Tax INFORM

A Fox Mandal & Associates publication - for private circulation only.

Issue LVI | September 2025

FoxMandal Solicitors & Advocates

www.foxmandal.in | info@foxmandal.in

Contents

Highlights of the Issue

DIRECT TAX

Domestic Tax Rulings:

- SC rejects plea against expanded definition of "Sikkimese" under Section 10(26AAA), clarifies it is confined to tax exemption purposes.
- SC quashes prosecution under Section 276C(1) initiated in defiance of CBDT circular, reiterating that circulars issued by Revenue are binding on authorities.
- Chhattisgarh HC restores addition under Section 68 for unexplained share capital and premium, stressing that mere production of documents such as PAN and ITRs does not by itself establish genuineness.
- Telangana HC upholds exemption under Section 10(1) for income from hybrid seed production, noting the assessee company's active role and indirect involvement in agricultural activity.

Circulars and Notifications:

- CBDT Notification No. 141/2025, dated September 1, 2025.
- CBDT Notification No. 145/2025, dated September 2, 2025.

INDIRECT TAX

Goods and Services Tax:

Case Laws:

- SC dismisses SLP against disallowance of ITC worth ₹8.59 crore; relegates assessee to avail alternative statutory remedy with extended time to file appeal.
- SC dismisses Revenue's SLPs and upholds IGST refund on services exported by KC Overseas Education to foreign universities.
- SC declines to exercise discretionary jurisdiction in plea against GST demand for fraudulent ITC, while granting liberty to the petitioner to avail alternative statutory remedies.
- Rajasthan HC declares part of CBIC circular restricting refunds of unutilised ITC on account of inverted duty structure as illegal and violative of Article 14.
- Bombay HC rules that no GST liability arises for the developer under JDA once the property is conveyed; directs refund of ₹7 crore paid under protest.

Customs Duty:

Circulars and Notifications:

- CBIC Circular No. 22/2025-Customs, dated September 12, 2025.
- CBIC Circular No. 21/2025-Customs, dated September 12, 2025.

DIRECT TAX

A. Recent Case Laws

Doma T. Bhutia v. Union of India & Anr. (SLP (C) No. 19269 of 2025)

SC rejects plea against expanded definition of "Sikkimese" under Section 10(26AAA), clarifies it is confined to tax exemption purposes.

The Supreme Court has held that the expansion of the term "Sikkimese" in the Explanation to Section 10(26AAA) of the Income-tax Act, 1961, is a matter of legislative policy intended solely to identify beneficiaries of the income-tax exemption. It clarified that the widened meaning is confined to the tax context and does not alter community identity or apply to any other purpose.

In this case, the petitioner challenged the amendment to Section 10(26AAA), introduced by the Finance Act, 2023, with retrospective effect from April 1, 1990, following the decision in *Association of Old Settlers of Sikkim and Ors. v. Union of India and Anr*., W.P. (C) No.59 of 2013. It was contended that the enlarged definition diluted and ultimately erased the identity of the Sikkimese people. The challenge arose from the Sikkim High Court's order dated March 4, 2025, which had rejected a similar plea.

The Supreme Court dismissed the Special Leave Petition on September 2, 2025, clarifying that the Explanation to Section 10(26AAA) defines "Sikkimese" only for the administration of that exemption. It added that if the Parliament had chosen to expand the class of beneficiaries for fiscal relief, it was an exercise of legislative intent that could not be questioned. The Court also noted that the Union may, if not already done, issue a formal notification consistent with the April 2023 press release, which had clarified that the definition under the clause was only for the purpose of the 1961 Act and not for any other purpose.

Vijay Krishnaswami v. Deputy Director of Income Tax (Investigation) (Criminal Appeal Nos. 3777 – 3779 of 2025)

SC quashes prosecution under Section 276C(1) initiated in defiance of CBDT circular, reiterating that circulars issued by Revenue are binding on authorities.

