



The Institute of Chartered Accountants of India

THE INSTITUTE OF CHARTERED Accountants OF INDIA GST & INDIRECT TAXES COMMITTEE

Webinar on GST Helpdesk: Navigating Filing of Appeals before GSTAT

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Litigation Strategies: basics

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Litigation Strategies: preparation & way ahead

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Creating
Undisputed
Evidential
Records



Submitting
Exhaustive
Factual
Grounds



Drafting the
Defense with
an Eye on the
Future
Litigation



Litigation Strategies: build your case

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First, attack Legal
and Technical
Issues.

Second, attack
Procedure and
Evidence/RUDs

Third, move to
Merits Substantive
Issues.



‘Issued’
[Sec. 73/74]

‘Communicate’
[Sec. 107/112]

‘Served’
[Sec. 169]



Genesis of 'adjudication'

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Assessment is the process of determining tax liability for a specific period. Under modern indirect tax laws like GST, the tax department relies on trust through self-assessment.

Adjudication is the quasi-judicial process of demanding tax and penalizing non-compliance. If an audit, scrutiny, or anti-evasion investigation reveals tax evasion, the department initiates adjudication.

'Assessment'

'Audit'

'Adjudication'

To verify that the self-assessment was honest and accurate. The auditors check if the turnover was declared correctly, taxes were paid, refunds were claimed legally and ITC was availed properly.



GENESIS OF 'ADJUDICATION'

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'Assessment' involves computation of total tax liability for the specified tax period.

Whereas 'Adjudication' is issue specific with relied upon documents and may involved multiple tax periods.



Addressing the Queries

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Case#1: Wrong ITC amounting to Rs. 5Lakhs each, CGST as well as SGST, is availed as well as utilised in month of July 2024. From August 2024 till October 2024 the Credit ledger is above Rs. 500000 each.

The said ITC is reversed in month of November 2024. The department is claiming interest on the amount from July to November 2024. However, we are claiming that since ITC Credit Ledger is having sufficient ITC credit from all the months except the month of July, Interest should be claimed only for the month of July.

Basis, Notification 192/04/2023 - GST. As per department, this pertains to only IGST.

Query 1- Can interest be levied for months, July to November



Section 50(3) of the CGST Act, 2017:

*“(3) Where the input tax credit has been wrongly availed and utilised, the registered person shall pay interest on such input tax credit **wrongly availed and utilised**, at such rate not exceeding twenty-four per cent. as may be notified by the Government, on the recommendations of the Council, and the interest shall be calculated, in such manner as may be prescribed.”*

*Substituted vide Section 111 of the Finance Act, 2022 w.e.f. 01-07-2017 (this amendment came into effect w.e.f. 05-07-2022 vide notification No. 09/2022–Central Tax dated 05-07-2022)



Addressing the Queries

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Rule 88B(3): *In case, where interest is payable on the amount of input tax credit wrongly availed and utilised in accordance with sub-section (3) of section 50, the interest shall be calculated **on the amount of input tax credit wrongly availed and utilised, for the period starting from the date of utilisation of such wrongly availed input tax credit till the date of reversal of such credit or payment of tax in respect of such amount**, at such rate as may be notified under said sub-section (3) of section 50.*

Explanation. -For the purposes of this sub-rule, -

(1) input tax credit wrongly availed shall be construed to have been utilised, when the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed, and the extent of such utilisation of input tax credit shall be the amount by which the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed.

(2) the date of utilisation of such input tax credit shall be taken to be, -

(a) the date, on which the return is due to be furnished under section 39 or the actual date of filing of the said return, whichever is earlier, if the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed, on account of payment of tax through the said return; or

(b) the date of debit in the electronic credit ledger when the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed, in all other cases.



Addressing the Queries

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Circular No. 192/04/2023-GST Dated 17th July, 2023:

- In the cases where IGST credit has been wrongly availed and subsequently reversed on a certain date, there will not be any interest liability under sub-section (3) of section 50 of CGST Act if, during the time period starting from such availment and up to such reversal, the balance of input tax credit (ITC) in the electronic credit ledger, under the heads of IGST, CGST and SGST taken together, has never fallen below the amount of such wrongly availed ITC, even if available balance of IGST credit in electronic credit ledger individually falls below the amount of such wrongly availed IGST credit.
- **The circular merely clarifies how to calculate if the balance fell below the threshold. It does not override the rule that once credit is utilized, interest runs until the actual date of reversal regardless of your ledger balance goes in the intermediate succeeding months.**
- **Yes, the department is legally correct in demanding interest for the entire period from July to November.**



Addressing the Queries

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Case#2: In the col. of "Name of Respondent": Whose name to be mentioned, of Commissioner or 1st Appellate authority ? my query is for name not the designation .

