(2)(c) read with Section 155 and Circular No. 183/15/2022-GST, the burden of proving actual tax payment by suppliers and reflecting credits in GSTR-2A rests entirely on the recipient.

- The taxpayer failed to reconcile the E-way bills with their books during audit, justifying the tax demand on unaccounted inward supplies under Section 35(6) read with Rule 56.

- Interest under Section 50 and penalties under Section 73(9) are statutory, consequential, and correctly quantified for non-compliance.

Observations & Decision of the Hon'ble GSTAT

- The Hon'ble GSTAT bench stated that the quasi-judicial authorities must issue reasoned, speaking orders and genuinely examine reconciliation documents rather than dismissing them arbitrarily.

- Section 35(6) applies strictly where goods are not accounted for; it cannot be invoked when a taxpayer successfully traces E-way bills to invoices and accounting entries.

- Interest under Section 50(3) read with Rule 88B(3) is compensatory and applies only when the Electronic Credit Ledger balance falls below the wrongly availed ITC amount.

- Omission to report credit notes in GSTR-1 is a procedural compliance lapse, but it does not by itself create an additional tax liability or demand.

- Therefore, the appeal was partly allowed. ITC disallowance was set aside to the extent, sustaining a minor disallowance with applicable interest and penalty. The tax demand on unaccounted inward supplies under Section 35(6) was set aside in full along with interest and penalty. Interest and penalty on the purchase return ITC reversal were set aside since Electronic Credit Ledger balances were always sufficient. The tax demand arising from unreported credit notes in GSTR-1 was set aside along with interest and penalty.

NASA Comments

- The ruling is favourable to taxpayers and the Tribunal firmly establishes that reconciliation statements and accounting document trails provided by taxpayers must be objectively examined. Rejection of such evidence without proper analysis and a reasoned finding may violate the principles of natural justice and render the resulting demand unsustainable.

- The ruling reinforces that interest under Section 50(3) read with Rule 88B(3) is strictly contingent upon the actual utilization of wrongly availed ITC (measured by whether the Electronic Credit Ledger balance dips below the disputed sum), and that procedural omissions in reporting credit notes in GSTR-1 do not alter the substantive reduction of output tax liability.

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