The Supreme Court recently held that prosecution under Section 276C(1) of the Income-tax Act, 1961, cannot be pursued where the Central Board of Direct Taxes (CBDT) circulars regulating such prosecutions have not been followed. The Court emphasised that departmental circulars are binding on tax authorities and can tone down the rigour of the law. It ruled that once the Settlement Commission has accepted disclosure and granted immunity from penalty under Section 245H, continuing prosecution contrary to binding circulars is an abuse of process.

In the instant case, a search under Section 132 of the Act in April 2016 led to the seizure of unaccounted cash from the appellant. The prosecution was sanctioned by the Principal

Director of Income Tax, and a complaint was filed by the Deputy Director under Section 276C(1) for the assessment year 2017–18. The appellant approached the Settlement Commission in December 2018, which, by order dated November 26, 2019, granted immunity from penalty after finding that all disclosures were true and complete. Despite this, the prosecution continued, and the Madras High Court refused to quash the complaint. The appellant argued before the Supreme Court that the prosecution violated CBDT's circular dated April 24, 2008, and subsequent guidelines of 2009 and 2019, which required penalty confirmation by the Income Tax Appellate Tribunal and prescribed a threshold of ₹25 lakh.

The Supreme Court agreed with the appellant and quashed the prosecution on August 28, 2025. It held that the authorities acted in blatant disregard of binding circulars and ignored the Settlement Commission's conclusive order under Section 245-I. The Court condemned the Revenue for wilful non-compliance with its own directives, terming it a serious lapse undermining fairness and accountability. The appeals were allowed, and costs of ₹2 lakh were imposed on the Revenue, payable to the appellant.

Assistant Commissioner of Income Tax v. Agrawal Infrabuild Pvt. Ltd. (Tax Case No. 167 of 2023)

Chhattisgarh HC restores addition under Section 68 for unexplained share capital and premium, stressing that mere production of documents such as PAN and ITRs does not by itself establish genuineness.

In a decision dated September 4, 2025, the Chhattisgarh High Court held that for unexplained cash credits under Section 68 of the Income-tax Act, 1961, the assessee bears a heavy burden to prove the identity of investors, their creditworthiness, and the genuineness of transactions. It clarified that mere production of documents such as incorporation certificates, Permanent Account Number (PAN), and income-tax returns does not suffice where the surrounding circumstances point to a lack of financial capacity or genuine business activity on the part of the investor.

In this case, a search and seizure action against the assessee revealed receipt of ₹6.40 crore as share capital and premium from M/s Artline Fiscal Services Pvt. Ltd. for the assessment year 2014–15. The Assessing Officer, after detailed field enquiries and analysis of bank records, concluded that the investor was a shell entity with no real business, negligible income, no infrastructure, and was also not traceable at its registered address. The Commissioner of Income Tax (Appeals) upheld the addition, but the Income Tax Appellate Tribunal deleted it, relying on compliance documents and settlement under the "Vivad Se Vishwas Scheme." The Revenue challenged the Tribunal's decision before the High Court, citing the Supreme Court's ruling in *PCIT v. NRA Iron & Steel (P.) Ltd*.

The High Court allowed the Revenue's appeal, holding that the Tribunal erred in overlooking cogent evidence of layering and accommodation entries unearthed by the Assessing Officer. It ruled that superficial compliance cannot establish creditworthiness or genuineness in the absence of real financial capacity. Restoring the orders of the Assessing Officer and Commissioner of Income Tax (Appeals), the Court confirmed the addition of ₹6.40 crore as unexplained cash credit under Section 68.

Principal Commissioner of Income-tax v. Nuziveedu Seeds Ltd (ITTA No. 288 of 2016)

Telangana HC upholds exemption under Section 10(1) for income from hybrid seed production, noting the assessee company's active role and indirect involvement in agricultural activity.