Goods and Services Tax Appellate Tribunal (Procedure) Rules, 2025:

Rule 33. Who may be joined as respondents. — (1) In an appeal or an application filed by a person other than the [Commissioner], the [Commissioner] concerned shall be made the respondent to the appeal or the application, as the case may be.

(2) In an appeal or an application by the [Commissioner], the other party shall be made the respondent to the appeal.

- - - - -
- The 1st Appellate Authority acts as the quasi-judicial body, like the court/judge, whose order is now being challenged. In law, we never make the lower court/judge a party to the dispute.
- The Jurisdictional Commissioner of Central or State Tax is the executive head of the tax department. They act as the opposing party defending the revenue's interests against the appeal.



Case#3: Are there any supporting case laws of Supreme court, High Courts or GSTAT favouring the assessee:

Union of India & Anr. Versus M/s Mohit Minerals Pvt. Ltd. | 2022 (5) TMI 968 - Supreme Court | 19th May 2022

- Indian importers cannot be subjected to IGST levy on ocean freight under reverse charge mechanism.
- In CIF contracts, goods supply accompanied by transportation and insurance services constitutes composite supply, making separate levy on shipping services impermissible.
- The impugned levy violates the principle of composite supply, leading to double taxation.
- The recommendations of the GST Council are persuasive but not binding on the Union and States.
- The notifications are a legitimate exercise of delegated legislation, specifying categories of supply and recipients.
- The import of goods on a CIF basis constitutes a taxable event under GST, with the importer being the recipient of shipping services.



Litigation Strategies: Section 75- Outer Limitation for passing the Orders

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- **Tata Play Limited | 2025 (7) TMI 772 - MADRAS HIGH COURT (Validity of N/Ns. 9/2023 for FY 2017-18 and 56/2023 for FY 2018-19 and 2029-20)**
- i) It may be necessary to construe Section 168A of CGST Act and impugned notification issued thereunder which purports to extend limitation fixed by Parliament/State legislature strictly.
- ii) The impugned notification does not contain a recital that actions under Section 73 of CGST Act viz., issuance of notice and passing of orders within the time limit provided under sub section (2) and (10) of Section 73 of CGST Act was only due to Covid (force majeure). In the circumstances this Court is of the view that the impugned notifications cannot be sustained.
- iii) The recommendation of GST Council for issuance of notification under Section 168A of CGST Act is mandatory but not binding on the government for the purposes of issuance of notifications under Section 168A of CGST Act.
- iv) This Court is of the view that the recommendation by GIC Council ratified by GST Council after issuance of impugned Notification No.56/2023, would not constitute compliance with the mandate contained on recommendation in Section 168A of CGST Act.
- v) The impugned notification diminishes the limitation available to the authorities to issue notices/pass orders under sub section (2) to Section 73 of CGST Act, by virtue of the order of the Supreme Court dated 10.01.2022 a consequence which is antithetical to the very purpose and object of Section 168A of CGST Act, **thus unsustainable.**



Litigation Strategies: Section 75- Outer Limitation for passing the Orders

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- **M/s. HCC-SEW-MEIL-AAG JV Versus Assistant Commissioner of State Tax & Ors. | 2025 (4) TMI 60 - SC Order | 21st February 2025 (Validity of N/Ns. 9/2023 for FY 2017-18 and 56/2023 for FY 2018-19 and 2029-20)**
- 1. The subject matter of challenge before the High Court was to the legality, validity and propriety of the Notification No.13/2022 dated 5-7-2022 & Notification Nos.9 and 56 of 2023 dated 31-3-2023 & 28-12-2023 respectively.
- 2. However, in the present petition, we are concerned with Notification Nos.9 & 56/2023 dated 31-3-2023 and 28-12-2023 respectively.
- 3. These Notifications have been issued in the purported exercise of power under Section 168(A) of the Central Goods and Services Tax Act, 2017 (for short, the “GST Act”).
- 4. We have heard Dr. S. Muralidhar, the learned Senior counsel appearing for the petitioner.
- 5. The issue that falls for the consideration of this Court is whether the time limit for adjudication of show cause notice and passing order under Section 73 of the GST Act and SGST Act (Telangana GST Act) for financial year 2019-2020 could have been extended by issuing the Notifications in question under Section 168-A of the GST Act.
- 6. There are many other issues also arising for consideration in this matter.
- 7. Dr. Muralidhar pointed out that there is a cleavage of opinion amongst different High Courts of the country.
- 8. Issue notice on the SLP as also on the prayer for interim relief, returnable on 7-3-2025.



