

LEXPORT NEWSLETTER

DECEMBER 2025 | WEEK 4

Dear Readers,

This weekly newsletter offers you a concise analysis of important developments, notable judgments, and noteworthy regulatory amendments and developments in the corporate and financial sectors.

This newsletter will cover updates inter alia from **Banking Laws & FEMA, Corporate Laws, Securities Laws and Capital Markets, Competition Laws, Indirect Taxes, Customs and Foreign Trade, Intellectual Property Laws, and Arbitration Laws.**

Acknowledging the significance of these updates and the need to stay informed, this newsletter provides a concise overview of the various changes brought in by our proactive regulatory authorities and the courts.

Feedback and suggestions will be much appreciated. Please feel free to write to us at mail@lexport.in.

Regards,
Team Lexport



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Indirect Tax

Delhi High Court Grants Interim Protection to ICICI Bank in MAB GST Dispute

Case Name: ICICI Bank Limited v. UOI & Ors. – 82025 Livelaw (Del) 1762


In a writ petition filed by ICICI Bank, the Delhi High Court has granted interim protection against a GST demand relating to charges levied for non maintenance of Minimum Average Balance. The issue has its roots in the service tax regime, where cumulative demands of nearly INR 60,000 crore against banks are pending consideration.

Under GST, the Bank had treated penal charges for MAB shortfall as taxable banking services and discharged tax at 18 percent. However, a Show Cause Notice demanding approximately INR 216 crore alleged that the Bank's commitment to provide facilities such as cheque books and ATM access constituted a taxable supply as "agreeing to do an act" under Section 7 read with Entry 5(e) of Schedule II of the CGST Act, 2017.

The Bank contended that such an expansive interpretation would rewrite commercial contracts by treating every contractual obligation as a supply. Jurisdiction was also challenged by questioning officer assignment under Notification No. 02/2017 Central Tax dated 17 June 2017. The Court clarified that adjudication may proceed but any final order shall not be implemented, and listed the matter for 10 February 2026.

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Delhi HC Grants Interim Relief to ICICI Bank in MAB GST Dispute



- Delhi High Court Granted Interim Protection to ICICI Bank Against a GST Demand of ~₹216 Crore Relating to Minimum Average Balance (MAB) Charges
- The Dispute Traces Back to the Service Tax Era, Where Cumulative Demands of Nearly ₹60,000 Crore Against Banks Remain Pending
- Tax Authorities Alleged that Providing Facilities Like Cheque Books and ATM Access Amounts to a Taxable Supply of "Agreeing to Do an Act" Under GST
- Jurisdiction was Also Questioned Based on Officer Assignment Notifications
- Matter Listed for 10 February 2026

Cause Title: ICICI Bank Limited vs. Union of India & Ors.

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Indirect Tax

Bombay High Court Holds SVLDRS Discharge Certificate Bars Reopening of Settled Tax Disputes

Case Title: Astute Valuers & Consultanta Pvt. Ltd. V UOI & Ors – WRIT PETITION 74 OF 2023

The Bombay High Court has held that once a taxpayer settles a dispute under the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 and receives a Discharge Certificate, the tax authorities are barred from reopening the matter for the same period or issue. The Division Bench set aside two show cause notices issued by the Central GST Audit-II wing, Mumbai, to Astute Valuers and Consultants Pvt. Ltd., despite the firm having opted for SVLDRS and paying the quantified dues.

The Court relied on Section 129 of the Finance Act, 2019 to emphasise that a Discharge Certificate signifies full and final settlement, conclusive as to both liability and time period. Astute Valuers had settled objections raised during service tax audit prior to the Scheme's June 30, 2019 cut-off, paid amounts determined by the designated committee, and received a Discharge Certificate dated February 22, 2020.

Despite this statutory closure, officers issued notices in 2021 and 2022 seeking interest on alleged delayed payments. Terming this action ex facie contrary to law, the Court noted that amnesty schemes are designed to encourage voluntary compliance and finality. It rejected arguments regarding alleged category errors in the declaration and declined to dismiss for delay. The Court reaffirmed that matters discharged under SVLDRS attain finality and cannot be reopened.

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SVLDRS Means Finality: Bombay HC Bars Reopening of Settled Tax Disputes



- Bombay High Court Held that Once a Discharge Certificate is Issued Under Sabka Vishwas Legacy Dispute Resolution Scheme (SVLDRS), 2019, the Matter Attains Full and Final Closure
- Tax Authorities Cannot Reopen the Same Issue or Period, Even to Demand Interest
- Court Relied on Section 129, Finance Act, 2019, Emphasizing Statutory Finality of Settlements
- Issuance of Fresh Show Cause Notices was Held Ex Facie Illegal
- Judgment Reinforces that Amnesty Schemes Must Deliver Certainty, Not Prolonged Litigation

Case Title: Astute Valuers and Consultants Pvt. Ltd. Vs. Union of India & Ors.

