



**September 2025**

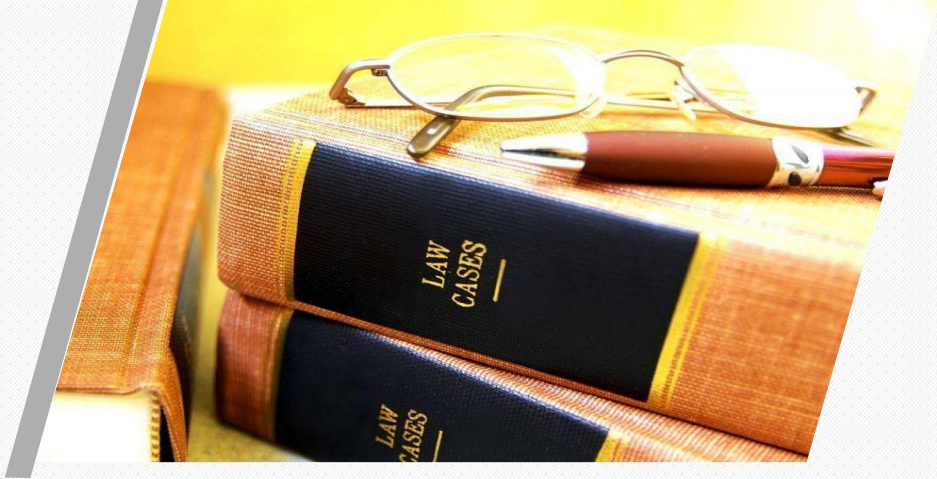
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# Direct Tax

## Case Laws



### Case Law 1:

**IN THE ITAT CHENNAI BENCH 'B' V. AATHMIKA -HOLDINGS (P.) LTD. ABY T. VARKEY, JUDICIAL MEMBER AND JAGADISH, ACCOUNTANT MEMBER IT APPEAL NO. 836 (CHNY) OF 2025 CROSS-OBJECTION NO. 38 (CHNY) OF 2025 [ASSESSMENT YEAR 2021-22] JULY 29, 2025**

### **FACTS :**

The assessee, Aathmika -Holdings (P.) Ltd had purchased shares of IG3 and ETL Power from G3, Singapore, at Rs. 12.43 per share and Rs. 14.30 per share respectively. Since ETL Power's value was largely dependent on its holding of IG3 shares, the main controversy centered on the valuation of IG3. Initially, the assessee submitted a valuation report dated 06.07.2020 based on unaudited financial statements as on 31.03.2020, which valued IG3 shares at Rs. 12.125 and ETL shares at Rs. 13.67. Subsequently, an updated report dated 09.12.2022, prepared with reference to audited accounts as on the transaction date (08.08.2020), valued IG3 shares at Rs. 11.989 and ETL shares at Rs. 13.41. The Assessing Officer rejected this updated report on the ground that it was obtained after the transaction and instead adopted Rs. 29.48 per share (price at which CPCPL had acquired IG3 shares from ILFS Realty on 07.08.2020) as the fair market value. On this basis, he invoked section 56(2)(x) and made additions, holding that the assessee had purchased the shares at a value lower than FMV.

### **HELD :**

The Tribunal held that the provisions of section 56(2)(x) read with Rule 11UA require fair market value of unquoted shares to be determined strictly on the basis of the audited balance sheet as on the valuation date. Therefore, the updated valuation report, though prepared later, was valid since it relied on audited figures as of 08.08.2020. The AO was not justified in rejecting it merely because it was obtained after the transaction. The Tribunal further held that reliance on the unrelated transaction of CPCPL acquiring shares at Rs. 29.48 could not be sustained, since Rule 11UA does not permit adopting open market price or comparable uncontrolled price method. On specific valuation issues, it was held that the assessee rightly included converted preference shares in the denominator, correctly valued land and building at book values, and properly considered negative values for certain investments, as the rule mandates book values without substitution. Similarly, Revenue's attempt to exclude Rs. 257.62 crores from liabilities, treating it as deemed dividend, was also rejected because such treatment does not alter the balance sheet liabilities for Rule 11UA purposes.

Based on this, the Tribunal accepted the FMV of IG3 shares at Rs. 11.989 and ETL shares at Rs. 13.41, which were both lower than the actual purchase prices paid by the assessee. Since consideration paid was higher than FMV, section 56(2)(x) was not attracted. The Tribunal therefore upheld the order of the Commissioner (Appeals)

# Direct Tax : Case Laws

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deleting the additions, dismissed the Revenue's appeal, and treated the assessee's cross-objections as academic.