Litigation Strategies: Section 75- Outer Limitation for passing the Orders

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- **Debabrata Bhowmick Versus The Union of India. | 2026 (6) TMI 1494 - GAUHATI HIGH COURT | 24th June 2026**
- **Issue: Whether the time spent in pursuing the rectification application under Section 161 of the CGST Act was liable to be excluded while computing limitation for filing the appeal under Section 107 of the CGST Act, and whether the petitioner was entitled to an opportunity to seek condonation of delay before dismissal of the appeal as time-barred.**
- **Held:** The rectification application was filed within the time permitted by Section 161 of the CGST Act and was pursued bona fide. Excluding that period, the appeal fell within the extended limitation period. Even otherwise, a party presenting an appeal within the extended period ought to be given at least one opportunity to explain the delay before the appeal is dismissed as time-barred.
- **The time spent in the rectification proceeding was required to be excluded, the appeal could not be rejected as time-barred on the facts of the case, and the petitioner was entitled to an opportunity to seek condonation of delay.**
- The impugned appellate order rejecting the appeal as time-barred was set aside, and the matter was remitted to the Appellate Authority for fresh consideration after affording the petitioner an opportunity to apply for condonation of delay.



Addressing the Queries

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M/s Radha Krishan Industries Versus State of Himachal Pradesh & Ors. | 2021 (4) TMI 837 - Supreme Court | 20th April 2021

- **Issue:** Whether the provisional attachment orders were a valid exercise of power under Section 83 read with Rule 159(5) of the Himachal Pradesh Goods and Services Tax Rules, 2017.
- **Held:** Section 83 permits provisional attachment only during the pendency of proceedings under the specified provisions and only where the Commissioner forms an opinion on tangible material that such attachment is necessary to protect revenue.
- The order must also be supported by reasons and cannot rest on an unguided or subjective impression.
- Since the attachment was made before proceedings were initiated against the assessee under Section 74, without tangible material showing necessity and the objections were rejected without a proper hearing, the statutory requirements were not met.
- The provisional attachment was invalid and illegal.



Addressing the Queries

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Assistant Commissioner (ST) & Ors. Versus M/s. Satyam Shivam Papers Pvt. Limited & Anr. | 2022 (1) TMI 954 - SC Order | 12th January 2022

- **Issue:** Interpretation of tax evasion based on expired e-way bill
- **Held:** The Supreme Court upheld the High Court's decision in a case involving an expired e-way bill, emphasizing that **the mere expiry of the bill does not imply tax evasion.**
- The High Court found the tax authority's conclusion baseless and arbitrary, highlighting the lack of evidence of tax evasion. The Court criticized the tax authority's failure to consider valid explanations for the delay in delivery due to external factors beyond the taxpayer's control, such as traffic blockages.
- The Supreme Court dismissed the petition, affirming the High Court's decision but enhancing the costs imposed on the petitioner to compensate the respondent for unnecessary litigation.
- The judgment underscores the importance of fair treatment, proper interpretation of tax laws and discouraging abuse of power by tax authorities.



Addressing the Queries

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M/s. B. Braun Medical India Pvt Ltd. Versus Union Of India & Ors. | 2025 (3) TMI 774 - DELHI HIGH COURT | 12th March 2025

- **Issue:** Whether the Petitioner was entitled to claim ITC despite the invoices reflecting the incorrect GST number of the Bombay office instead of the Delhi office
- **Held:** The Court examined the circumstances under which the invoices were issued and noted that the only error was the mention of the Bombay GST number instead of the Delhi GST number.
- The Court recognized that the Petitioner was indeed a Delhi-based company and that the error was on the part of the supplier.
- The Court applied the provisions of the CGST Act and found that the rejection of ITC based solely on the incorrect GST number was disproportionate, especially when no other entity had claimed the credit. The Court emphasized the need to prevent substantial loss to the Petitioner due to a minor clerical error.
- The Court concluded that the impugned order rejecting the ITC was unjustified, and the Petitioner was entitled to claim the ITC for the relevant periods.