Through a judgment dated September 8, 2025, the Telangana High Court held that the assessee company's income from hybrid seed production qualified as agricultural income under Section 10(1) of the Income-tax Act, 1961, noting that the assessee was indirectly involved in agricultural activity. The Court emphasised that indirect involvement through contract farming and agreements with cultivators brings the activity within the meaning of "agriculture."

In this case, the assessee, engaged in the production and sale of hybrid seeds, claimed exemption of ₹39.26 crore as agricultural income for the assessment year 2011–12. The Assessing Officer denied the claim, holding that the assessee was not itself cultivating but merely processing seeds using scientific methods, and disallowed the exemption under Section 10(1). The Commissioner of Income Tax (Appeals) and the Income Tax Appellate Tribunal allowed the claim, relying on the Andhra Pradesh High Court's ruling in *Prabhat Agri-Biotech Ltd*., which treated similar hybrid seed operations as agricultural activity. The Revenue challenged this before the High Court, arguing that hybrid seed production was a commercial activity involving scientific manipulation rather than agriculture.

The High Court dismissed the Revenue's appeal, affirming that the assessee's agreements with farmers involved actual cultivation on land, with the assessee supervising agricultural practices, and compensating the farmers. Referring to the Supreme Court's ruling in *Raja Benoy Kumar Sahas Roy*, the Court held that hybrid seeds originate from agricultural operations on land, and that indirect involvement suffices. Accordingly, the Tribunal's finding was upheld, and the assessee's income was held exempt under Section 10(1).

B. Notifications/Circulars

CBDT Notification No. 141/2025, dated September 1, 2025

The Central Board of Direct Taxes (CBDT) has notified the Income-tax (Twenty-Fifth Amendment) Rules, 2025, amending Rule 2DCA of the Income-tax Rules, 1962. The amendment extends the cut-off years prescribed in the provisos to Rule 2DCA for eligible investments by specified funds, including sovereign wealth funds and pension funds, under Section 10(23FE) of the Income-tax Act, 1961.

In particular, references to "2024-25" and "2025-26" in sub-rules (2), (3), and (4), and in Explanation 1 to Rule 2DCA, have been substituted with "2030-31" and "2031-32" respectively. This effectively provides an extension of six years for such funds to make qualifying investments while continuing to enjoy exemption on income in the nature of dividends, interest, or long-term capital gains.

The amendment, effective from September 1, 2025, offers sovereign wealth funds, pension funds, and other eligible entities a longer window to structure and execute tax-exempt investments in Indian infrastructure and other notified sectors, thereby strengthening India's appeal as a long-term investment destination.

Click here to read the Notification.

CBDT Notification No. 145/2025, dated September 2, 2025

The Central Government has notified the Central Board of Secondary Education (CBSE), Delhi, for exemption under Section 10(46) of the Income-tax Act, 1961. The notification applies to specified incomes of CBSE, such as examination fees, affiliation fees, registration fees, sports and training fees, academic receipts, receipts from CBSE projects or programmes, and interest income on deposits, securities, loans, advances, and income-tax refunds.

The exemption has been granted subject to conditions that CBSE shall not engage in any commercial activity, the nature of specified incomes must remain unchanged during the financial years covered, and CBSE must file its return of income in accordance with Section 139(4C)(g) of the Act.

The notification applies for the financial years 2025–26 to 2029–30, corresponding to assessment years 2026–27 to 2030–31. It also clarifies that granting this exemption retrospectively will not adversely affect any person.

Click here to read the Notification.

INDIRECT TAX

Goods & Services Tax

Recent Case Laws

Krupa Jewellers v. Assistant Commissioner of State Tax-3 (SLP (C) No. 25414 of 2025)

SC dismisses SLP against disallowance of ITC worth ₹8.59 crore; relegates assessee to avail alternative statutory remedy with extended time to file appeal.