## Case Law 2:

**IN THE ITAT RAIPUR BENCH, ITA NO. 162/RPR/2025, JAGANNATH TRANSPORT CORPORATION V. DEPUTY COMMISSIONER OF INCOME-TAX, [AY 2023-24], DECIDED ON MAY 7, 2025.**

### **FACTS**

The assessee filed its return of income for A.Y. 2023–24 declaring income of Rs. 2.23 crores and claiming refund of Rs. 71.77 lakhs. While processing the return, the CPC noticed that the gross receipts reported in Form 26AS, on which TDS credit had been claimed, were higher than the receipts disclosed under various heads of income in the return. Since credit for TDS was claimed without offering the corresponding receipts to tax, the CPC treated the return as defective under section 139(9) and proportionately reduced the TDS credit from Rs. 1.49 crores claimed to Rs. 1.26 crores, resulting in reduction of refund to Rs. 23.10 lakhs. On appeal, the Commissioner (Appeals) upheld the CPC's action, holding that TDS credit could only be allowed to the extent of income shown in the return and supported by Form 26AS. The assessee, however, argued that the difference arose because certain deductors had deducted TDS on GST component and in some cases on a cash basis, while corresponding income had already been accounted for in earlier years, and submitted a reconciliation before the Tribunal to substantiate the claim.

### **HELD**

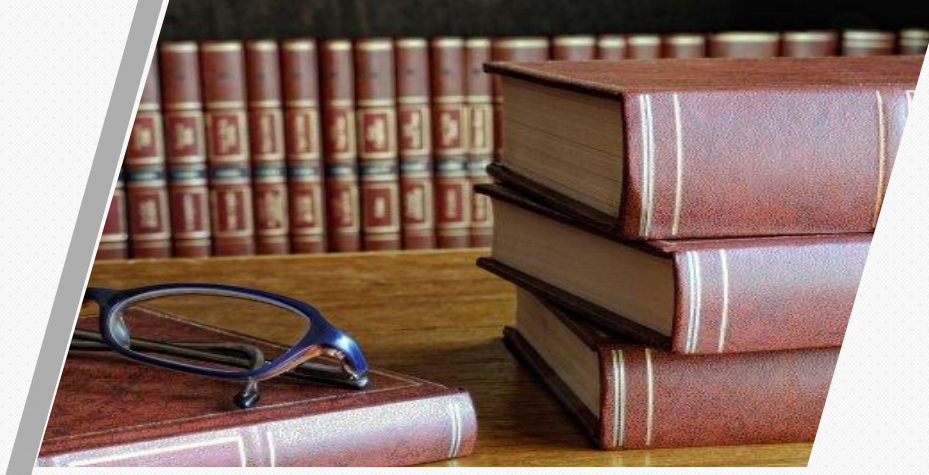
The Tribunal observed that although the assessee had furnished explanations and reconciliation, the Commissioner (Appeals)

dismissed the appeal without independently verifying the facts or calling for a remand report from the Assessing Officer, contrary to the mandate of section 250(4) and (6). Since the reconciliation submitted by the assessee required factual verification, the Tribunal held that the matter needed to be restored to the Commissioner (Appeals) for fresh adjudication after proper examination of the details furnished.

Accordingly, the order of the Commissioner (Appeals) was set aside, and the case was remanded back for fresh consideration in accordance with law. In result, the appeal of the assessee was allowed for statistical purposes.



# Indirect Tax : Case Laws



## Case Law 1:

### **SICPA India Private Limited and Another Vs Union of India and Others (Sikkim High Court)**

#### Facts of the Case :

SICPA India Private Limited, a company engaged in the manufacture of security inks, had established a unit in the state of Sikkim, duly registered under the Goods and Services Tax (GST) regime. In January 2019, the company discontinued its operations. However, an amount of approximately ₹4.37 crore remained as unutilized credit in its electronic credit ledger. Consequently, the company applied for a refund of the said amount, claiming it under Section 49(6) of the CGST Act.