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Indirect Tax

CESTAT Allahabad Upholds Rejection of Private Warehousing Licence Due to Prior Customs Penalty

Case Title: Bhagwati Products v. Commissioner of Customs – Customs Appeal no. 70604 of 2025

The Allahabad Bench of CESTAT has dismissed the appeals filed by Bhagwati Products Ltd., thereby affirming the Customs Department's decision to deny grant of a private warehousing licence under Section 58 of the Customs Act, 1962 and permission to undertake manufacturing under Section 65. The assessee had sought to operate under the MOOWR scheme at its Greater Noida facilities.

During scrutiny, Customs authorities noted that Bhagwati Products had earlier been penalised to the extent of more than Rs. 4.45 crore under Section 114A of the Customs Act, which penalty had been upheld by the Tribunal in 2018 and was pending challenge before the Supreme Court. Relying on Regulation 3(2)(c) of the Private Warehousing Licensing Regulations, 2016, which bars grant of licence to any person who has been penalised for an offence under the Customs Act, the application was rejected.

The assessee contended that the penalty was only for a civil contravention and not for a criminal offence under Chapter XVI. Rejecting this plea, the Tribunal held that the expression offence is of wide amplitude and covers civil customs violations attracting penalty. It further observed that penalties under the Customs Act are recognised as punishment for offences. Since the penalty had been upheld by the final fact-finding authority, the assessee's antecedents disentitled it from a warehousing licence. The appeals were accordingly dismissed.



Quick Bites

Past Customs Penalty Closes the Warehouse Door



CESTAT Allahabad Has Held that a Prior Customs Penalty Can Disqualify an Applicant From Obtaining a Private Warehousing Licence Under the MOOWR Scheme. A Penalty Under Section 114A is Treated as an "Offence" for Licensing Purposes, Making Compliance History Decisive for Eligibility.

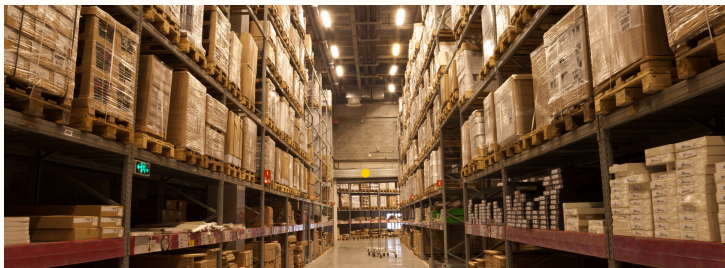
Case Title: M/s Bhagwati Products Ltd. Vs. Commissioner of Customs (Pre.), Noida

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Indirect Tax

CESTAT Ahmedabad Allows Proportionate Cenvat Credit on Insurance Services Post 01.07.2003

Case Title: Commissioner of Central GST and Central Excise v. Reliance Industries – Service Tax Appeal No. 10521 of 2019 – DB

The Ahmedabad Bench of CESTAT has held that Reliance Industries Ltd. is entitled to avail Cenvat credit on insurance services on a proportionate basis for the period on or after 01.07.2003, the date from which Business Auxiliary Service became taxable. The dispute arose from a three year insurance policy taken in May June 2003 covering subscriber default and handset risks under a service agreement with Reliance Infocomm Ltd.

The Department alleged that since the insurance bills were raised prior to 01.07.2003, credit was barred under Rule 3(3) of the Service Tax Credit Rules, 1994. The Tribunal, relying on its earlier decision in GHCL Ltd., held that where an input service spans both taxable and non taxable periods, credit is admissible proportionately for the period when the output service was taxable.

However, the Bench observed that the assessee must establish the nexus between the insurance services and the output Business Auxiliary Service and demonstrate that such services were actually consumed after 01.07.2003. The agreement was unclear on the ownership and deployment of handsets and their relevance to the output services. Accordingly, while recognising the principle of proportionate credit, the Tribunal remanded the matter to the adjudicating authority for verification and fresh determination of admissibility.



Quick Bites

CESTAT Allows Proportionate Cenvat Credit When Input Services Span Taxable & Non-Taxable Periods

Before 01.07.2003	After 01.07.2003
<div style="background-color: #f44336; color: white; border-radius: 50%; width: 20px; height: 20px; display: flex; align-items: center; justify-content: center; margin: 0 auto;">✗</div> <p style="font-size: 0.8em; margin: 0;">Output service not taxable</p> <p style="font-size: 0.7em; margin: 0;">No Credit Period</p>	<div style="background-color: #4caf50; color: white; border-radius: 50%; width: 20px; height: 20px; display: flex; align-items: center; justify-content: center; margin: 0 auto;">✓</div> <p style="font-size: 0.8em; margin: 0;">Business Auxiliary Service taxable</p> <p style="font-size: 0.7em; margin: 0;">Proportionate Credit Allowed</p>
<div style="background-color: #4caf50; color: white; border-radius: 10px; padding: 2px; font-size: 0.7em; margin: 0 auto;">✓ Input Service Spanning Periods – Proportionate Credit</div>	