On September 12, 2025, the Supreme Court held that challenges to the disallowance of input tax credit (ITC) under Section 74 of the Gujarat Goods and Services Tax Act, 2017, must be pursued before the appellate authority and not directly before the Court. It emphasised that the assessee retains the right to raise all grounds of challenge before the appellate forum, which shall decide the matter independently, uninfluenced by the Court's observations.

In this case, Krupa Jewellers had availed ITC of ₹8.59 crore on purchases of gold articles from alleged bogus suppliers. Scrutiny of returns in Forms GSTR-3B, GSTR-01, GSTR-2A, GSTR-9, and e-way bill data revealed that tax had not been paid or input tax credit had been wrongly availed by reason of fraud or wilful misstatement. The assessee moved the Gujarat HC to quash the department's order under Section 74(9) disallowing ITC; however, the Court declined to entertain the petition and relegated the assessee to avail the alternative remedy under Section 107. The assessee approached the Supreme Court, seeking relief against the High Court's order.

The Supreme Court dismissed the Special Leave Petition, but permitted the assessee to file an appeal before the appellate authority, enlarging the statutory time limit by four weeks in light of the pendency of proceedings before the Court. It clarified that the appellate authority shall adjudicate the appeal on its own merits, without being influenced by the observations made in the High Court's order.

Union of India & Ors. v. KC Overseas Education Pvt. Ltd. (SLP (C) Nos. 21104–21105 of 2025)

SC dismisses Revenue's SLPs and upholds IGST refund on services exported by KC Overseas Education to foreign universities.

On August 25, 2025, the Supreme Court upheld that services rendered by KC Overseas Education Pvt. Ltd. to foreign universities in facilitating admissions of Indian students qualify as "export of services" under Section 2(6) of the Integrated Goods and Services Tax Act, 2017. The Court confirmed that such services are not covered by the definition of "intermediary" and therefore the assessee was entitled to a refund of integrated goods and services tax (IGST) paid on exports.

In this case, the Bombay High Court had set aside the appellate authority's order rejecting the refund by wrongly classifying the assessee as an "intermediary." The High Court held that the definition of "export of services" must be applied as a whole and not in a piecemeal manner. It also relied on Tribunal precedents under the service tax regime, holding that commissions received from foreign universities constituted export of services. The Revenue approached the Supreme Court, contending that the assessee was acting as an intermediary between students and foreign universities and thus not eligible for export benefits.

The Supreme Court dismissed the Revenue's Special Leave Petitions, relying on its earlier rulings in *Vodafone India Ltd*. and *Blackberry India Pvt. Ltd*. It affirmed that the assessee's services were exports to recipients located outside India and not intermediary services. The Court thereby upheld the High Court's judgment and confirmed entitlement to IGST refund on such services.

MHJ Metaltechs Pvt. Ltd. v. Central Goods and Services Tax, Delhi (SLP (C) Diary No. 33710 of 2025)

SC declines to exercise discretionary jurisdiction in plea against GST demand for fraudulent ITC, while granting liberty to the petitioner to avail alternative statutory remedies.

Through an order dated September 8, 2025, the Supreme Court declined to exercise discretionary jurisdiction under Article 136 of the Constitution in a plea against GST demand for fraudulent input tax credit (ITC). It stated that the availability of a statutory appellate remedy is sufficient, and Article 136 jurisdiction will not be exercised in such cases.

In this case, MHJ Metaltechs Pvt. Ltd. faced an adjudication order confirming a demand of ₹7.08 crore for fraudulent ITC claimed as part of a larger GST fraud of ₹155 crore. The assessee challenged the proceedings before the Delhi High Court, arguing that the denial of further adjournments and the supply of illegible relied-upon documents vitiated the order. The High Court observed that Section 75(5) of the Central Goods and Services Tax Act, 2017, caps adjournments at three, and so long as a proper hearing is granted by the Department, there cannot be any allegation of violation of the principles of natural justice. It ultimately rejected the plea, holding that procedural irregularities were not fatal when the assessee had been given adequate opportunity, and relegated it to the statutory appeal process. The assessee approached the Supreme Court by way of a Special Leave Petition.