The refund application was rejected by the Assistant Commissioner of CGST and Central Excise, Gangtok, vide order dated 8 February 2022, on the ground that closure of business is not a valid circumstance for refund under Section 54(3) of the CGST Act. The reasoning provided was that Section 54(3) permits refund of unutilized ITC only in two specified scenarios—namely, zero-rated supplies made without payment of tax and in cases involving inverted duty structure. This rejection was subsequently upheld by the Appellate Authority, i.e., the Additional Commissioner (Appeals) of CGST, vide order dated 22 March 2023. Aggrieved by these decisions, SICPA India Private Limited and another petitioner approached the Hon'ble Sikkim High Court by way of a writ petition under Article 226 of the Constitution of

India, challenging the denial of refund on the grounds that the CGST Act does not prohibit refund of unutilized ITC upon closure of business and that such denial leads to unjust enrichment of the exchequer at the expense of the taxpayer.

#### Judgment by the High Court:

The Sikkim High Court, after hearing both parties and examining the relevant statutory provisions, allowed the writ petition and directed the refund of unutilized ITC amounting to ₹4.37 crore. The Court held that the plain reading of Section 49(6) of the CGST Act allows for the refund of any balance in the electronic credit ledger in accordance with Section 54. It observed that while Section 54(3) enumerates specific scenarios where refund of unutilized ITC is permissible, such enumeration is not exhaustive, nor does the statute expressly prohibit refund in cases of business closure. The Court emphasized that ITC is a vested right of the taxpayer and, in the absence of any statutory bar, cannot be withheld merely due to closure of business.

The Hon'ble Court relied on the decision of the Karnataka High Court in *Union of India vs Slovak India Trading Company Pvt. Ltd.*, wherein it was held that unutilized CENVAT credit upon closure of business must be refunded, as there is no legal provision authorizing the government to retain such credit. Drawing parallels with that precedent, the Sikkim High Court reiterated that any retention of accumulated ITC by the revenue authorities without express statutory backing would amount to unjust

# Indirect Tax : Case Laws

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enrichment and violate the principles of equity and justice. The Court also rejected the contention that the petitioner should have availed the appellate remedy under Section 112 of the CGST Act, holding that availability of an alternative remedy is not a bar to exercise of writ jurisdiction, especially in cases involving pure questions of law and where the lower authorities have misinterpreted statutory provisions.

Accordingly, the Court quashed the orders passed by the Assistant Commissioner and the Appellate Authority and directed that the refund of ₹4.37 crore be processed and disbursed to the petitioner company. The judgment is significant as it clarifies that business closure, though not expressly mentioned in Section 54(3), cannot be a ground for denying legitimate refund of unutilized ITC, especially when such credits have lawfully accrued and there is no contrary provision in the statute. This decision is likely to serve as an important precedent for other businesses facing similar issues upon winding up operations and seeking refund of balance ITC.

# Legal & Regulatory Notifications



## S. No Notifications

### 1. Companies (Indian Accounting Standards) Second Amendment Rules, 2025 (Notification number G.S.R. 549(E) dated August 13, 2025)

Pursuant to Notification G.S.R. 549(E) dated August 13, 2025, the Ministry of Corporate Affairs (MCA) has introduced the Companies (Indian Accounting Standards) Second Amendment Rules, 2025, effecting changes to the framework under the Companies (Indian Accounting Standards) Rules, 2015. The amendment modified several Indian Accounting Standards (Ind AS)

on liability classification, covenant disclosures, align revenue and lease-related references and retrospective application from April 2025 (some from April 2026), required new disclosure requirements under Ind AS 7 and Ind AS 107 for supplier finance arrangements, clarifications in Ind AS 101, 108, 109, 115, 28, and 32 to correct references and transition provisions and Pillar two income tax treatment introduced in Ind AS 12, with specific disclosure timelines. These amendments improve clarity, international alignment, and transparency in financial reporting.

These amendments shall come into force with effect from August 13, 2025 (retrospective application from April 1, 2025, some from April 1, 2026)

#### For more details:

<https://www.mca.gov.in/bin/ebook/dms/getdocument?doc=NTU4ODYxMzUz&docCategory=Notifications&type=open>

### 2. The Companies (Incorporation) Second Amendment Rules, 2025 (Notification number G.S.R. 579(E) dated August 26, 2025)

Pursuant to Notification G.S.R. 579 (E) dated August 26, 2025, the Ministry of Corporate Affairs (MCA) has introduced The Companies (Incorporation) Second Amendment Rules, 2025, amending the Companies (Incorporation) Rules, 2014. The amendment mandates the substitution of Form RD-1, used for applications to the Regional Director with a substantially revised version that captures expanded company details and more structured disclosures.

