February 2026

Recent rulings by courts and authorities

Supreme Court of India

For a component to be a 'part', it must be essential for the article to be complete and functional; disqualifies a supporting platform to be seen as 'part'

The Supreme Court of India ("**Supreme Court**") addressed a classification dispute concerning imported aluminium shelves intended for a mushroom growing apparatus. The importer, Welkin Foods, sought to classify the shelves as 'parts' of 'agricultural machinery' to avail a 'Nil' customs duty rate. Revenue authorities, however, contended they were 'aluminium structures' subject to duty.

The Supreme Court laid down crucial principles for classification under the Customs Tariff Act:

1. **Applicability of the 'Common Parlance Test'**:
    a) This test should be applied restrictively and only when statutory guidance (explicit definition or implicit technical meaning) is absent.
    b) In the HSN-based classification regime, it's not a first resort and requires thorough review for lack of statutory guidance.
    c) Interpretation must be within the legal context, and parties asserting common parlance meaning must provide satisfactory evidence.
    d) If a tariff item is general, common parlance applies; if specific to an industry, trade circle understanding governs.
    e) The test cannot override clear statutory mandates to reclassify goods.
2. **Consideration of 'use' in classification**:
    a) 'use' is a relevant factor only if the tariff heading explicitly or implicitly allows for it (e.g., through specific references in the heading, explanatory notes, inherent wording, or common parlance for *eo nomine* terms).
    b) Importers cannot classify goods based on actual use unless statutory intent permits.
    c) For classification based on 'intended use', the tariff heading must allow for 'use' consideration, the intended use must be consistent with the tariff heading's 'use', and the intended use must be inherent in the goods (discernible from objective characteristics, function, design, composition) and conform to the entry's standard of 'use'.

d) If a heading has both *eo nomine* and 'use' components, both must be satisfied; 'use' cannot override the product's fundamental *eo nomine* identity.

3. **Application to the present case:**

The Supreme Court applied these principles and concluded:

a) **Aluminium Shelves as 'Aluminium Structures'**: The Supreme Court held that 'Aluminium Structure' is an *eo nomine* term covering all forms of such structures, regardless of use. Explanatory notes describe structures as assembled components that generally remain in place. Even in common parlance, the goods would be considered structures. Therefore, the imported shelves are classifiable as 'Aluminium Structures'.

b) **Mushroom growing apparatus not 'Agricultural Machinery'**: The Supreme Court found that 'Agricultural Machinery' is an *eo nomine* term for machinery primarily used in agricultural processes. The mushroom growing apparatus was not a composite or functional unit; it was a combination of individual machines that performed independent tasks, not working together for a single, unified function. Thus, it could not be classified as 'agricultural machinery', making the principal use of the shelves in agricultural processes irrelevant.

c) **Aluminium shelves not 'Parts'**: A 'part' is an integral, essential component for an article to be complete and functional. The individual machines in the apparatus were already complete and functional without the shelves. The shelves merely provided a surface and did not contribute to the machines' mechanical or electrical operation. A surface supports but does not become a part of the object.

The Supreme Court ruled that the imported aluminium shelves are 'Aluminium Structures' and not 'Parts' of 'Agricultural Machinery', thereby denying the 'Nil' rate of Customs duty.

High Courts

Multiple Show Cause Notices for same tax period permissible if addressing different subject matters

In the matter of ***Radiant Cash Management Services Limited vs. The Commercial Tax Officer***[1], the Hon'ble High Court of Madras ("**Madras HC**") held that there is no bar under the Goods and Services Tax ("**GST**") law for issuance of multiple Show Cause Notices ("**SCN**") to an assessee for the same tax period, if the show cause proceedings are initiated on different and separate issues.

The dispute arose when the petitioner challenged the second SCN issued under Section 73 of the Central GST Act, 2017 ("**CGST Act**") for the same tax period. The petitioner contended that the impugned SCN was without jurisdiction as the first SCN which was earlier issued for the same tax period had already been set aside by the High Court and hence, the second SCN was clearly in violation of principles of natural justice.