Addressing the Queries

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Aberdare Technologies Pvt Ltd & Anr Versus Central Board of Indirect Taxes & Customs. | 2024 (8) TMI 142 - BOMBAY HIGH COURT | 29th July 2024 | SPECIAL LEAVE PETITION (CIVIL) No. 7903 of 2025 @ Diary No. 6332/2025 (SLP was Dismissed by Hon'ble SC)

- **Issue:** Rectification of GST returns after the statutory deadline: The petitioner filed GST returns within the prescribed time but later discovered errors in December 2023. These errors did not result in any loss of revenue to the State. According to Section 39(9) of the CGST Act, the rectification of such errors must be done on or before the 30th of November following the end of the financial year to which such details pertain. The petitioner missed this deadline and requested permission for rectification, which was not granted.
- **Held:** The court emphasized that the provisions of Sections 37, 38, and 39 of the CGST/MGST Act should be purposively interpreted to allow rectification of bona fide and inadvertent errors, especially when there is no loss of revenue.
- The petition was disposed of with directions to facilitate the rectification of GST returns, either through the portal or manually, ensuring that the petitioner could correct the errors without any loss of revenue to the State.



Addressing the Queries

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M/s TARULATA TRADING PVT LTD Versus STATE OF GUJARAT. | 2018 (9) TMI 158 - GUJARAT HIGH COURT | 30th August 2018 | Under Gujarat VAT

- **Issue:** Petition challenging retrospective cancellation of registration under the Gujarat Value Added Tax Act.
- **Held:** Even if the cancellation of registration was to be upheld, the question is, should the same has been ordered with retrospective effect providing for cancellation of registration from inception. **Even if such registration is cancelled, the purchasing dealers in their assessments can always argue that their transactions with the petitioner were genuine and that therefore they cannot be deprived of the input tax credit concerning such transactions.**
- On the other hand, even if such registration is not cancelled with retrospective effect and the department has material to believe that certain transactions of the past carried out by the petitioner were nongenuine, **it would always open for the department to pursue such issue with the purchasing dealers.**
- Be that as it may, pending the Revision Petition before the Tribunal, in facts of the case we would like to stay the retrospective operation of the cancellation of registration.



Addressing the Queries

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M/s. Gargo Traders Versus The Joint Commissioner. | 2023 (6) TMI 533 - CALCUTTA HIGH COURT | 12th June 2023

- **Issue:** The petitioner disputes the order denying ITC alleging the supplier is fake and non-existing. Respondents claim supplier's registration was cancelled retrospectively, covering the transaction period.
- **Held:** It is not the case of the respondents that there is a collusion between the petitioner and supplier with regard to the transaction.
- This Court finds that without proper verification, it cannot be said that there was any failure on the part of the petitioner in compliance of any obligation required under the statute before entering into the transactions in question.
- The respondent authorities only taking into consideration of the cancellation of registration of the supplier with retrospective effect have rejected the claim of the petitioner without considering the documents relied by the petitioner.
- In view of the above, the impugned orders are set aside. The respondent no. 1 is directed to consider the grievance of the petitioner afresh by taking into consideration of the documents which the petitioner intends to rely in support of his claim.