The Supreme Court dismissed the petition, while condoning a 29-day delay in refiling. It clarified that the issues raised did not warrant the exercise of its discretionary powers under Article 136. However, considering the pendency of proceedings, the Court extended the time limit for filing an appeal before the appellate authority from July 15, 2025, to October 15, 2025.

Shree Arihant Oil and General Mills v. Union of India & Ors. (D.B. Civil Writ Petition No. 2932 of 2023)

Rajasthan HC declares part of CBIC circular restricting refunds of unutilised ITC on account of inverted duty structure as illegal and violative of Article 14.

The Rajasthan High Court has held that Point No. 2 of Circular No. 181/13/2022-GST dated November 10, 2022, issued by the Central Board of Indirect Taxes and Customs (CBIC), restricting refund claims under the inverted duty structure for mustard oil, is arbitrary, discriminatory, and contrary to Section 54 of the Central Goods and Services Tax Act, 2017. The Court ruled that once Notification No. 09/2022-Central Tax (Rate) dated July 13, 2022, made HSN 1514 (mustard oil) ineligible for refund prospectively from July 18, 2022, refunds of accumulated input tax credit (ITC) for purchases made before that date could not be curtailed by a circular.

In this case, the assessee, a manufacturer of edible oil, purchased mustard oil up to July 18, 2022 and applied for a refund of accumulated ITC under the inverted duty structure. The department did not act on the refund claim, relying on Circular No. 181/13/2022-GST, which restricted refunds to claims filed before July 18, 2022. The assessee challenged this in a writ petition, contending that the circular unlawfully curtailed the statutory two-year period under Section 54 to claim refunds.

The High Court allowed the petition on September 8, 2025, and quashed Point No. 2 of the circular to the extent it restricted refund applications filed after July 18, 2022. It held that no assessee can be expected to file refund applications on the very day a notification takes effect and that such a restriction created artificial and discriminatory classifications. The Court directed the authorities to process the assessee's refund claims for ITC accumulated up to July 18, 2022, within three months, without relying on the invalidated portion of the circular.

Provident Housing Ltd. v. Union of India & Ors. (Writ Petition No. 5 of 2022)

Bombay HC rules that no GST liability arises for the developer under JDA once the property is conveyed; directs refund of ₹7 crore paid under protest.

The Bombay High Court recently held that no goods and services tax (GST) liability arises for a developer under a Joint Development Agreement (JDA) when the developer ultimately becomes the property owner upon conveyance of the land. It ruled that liability arises only upon transfer of possession or rights in the completed property as clarified by Notification No. 4/2018-Central Tax (Rate), and that tax collected earlier under protest must be refunded.

In this case, Provident Housing Ltd. entered into a JDA with a landowner and deposited ₹7 crore under protest towards GST at 12% on construction services, as demanded by the department. Subsequently, the landowner executed a sale deed conveying the entire land to the developer, extinguishing all obligations under the JDA. The assessee argued that no GST was payable in such circumstances and that the adjudication proceedings were time-barred under Sections 73, 74, and 75 of the Central Goods and Services Tax Act, 2017, as no proper notice or order was issued within the statutory period.

The High Court allowed the writ petition on August 21, 2025, holding that no liability accrued at the time of entering into the JDA and that the subsequent conveyance of property to the developer excluded GST liability on the transaction. It directed the Revenue to refund the ₹7 crore deposited under protest along with interest at 6% per annum from the date of deposit, to be paid within six weeks.

Customs Duty

Notifications/Circulars

CBIC Circular No. 22/2025-Customs, dated September 12, 2025

The Central Board of Indirect Taxes and Customs (CBIC) has issued Circular No. 22/2025-Customs to guide the implementation of the Customs (Provisional Assessment) Regulations, 2025, notified under Section 18 of the Customs Act, 1962. The new regulations, effective from March 29, 2025, replace the 2018 framework and introduce strict timelines and procedures for the finalisation of provisional assessments.