The Madras HC observed that barring 1 (one) item, there was no duplication of issues/ demand in both the first and the second SCN. The Madras HC highlighted that in absence of an express bar under Section 73 of the CGST Act and Rule 142 of the Central GST Rules, 2017 the contention that multiple assessment proceedings for the same tax period cannot be accepted. Emphasising that neither the provisions of the Code of Civil Procedure, 1908 ("**CPC**") nor the general principles under the Code, including principles of *res judicata*, are applicable to proceedings initiated under the GST laws, the Madras HC highlighted that even if there was any overlap between the demand proposed, the demand had to be dropped in one of the proceedings after proper adjudication and hence, dismissed the writ petition with liberty to the petitioner to file a reply to the impugned SCN within 30 (thirty) days.

1 *Radiant Cash Management Services Limited vs. The Commercial Tax Officer [2025]* WP No 23660 of 2025 (Madras HC)

Assignment of leasehold rights of land does not amount to supply of service subject to GST

In the matter of ***Aerocom Cushions Private Limited vs. Assistant Commissioner (Anti-Evasion), CGST & CX, Nagpur-1, Commissionerate***, the Hon'ble High Court of Bombay ("**Bombay HC**") held that a transaction involving assignment of leasehold rights of land constitutes an assignment/sale/transfer of benefits arising out of immovable property and hence, does not amount to supply of service under the CGST Act.

The Petitioner held a long-term leasehold right for 95 (ninety-five) years in a plot allotted by Maharashtra Industrial Development Corporation ("**MIDC**"). The petitioner assigned the said plot to another third party for an agreed consideration with prior MIDC's consent. Considering the assignment as supply of 'other miscellaneous services', the authorities sought to levy GST at 18%. Aggrieved, the petitioner challenged the same contending that assignment of leasehold rights is a transfer of immovable property and hence, outside the scope of GST.

The Bombay HC observed the following:

1. assignment of leasehold rights of land allotted by industrial development corporations like MIDC by original lessee (assignor) in favour of a third party-assignee for a consideration constitutes an assignment/sale/transfer of benefits arising out of immovable property by the lessee (assignor) in favour of the third party-assignee;
2. transaction is neither a lease nor a sub-lease. It pertains exclusively to the transfer of benefits arising out of an immovable property and has no nexus whatsoever with the business of the petitioner, thereby making the essential element of 'supply of service in the course or in furtherance of business' completely absent; and
3. 'Other miscellaneous services' include petty services like washing, cleaning, dyeing, beauty, physical well-being, etc. which cannot be extended to the assignment of leasehold rights in an immovable property.

Following the decision of the Hon'ble Gujarat High Court ("**Gujarat HC**") in *Gujarat Chamber of Commerce and Industry vs. Union of India*[2], the Bombay HC held that the transaction constitutes assignment/sale/transfer of benefits arising out of immovable property and hence, would not be subject to levy of GST under the GST laws.

Reading down Section 16(2)(c) of CGST Act, Input Tax Credit allowed to bona fide recipient despite supplier's failure to deposit tax

In the matter of ***Sahil Enterprises vs. Union of India and Ors.***[3], the Hon'ble High Court of Tripura ("**Tripura HC**") allowed the writ petition filed by Sahil Enterprises ("**Petitioner**") challenging the denial of Input Tax Credit ("**ITC**") solely on the ground that the supplier failed to remit GST to the Government. The Tripura HC read down Section 16(2)(c) of the CGST Act, holding that it should not be applied to deny ITC to purchasing dealers in *bona fide* transactions.

The Petitioner had procured goods from a supplier and had availed ITC of GST paid to the supplier. Upon investigation, it was discovered that the supplier had filed 'Nil' Form GSTR-3B and had failed to deposit the tax collected from the Petitioner with the Government. Consequently, the tax authorities denied ITC to the Petitioner for procurements made from the said supplier. Aggrieved, the Petitioner invoked the writ jurisdiction challenging the constitutional validity of Section 16(2)(c) of the CGST Act which bars ITC to the recipient unless the supplier has actually paid tax to the Government.

2 (2025) 170 taxmann.com 251 (Gujarat)
3 TS-02-HC(Tri)-2026-GST

The Tripura HC, relying on the rulings of the Hon'ble Delhi High Court in *Quest Merchandising India Private Limited*[4] (affirmed by the Supreme Court in *Arise India* and *Shanti Kiran*[5]), and Hon'ble Gauhati High Court in *National Plasto Moulding* and *McLeod Russel India Limited*[6], held the following:

1. the Parliament failed to distinguish between *bona fide* purchasing dealers who took all precautions as required by the CGST Act and those who did not
2. purchasing dealers cannot be asked to do the impossible i.e., identify a selling dealer who will not deposit the tax collected with the Government, and avoid transacting with such selling dealers; and
3. ITC is introduced to avoid double tax burden on taxpayers under the GST regime and Parliament did not intend to punish a taxpayer by denying ITC if the transaction is *bona fide.* Denying ITC to *bona fide* purchasing dealers would amount to double taxation and result in disproportionate consequences.

Considering the above, while the Tripura HC declined to strike down Section 16(2)(c) as unconstitutional but read it down to the extent it denied ITC to *bona fide* recipient of supply for failure of the supplier to pay tax to the Government. The Tripura HC upheld denial of ITC to purchasers only in non-*bona fide*/collusive/fraudulent transactions undertaken to defraud the revenue.

Best judgment assessment not permissible under Section 74 of the CGST Act in absence of express statutory provision

In the matter of ***Amritha Marketing vs. The Joint Commissioner of CGST and Central Excise and Ors.***[7], the Hon'ble Madras High Court ("**Madras HC**") held that the proper officer cannot resort to best judgement assessment while passing an order under Section 74 of the CGST Act in absence of an express statutory provision empowering the same. The Petitioner was issued show cause notices under Section 74 alleging under-reporting of sales turnover observed during search operations. The proper officer passed assessment orders adopting the best judgment assessment by extrapolating limited period data retrieved from electronic devices to cover the entire assessment period. Being aggrieved, the Petitioner invoked writ jurisdiction challenging the same:

The Madras HC observed the following:

1. Sections 62 and 63 of the CGST Act expressly provide for best judgement assessment in specific situations (non-filing of returns and failure to obtain registration respectively), but Section 74(9) of the CGST Act contains no such provision;
2. omission in Section 74(9) of the CGST Act for conferring power to resort to the best judgment assessment appears to be conscious and deliberate. A taxing statute has to be construed strictly; what has been deliberately left over by the legislature cannot be supplied by the courts;
3. assessment by the officer has to be based on material either filed by the assessee or gathered by the authority. If the material is scanty or the assessee suppresses or withholds the same, the authority can opt for best judgment assessment. But then, the statute must authorise him to tread that path. In matters relating to taxation, the principle 'what is not prohibited is permitted' cannot be invoked;
4. Article 265 of the Constitution mandates that levy and collection of tax must be done only by the authority of law. Therefore, what is not envisaged by law directly cannot be done indirectly in the matter of tax collection. There must be a statutory basis for any action to be taken by the assessing officer.
5. During the 6th GST Council meeting, it was explained that the tax department could raise demand only to the extent that it had evidence and that extrapolation would not stand legal scrutiny.

4 (2017) SCC Online Delhi 13037
5 Special Leave to Appeal (Civil) No.36750 of 2017 dated January 10, 2018
6 (2024) 8 TMI 836
7 TS-1062-HCMAD-2025-GST

Based on the above, the Madras HC held that without an express statutory provision empowering the proper officer to resort to best judgment assessment under Section 74 of the CGST Act, the authority would not have the jurisdiction to do so and hence, quashed the impugned orders.

Amended definition of 'relevant date' under Section 54 of CGST Act prospective; cannot be applied retrospectively to curtail vested refund rights

In the matter of ***Bharat Oil Traders vs. Assistant Commissioner and Anr.***[8], the Hon'ble High Court of Jammu & Kashmir and Ladakh ("**J&K HC**") held that the amendment to the definition of 'relevant date' in explanation (2)(e) to Section 54 of the CGST Act, which came into effect from February 1, 2019, cannot operate retrospectively so as to take away a vested right of an assessee in filing a refund application. The J&K HC allowed the refund claim filed by the Bharat Oil Traders ("**Petitioner**") for accumulated ITC on account of inverted duty structure.

The dispute arose on account of rejection of the Petitioner's refund application on the ground of limitation. The Petitioner filed a refund application on February 2, 2021, for the period July 2017 to March 2019 seeking refund of accumulated ITC due to inverted duty structure. Prior to the amendment effective February 1, 2019, the 'relevant date' for refund claims under Section 54 of the CGST Act was defined as 'the end of the financial year in which such claim for refund arises'. Post-amendment, it was changed to 'the due date for furnishing the return under Section 39 for the period in which the claim for refund arises'. The tax authorities rejected the refund application contending that it was filed beyond the limitation period as refund claims filed on or after February 1, 2019, would be governed by the amended provisions, even if pertaining to periods prior to that date.

