

Katalyst Kaleidoscope

May 2025: Tax and Regulatory Insights

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A. Income Tax Highlights

1. Bangalore ITAT: Allows write-off of advances to subsidiary as business loss under section 37(1)¹

The assessee, a partnership firm in the business of real estate and infrastructure development, advanced substantial sums to a wholly owned subsidiary (a hospitality SPV) for setting up a hotel project. Due to sustained losses, the subsidiary's net worth turned negative by ₹375 crores by FY 2018–19, with outstanding bank liabilities of ₹385 crores; citing commercial expediency and financial distress, the assessee wrote off ₹469 crores in FY 2019–20, claiming the same as a deduction under Section 37(1).

The Revenue disallowed the claim, arguing the advances were capital in nature, that partial repayments by the subsidiary indicated recoverability, and that the write-off was a colourable device to avoid tax on income earned that year. It also noted that the advances did not satisfy Section 36 conditions (which requires that the deduction claim was earlier treated as income); the assessee countered that the advances were part of a structured business expansion and were written off as irrecoverable in view of deteriorating financials of the SPV. The CIT(A) allowed the deduction, holding that the write-off was a genuine business loss.

The Tribunal upheld the CIT(A)'s order, recognising the close nexus between the assessee's business and the SPV's hotel project. It held that the write-off was incurred wholly and exclusively for business purposes and allowed the deduction under section 37(1); it further noted that partial recoveries earlier did not preclude the claim, and even under section 36, the assessee had credited recoveries to income, thus satisfying statutory conditions.

2. Bombay HC: Write-off of advances and support expenses for group company held allowable as business loss ²

The assessee, Mahindra & Mahindra Ltd., had promoted and held a 27% equity stake in Machinery Manufacturers Corporation Ltd. (MMC), a group company engaged in the manufacture of textile machinery; due to a prolonged industry recession, MMC incurred continuous losses and was eventually ordered to be wound up. In order to safeguard its own business reputation, investment, and public association with MMC, the assessee incurred various support expenses and also wrote off advances and deposits that had become unrecoverable, which were claimed as allowable business losses under Sections 28 and 37(1) of the Income Tax Act.

The Revenue disallowed the claim, contending that the expenses and write-offs were incurred to settle another entity's liabilities and had no nexus with the assessee's core business. Before the

¹ DCIT v Adarsh Developers ITA No.1160/Bang/2024 dated April 8, 2025

² Mahindra & Mahindra Ltd. v CIT [Income Tax Appeal No. 416 of 2003] dated May 2, 2025

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High Court, the assessee argued that the support was driven by commercial considerations, including preservation of its goodwill, long-term business association, and public perception as a responsible group entity. It was emphasized that even voluntary expenditure is allowable if incurred out of business necessity or prudence.

The Bombay High Court accepted the assessee's position, holding that expenses incurred in such circumstances—especially where the group company is closely tied to the business ecosystem of the assessee—can qualify as deductible business loss; the Court observed that the act of supporting a failing group company to safeguard the assessee's own reputation and investment falls squarely within the scope of commercial expediency.

Katalyst comment:

This decision reflects the judiciary's evolving recognition of commercial realities and business rationale in interpreting tax provisions.

3. Delhi ITAT: Holding company entitled to deduction of business expenditure even in absence of business income ³

The assessee company was holding company with investments in subsidiaries and it claimed deduction for business expenditure under section 37(1) of the Income Tax Act for the relevant assessment year; the Assessing Officer disallowed the claim, holding that the assessee was not engaged in any business activity as per the Act and had not earned any business income during the year.

The assessee contented before the ITAT that its main business activity was to hold investments in subsidiaries, which itself constitutes 'business' under the Income Tax Act; it was contended that the earning of business income is not a prerequisite for claiming business expenditure under section 37(1), and that the expenditure was incurred wholly and exclusively for the purposes of business.

The ITAT accepted the assessee's contention, noting judicial precedents which recognize that the activity of holding investments in subsidiaries can itself be considered as business; it was clarified that business expenditure cannot be disallowed merely because there was no business income during the year. Accordingly, the disallowance of business expenditure under section 37(1) was deleted, and the ground was decided in favour of the assessee.

³ NDTV Networks Ltd.. v DCIT [IT Appeal no.6647 (DEL) of 2018] dated April 4, 2025

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4. Mumbai ITAT: Transfer of entire business held to be valid slump sale; Revenue's objections on asset retention⁴

The assessee company, a captive software services provider to its US-based parent, entered into a Business Sale and Purchase Agreement in March 2017 with a third-party buyer, intending to transfer its India business on a going concern basis; the assessee treated the transaction as a slump sale under Section 2(42C) and computed capital gains in accordance with Section 50B.

The Revenue, however, contended that the transaction amounted to a business sale rather than a slump sale. It argued that the agreement title, lack of registration, the appearance of receivables in the balance sheet, and disclosures by the buyer indicated that not all assets and liabilities were transferred. The AO taxed the entire consideration as business income under Section 28(ii), and the CIT(A) upheld the AO's view, also relying on Form 3CEA to suggest individual asset valuation.

The ITAT rejected the Revenue's stand, observing that the agreement clearly stated the transfer was on a lump-sum "as is where is" basis with no separate values assigned to individual assets; it clarified that the trade receivables in the balance sheet reflected amounts receivable from the buyer—not untransferred assets. The Tribunal also held that Form 3CEA, required under Section 50B(3), is only for computing net worth and cannot be used to infer itemized sale; it concluded that all elements of a slump sale were satisfied.

Katalyst comment:

This case highlights the often-overlooked fact that what is commercially termed a "business transfer" or "business sale" is referred to as a "slump sale" under the Income Tax Act. While different terms can be used, the essence remains the same- a transfer of a business undertaking as a going concern constitutes a 'business transfer' or a 'slump sale', which is distinct from the sale of individual assets.

5. Mumbai ITAT: Provision for claim payout based on actuarial valuation allowed as business expenditure⁵

The assessee, a trust established under the Prime Minister Mudra Yojana, provides credit guarantees for unsecured micro-loans granted by banks and financial institutions. For AY 2019–20, it claimed a deduction for a provision towards claim payouts, calculated using an independent actuarial valuation. The Assessing Officer disallowed the provision, stating it was a contingent liability and pointing to the assessee's hybrid accounting method.

⁴ ACIT v Digital Insight India Products Pvt Ltd [ITA No. 5048/MUM/2024, ITA No. 5036/MUM/2024] dated April 29, 2025

⁵ Credit Guarantee Fund for Micro Units v NFAC (Deputy Commissioner of Income-tax) [[2025] 172 taxmann.com 603 (Mumbai - Trib.)] dated March 21, 2025

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Before the ITAT, the assessee argued that it followed the accrual system and that the provision was based on a structured actuarial methodology considering elements like first-loss absorption by lending institutions, a 50% guarantee cap, and an overall payout limit of 15%. It also highlighted that similar provisions were allowed in the assessments of comparable government-backed entities, and no disallowance had been made in preceding or succeeding years—invoking the principle of consistency.

The Tribunal ruled in favour of the assessee, holding that a provision based on actuarial valuation is an ascertained liability and not a mere contingent one. It rejected the Revenue's view that the estimate was ad hoc and noted that the deviation between provisioned and actual payouts over several years was only 2.21%, showing accuracy and reliability. Accordingly, the full provision for claim payouts was allowed as a deductible business expenditure.

Katalyst comment:

The principle laid down by this order can be applied to other provisions computed scientifically; for example, provisions for warranty and such other provisions that have a strong business / accounting rationale which are recognized in the books, even though they are estimates should be allowed as a deduction.

6. Delhi ITAT: No justification for lifting corporate veil in absence of tainted money or beneficial ownership⁶

The Revenue conducted a search under Section 132 on the assessee and his family, who were shareholders of a British Virgin Islands (BVI) company—Carmichael Capital Ltd. (CCL)—and its UK-based subsidiary Eaton Estates Ltd. (EEL). The companies had purchased residential flats in London, and the Assessing Officer (AO) taxed the rental income, bank interest, and capital gains from these assets in the hands of the shareholders, alleging them to be the beneficial owners. The additions were made under the Income Tax Act and the Black Money Act, based on information sourced from foreign authorities and documents like personal calendar entries and invoices for incorporation.

The assessee argued that all investments were made lawfully under the Liberalised Remittance Scheme (LRS) and properly disclosed. The properties were purchased and managed by the companies themselves, and no personal benefit or income was derived by the shareholders. The Tribunal held that the Revenue had no basis to disregard the corporate form. It emphasised that mere shareholding does not amount to beneficial ownership of corporate assets, and no evidence was shown to suggest diversion of income, tax evasion, or the use of tainted funds. The ITAT refused to pierce the corporate veil in the absence of credible material, and deleted the additions.

⁶ Pradeep Wig v. ACIT [TS-510-ITAT-2025(DEL)] dated April 29, 2025

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Katalyst comment:

The ruling reinforces those corporate entities, particularly in international structures, must be respected unless there is clear misuse or concealment. Shareholding, without more, does not confer beneficial ownership of underlying assets, and Revenue cannot invoke veil-piercing based on suspicion or structure alone; this is an important precedent for taxpayers with legitimate offshore holdings.

B. SEBI Highlights

1. SEBI: No open offer triggered on preferential allotment of convertible securities where no control or threshold breach arises⁷

The applicant company proposed to raise funds through preferential allotment of Compulsorily Convertible Preference Shares (CCPS) and Compulsorily Convertible Debentures (CCDs) to (i) promoter and promoter group members, comprising Foreign Entity 1, two NRIs and an Indian resident holding 0.14%, 0.82%, and 0.88% of equity respectively, and (ii) public investors comprising a Domestic Investor Entity holding 1.15% collectively and Foreign Entity 2. The conversion into equity shares was scheduled simultaneously in FY 2026–27 on the same date.

The applicant sought SEBI's guidance on whether the allotment and subsequent conversion would trigger open offer obligations. SEBI observed that post-conversion, the shareholding of the promoter and promoter group would actually **reduce by 0.96%**, and there would be **no increase by 5% or more**, thereby not triggering Regulation 3(2); further, SEBI noted that none of the preferential allottees in the public category would breach the thresholds under Regulation 3(1) or 3(2).

On Regulation 4, SEBI emphasized that "control" involves the right to appoint a majority of directors or influence management. Although certain investors were granted rights to appoint directors and observers (three directors and one observer for Foreign Entity 1 and one director and one observer for Foreign Entity 2), SEBI concluded that no entity would control the majority of the board and the promoter group would continue to retain control; thus, no open offer obligation would arise under Regulation 4 either.

⁷ SEBI Informal Guidance on by way of an Interpretive Letter in relation to SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 ("Takeover Regulations") in the matter of CHL Ltd. dated January 22, 2025

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2. SEBI: Consultation paper on rationalization of placement document for Qualified Institutions Placement⁸

SEBI has issued a consultation paper proposing to streamline the Placement Document required under Qualified Institutions Placement (QIP) to reduce redundancy, improve relevance, and align with disclosure frameworks applicable to rights and preferential issues. Recognising that listed companies are already subject to extensive disclosures under LODR and that QIPs are aimed at institutional investors, SEBI has proposed cutting down duplicative or non-essential content, while retaining material issue- and issuer-specific details.

Key Disclosure changes proposed are as under:

1. Risk Factors:

Risk disclosures will be limited to three focused categories: (i) risks specific to the issue, (ii) material risks to the issuer, and (iii) material risks to the business or industry. Each risk must include a clear description, potential impact, and any relevant instances. This shift is intended to eliminate vague or boilerplate risks that dilute investor attention.

2. Detailed Financial Information:

Issuers will no longer be required to reproduce full audited financials within the placement document. Instead, a summary of key figures will be presented, with references to existing public filings (e.g., annual reports, quarterly results). This avoids duplication and reduces document size, given that such information is already publicly available under LODR.

3. Management's Discussion & Analysis (MD&A):

The MD&A section is proposed to be deleted entirely. As QIPs are intended for qualified institutional buyers (QIBs), who are equipped to evaluate financial data without management narrative, SEBI finds this section unnecessary in this context.

Katalyst Comment:

SEBI's proposal reflects a much-needed shift towards enhancing the effectiveness of disclosures by reducing unnecessary bulk. In practice, the current placement documents—whether for QIPs, IPOs, or rights issues—are often laden with voluminous information, much of which is repetitive or already available in public domain filings. This results in not only higher compliance costs and longer preparation timelines for issuers but also leads to “information fatigue” for investors, particularly institutional participants who rely on concise, material insights.

⁸ SEBI Consultation paper dated May 2, 2025

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3. SAT: Clarifies limits of Company Secretary's role in corporate disclosures⁹

The case arose from a buyback offer issued by Deccan Chronicle Holdings Ltd. (DCHL) during FY 2009–2011. SEBI alleged that the company had suppressed loan liabilities by shifting them to a group entity, which led to an inflated profit figure and overstated free reserves, which were used as the basis for the buyback. The Company Secretary, who signed the public announcement, was penalised by SEBI for his role in the alleged misstatement, despite not being involved in preparing the financials. SEBI held him responsible under provisions of the Companies Act and PFUTP Regulations for failing to ensure legal compliance.

SAT set aside the penalty, holding that the Company Secretary's role was ministerial and did not extend to auditing Board-approved financial statements certified by statutory auditors. It observed that signing a disclosure on behalf of the Board does not impose personal liability in the absence of active involvement or knowledge of wrongdoing. The SAT reinforces the principle that ministerial officers cannot be held liable for substantive misstatements unless there is clear evidence of complicity or intent.

Katalyst comment:

This ruling rightly differentiates between ministerial and managerial responsibilities under company law; it reaffirms that a Company Secretary's duty to authenticate documents on behalf of the Board does not translate into a duty to re-audit certified accounts. The decision offers clarity on the limited compliance role of such officers in complex corporate actions like buybacks and prevents overextension of liability in the absence of intent or active participation.

C. Other Highlights

1. SC: Courts can modify arbitral awards, but only in limited circumstances under Section 34¹⁰

The issue before the Supreme Court was whether courts under Sections 34 and 37 of the Arbitration and Conciliation Act, 1996, have the power to modify arbitral awards, or are restricted to setting them aside. The question arose due to conflicting precedents—some holding that courts can only annul awards, while others allowed limited modifications, especially concerning interest or severable components.

The Revenue and other respondents argued that Section 34 allows courts only to set aside awards and not alter them. The petitioner, however, contended that such a narrow interpretation leads to multiplicity of proceedings, especially where only a minor portion of an award is infirm and severable.

⁹ V. Shankar v. SEBI [SAT Appeal No. 283 of 2022] dated May 5, 2025

¹⁰ Gayatri Balasamy v M/S. ISG Novasoft Technologies Limited [LSI-485-SC-2025-(NDEL)] dated April 30, 2025

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The Court held that although Section 34 does not explicitly confer appellate powers, courts are not barred from modifying or correcting an award where the offending part is clearly severable and the rest of the award remains valid. It emphasized that this limited power of modification is essential to uphold the objective of speedy dispute resolution under the Act, especially when the defect relates to computational errors, interest awards, or portions that are ultra vires public policy.

Importantly, the Court clarified that this does not mean rewriting the contract or merits-based re-appreciation, but a narrow and judicious correction to prevent unjust consequences or redundant fresh arbitrations.

Katalyst comment:

This landmark judgement introduces a pragmatic exception to the otherwise strict arbitration regime. Courts can now partly modify awards within narrow confines, bringing flexibility without compromising the finality and integrity of arbitration.

2. SC: Sale of post-partition property upheld; no coparcenary rights without proof of ancestral character or blending¹¹

The case arises from a long-standing property dispute within a Hindu joint family. Following a registered partition in 1986 among three brothers, one of them (Defendant No.1) received his share of ancestral property; in 1989, he purchased a separate parcel of land—originally allotted to his brother Thippeswamy—using his own funds and a loan, and subsequently sold it to a third party (Defendant No.2) in 1993. In 1994, the children of Defendant No.1 (plaintiffs) filed a partition suit, claiming that the property was ancestral and that the sale was void as it infringed upon their coparcenary rights.

The plaintiffs argued that the property formed part of the joint family estate and could not have been alienated unilaterally by their father. Defendant No.2 countered that the property was not inherited but independently purchased by Defendant No.1 in 1989 using personal funds and borrowings, and not from any joint family nucleus. It was also contended that post the 1986 partition, the joint family had ceased, and Defendant No.1 had absolute rights over his self-acquired property. The plaintiffs neither sought cancellation of the sale deed nor presented credible evidence showing the use of joint family funds or blending of the property.

The Supreme Court held that:

- mere existence of a Hindu joint family does not raise a presumption that property is joint.
- The burden to prove ancestral character and availability of joint family nucleus lies on the party asserting it.

¹¹ Angadi Chandranna v Shankar & Ors. [Civil Appeal No. 5401 OF 2025] dated April 22, 2025

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- After partition, properties held individually are presumed to be self-acquired unless it is shown they were blended into the joint family pool.
- In this case, the property was purchased post-partition using borrowed funds, and no evidence of blending or joint family funding was brought on record.
- The High Court exceeded its jurisdiction under Section 100 of the CPC by reappreciating evidence and overturning factual findings without framing a substantial question of law.

Accordingly, the Supreme Court set aside the High Court's judgment and restored the decision of the First Appellate Court, thereby upholding the validity of the sale.

3. SC: JSW's Resolution Plan for Bhushan Power & Steel Scrapped; Liquidation Ordered Due to Fraud, Delay, and Systemic Lapses¹²

Bhushan Power & Steel Ltd. (BPSL), one of RBI's identified "dirty dozen" NPA accounts, was admitted to CIRP on 26 July 2017 upon a petition by Punjab National Bank. After receiving multiple resolution plans, JSW Steel's plan was approved by the Committee of Creditors (CoC) in October 2018; however, implementation was delayed for over two years, triggering a slew of legal challenges, including appeals by operational creditors, ex-promoters, and the State of Odisha. Meanwhile, criminal proceedings under PMLA were also initiated against BPSL and its former directors.

The NCLT approved JSW's resolution plan on 5 September 2019 and the NCLAT upheld the plan with modifications. However, appeals were filed before the Supreme Court alleging illegalities in the approval and implementation of the plan, collusion between parties, misuse of legal processes, and violation of statutory timelines.

Reasons for Scrapping the Resolution Plan:

Sr.no	Category	Key Issues Identified by the Supreme Court
1.	Fraud and Misrepresentation by JSW	• Suppressed a key joint venture agreement during resolution proceedings (revealed later in PMLA probe) • Delayed plan execution under the pretext of pending appeals despite no stay orders • Benefited from market gains by delaying payments (unjust enrichment) • Secured CoC approval through assurances of immediate payments and equity infusion, which were not honoured

¹² Kalyani Transco v M/s. Bhushan Power and Steel Ltd. & ORS. [Civil Appeal No. 1808 of 2020] dated May 2, 2025

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		• Made partial payments after ~1.5 years, despite the plan being binding and unconditional
2.	Failure by Resolution Professional (RP)	• RP failed to apply for extension under Section 12 of IBC, allowing the plan submission after the 270-day maximum deadline • RP did not verify JSW's eligibility under Section 29A, nor did it file the required Form H compliance certificate • RP ignored his duty to pursue questionable transactions by BPSL management. • RP presented the plan without verifying compliance under Section 30(2), including operational creditor rights and feasibility
3.	Lapses by Committee of Creditors (CoC)	• CoC ignored serious concerns earlier raised (e.g., delay, feasibility) and inconsistently changed stance • After becoming functus officio, CoC members (or a subset) unilaterally extended the "Effective Date" without authority. • CoC accepted late payments without objection, undermining creditor rights. • CoC failed to question delays and misrepresentations, arguably colluding in fraud and procedural breaches.
4.	Violations of the Insolvency and Bankruptcy Code	• The CIRP lasted over 540–900 days instead of the 180–270 days allowed. • The plan lacked provisions for implementation and contravened IBC priorities. • RP and CoC approved a resolution plan that failed to meet basic viability and compliance standards under Regulations 36 and 38.
5.	Judicial Overreach by NCLAT	• NCLAT commented on PMLA proceedings and ED orders (PAO) despite lacking powers of judicial review over such statutory decisions. • NCLAT legitimized JSW's violations by allowing the plan, even though it was beyond the legal timeframe.
6.	Malafide Conduct and Abuse of Process	• JSW initiated and relied on frivolous appeals to delay plan implementation. • After winning based on original terms, JSW altered the plan under the guise of regulatory compliance.

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		• Payments due within 30 days were delayed by 540 days (financial creditors) and 900 days (operational creditors).
7.	SC's Constitutional Role under Article 142 (which empowers the Supreme Court of India to pass any order necessary to do complete justice in any case before it)	• The Court, invoking Article 142, directed the liquidation of BPSL given the extensive violations and failure of process. • SC quashed the orders of NCLT and NCLAT as perverse and coram non judice (beyond jurisdiction).

4. SC: Employment bond imposing liquidated damages for early resignation not violative of constitutional or contract law¹³

The respondent, a senior officer at Vijaya Bank, challenged a clause in his appointment letter requiring him to serve a minimum of three years or pay ₹2 lakh as liquidated damages upon premature resignation. He had voluntarily resigned before completing the stipulated term and paid the amount under protest, subsequently filing a writ challenging the clause as violative of Articles 14 and 19(1)(g) of the Constitution and Sections 23 and 27 of the Contract Act.

The respondent argued the clause was unconscionable, imposed through unequal bargaining power, and amounted to restraint of trade. He relied on precedents where similar bonds were struck down for limiting future employability. The bank defended the clause as a reasonable measure to ensure staff retention, reduce attrition, and compensate for the high cost and time involved in recruiting trained personnel in a competitive banking sector.

The Supreme Court upheld the validity of the employment bond; it ruled that a clause requiring minimum service tenure with liquidated damages does not violate Section 27 (restraint of trade) when it applies during the subsistence of employment. The Court noted the clause was not excessive or punitive, and the sum was proportionate to the bank's operational needs and public interest obligations. The High Court's decision quashing the clause was set aside.

5. Bombay HC: Stamp duty on demerger to be based on share value, not enterprise value or net worth¹⁴

Bharti Airtel entered into a Scheme of Arrangement involving the demerger of Tata Teleservices (Maharashtra) Ltd.'s (TTML) consumer mobile business into itself. As consideration, Bharti issued equity and preference shares to TTML's shareholders. While Bharti computed stamp duty based on the market value of shares issued (₹33.93 crore), the Collector and Chief Controlling Revenue

¹³ Vijaya Bank vs. Prashant Narnaware [Civil Appeal no. 11499 of 2016] dated May 14, 2025

¹⁴ Bharti Airtel v. The Chief Controlling Revenue Authority and others dated May 9, 2025

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Authority (CCRA) determined duty based on the net worth of the demerged undertaking (₹1,055.70 crore), leading to a higher demand of ₹7.39 crore.

Bharti contended that under Article 25(da)(ii) of the Maharashtra Stamp Act, duty must be calculated on either 0.7% of the aggregate market value of shares issued and consideration paid, or 5% of the market value of immovable property—whichever is higher. It argued that the authorities had improperly relied on enterprise value, disregarded liabilities, and overlooked that the transaction was part of an NCLT-sanctioned scheme supported by certified valuations.

The High Court agreed with Bharti Airtel, holding that stamp duty must be determined strictly as per the statute; it held that the Collector and CCRA had no basis to substitute net worth or enterprise value in place of the actual consideration paid via share issuance. The Court observed that the liabilities of TTML were duly factored into the valuation and there was no hidden or indirect consideration beyond what was disclosed. Accordingly, it upheld the ₹1.86 crore already paid by Bharti (being 5% of the market value of immovable property) as the correct duty, and quashed the additional demand.

Katalyst comment:

This judgment reinforces that valuation for stamp duty purposes must follow the letter of the law—not subjective or commercial interpretations like enterprise value. By upholding share-based consideration and statutory valuation methods, the Court provides transactional clarity and regulatory consistency for corporate restructuring under NCLT-approved schemes.

D. Goods and Service Tax Highlights

1. Madras HC: If ITC is not utilized, no penalty is payable¹⁵

The assessee had availed the ITC and reversed the same without utilizing; the GST authority imposed the interest and penalty for wrong availment of ITC without giving any ‘opportunity of being heard’ to the assessee. In this regard, the Madras HC has held that no interest and penalty is payable if ITC is reversed and not utilized.

Katalyst comment:

A welcome judgement by the Madras HC, the GST provisions provide that no interest is payable if ITC is not utilized. Also, the ITC which was wrongly availed has been reversed without utilization and hence, the question of levy of penalty does not arise.

¹⁵ Fairmacs Shipstores Pvt. Ltd. vs. The Deputy Commissioner & Anr. [TS-316-HC(MAD)-2025-GST] dated April 29, 2025

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2. Allahabad HC: Once NCLT approves the resolution plan, no GST dues can be created subsequently¹⁶

The assessee went into Corporate Insolvency Resolution Process (CIRP) and GST department was intimated about the same. Later, the resolution plan was approved by the NCLT; after that the assessee received a demand notice and assessment order. In this regard, the HC relied upon the judgement of the Hon'ble Supreme Court in **Vaibhav Goyal & Another Vs. Deputy Commissioner of Income Tax & Another**¹⁷ and judgement of the Jharkhand HC in case of **Essar Steel India**¹⁸ and held that once the resolution plan is approved by the NCLT, all other creditors are barred from raising subsequent dues.

Katalyst comment:

A welcome judgement by the Allahabad HC. Once the hon'ble Supreme court has laid down the law, the same should be followed by the lower authorities.

3. Karnataka HC: ITC cannot be blocked in absence of pre-decisional hearing and independent reasoning¹⁹

The Electronic credit ledger (ECrL) of the petitioner was blocked based on the reports of enforcement authority. In this regard, the Karnataka HC has held that the ECrL of the petitioner cannot be blocked based on the reports from enforcement authority as the same is without independent reasoning. Also, the revenue has not granted any opportunity of being heard to the petitioner; therefore, the HC directed revenue to unblock the ECrL of the assessee following the decision in case of **K-9 Enterprises**²⁰

¹⁶ Arena Superstructures Pvt. Ltd. vs. UOI & Ors. [TS-313-HC(ALL)-2025-GST] dated April 29, 2025

¹⁷ Civil Appeal No. 49 of 2022 (SC), decided on March 20, 2025

¹⁸ ESL Steel Ltd vs Principal Commissioner [TS-323-HC(JHAR)-2023-GST] dated July 18, 2023

¹⁹ Narasimhan Engineering Contractors Private Limited vs The Principal Commissioner of Central Tax [TS-382-HC(KAR)-2025-GST] dated May 13, 2025

²⁰ K 9 Enterprises vs The State of Karnataka [TS-573-HC(KAR)-2024-GST] dated September 14, 2024