Credit is Admissible Proportionately for the Period When the Output Service Became Taxable

Assessee Must Prove Nexus and Actual Consumption of Services During the Taxable Period

Matter Remanded for Verification, But the Principle of Proportionate Credit Upheld

Cause Title: Commissioner of Central GST and Central Excise v. Reliance Industries Ltd

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Indirect Tax

HP High Court Bars Parallel GST Adjudication Under Section 6(2)(b) Following ARMOUR SECURITY

Case Title: JB Rolling Mills Ltd. v. UOI & Ors – Civil Writ Petition No. 6358 of 2024

The Himachal Pradesh High Court has held that once adjudicatory proceedings are initiated by either the State or Central GST authority, the other authority is barred from commencing parallel proceedings on the same subject matter under Section 6(2)(b) of the CGST Act. The Division Bench, applying the Supreme Court's ruling in Armour Security, emphasised that the statutory scheme is intended to prevent multiplicity of adjudication and overlapping jurisdiction.

The petitioner challenged summons and a show cause notice issued by the Central GST authority under Sections 70 and 74, contending that the State GST authority had already initiated proceedings on the same issue. The Court noted that paras 96 and 97 of Armour Security clearly lay down that once proceedings are initiated first in point of time by one authority, any subsequent parallel adjudicatory proceedings by the other authority are barred. However, legitimate investigative actions such as issuance of summons may continue so long as they do not amount to parallel adjudication.

The Court directed the assessee to respond to the Central show cause notice and raise all objections in line with Armour Security. It further directed the State GST authority to coordinate with the Central authority to verify the assessee's claim and ensure that no multiple adjudicatory processes are pursued on the same subject matter.

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First GST Authority Acts, Parallel Adjudication Is Barred

Once Adjudication is Initiated By Either the State or Central GST Authority, the Other is Barred from Commencing Parallel Proceedings on the Same Subject Matter.

The High Court Clarified that While Investigative Steps Like Summons May Continue, Overlapping Adjudication is Prohibited Under Section 6(2)(B), Following the Supreme Court's Ruling in Armour Security.

Case Title: M/s J.B. Rolling Mills Limited v. Union of India & others

The Armour Security Case was Handled By Lexport Before the Supreme Court

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Indirect Tax

Delhi High Court Urges Temporary GST Exemption on Air Purifiers Amid Pollution Emergency

Title: Kapil Madan v. Union of India & Ors

The Delhi High Court has orally observed that authorities must consider granting temporary GST exemption on air purifiers in view of the severe air pollution situation in the national capital. A Division Bench of Chief Justice DK Upadhyaya and Justice Tushar Rao Gedela expressed displeasure that no concrete steps had been taken despite deteriorating air quality, remarking that citizens are forced to inhale polluted air thousands of times each day. The Bench suggested that even a short term exemption for a week or a month should be considered as an emergency measure and sought instructions from the Union Government on when the GST Council would meet to address the issue.

The PIL, filed by advocate Kapil Madan and argued by Senior Advocate Arvind Nayar, seeks declaration of air purifiers as medical devices and removal of the existing 18 percent GST. It is contended that air purifiers perform preventive and protective functions by filtering hazardous particulate matter and therefore fall within the statutory definition of medical devices under the Drugs and Cosmetics Act. The plea argues that taxing air purifiers at 18 percent while medical devices are taxed at 5 percent is arbitrary, lacks rational basis, and violates constitutional principles of reasonable classification. The matter has been adjourned for compliance.



Shelly Singh



GSTAT Withdraws Staggered Filing Regime Under Section 112 CGST Act; Appeals Open for Filing Without Protocol From 18 December 2025

The GST Appellate Tribunal (GSTAT) has revoked its earlier order dated 24-09-2025 which had prescribed staggered filing of appeals under Section 112 of the CGST Act, 2017. With effect from 18-12-2025, appeals may now be filed without the staggered protocol, while preserving the validity of appeals already filed prior to this date.

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GSTAT Revokes Staggered Filing Protocol; Section 112 Appeals Open From 18 December 2025

Section 112 Appeals - Open from 18-12-2025

The GST Appellate Tribunal (GSTAT) Has Withdrawn Its Earlier Order Dated 24-09-2025 that Mandated Staggered Filing of Appeals Under Section 112 of the CGST Act, 2017. With Effect From 18-12-2025, Appeals Can Now Be Filed Freely Without any Staggered Protocol. The Tribunal Has, However, Clarified that Appeals Already Filed Prior to this Date Will Remain Valid and Unaffected.

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Rishabh Dev Dixit



Indirect Tax

**Shameem vs. Commissioner of Customs (2025)
36 Centax 375 (Del.) [22-12-2025]**

Where the appellant, a resident of Saudi Arabia for more than two years, was found in possession of gold bars weighing 230 grams at the airport, he qualified as an "eligible passenger." Accordingly, the seized goods were liable to be released to him on payment of applicable Customs duty and warehouse charges. No redemption fine or penalty was leviable. Further, the standard pre-printed waivers of show cause notice and personal hearing obtained by the authorities were invalid in law. In terms of Section 128A(4A) of the Customs Act, 1962, the appeal was required to be decided within a period of six months.



Rishabh Dev Dixit



Substance Over System Failures



Pre-GST Credit



TRAN-1 Filed



ITC Must Flow

The Delhi High Court has Reaffirmed that Valid Pre-GST Cenvat Credit Cannot Be Denied Merely Due to Technical Glitches on The GST Portal. Where TRAN-1 Has Been Duly Filed and Credit Was Legitimately Earned, The Law Mandates that Such Credit Must Flow Into the Electronic Credit Ledger. Procedural or System-Driven Lapses Cannot Defeat a Substantive Tax Right.

Cause Title: Clyde Pumps Pvt. Ltd. vs. Union of India (2025) 37 Centax 235 (Del.) [14-12-2025]

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**Clyde Pumps Pvt. Ltd. vs. Union of India (2025) 37
Centax 235 (Del.) [14-12-2025]**

Where a GST-registered Input Service Distributor (ISD) having multiple units possessed closing pre-GST Cenvat credit and had duly filed TRAN-1 within the prescribed time, the mere non-reflection of such credit in the Electronic Credit Ledger due to technical glitches in the GST portal cannot be a ground to deny the substantive entitlement to Input Tax Credit. Since the credit was validly earned and properly disclosed, denial on procedural or technical lapses attributable to the system would be unjustified. Accordingly, such transitional credit is required to be credited to the Electronic Credit Ledger, enabling its lawful onward distribution to the respective units in accordance with GST provisions.



Rishabh Dev Dixit



Intellectual Property Rights

Bombay High Court Grants Interim Injunction in FEDEX Trademark Case

A recent order from the Hon'ble Bombay High Court (Commercial Division) in Federal Express Corporation v. Fedex Securities Pvt. Ltd. highlights a significant development in Indian trademark jurisprudence. During the hearing, the Court considered whether the Defendants' use of the term "Fedex" in their corporate and domain names amounted to infringement and passing off, particularly in light of the Plaintiff's long-standing and well-known mark FEDEX. After examining the parties' arguments, evidence of reputation, and the statutory framework under the Trade Marks Act, 1999, the Court held that the Defendants' continued use of the mark could lead to confusion, dilution, and association with the Plaintiff. The Court rejected the defence under Section 159(5) and noted that the adoption lacked credible justification. The Plaintiff demonstrated a prima facie case, and both balance of convenience and irreparable harm were found in its favour.

The Court has now granted an interim injunction restraining the Defendants from using "FEDEX" or any deceptively similar mark in corporate names, branding, domain names, and commercial use, pending final disposal.



Swagita Pandey



Public Domain Music Needs No Licence



The Delhi High Court has Clarified that Sound Recordings Whose Copyright Has Expired—Such as Pre-1965 Songs—Form Part of the Public Domain and Can Be Played Without Obtaining any Licence. Where No Copyright Subsists, Demands for Licences or Nocs are Unsustainable, Reaffirming that Expired Rights Cannot Be Enforced Through Licensing Claims.

Case Title: Bignet Solutions LLP v Novex Communications Pvt Ltd, CS(COMM) 1094/2025

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Delhi High Court Holds No Licence Required for Pre-1965 Songs Played at Private Event

The Delhi High Court disposed of a suit filed by Bignet Solutions LLP against Novex Communications Pvt Ltd, holding that no licence was required for playing sound recordings that are in the public domain. Bignet had approached the Court after being asked by its event venue to obtain a licence or NOC from Novex for a private event, despite the fact that the proposed playlist consisted exclusively of pre-1965 sound recordings whose copyright term had expired. At the interim stage, the Court had permitted the event to proceed, recording the Plaintiff's undertaking that only the identified pre-1965 songs would be played. After the event concluded, the Plaintiff placed material on record confirming compliance. The Defendant clarified that it does not claim rights in pre-1965 recordings and does not demand licence fees for works in the public domain. It stated that the earlier licence quotation was issued without clarity on the release dates of the songs. In light of these statements and the fact that the event took place without interference, the Court held that the cause of action no longer survived and disposed of the suit. It declined the Plaintiff's claim for damages and refused refund of court fees.

[Bignet Solutions LLP v Novex Communications Pvt Ltd, CS(COMM) 1094/2025]



Anushka Tripathi

Intellectual Property Rights



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Fake TATA Domain Shut Down: Delhi HC Orders Transfer to Tata Sons

The Delhi High Court has Granted Permanent Injunctive Relief to Tata Sons Pvt. Ltd., Restraining the use of a Fraudulent Domain Created to Impersonate the TATA Group and Run a Fake Zudio Franchise Scam.

The Court Found that the Defendants Deliberately Registered Trent-Tata.com to Mislead the Public Through Deceptive Emails, Forged Authorisation Letters and Fake Investment Offers, Falsely Projecting an Association With the Well-Known TATA and TRENT Brands.

Holding the Conduct to Be a Clear Case of Bad Faith and Trademark Infringement, the Court Ordered the Transfer of the Infringing Domain to Tata Sons, Reaffirming Strong Judicial Protection Against Online Impersonation and Brand Misuse.

Cause Title: Tata Sons Pvt. Ltd. v. Rajesh Kumar & Ors.,
CS(COMM) 890/2024

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Delhi High Court Orders Transfer of Fake TATA Domain Used for Zudio Franchise Scam

The Delhi High Court granted permanent injunctive relief in favour of Tata Sons Private Limited, holding that the defendants had fraudulently impersonated the TATA group to run a fake Zudio franchise scam. The Court found that the primary defendant had registered and used the domain trent-tata.com solely to send deceptive emails posing as Trent Tata Private Limited, a non-existent entity, and to induce members of the public to invest money in bogus Zudio franchise opportunities. Justice Manmeet Pritam Singh Arora noted that the impugned domain and email address deliberately incorporated the well-known TATA mark and the name TRENT, with a minor typographical variation, to create a false impression of association with the Tata group. The Court also took note of a forged authorisation letter bearing fake signatures of Ratan Tata, which clearly demonstrated fraudulent intent and bad faith. Since the defendant failed to appear or contest the proceedings despite service, the Court held that the allegations stood admitted. The Court confirmed the earlier injunction, decreed the suit in Tata Sons' favour, and directed the domain registrar to transfer the infringing domain to Tata Sons. [Tata Sons Private Limited v Rajesh Kumar & Ors., CS(COMM) 890/2024]



Anushka Tripathi

Intellectual Property Rights

Delhi High Court Declines to Stay Release of Web Series UP 77

The Delhi High Court has refused to stay the release of the upcoming web series UP 77, despite a petition filed by Richa Dubey, wife of the late Uttar Pradesh gangster Vikas Dubey seeking to block its launch. Ms. Dubey's plea alleged that the series — slated for release on the Waves OTT platform contains an unauthorised biographical depiction and could cause personal trauma and reputational harm to her family. During the hearing, the producer clarified before a Single-Judge Bench of Justice Sachin Datta that UP 77 is a work of pure fiction and is not based on the life of any real person, including Vikas Dubey. The Court also noted that a disclaimer will be shown before each episode to reinforce this point. In light of the producer's undertakings including a willingness to issue further declarations or press statements the Court declined to intervene at this stage. The matter has been listed for further hearing on January 7, 2026.



Swagita Pandey



Quick Bites

Alleged Unauthorised Use of Music Under Judicial Scrutiny



The Bombay High Court is Examining Allegations that Copyrighted Sound Recordings were Repeatedly Used as Background Music Across Multiple Seasons of the Great Indian Kapil Show Without a Valid Licence. The Case Highlights that Each use of a Sound Recording Requires Authorisation and Repeated or Continuous Use May Strengthen Claims of Copyright Infringement Under the Copyright Act.

Cause Title: Phonographic Performance Limited v. K9 Films Private Limited, COMIPL/J/40866/2025

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Bombay High Court Asked to Adjudicate Music Copyright Infringement in Netflix's 'The Great Indian Kapil Show'

Phonographic Performance Limited (PPL), a major copyright society representing sound recording rights, has initiated legal proceedings in the Bombay High Court against the production entities behind The Great Indian Kapil Show, Netflix's popular comedy series alleging unauthorised use of copyrighted music without a licence. According to PPL, sound recordings were regularly used as background music during live recordings of the show including through multiple seasons without obtaining the requisite licence, and therefore constitute infringement under India's Copyright Act. Justice Sharmila Deshmukh has permitted the defendants two weeks to file their reply to the plea, signalling that the Court will soon scrutinise whether the reproduction or public performance of the sound recordings indeed amounts to a statutory violation of copyright rights. PPL has sought interim relief, including an injunction to restrain further unauthorised use of its licensed sound recordings, and even the appointment of a Court Receiver to seize devices or media containing the allegedly infringing material.