The J&K HC, relying on the Supreme Court's decisions in *Harshit Harish Jain and Anr. vs. The State of Maharashtra and Ors.*[9] and *the State of Maharashtra and Ors. vs. Prism Cement Limited and Anr.*[10], held that:

1. the right to claim refund with respect to the period preceding the amendment cannot be curtailed by the amendment;
2. the vested right of the Petitioner cannot be unilaterally revoked or curtailed by a subsequent amendment unless the amendment expressly provides for retrospective application;
3. the amended definition of 'relevant date' cannot be applied retrospectively to the period prior to the amendment to curtail the Petitioner's right to refund within the originally stipulated time;
4. every statute is presumed to operate prospectively unless it is expressly made retrospective, and substantive amendments which alter or curtail the scope of taxpayer's vested rights are presumed to be prospective unless the legislation unequivocally provides otherwise; and
5. retrospective application of the amendment would deprive the Petitioner of the right to claim refund, which had vested prior to the amendment.

Considering the above and the extension of limitation period during COVID-19 pandemic[11], the J&K HC held that the refund claim filed by the Petitioner, was within the prescribed limitation period.

[8] TS-03-HCJK-2026-GST
[9] 2025 INSC 104
[10] Civil Appeal No. 13928 of 2015
[11] Notification No. 13/2022 dated July 5, 2022 read with the suo motu orders of the Hon'ble Supreme Court (excluding the period from March 1, 2020 to February 28, 2022 from the computation of limitation owing to the COVID-19 pandemic).

3-month gap mandatory between notice issuance and passing final order under Section 73 of the CGST Act

In the matter of ***A. M. Marketplaces Private Limited vs. The Union of India and Ors.***[12], the Hon'ble Bombay High Court ("**Bombay HC**") held that it is mandatory to maintain a gap of 3 (three) months between issuance of notice under Section 73(2) of the CGST Act and passing of final order under Section 73(10) of the CGST Act. In the present case, the final order was issued within a time gap of about 2 (two) months and 13 (thirteen) days from the date of issuance of SCN. The Petitioner challenged the order contending that the mandatory 3 (three)-month gap between notice issuance and final order was not maintained. The authorities contended that the 3 (three)-month period applies only in context with the outer date of issuance of notice and not for notices issued well within time.

The Bombay HC observed that the necessity to maintain the gap of 3 (three) months arises because multiple activities are to be performed in the intervening period which includes the following principles of natural justice, opportunity of payment of tax etc. The rationale behind 3 (three) months' time is to afford meaningful opportunity of hearing to the persons. If this time is shortened, the requirement of sub-sections (3) and (5) of Section 73 of the CGST Act, which provide for service of a statement upon the noticee giving all the details of the demand proposed to be raised and option to the assessee to pay tax by doing a self-assessment, will not be achieved. The Bombay HC further observed that when there is a possibility of an adverse order being passed against the taxpayer, the facility of obtaining at least 3 (three) adjournments for personal hearing etc. will be rendered *otiose*, if the assessment is to be done within time lesser than 3 (three) months, which will fall short of giving reasonable opportunity of hearing. Thus, the protection guaranteed under the provisions of the CGST Act will not be extended, if the gap of 3 (three) months between the issuance of notice and passing final order is not maintained.

Based on the above, the Bombay HC held that it is mandatory to keep a gap of 3 (three) months between issuance of notice and passing final order under sub-section (2) read with sub-section (10) of Section 73 of the CGST Act. Consequently, both SCN and the final order were quashed and set aside, and the matter was remanded back for fresh consideration in accordance with law.

Advance Ruling Authority

Apple Watch bands classified as 'watch straps' and not 'parts' of Apple watch

In the matter of ***Apple India Private Limited vs Customs Authority for Advance Rulings and Ors***,[13] the Customs Authority for Advance Rulings, Mumbai ("**CAAR Mumbai**") held that Apple watch bands (both leather and non-leather) merit classification under CTH 9113 as watch straps/bands and not as parts of communication devices, i.e., Apple watch under CTH 8517 or as leather articles under CTH 4205.