M/s Himalaya Communication Pvt. Ltd. Versus Union of India and others. | 2025 (6) TMI 586 - HIMACHAL PRADESH HIGH COURT | 6th June 2025

- **Issue:** Whether denial of input tax credit could be sustained merely because the supplier's registration had been cancelled retrospectively, and whether the matter required reconsideration after examining the genuineness of the transaction and the relevant documents.
- **Held:** The sole ground on which the input tax credit claimed has been denied to the petitioner is that the supplier GST registration has been cancelled with retrospective effect. However, there is no material on record indicating that either the Assessing Officer or the Appellate Authority has considered whether the transaction in question was genuine and straightaway notice under Section 16(2) of the CGST Act has been issued.
- We are of the considered view that before taking any action in the matter, considering the genuineness of the transaction, the same could have been determined only after examining all the relevant documents, which does not appear to have been done in the instant case.
- Consequently, the present petition is allowed on this ground alone and the impugned orders are set aside. The matter is remanded back to the Adjudicating Authority, who shall decide the matter after examining all the relevant documents



Addressing the Queries

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M/s. M. Trade Links Versus Union of India and others. | 2024 (6) TMI 288 - KERALA HIGH COURT | 4th June 2024

- **Issue:** Whether denial of input tax credit could be sustained merely because the supplier's registration had been cancelled retrospectively, and whether the matter required reconsideration after examining the genuineness of the transaction and the relevant documents.
- **Held:** The sole ground on which the input tax credit claimed has been denied to the petitioner is that the supplier GST registration has been cancelled with retrospective effect. However, there is no material on record indicating that either the Assessing Officer or the Appellate Authority has considered whether the transaction in question was genuine and straightaway notice under Section 16(2) of the CGST Act has been issued.
- We are of the considered view that before taking any action in the matter, considering the genuineness of the transaction, the same could have been determined only after examining all the relevant documents, which does not appear to have been done in the instant case.
- Consequently, the present petition is allowed on this ground alone and the impugned orders are set aside. The matter is remanded back to the Adjudicating Authority, who shall decide the matter after examining all the relevant documents



Case#4: Are there any notifications / circulars post 2023 in favour of assessee / suppliers:

- **The Conversion Mechanism- from 74 to 73:**
- 75(2) Where any Appellate Authority or Appellate Tribunal or court concludes that ***the notice issued under sub-section (1) of section 74 is not sustainable*** for the reason that the charges of fraud or any wilful-misstatement or suppression of facts to evade tax ***has not been established*** against the person to whom the notice was issued, **the proper officer shall determine the tax payable by such person, deeming as if the notice were issued under sub-section (1) of section 73.**
- (3) Where any order is required to be issued in pursuance of the direction of the Appellate Authority or Appellate Tribunal or a court, ***such order shall be issued within two years from the date of communication of the said direction.***
- **CBIC Circular No. 185/17/2022-GST dated 27.12.2022**
- **If a Section 74 notice is converted to a Section 73 notice, it must adhere to the limitation timelines of Section 73.**
- **If the original Section 74 notice was issued after this 2 years and 9 months window had already expired, the entire demand becomes time-barred and must be dropped.**



Litigation Strategies: General provisions relating to determination of tax- Section 75- Conversion from 74 to 73

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- **M/s Sterling & Wilson Pvt. Ltd. Through Zarine Yazdi Daruvala Versus Commissioner, Odisha | 2026 (2) TMI 726 - GSTAT NEW DELHI | 11.02.2026**
- **Issue (i): Whether the Appellate Tribunal under Section 112 of the Central Goods and Services Tax Act, 2017 can examine questions of fact in a second appeal under the GST regime.**
- Held: The Tribunal contrasted the restricted second appeal jurisdiction under Section 100 of the Code of Civil Procedure, 1908 with the scheme of Section 112 of the Central Goods and Services Tax Act, 2017 and Rule 112 of the Central Goods and Services Tax Rules, 2017.
- Section 111(1) of the CGST Act, 2017 provides “that the Appellate Tribunal shall not, while disposing or proceeding before it or an appeal before it the bound by the procedure laid down in the Code of Civil Procedure, 1908”.
- The argument advance by the Revenue that the Tribunal cannot go into the question of fact is not sustainable and it is held that in exercise of Jurisdiction under Section 112 read with Rule 112 has power to examine question of facts also and it is the last adjudicating forum on questions of facts
- The Tribunal held that it can examine questions of fact in an appeal under Section 112.



Litigation Strategies: General provisions relating to determination of tax- Section 75- Conversion from 74 to 73

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- **M/s Sterling & Wilson Pvt. Ltd. Through Zarine Yazdi Daruvala Versus Commissioner, Odisha | 2026 (2) TMI 726 - GSTAT NEW DELHI | 11.02.2026 | Hon'ble Justice (Retd.) Dr. Sanjaya Kumar Mishra, President**
- **Issue (ii): Whether the demand originally proceeded under Section 74 could be sustained in the absence of established fraud, wilful misstatement or suppression of facts, and whether the matter required remand for re-determination under Section 73.**
- The Tribunal accepted the finding that the ingredients for Section 74 were not established, but also noted that the dispute regarding mismatch between GSTR-1 and GSTR-3B, credit notes, debit notes, annual return reconciliation and ITC reversal required fresh factual examination.
- It further relied on Section 75(2) of the Central Goods and Services Tax Act, 2017 to hold that where a notice under Section 74 is not sustainable for want of fraud or suppression, the proper officer must determine the tax as if the notice were under Section 73. Since such re-determination has to be undertaken by the proper officer, the matter could not be finally concluded at the appellate stage.
- The Tribunal set aside the treatment of the matter as one under Section 73 at the appellate stage and remanded the case to the proper officer for fresh consideration under Section 73 after affording opportunity to the appellant.



- **M/s. Agni Estate Foundations Private Ltd. | 2025 (3) TMI 1304 - MADRAS HIGH COURT**
- **The Issue:** The taxpayer was issued notices and orders under Section 74 without any specific allegations of fraud or suppression being drafted into the notice. Because the orders were under Section 74, the taxpayer was deprived from availing the benefits of the GST Amnesty Scheme (Section 128A).
- **The Ruling:** It appears that no aspect of suppression of facts, wilful misstatement or fraud has been stated in the show cause notices to fulfil the ingredient of Section 74 of the Act and therefore, the same is not sustainable under the Provision of Section 74 of the Act.
- The notice issued under Section 74 of the Act shall be deemed as notice under Section 73 of the Act so as to enable the petitioner to avail the benefits under the Amnesty Scheme. Accordingly, the notices and the impugned orders passed under Section 74 of the Act shall be deemed as the notices and orders passed under Section 73 of the Act.



Litigation Strategies: interplay between 'fraud' and non-fraud' cases

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- *Section 74. (1) Where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded or where input tax credit has been wrongly availed or utilised **by reason of fraud, or any wilful-misstatement or suppression of facts to evade tax**, he shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilised input tax credit, requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under section 50 and a penalty equivalent to the tax specified in the notice.*
- ***Section 74A-Explanation 2.**—For the purposes of this Act, the expression “suppression” shall mean **non-declaration of facts or information which a taxable person is required to declare in the return, statement, report or any other document furnished under this Act or the rules made thereunder, or failure to furnish any information on being asked for**, in writing, by the proper officer.*



- ***COSMIC DYE CHEMICAL Versus COLLECTOR OF CENTRAL EXCISE, BOMBAY | 1994 (9) TMI 86 - Supreme Court***
- ***Issue:*** *Whether the proviso to Section 11A extends the period of recovery where there is a mis-statement or suppression of facts absent wilful intent to evade duty.*
- ***Held:*** *The Court examined the language of the proviso to Section 11A and held that the extended five year period is available where non levy, short levy or similar default is "by reason of fraud, collusion or any wilful mis statement or suppression of facts or contravention ... with intent to evade payment of duty."*
- *Fraud and collusion necessarily import intent to evade duty. **The words "wilful mis statement or suppression of facts" are qualified by "wilful", and the subsequent phrase "contravention ... with intent to evade payment of duty" also requires such intent. Consequently, mere mis statement or omission, if not wilful and without intent to evade duty, does not attract the extended period; the basic six month limitation remains applicable.***



Litigation Strategies: interplay between 'fraud' and non-fraud' cases | 'Mens rea'

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- **Issue:** *Whether the appellant's failure to include the value of Rapidogens in the declaration was a wilful mis statement or suppression attracting the proviso.*
- **Held:** *On the facts the appellant had bona fide belief that Rapidogens, being fully exempt under Notification No. 180/61, need not be included in the declaration under Notification No. 71/78.*
- *The Court noted that at the time two High Courts had held that exempted goods were not includible as "excisable goods" while other High Courts took a contrary view, and the Bombay High Court had not expressed a view.*
- **Given that conflicting judicial authority existed and the appellant's bona fide impression,** *the omission could not be characterised as wilful mis statement or suppression with intent to evade duty. The Tribunal's conclusion that intent was immaterial when there was mis statement was rejected.*



Thank You

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