Daily Tax Law Briefing
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Goods & Services Tax (GST) *(2 judgments)*

TITLE	BRIEF FACTS	RATIO
Hirenkumar Valjibhai Sankhalava v. Office of Deputy Commissioner of State Tax R/Special Civil Application No. 8399 of 2026 Gujarat High Court Click to view	The petitioner, who along with family members operated "Alpha-1 Tuition Classes and Hostel", challenged the rejection of his refund application after GST authorities conducted a search under Section 67(2) of the Gujarat Goods and Services Tax Act, 2017 from 06.10.2023 to 10.10.2023. During the search, tax, interest and penalty aggregating to ₹1,96,25,330/- were deposited through DRC-03. Nearly two years later, the petitioner sought refund under Section 54 alleging that the payment had been extracted under coercion during the search proceedings. The refund claim was rejected by order dated 03.02.2026 in Form GST RFD-06, which was challenged before the High Court.	The Gujarat High Court held that the contemporaneous panchnamas, statements and written undertaking clearly established that the petitioner voluntarily admitted his GST liability, accepted the turnover, agreed to obtain temporary GST registration and consciously deposited the tax, interest and penalty without any protest. The Court observed that no complaint alleging coercion was made for nearly two years, rendering the allegation an afterthought to secure refund. It further held that issuance of Form DRC-04 after two years caused no prejudice since no statutory time limit exists for issuing the acknowledgement of voluntary payment. The Court also held that refund under Section 54 is available only where tax is not payable or has been paid in excess, which was not established in the present case. Finding no illegality in the rejection of the refund application and noting that disputed questions regarding alleged coercion cannot ordinarily be adjudicated in writ jurisdiction, the Court dismissed the writ petition.
Rajat Dalmia v. Assistant Commissioner of Revenue & Ors. W.P.A. 1031 of 2026 Calcutta High Court Click to view	The petitioner challenged a show cause notice in Form GST DRC-01 dated 27.12.2023 issued under Section 73 of the West Bengal Goods and Services Tax Act, 2017, along with the consequential adjudication order and Demand Notice in Form GST DRC-07 dated 25.04.2024. The petitioner contended that the show cause	The Calcutta High Court held that under Sections 73 and 75(4) of the WBGST/CGST Act, where an adverse decision is contemplated, granting a personal hearing is a statutory requirement. Since the show cause notice recorded "not applicable" against the columns relating to the date, time and venue of personal hearing, it was fundamentally defective and violated

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	notice merely required a reply within fourteen days but did not specify the date, time or venue for personal hearing, thereby denying the mandatory opportunity of hearing before passing the assessment order.	the principles of natural justice. Relying on *Goutam Bhowmik v. State of West Bengal* and *Chairman-cum-Managing Director, Coal India Ltd. v. Ananta Saha*, the Court held that when the initial notice is invalid, all consequential proceedings also fail. Accordingly, the Court set aside the Form GST DRC-01 dated 27.12.2023, the adjudication order and Form GST DRC-07 dated 25.04.2024, while granting liberty to the authorities to initiate fresh proceedings under Section 73 after providing a proper opportunity of hearing. The limitation under Section 73(10) was directed to run from the date of the fresh notice. **Writ Petition Disposed of.**

Income Tax *(3 judgments)*

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HDFC ERGO General Insurance Company Ltd. v. Assistant Commissioner of Income-tax ITA Nos. 2836, 2837, 2838, 2839, 2840 & 2841/Mum/2025 and ITA Nos. 3277, 3278, 3279, 3280 & 3281/Mum/2025 (Assessment Years: 2010-11, 2011-12, 2013-14, 2014-15, 2015-16 & 2016-17) Income Tax Appellate Tribunal, Mumbai Click to view	The assessee, engaged in the business of general insurance, challenged the disallowance of payments made to intermediaries/aggregators for policy servicing and related administrative activities in connection with motor insurance policies. The Assessing Officer, relying on a DGCEI investigation report, held that such payments violated the Insurance Act, 1938 and IRDAI guidelines and therefore were not allowable under Section 37(1) of the Income-tax Act. The Commissioner (Appeals) upheld the disallowance, leading to the assessee's appeals before the Tribunal. The Revenue also filed appeals challenging deletion of disallowance under Section 14A read with Rule 8D.	The Tribunal held that the payments made to aggregators were for policy servicing and related support services and not for payment of insurance commission prohibited under the Insurance Act. It observed that the CESTAT had already rejected the DGCEI's allegations in identical cases and recognized the admissibility of such arrangements. The Tribunal further held that no competent authority under the Insurance Act or IRDAI had found the assessee guilty of any offence or initiated any penal proceedings, and therefore Explanation 1 to Section 37(1) could not be invoked. Accordingly, the expenditure was held to be allowable as a business deduction under Section 37(1). On the Revenue's appeals, the Tribunal held that Section 14A read with Rule 8D does not apply to income of an insurance company computed under Section 44 read with the First Schedule of the Income-tax Act and upheld the deletion of the disallowance. **Assessee's appeals**

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		were partly allowed and Revenue's appeals were dismissed.
OPC Asset Solutions Pvt. Ltd. v. The Joint Commissioner of Income Tax (OSD) ITA Nos. 2230 to 2236/Chny/2026; SA Nos. 126 to 132/Chny/2026 (Assessment Years 2018-19 to 2024-25) Income Tax Appellate Tribunal, Chennai Click to view	The assessee, engaged in the business of Asset Life Cycle Management by dealing in the residuary interest in movable assets, was subjected to a survey under Section 133A. The Assessing Officer held that the difference between the future rental receivables assigned to financiers and the consideration received therefor constituted "discounting charges" in the nature of interest, requiring deduction of tax at source under Section 194A. As the assessee had not deducted TDS, it was treated as an assessee in default under Sections 201(1) and 201(1A). The Commissioner (Appeals) upheld the demand, leading to the present appeals before the Tribunal.	The Tribunal held that the assessee's transactions involved a **non-recourse sale/assignment of future rental receivables** to financiers and not borrowing of money. Since the consideration received represented the negotiated sale price of receivables and carried **no obligation to repay**, the relationship of borrower and lender, essential for "interest" under Section 2(28A), was absent. Consequently, the difference between future rentals and the sale consideration could not be treated as discounting charges akin to interest, and Section 194A had no application. The orders treating the assessee as an assessee in default under Sections 201(1) and 201(1A) were set aside. **All seven appeals were allowed and the stay applications were dismissed as infructuous.**
VNG Automotive P. Ltd. v. Asstt. Commissioner of Income Tax ITA Nos. 795/2004 & 796/2004 Delhi High Court Click to view	The appellant company, incorporated for manufacturing and exporting ecological brake shoes, had raised funds from its directors for acquiring technical know-how, industrial land, machinery and other project requirements. Pending deployment of a portion of these funds for the project, the company temporarily placed them in bank deposits and adjusted the interest earned against pre-operative expenses. The Assessing Officer reopened the assessments for AYs 1993-94 and 1994-95 and treated the interest as taxable under the head "Income from Other Sources". The Commissioner (Appeals) allowed the assessee's appeal, but the Income Tax Appellate Tribunal reversed that decision, leading to the present appeals before the High Court.	The Delhi High Court held that although the reassessment proceedings were valid since the original returns had only been processed under Section 143(1) and not assessed under Section 143(3), the Tribunal erred in treating the interest as income from other sources. The Court found that the deposited funds were **not surplus funds** but were **inextricably linked with the setting up of the manufacturing project**, including payment for technical know-how, machinery and other committed project obligations. Applying the principles laid down in **CIT v. Bokaro Steel Ltd.**, **Indian Oil Panipat Power Consortium Ltd.**, and **Pr. CIT v. Brahma Center Development Pvt. Ltd.**, the Court held that such interest constituted a capital receipt liable to be adjusted against pre-operative expenses and not taxable as income from other sources. Consequently, Question No. 1 was answered in favour of the Revenue,

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		Question No. 2 in favour of the assessee, the order of the ITAT was set aside, and **the appeals were allowed**.

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