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Litigation

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Quick Bites

What Wasn't Decided Can't Bind: Bombay HC on Res Judicata



- Bombay High Court Held that Res Judicata Applies Only to Issues Directly and Substantially in Issue and Finally Decided in Earlier Proceedings
- Since Coercion was Neither Pleaded Nor Framed as an Issue Before the Cooperative Court, the Doctrine Could Not Be Invoked
- Court Reiterated that Observations on Unrelated Issues Do Not Operate as Res Judicata, Relying on Nand Ram V. Jagdish Prasad
- On Merits, the Court Refused to Interfere with the Arbitral Tribunal's Factual Finding on Coercion Under Section 34
- Result: Interest Component Severed; Arbitral Award Otherwise Upheld

Case Title: TJSB Sahakari Bank Ltd. Vs. Amritlal P Shah, 2025; BHC-OS: 25458

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TJSB Sahakari Bank Ltd. Vs. Amritlal P Shah, 2025: BHC-OS: 25458

The Hon'ble Bombay High Court held that a plea of res judicata can be examined only by analysing the pleadings, issues, and final adjudication in earlier proceedings. Since no issue of coercion was framed or decided by the Cooperative Court, the question whether the letter was obtained by misrepresentation or coercion was neither directly nor substantially in issue earlier, and res judicata did not apply. Relying on Nand Ram v. Jagdish Prasad, the Court reiterated that reasons recorded on unrelated issues do not operate as res judicata. On merits, the Court declined interference with the arbitral tribunal's factual findings on coercion under Section 34. However, it held that awarding interest beyond the relief claimed constituted patent illegality, and therefore partially set aside the award by severing the interest component.



Shyam Kishor Maurya

M/s Ramacivil India Construction Pvt Ltd. Vs. Union of India, 2025: DHC: 11387-DB

The Division Bench of Hon'ble Delhi High Court examined whether the appeals were maintainable under Section 13(1) of the Commercial Courts Act, 2015 ("CC Act") and Section 10 of the Delhi High Court Act, 1966 ("DHC Act"). It held that under the proviso to Section 13, CC Act, appeals are maintainable only against orders specifically enumerated in Order XLIII CPC, apart from Section 37 of the Arbitration Act. In execution proceedings arising from arbitral awards, only orders falling under Order XLIII Rule 1(j) or 1(ja) are appealable. Since the impugned order merely closed execution proceedings with directions on interest, the appeal was not maintainable under Section 13, CC Act. The Court further held that Section 21 and Section 13(2) of the CC Act override Section 10 of the DHC Act, rendering the appeals non-maintainable thereunder as well.



Shyam Kishor Maurya

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Execution Orders & Appeals: Delhi HC Draws a Clear Line



Special Law Overrides General Law.

- Delhi High Court Held that Appeals Under Section 13(1) of the Commercial Courts Act are Maintainable Only Against Orders Expressly Listed in Order XLIII CPC and Section 37 of the Arbitration Act
- In Execution Proceedings Arising from Arbitral Awards, Only Orders Under Order XLIII Rule 1(j) or 1(ja) are Appealable
- An Order Merely Closing Execution Proceedings with Directions on Interest Does Not Meet This Threshold
- The Court Further Ruled that Sections 21 and 13(2) of the CC Act Overrides Section 10 of the Delhi High Court Act, Barring Intra-Court Appeals

Case Title: M/s Ramacivil India Construction Pvt Ltd. Vs. Union of India, 2025; DHC: 11387-DB

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Arbitral Award Ends the Process – A Fresh Notice Is Mandatory



Once an Arbitral Award is Passed, the Proceedings Stand Terminated Under Section 32 of the Arbitration Act. The Arbitral Tribunal Becomes Functus Officio, Retaining Only Limited Statutory Powers. If Arbitration is to Be Re-Invoked, a Fresh Notice Under Section 21 is Compulsory – There is No Automatic Continuation, Even if the Award is Later Challenged or Set Aside.

Cause Title: M/s. Agro Indus Credits Limited Vs.S. Mangalan S @ Jagan Mangalan and Others, 2025: KER: 97789

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M/s. Agro Indus Credits Limited Vs.S. Mangalan S @ Jagan Mangalan and Others, 2025: KER: 97789

The Hon'ble Kerala High Court held that the passing of an arbitral award terminates arbitral proceedings under Section 32 of the Arbitration Act, irrespective of whether the award is subsequently set aside or declared a nullity. Upon such termination, the arbitral tribunal becomes functus officio, retaining only limited powers under Sections 33 and 34(4). The Court clarified that a notice under Section 21 merely marks commencement for limitation purposes, and once proceedings stand terminated, a fresh notice under Section 21 is mandatory to initiate new arbitral proceedings. Relying on Adavya Projects Pvt. Ltd. and a conjoint reading of Sections 21, 32 and 43(4), the Court held that exclusion of time under Section 43(4) presupposes fresh commencement. Distinguishing Kirloskar Pneumatic, the Court dismissed the petitions as premature for want of a fresh arbitration notice.



Shyam Kishor Maurya

Municipal Corporation, Jalandhar and Others Vs. M/s JITF Urban Waste Management Ltd. and Others, 2025: PHC:171404-DB

The Hon'ble Punjab & Haryana High Court examined Section 36 of the Arbitration Act and held that an unconditional stay under the proviso to Section 36(3) can be granted only where the award is prima facie shown to be induced by fraud or corruption. As no such plea was raised by the Municipal Corporations, the proviso was inapplicable. The Court further held that while considering stay of execution, due regard must be had to Order XLI Rule 5 CPC, under which a money decree is not automatically stayed. Relying on PAM Developments Pvt. Ltd. v. State of West Bengal, the Court rejected the claim of any special status for Municipal Corporations, reiterating equal treatment under Section 18 of the Act. Finding no infirmity in the direction to deposit 100% of the award amount and noting the contumacious conduct of the Corporations, the appeals were dismissed.



Shyam Kishor Maurya

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No Special Treatment for Municipal Bodies in Award Enforcement



Unconditional Stay of an Arbitral Award is an Exception—Not the Rule.

In the Absence of Fraud or Corruption, Even Municipal Corporations Must Comply with Section 36 and Deposit the Award Amount.

Equality Before the Arbitration Act Means Public Authorities Stand on the Same Footing as Private Parties.

Cause Title: Municipal Corporation, Jalandhar and Others Vs. M/s JITF Urban Waste Management Ltd. and Others, 2025: PHC:171404-DB

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Litigation



Bail Set Aside for Abuse of Liberty

The Supreme Court set aside the Madras High Court's order granting bail to accused persons in an attempt to murder case, holding that the order was vitiated by perversity, arbitrariness, and non-application of mind. The Court noted that the High Court failed to consider a crucial fact that while earlier on bail, the accused had allegedly murdered a key eyewitness, leading to cancellation of their bail. Although the victim's right to be heard under Section 15A(5) of the SC/ST Act was not violated, the bail order ignored prior misuse of liberty, gravity of offences, criminal antecedents, and threats to fair trial. The accused were directed to surrender.

LAKSHMANAN VERSUS STATE THROUGH THE DEPUTY SUPERINTENDENT OF POLICE & ORS. ETC., SLP (Crl.) Nos. 6647 - 6650 of 2025



Ananya Jain

Criminal Revision Does Not Abate on Death of Informant

The Supreme Court held that a criminal revision petition does not automatically abate upon the death of the revisionist, particularly when it is filed by an informant or victim and not by an accused. Unlike criminal appeals governed by Section 394 CrPC, there is no statutory provision for abatement of revisions. Revisional jurisdiction under Sections 397 and 401 CrPC is discretionary and aimed at correcting illegality or impropriety. While substitution cannot be claimed as of right, the court may permit a victim, as defined under Section 2(wa) CrPC, to assist the court. Accordingly, the High Court erred in treating the revision as abated.

Syed Shanawaz Ali v The State of Madhya Pradesh, CRIMINAL APPEAL NOS. 5589-5590 OF 2025



Ananya Jain

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Criminal Revision Survives the Informant

- Criminal Revision Does Not Automatically Abate on the Informant's Death
- Section 394 CrPC Applies to Appeals, Not Revisions
- Revisional Jurisdiction is Discretionary, Meant to Correct Illegality
- Victims May Be Permitted to Assist the Court, Though Substitution is Not a Right
- High Court Erred in Treating the Revision as Abated

Cause Title: Syed Shanawaz Ali v. The State of Madhya Pradesh, CRIMINAL APPEAL NOS. 5589-5590 of 2025

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The NCLAT Chennai has held that the NCLT can order a forensic audit on its own motion, even in the absence of a specific application by any party, as such power is inherent and self-ordained under Rule 43 of the NCLT Rules, 2016.

Dismissing the appeal filed by Able Automobiles Pvt. Ltd. and its directors, the tribunal upheld the NCLT Kochi's order directing a forensic audit into alleged shareholding manipulation and financial irregularities. It clarified that Rule 43 does not mandate a formal application and permits the tribunal to seek documents or order an audit wherever necessary to test allegations on the anvil of evidence.

The NCLAT further held that a forensic audit does not amount to a fishing or roving inquiry nor does it prejudice any party, as the audit report remains subject to challenge during proceedings. Finding no jurisdictional error or procedural impropriety, the appeal was dismissed.

Case Title: Able Automobiles Private Limited and Ors v. Smt Rekha Singhal and Ors

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NCLT Can Order Forensic Audit Suo Motu – Inherent Powers Upheld

- ✓ Rule-43, NCLT Rules
- ✓ Power is self-ordained

The NCLAT Has Affirmed that the NCLT is Empowered Under Rule 43 of the NCLT Rules to Direct a Forensic Audit on its Own Motion, Even Without a Formal Application By Any Party. Such an Order is Neither a Fishing Inquiry Nor Prejudicial, as the Audit Report Remains Open to Challenge During Proceedings. The Ruling Reinforces the Tribunal's Authority to Seek Evidence Wherever Necessary to Test Serious Allegations of Financial Irregularities.

Case Title: Able Automobiles Private Limited and Ors v. Smt Rekha Singhal and Ors

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The NCLT Kolkata has held that a party cannot seek restoration of a dismissed application by relying on a “liberal approach” if it has failed to act within the statutory time limit prescribed under law.

Refusing to restore an application filed by Eastern Power Distribution Company of Andhra Pradesh Ltd, the tribunal observed that although restoration matters are generally approached leniently to safeguard the right to be heard, such indulgence cannot be extended to litigants who were aware of the dismissal but did not pursue remedies within time. The application, dismissed for default on November 7, 2023, was required to be restored within 30 days under Rule 48(2) of the NCLT Rules, which was not complied with.

The tribunal rejected the explanation blaming previous counsel and held that no sufficient cause was shown to condone the delay. Emphasising that judicial discretion cannot override statutory timelines, the NCLT dismissed the restoration plea.

Case Title: Eastern Power Distribution Company of Andhra



Siddharth Dewalwar

Statutory Time Limits Prevail Over Liberal Approach: NCLT Kolkata



The NCLT Kolkata Held that a Dismissed Application Cannot Be Restored By Invoking a “Liberal Approach” Once the Statutory Time Limit Has Expired. The Tribunal Noted that Although Restoration Matters are Generally Viewed Leniently, Such Discretion Cannot Override Rule 48(2) of the NCLT Rules, Which Mandates Filing Within 30 Days, as the Applicant Failed to Act Within Time and Showed No Sufficient Cause for Delay, the Restoration Plea Was Dismissed, Reaffirming that Judicial Discretion Cannot Prevail Over Statutory Timelines.

Cause Title: Eastern Power Distribution Company of Andhra

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The NCLT Chennai has reiterated that it cannot direct criminal prosecution for forgery or fabrication of documents unless the offence is shown to have been committed while the document was in the tribunal's custody.

Dismissing applications filed by a shareholder challenging insolvency proceedings, the tribunal held that allegations of forged documents prepared prior to their filing before the NCLT do not attract its limited criminal jurisdiction under the Bharatiya Nagarik Suraksha Sanhita. Relying on the Supreme Court's ruling in Iqbal Singh Marwah, it clarified that criminal action can be triggered only if the document is forged after it comes into custodia legis.

The tribunal further found no material to substantiate claims of fraud or malicious initiation of insolvency proceedings and declined to interfere, noting that the resolution process had already been completed. All applications were dismissed.

Case Title : Dr. Ravi Shankar Vedam v. M Poobalan

Case Number: IA(IBC)/462/CHE/2024 in CP(IBC)/39/CHE/2018



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NCLT's Criminal Jurisdiction Begins Only After Custodia Legis

The NCLT Cannot Order Prosecution for Forged or Fabricated Documents Unless the Offence Occurs After the Document is Filed Before the Tribunal. Alleged Forgery Committed Prior to Filing Remains Outside NCLT's Limited Criminal Jurisdiction. Relying on Iqbal Singh Marwah, the Chennai Bench Reaffirmed that Pre-Filing Acts Do Not Invite NCLT Prosecution.

Case Title: Dr. Ravi Shankar Vedam v. M Poobalan
Case Number: IA(IBC)/462/CHE/2024 in CP(IBC)/39/CHE/2018

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The NCLAT Delhi has reiterated that insolvency proceedings under the Insolvency and Bankruptcy Code cannot be invoked as a recovery mechanism for disputed contractual claims, and are confined to clear cases of default where no genuine dispute exists.

Dismissing FTI Consulting India Pvt. Ltd.'s appeal against rejection of its Section 9 CIRP plea, the tribunal held that the dispute arising from an expert services agreement with MGF Developments Ltd. was purely commercial in nature. It noted that MGF had raised bona fide disputes relating to performance of services after the exit of the named expert, alleged duplication of work, payments already made, and frustration of contract, all of which predated the demand notice.

Relying on Mobilox Innovations v. Kirusa Software, the NCLAT held that once a real and substantial dispute is shown to exist, the insolvency process cannot be used to adjudicate contractual disagreements. Finding no error in the NCLAT's approach, the appeal was dismissed.

Case Title: FTI Consulting India Pvt. Ltd. Versus MGF Developments Ltd.

Case Number: Company Appeal (AT) (Insolvency) No. 1971 of 2025



Quick Bites

IBC is Not a Shortcut for Contractual Disputes



The NCLAT Reaffirmed that Insolvency Proceedings are Meant for Clear, Undisputed Defaults—Not for Resolving Commercial Disagreements.

Where Bona Fide Disputes on Performance, Payments, or Contract Frustration Exist, the IBC Gate Remains Firmly Closed.

Recovery Cannot Be Dressed Up as Insolvency.

Case Title: FTI Consulting India Pvt. Ltd. Versus MGF Developments Ltd.
Case Number: Company Appeal (AT) (Insolvency) No. 1971 of 2025

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Lexport is a full-service Indian law firm offering consulting, litigation and representation services to a range of clients.

The core competencies of our firm's practice *inter alia* are Trade Laws (Customs, GST & Foreign Trade Policy), Corporate and Commercial Laws and Intellectual Property Rights.

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