The applicant contended that the Apple Watch bands are specifically designed to enable the Apple watches to achieve full functionality. These are compatible with only specific models of Apple watches and are not interchangeable across different models of Apple watches or among standard wristwatches, thereby making them specific for usage with the Apple Watch. Accordingly, these merit classification as 'parts' of Apple Watch[14] only under CTH 8517 7990 in terms of Section Note 2(b) to Section XVI of the Customs Tariff Act, 1975.

The CAAR Mumbai observed that watch bands (both leather and non-leather) are used only for securing the Apple watch onto the user's wrist and do not perform any other specific function. While the applicant claimed that certain functionalities of Apple watch such as tracking activities, measuring heartbeat, and providing alerts through haptics, etc. are only accessible once the watch is affixed to the wrist through these watch bands, the applicant failed to explain how the bands modify or impact the specific functioning of the Apple watch, especially when the bands are not

[12] TS-19-HCBOM-2026-GST
13 [2025] Writ Petition (L) No 13340 of 2025 (Bombay HC)
14 Classified under CTH 8517 6290

equipped with electromagnetic or other pairing activities with the Apple watch. The CAAR Mumbai observed that it is the Apple watch that performs these functions as such sensors are inbuilt within the watch and not within the bands.

Basis the above, the CAAR Mumbai held that Apple watch bands are not 'parts' of a communication device under heading 8517 as they do not contribute to connectivity, data transmission, reception or conversion. The CAAR Mumbai held that as long as the primary function of these bands (irrespective leather or non-leather) is to secure a watch to the wrist, Apple Watch bands merit classification under CTH 9113, specifically: (a) watch bands/ bracelets of base metal under CTH 9113 2090; and (b) watch bands of plastics/rubber, leather or textile under CTH 9113 9090.

Courtroom updates

Jurisdictional challenge to SCN based on invalidated notification warrants consideration

In the matter of ***Khusharav Builders Private Limited vs. Additional Commissioner (A.E.), CGST and C. Ex., Mumbai East and Ors.***[15], the Bombay HC has admitted a writ petition challenging a SCN issued under Section 74 of the CGST Act, which was based on Paragraph 2 of Notification No. 11/2017 - Central Tax (Rate) dated June 28, 2017 ("**Paragraph**"), which has been read down by the Gujarat HC [16] and Delhi[17].

The Petitioner has contended that the SCN which sought demand basis the Paragraph, which provided for a mandatory fixed rate of deduction of 1/3rd of total consideration towards the value of land in construction contracts. The Gujarat HC [18] had held that the Paragraph was *ultra vires* the GST laws and was discriminatory, arbitrary and violative of Article 14 of the Constitution of India in as much as it provided for a mandatory valuation for portion of land involved in construction contracts even in cases where the value of land is ascertainable. Further, the Hon'ble High Court of Delhi[19] had taken a similar view.

Applying the principles of law laid down by the Supreme Court in *M/s. Kusum Ingots and Alloys Limited vs. Union Of India and Anr*.[20], on the pan-India applicability of the central notification, the Bombay HC noted that when the Paragraph had already been held to be *ultra vires* or illegal, the question as to whether at all there was jurisdiction to issue the impugned SCN, needs consideration and hence, admitted the writ petition.

15 *Khusharav Builders Private Limited vs. Additional Commissioner* (AE), CGST and C Ex, Mumbai East & Ors [2026] Writ Petition (L) No. 34439 of 2025 (Bombay HC)
16 *Munjaal Manishbhai Bhatt vs. Union of India* [2022] 138 taxmann.com117 (Gujarat)
17 *Sanjeev Sharma vs. Union of India and Ors* W.P.(C) 5055/2018 & CMAPPL. 19455/2018 dated August 18, 2023
18 *Munjaal Manishbhai Bhatt vs. Union of India* [2022] 138 taxmann.com117 (Gujarat)
19 *Sanjeev Sharma vs. Union of India and Ors* W.P.(C) 5055/2018 & CMAPPL. 19455/2018 dated August 18, 2023
20 AIR 2004 SC 2321

Tax Practice

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18 Practices and
41 Ranked Lawyers

7 Ranked Practices,
21 Ranked Lawyers

14 Practices and
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12 Practices and 50 Ranked Lawyers

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