These amendments shall come into force with effect from September 15, 2025.

#### For more details:

<https://www.mca.gov.in/bin/ebook/dms/getdocument?doc=NTYxMDQwNDYw&docCategory=Notifications&type=open>





## Reverse Charge Mechanism on Director Remuneration under GST

Harit Dhupar

IBA

### Background :

The taxation of remuneration paid to directors has always been a matter of continuous legal and practical scrutiny under the Goods and Services Tax (GST) regime. The key issue revolves around whether such remuneration constitutes a “supply” under GST, thereby attracting tax under the Reverse Charge Mechanism (RCM).

Legislative Framework	
Section 9(3) of the CGST Act, 2017	Empowers the government to notify categories of supply where tax is payable on reverse charge
Entry No. 6 of Notification No. 13/2017 – Central Tax (Rate)	Mandates RCM for services supplied by a director of a company to the company
Schedule III to the CGST Act	Excludes services by an employee to the employer in the course of employment from the scope of “supply”

### GST Implications :

A critical distinction lies in the nature of the director's engagement—whether he is acting as an employee or as an independent professional

#### ❖ **Key Differentiator: Employer-Employee Relationship :**

- Whole-time Directors: Where the director is under a contract of employment and receives salary, such services fall under the exclusion provided in Schedule III. Accordingly, no GST is applicable.
- Independent Directors: These directors are not employees but provide services to the company in an independent capacity and such services fall under the ambit of RCM. Accordingly, GST is applicable.

#### ❖ **Clarification via Circular No. 140/10/2020-GST dated 10 June 2020 :**

- If TDS is deducted under Section 192 of the Income Tax Act (i.e., treated as salary), the director is considered an employee – RCM not applicable.



- If TDS is deducted under Section 194J (i.e., professional fees), the service is taxable under RCM.

### **Director's Remuneration: Practical issues :**

The practical application of GST on director remuneration poses several challenges for businesses, particularly in correctly identifying the nature of the director's engagement and ensuring appropriate tax treatment under the reverse charge mechanism (RCM).

#### **❖ Typical Structure- A director may be :**

- Engaged under a contract of employment and remunerated via salary (indicative of an employer-employee relationship), or
- Appointed in a non-executive or independent capacity and paid professional fees (indicative of a service provider relationship).

#### **❖ Judicial Standpoint :**

Clay Craft India Pvt. Ltd. v. Commissioner, CGST (2020) – Authority for Advance Ruling (Rajasthan):

The Rajasthan AAR held that the applicability of GST on director's remuneration depends on the nature of the relationship. If there exists an employer-employee relationship, such remuneration falls under Schedule III of the CGST Act and RCM is not applicable and treatment should align with TDS deduction under 192. However, where directors provide independent services, RCM is applicable, and the treatment should align with the TDS deduction under Section 194J.

### **Key Considerations for Businesses :**

To mitigate exposure under RCM, companies should:

- Assess the nature of the engagement – employment contract vs. service arrangement.
- Review TDS deduction – whether under Section 192 or 194J.
- Maintain documentary evidence – board resolutions, appointment letters, secondment agreements, PF/ESIC contributions, etc.
- Evaluate contracts – ensuring clarity on control, supervision, and payroll structure.

### **Special Note: GSTIN-Holding Independent Directors :**

Where an independent director holds a valid GSTIN and considerations are subject to GST :

#### **❖ Director Issues Tax Invoice and Charges GST under FCM:**

In cases where the director issues a tax invoice for professional/independent services rendered and charges GST under forward charge, the liability is discharged at the director's end. Consequently, the recipient company is not required to pay GST under the reverse charge mechanism (RCM) to avoid dual taxation.

❖ **Director Issued Tax Invoice but do not charge GST under FCM and reports supply as Liable to Reverse Charge in GST Returns:**

If the director, despite holding a GSTIN, declares the supplies in their GST returns as liable to reverse charge, the onus of discharging the tax liability shifts to the recipient company. In such cases, GST must be paid under RCM, and appropriate disclosures should be maintained to support the position.

In view of the above, businesses should carefully verify how such supplies are invoiced and reported in GST returns to determine the correct tax treatment and avoid any compliance risks.

**Conclusion :**

The applicability of GST under the reverse charge mechanism on director remuneration is fundamentally driven by the nature of the relationship between the individual and the company. Where there exists a clear employer-employee relationship, and remuneration is subject to TDS under Section 192 of the Income Tax Act, such transactions are outside the ambit of GST by virtue of Schedule III. However, where services are rendered in an independent capacity, and payments are subject to TDS under Section 194J, the same are treated as taxable supplies, attracting GST under RCM in accordance with Notification No. 13/2017 – Central Tax (Rate).

A careful review of contractual terms and TDS treatment is essential to ensure correct tax positions and compliance. Additionally, where an independent director holds a GSTIN, the method of invoicing and return filing plays a crucial role in determining tax liability. Businesses must evaluate whether GST has been discharged under forward charge at director's end or remains payable under RCM to ensure accurate compliance and avoid double taxation.



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Our team recently attended an insightful training session on the Basic Understanding of Tax Audit conducted by Mr. Golden Jain. The session covered key fundamentals, practical insights, and important compliance aspects related to Tax Audit

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## Training Session on Leveraging Support



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Our team attended an engaging training session on Leveraging Support conducted by Ms. Shuchi Maitra, which provided useful insights and practical approaches to strengthen collaboration and workplace effectiveness.

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## Celebrating Independence Day Together



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Our office celebrated Independence Day with colors, camaraderie, and patriotic spirit. From decorations and national anthem, everyone's energy made the day memorable!

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# Upcoming Compliances

Date	Compliance
Sep 11, 2025	Due Date for filing of Form GSTR-1 for the tax period August 2025 for the registered taxpayers who have opted for monthly filing of GST Returns
Sep 13, 2025	Due Date for filing of Form GSTR-6 for the period August 2025 for the registered taxpayers who have obtained Input Service Distributor (ISD) registration
Sep 14, 2025	Due date for issue of TDS Certificate for tax deducted under Section 194-IA, section 194-IB, section 194M, section 194S, in the month of August, 2025.
Sep 15, 2025	Return of income for the Assessment Year 2025-26 for all assessee other than (a) corporate assessee or (b) non-corporate assessee (whose books of account are required to be audited) or (c) working partner of a firm whose accounts are required to be audited or the spouse of such partner if the provisions of section 5A applies to such spouse or (d) an assessee who is required to furnish a report under section 92E.
	Payment of Self-Assessment Tax (if due date of submission of return of income is July 31, 2025)
	Second instalment of advance tax for the assessment year 2026-27
	Monthly statement to be furnished in form 10BC by a recognised association in respect of transactions in which client codes have been modified after registering in the system for the month of August, 2025
	Monthly statement to be furnished in form 3BB by a stock exchange in respect of transactions in which client codes been modified after registering in the system for the month of August, 2025
Sep 20, 2025	Due Date for filing of Form GSTR-3B for the period August 2025 for the registered taxpayers who have opted for monthly filing of GST Returns
Sep 30, 2025	Due date for furnishing of challan-cum-statement in respect of tax deducted under Section 194-IA, section 194-IB, section 194M, section 194S for the month of August, 2025.
	Due date for filing of audit report under section 44AB for the Assessment Year 2025-26 in the case of a corporate assessee or non-corporate assessee (who is required to submit his/its return of income on October 31, 2025 in form 3CA_CD & Form 3CB_CD.
	Report of an accountant to be furnished by an assessee under sub-section (3) of section 50B of the Income -tax Act, 1961 relating to computation of capital gains in case of slump sale (if due date of submission of return of income is October 31, 2025) in Form 3CEA.



# Editorial Team



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## About us:

IBA is a leading financial and legal advisory company with specialization in Assurance, Risk Consulting, Legal, Direct Tax, Indirect Tax (GST) and Corporate Advisory for midsize, SMEs and start-up firms. IBA constitute a young team of path breaking professionals, who believe in creating value through innovation and creativity to provide ultimate client satisfaction. Clients benefit from our fresh thinking, constructive challenge and practical understanding of the issues they face. We aim to alloy a perfect blend of professionalism with high standards of service, in our pursuit of excellence.

Founded in the Year 2003, the company witnessed immense growth from 2 members to currently a 100 members team, with its offices in Delhi, Mumbai and Bengaluru and its clients from across states. IBA continues to offer wholesome service experience to boost highly valued client relationships by combining the technical and industry expertise at par with well-placed firms together with a personal commitment to optimize client service.

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Queries/Feedback/Suggestions on this newsletter may be addressed to: [info@ibadvisors.co](mailto:info@ibadvisors.co)

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