Key changes include:

- A statutory two-year time limit for finalisation of provisional assessments, extendable by the Principal Commissioner/Commissioner of Customs for sufficient cause.
- A 14-month period for importers/exporters to submit pending documents, test reports or other information, and for officers to complete enquiries and transfer records for finalisation.
- Pending cases as on March 29, 2025, must be concluded by May 29, 2026.
- Proper officers to pass speaking orders upon finalisation, following the principles of natural justice if the assessment differs from the provisional assessment.
- Provision for importers/exporters to make voluntary payment of duty during pendency of provisional assessment, adjustable against final duty.
- Cancellation/return of bonds and securities upon finalisation, where dues are cleared.
- Monitoring of cases pending beyond 17 months by Commissioners to ensure timely closure.

The circular emphasises that provisional assessment remains a facilitative mechanism allowing clearance of goods where complete information is not available, and the updated framework aims to enhance transparency, predictability, and efficiency in the finalisation process of provisional assessments.

Click here to read the Circular.

CBIC Circular No. 21/2025-Customs, dated September 12, 2025

The Central Board of Indirect Taxes and Customs (CBIC) has issued a master circular realigning the framework for stakeholder consultations through Permanent Trade Facilitation Committees (PTFCs) and Customs Clearance Facilitation Committees (CCFCs). This circular consolidates and supersedes earlier instructions issued in 2013 and 2015 to align with evolving trade facilitation priorities, digitisation, and grievance redressal mechanisms.

Key measures include:

- PTFCs to meet fortnightly and CCFCs once in two months, with significantly expanded composition to include agencies such as the Directorate General of Foreign Trade (DGFT), shipping lines, logistics providers, custodians, and representatives from multiple ministries and regulators.

- Revised Terms of Reference (ToR) to include resolution of grievances, monitoring of digital grievance tools like the Anonymised Escalation Mechanism (AEM), Turant Suvidha Kendras (TSKs), and the ICEGATE helpdesk, and escalation of unresolved issues to National Assessment Centres (NACs).

- Institutionalisation of a three-tier grievance redressal framework through AEM, TSKs, and NACs for faceless assessment, with Commissioners required to monitor unresolved grievances and NACs tasked with conducting fortnightly sectoral consultations.

- Mandatory mechanisms for tracking Customs-related grievances raised through social media and emails, ensuring acknowledgement with unique reference numbers and time-bound resolution.

- Strengthened role of the Customs Consultative Group (CCG) for deliberating on unresolved policy issues or those with pan-India implications.

The circular underscores CBIC's objective of ensuring transparency, faster resolution of trade issues, and enhanced ease of doing business through structured, technology-driven, and institutionalised consultation processes.

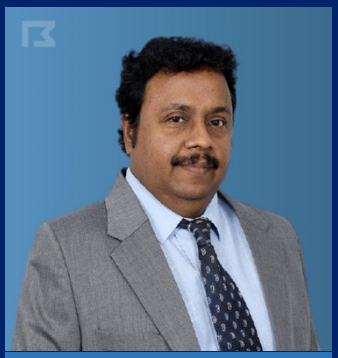
Click here to read the Circular.

Key Contacts

G.V. GOPALA RAO

DIRECTOR – TAX
BANGALORE

+91 94835 12333
GOPALA.RAO@FOXMANDAL.IN



RANGANATH H.

DIRECTOR – TAX
BANGALORE

+91 98807 44482
RANGANATH@FOXMANDAL.IN

www.foxmandal.in

info@foxmandal.in

Offices at:

Ahmedabad | Bengaluru | Chennai | Hyderabad | Kolkata | Mumbai | New Delhi | Pune

Follow us: