

# Tax INFORM

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# DIRECT TAX



## A. Recent Case Laws

### Trivandrum Agenda Task Force v. Commissioner of Income Tax (Exemption) [ITA No. 37 of 2025]

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*Kerala HC holds that electoral campaign spending by a Trust constitutes a specified violation under Section 12AB(4).*

The Kerala High Court held that the application of income by a Trust towards promoting candidates in an electoral process amounts to use of funds for purposes other than its declared objects and therefore constitutes a “specified violation” within the meaning of Explanation (a) to Section 12AB(4) of the Income-tax Act, 1961. The Court clarified that the real nature of the activity, and not the stated intent of improving quality of life or describing the activity as “apolitical”, determines whether the statutory conditions are satisfied. Tax exemption provisions must be construed strictly, and any deviation from declared objects attracts statutory consequences.

In this case, the Assessee, a society registered under Section 12AB of the Act, sought fresh registration by filing Form 10AB under Section 12A(1)(ac)(iii). During scrutiny, it disclosed that it had utilised ₹21,42,330 towards “election campaign and other expenses” to support candidates promoted by an entity named Thiruvananthapuram Vikasana Munnettam in local body elections. The Assessee contended that such support was aligned with its objective of working for the economic and social development of the city and improving the quality of life for residents. The Commissioner of Income Tax (Exemption) rejected the application, holding that the funds were applied for purposes outside the ambit of the Trust’s objects. The Income Tax Appellate Tribunal affirmed this view, leading to the present appeal.

By judgment dated February 2, 2026, the Kerala High Court dismissed the appeal. The Court held that participation in electoral campaigns, including funding and promotion of candidates, is inherently part of the political process and cannot be characterised as incidental to the Trust’s charitable objectives. It rejected the argument that supporting “independent” candidates rendered the activity apolitical. The Court further held that Explanation (a) to Section 12AB(4) clearly treats the application of income for purposes other than the declared objects as a specified violation. Since the Assessee had admittedly deployed substantial funds for election-related activities, the statutory violation stood established. All substantial questions of law were answered against the Assessee and in favour of the Revenue.

### Commissioner of Income Tax v. Sri Mariamman Educational Trust [TCA No. 223 of 2014]

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*Madras HC dismisses Revenue’s appeal on Section 12A registration as infructuous following subsequent Section 12AB regime and reversal of fresh registration.*

The Madras High Court held that once Section 12AB of the Income-tax Act, 1961, introduced a new registration regime with effect from April 1, 2021, earlier disputes concerning the grant of registration under Section 12A lose practical relevance where the Assessee has obtained registration under Section 12AB, and such registration has subsequently been reversed without challenge. The Court clarified that in such changed circumstances, no substantial question of law survives for adjudication under Section 260A.

In this case, the Assessee Trust, engaged in managing catering colleges, had obtained relief from the Income Tax Appellate Tribunal in respect of registration under Section 12A. The Revenue challenged the Tribunal's order before the High Court. During pendency of the appeal, Section 12AB was inserted, mandating fresh registration for claiming exemption under Section 11. The Assessee applied under the new provision and was granted registration on May 30, 2022, which was later reversed by order dated October 8, 2024. The reversal was not challenged by the Assessee.

By judgment dated February 9, 2026, the Madras High Court dismissed the Revenue's appeal as infructuous. The Court held that the insertion of Section 12AB marked a new statutory regime and rendered the earlier controversy academic. While the Revenue contended that catering institutions may not fall within the scope of "education" under Section 11, the Court left that question open for determination in an appropriate case and declined to answer the substantial question of law.

### [Motilal Jain Mahaveer Jain v. Income Tax Officer \[W.P. No. 23246 of 2023\]](#)

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*Madras HC holds NRI to be an 'eligible assessee' under amended Section 144C(15)(b)(ii), who cannot bypass DRP jurisdiction through rectification.*

The Madras High Court held that pursuant to the amendment made by the Finance Act, 2020, with effect from April 1, 2020, the definition of "eligible assessee" under Section 144C(15)(b)(ii) of the Income-tax Act, 1961, includes any non-resident not being a company. Consequently, a non-resident individual is subject to the draft assessment and Dispute Resolution Panel (DRP) mechanism. The Court further held that once the Assessee invokes the DRP procedure, the limitation stands extended under Section 144C(13) read with Section 153, and jurisdictional objections cannot be raised belatedly in view of Sections 124(3) and 292BB.

In this case, the Assessee, a Non-Resident Indian, challenged an assessment order passed under Section 147 read with Section 144C(13) for Assessment Year 2017-18. The Assessee contended that he was not an "eligible assessee" and that the assessment was barred by limitation. He also argued that the absence of a transfer order under Section 127 rendered the proceedings without jurisdiction. The Revenue contended that the amended definition of "eligible assessee" applied since the notice under Section 148 was issued on March 31, 2021, after the amendment came into force, and that the Assessee had participated in the DRP proceedings.

By order dated February 10, 2026, the Madras High Court dismissed the writ petition. The Court held that the amended definition squarely covered the Assessee, distinguished the Gujarat High Court decision in *Pankaj Extrusion Limited* as pertaining to the pre-amendment regime, and observed that the Assessee, having approached the DRP, was estopped from disputing

jurisdiction. The Court also rejected the challenge based on the absence of a transfer order and held that the limitation stood extended due to DRP proceedings. Liberty was granted to the Assessee to challenge the assessment on merits before the Income Tax Appellate Tribunal within thirty days.

## Travelport International Operations Limited v. Deputy Commissioner of Income Tax & Ors. [W.P.(C) 7633 of 2025]

*Delhi HC directs issuance of a lower TDS certificate at 0.5% after applying settled PE attribution and excluding proportionate non-India POS revenue.*

The Delhi High Court held that once the Supreme Court has settled that only 15% of gross receipts are attributable to the Indian Permanent Establishment (PE) based on a Functions, Assets and Risks analysis, the entire commission paid to Indian distribution agents must be deducted from such attributed revenue to determine taxable income. The Court clarified that the 15% represents revenue attributable to the PE and not a cap on allowable expenditure. It further held that in proceedings under Section 197 of the Income-tax Act, 1961, the Assessing Officer must adhere to the binding position on attribution while issuing a lower tax deduction at source certificate.

In this case, the Assessee, a United Kingdom tax resident providing global distribution system services to airlines, sought a certificate under Section 197 for Assessment Year 2025–26. The Assessing Officer issued a certificate directing tax deduction at source at 1.6%. The Assessee contended that, in its own case, the Income Tax Appellate Tribunal and the Supreme Court had held that only 15% of gross booking revenue was attributable to its Indian PE and that 68% commission paid to Indian agents had to be fully deducted from such attributed revenue, potentially resulting in no taxable income. The Revenue argued that income from non-India point of sale transactions remained taxable and that past demands had been raised on that basis.

By judgment dated January 28, 2026, the Delhi High Court set aside the impugned certificate. While refraining from adjudicating the taxability of non-India point of sale revenue, which was pending in appeal, the Court directed the issuance of a fresh certificate prescribing tax deduction at source at 0.5%, proportionate to receipts from non-India point of sale revenue. The writ petition was allowed with directions to issue the revised certificate within fifteen days.



## Solvay Specialities India Pvt. Ltd. v. ACIT (TDS) [R/Special Civil Application No.7905 of 2024]

*Gujarat HC rules that service charges do not constitute FTS under India-Singapore DTAA without satisfaction of 'make available' clause; quashes Section 201 order.*

The Gujarat High Court held that payments made to a Singapore group entity for managerial and support services do not constitute “fees for technical services” under Article 12(4) of the India–Singapore DTAA unless the “make available” condition is satisfied. The Court observed that the AO (TDS) failed to examine whether the services rendered made available any technical knowledge, experience, skill, or know-how to the Assessee, and mechanically treated the payments as FTS without analysing the DTAA requirements.

In this case, the Assessee had made remittances towards service charges under a functional services agreement and did not deduct tax at source under Section 195, contending that the services were in the nature of support functions and did not satisfy the “make available” test. The AO (TDS) passed an order under Sections 201 and 201(1A) treating the Assessee as an assessee-in-default on the ground that the services fell within the definition of FTS under the DTAA.

By judgment dated February 6, 2026, the Gujarat High Court quashed the impugned order, holding that the AO (TDS) had not properly examined the agreement or the DTAA framework and had ignored the essential “make available” requirement. The Court concluded that the order suffered from non-application of mind, and the Assessee could not be treated as an assessee-in-default.

# INDIRECT TAX



# Goods & Services Tax

## *Recent Case Laws*

### [Union of India & Anr. v. Torrent Power Ltd. \[SLP\(C\) No. 13084/2025\]](#)

*SC holds that courts cannot devise extra-statutory refund mechanisms; refund of IGST held unconstitutional to be credited to Consumer Welfare Fund.*

The Supreme Court held that where the incidence of tax has been passed on to consumers, the refund of an unconstitutional levy must follow the statutory route under Section 54 of the CGST Act, and courts cannot introduce an alternative mechanism for disbursement. The Court observed that once unjust enrichment applies and Section 54(8)(e) is not attracted, refundable amounts must be credited to the Consumer Welfare Fund under Section 54(5) read with Section 57.

In this case, IGST collected pursuant to Notification No. 10/2017-Integrated Tax (Rate), later declared unconstitutional in *Mohit Minerals*, became refundable. The Gujarat High Court permitted the Assessee to route the refund through a designated account for tariff adjustment to consumers. The Revenue challenged this on the ground that such a modality was not contemplated under the CGST Act.

By order dated February 10, 2026, the Supreme Court set aside the High Court's judgment, holding that the proposed mechanism was not contemplated under Section 54 and impracticable in execution. The Court directed the Assessee to transfer the refund amount to the authorities for credit to the Consumer Welfare Fund within three months.



## Kirti Deora v. State of West Bengal & Ors. [WPA 1785 of 2025]

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*Police authorities cannot direct debit freezing of bank account without Magistrate's order: Calcutta HC.*

The Calcutta High Court held that under the Bharatiya Nagarik Suraksha Sanhita, 2023, police authorities cannot directly debit-freeze a bank account without obtaining appropriate orders from the jurisdictional Magistrate. The Court clarified that while Section 106 permits seizure subject to reporting to the Magistrate, attachment under Section 107 can be effected only pursuant to an order passed by the Magistrate. A debit freeze cannot continue indefinitely without judicial sanction.

In this case, the petitioner's bank account in West Bengal was debit-frozen pursuant to a notice issued by the Officer-in-Charge, Itanagar Police Station, Arunachal Pradesh, allegedly in connection with proceedings initiated by CGST authorities. A preliminary objection was raised regarding the lack of territorial jurisdiction of the Calcutta High Court, as the investigation was based in Arunachal Pradesh. The petitioner contended that the cause of action arose within West Bengal, where the bank account was located and the debit freeze was effected.

By judgment dated February 13, 2026, the Calcutta High Court rejected the objection on territorial jurisdiction, holding that infringement of the petitioner's legal right occurred within its jurisdiction. On merits, finding no material to show that the police had obtained an order from or reported the matter to the jurisdictional Magistrate, the Court quashed the debit-freeze notice and directed the bank to allow operation of the account. Liberty was granted to the authorities to proceed in accordance with the law.

## Bharathidasan University v. Joint Commissioner of GST (ST-Intelligence) & Anr. [W.P.(MD) No. 27453 of 2025]

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*Madras HC holds that affiliation fees collected by universities are taxable; exemption under Notification No. 12/2017–Central Tax (Rate) does not extend to affiliation services.*

The Madras High Court held that the grant of affiliation by a university to colleges does not fall within Entry 66 of Notification No. 12/2017–Central Tax (Rate). The Court clarified that the exemption is confined to services relating to admission to, or conduct of examination by, an educational institution. Affiliation, being a regulatory and pre-admission function, is independent of admission of students and conduct of examinations and therefore does not qualify for exemption. The Court reiterated that exemption notifications must be construed strictly and cannot be expanded by purposive interpretation.

In this case, the petitioner University challenged notices issued under Section 74(5) of the Tamil Nadu Goods and Services Tax Act, 2017 (TNGST Act) for various assessment years, contending that affiliation fees collected from affiliated colleges were exempt under Notification No. 12/2017–Central Tax (Rate). Conflicting Single Judge decisions had taken divergent views on the issue, leading to a reference to the Division Bench on whether affiliation

charges collected by a university are amenable to GST. The Court also took note of CBIC Circular No. 234/28/2024-GST dated October 11, 2024, which clarified the taxability of affiliation services, though the decision ultimately turned on the interpretation of the exemption notification.

By judgment dated February 10, 2026, the Division Bench answered the reference against the University, holding that affiliation services fall outside the scope of Entry 66 and are amenable to GST. The matter was remitted to the learned Single Judge for adjudication on other grounds, if any.

### [Halliburton Offshore Services Inc. v. Union of India & Anr. \[Writ Petition No. 14517/2023\]](#)

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*Andhra Pradesh HC holds that mud engineering services with supply of chemicals constitute 'composite supply', sets aside AAAR ruling.*

The Andhra Pradesh High Court held that the supply of mud engineering services along with the supply of mud chemicals and additives under a single drilling contract qualifies as a “composite supply” under Section 2(30) of the Central Goods and Services Tax Act, 2017. The Court clarified that where goods and services are naturally bundled and supplied in conjunction with each other in the ordinary course of business, they cannot be artificially segregated merely because separate invoices are raised.

In this case, the petitioner entered into a contract with Oil India Limited for the provision of mud engineering services, including the supply of drilling fluids, chemicals and additives on a consumption basis for oil well operations. The Authority for Advance Ruling and the Appellate Authority for Advance Ruling held that the supply of services and the supply of chemicals were separate taxable supplies and did not constitute a composite supply. The petitioner contended that the contract had to be read as a whole and that the supply of chemicals was intrinsically linked to the mud engineering services.

By judgment dated February 11, 2026, the Andhra Pradesh High Court allowed the writ petition and set aside the orders of the advance ruling authorities. The Court held that the contract was for safe and efficient drilling operations, which necessarily required both monitoring services and supply of customised chemicals, and therefore satisfied the test of natural bundling and supply in conjunction. The question of applicable tax rate was left open for determination by the appropriate authority.

### [Ramkhuar Narasimhan & Anr. v. Assistant Commissioner \(ST\) & Ors. \[W.P. No.50528 of 2025\]](#)

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*Madras HC vacates attachment of ex-directors' bank accounts; holds Section 88(3) preconditions must be examined before fastening personal liability.*

The Madras High Court held that the liability of directors of a private company in liquidation under Section 88(3) of the relevant GST enactment arises only where tax dues determined on the company cannot be recovered, and the statutory conditions for invoking personal liability are satisfied. The Court observed that recovery action against directors cannot be sustained mechanically without examining whether the statutory framework governing liability in the case of a company in liquidation has been complied with.

In this case, the petitioners were erstwhile directors of a company which had entered liquidation under the Insolvency and Bankruptcy Code, 2016. GST dues for the period April 2019 to March 2021 were sought to be recovered by attaching the personal bank accounts of the petitioners. The petitioners contended that the company was under the control of an Interim Resolution Professional and later a Liquidator, and that part of the tax had already been recovered from the company's electronic credit ledger.

By order dated January 21, 2026, the Madras High Court vacated the attachment of the petitioners' bank accounts and granted liberty to them to file appropriate applications before the jurisdictional authorities to seek exclusion from liability. The authorities were directed to consider such applications on merit after granting an opportunity of hearing.

## *Notifications/Circulars*

### **CBIC Circular No. 07/2026 – Customs, dated February 1, 2026**

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*CBIC mandates Body Worn Cameras and introduces system-based e-Scheduling for examination of import cargo to enhance transparency and create a digital audit trail.*

The Central Board of Indirect Taxes and Customs (CBIC) has issued Circular No. 07/2026 – Customs dated February 1, 2026, introducing two key reforms in the import cargo examination process under the Customs Act, 1962.

First, the use of Body Worn Cameras (BWC) by Customs officers during physical examination of imported goods has been made mandatory across all formations by April 1, 2026. Recording must begin prior to the opening of packages and continue till completion, covering seals, verification, sampling and interaction with trade representatives. Recordings will be retained for two years, or longer where disputes or investigations are involved.

Second, a system-based e-Scheduling facility on ICEGATE 2.0 has been introduced for electronic scheduling of cargo examinations. The system provides automated slot allocation, online visibility of examination status, electronic rescheduling with notifications, and a digital audit trail. Any rescheduling or removal from the schedule requires approval of the jurisdictional Assistant or Deputy Commissioner with recorded reasons.

These measures aim to institutionalise transparency, minimise disputes and reduce discretion-based delays in cargo examination.

Click [here](#) to read the Circular.



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