Lexport Interpreting India for commerce

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LEXPORT NEWSLETTER

NOVEMBER 2026 | WEEK 2

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

States' Power To Levy Additional Sales Tax Academic After GST: Supreme Court Disposes Of 27-Year-Old Reference

The Supreme Court, while deciding a 27-year-old reference, held that the question concerning the legislative competence of State legislatures to impose additional sales tax, surcharge or cess calculated on the basis of existing sales tax has become academic following the introduction of the Goods and Services Tax (GST) regime.

The matter arose from Arjun Flour Mills v. State of Odisha, which challenged Section 5A of the Odisha Sales Tax Act, 1947, providing for additional tax at 10% and 15% depending on the annual turnover of dealers. The central issue was whether such additional levy fell within the States' legislative competence under Entry 54 of List II of the Seventh Schedule to the Constitution or amounted to a tax on income falling under Entry 82 of List I.

A seven-judge Constitution Bench headed by Chief Justice Surya Kant observed that an additional tax or surcharge calculated as a percentage of the existing sales tax payable constitutes an enhancement of the rate of sales tax and falls within the erstwhile Entry 54 of List II. The Court further clarified that the decision in India Cement did not establish that a levy calculated as a percentage of another tax was, for that reason alone, beyond legislative competence.

However, the Bench noted that the constitutional entry and State enactments under which the disputed levies were imposed had since been substituted or replaced following the introduction of GST. Accordingly, the reference had lost its prospective significance and was disposed of as infructuous.

The Court left open certain questions concerning the validity of the surcharge under the Punjab General Sales Tax Act, 1948, and whether cess proceeds under the Punjab Social Security Act, 2000, could be credited directly to the Punjab Social Security Fund without first forming part of the Consolidated Fund of the State under Article 266 of the Constitution. Other contentions concerning pending assessments and consequential reliefs were also left open.

In a separate opinion, Justice K.V. Viswanathan held that S. Kodar v. State of Kerala was correctly decided and continued to be good law, clarifying that additional sales tax is a levy on the sale of goods and not a tax on the dealer's income.

Arjun Flour Mills v. State of Odisha, Civil Appeal No. 8763 of 1994 (2026 LLBiz SC 349).





Soumya Shrivastava



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Indirect Tax

Bombay High Court Sets Aside Asahi India Glass Customs Order Over Untraceable Judicial Citations

The Bombay High Court set aside a customs adjudication order passed against Asahi India Glass Ltd., holding that an order relying on judicial precedents that the Customs Department itself admitted could not be traced could not be sustained.

The matter arose from a challenge to an order dated October 15, 2025, passed by the Deputy Commissioner of Customs, which held that the 15-day time limit prescribed under Section 17(5) of the Customs Act, 1962, for passing a speaking order was directory and not mandatory. The authority had relied on several judicial decisions to support this interpretation.

During the proceedings, the Customs Department admitted in its affidavit that the judicial citations referred to in paragraphs 4.7 and 5.3 of the impugned order could not be traced in the form and citation provided. The Department further stated that it no longer relied on those authorities and regretted the error.

Relying on the Supreme Court's observations in Vijay Ghanshyam Gadiya v. Union of India, concerning reliance on dubious or fabricated judicial precedents, the High Court held that the impugned order could not be sustained.

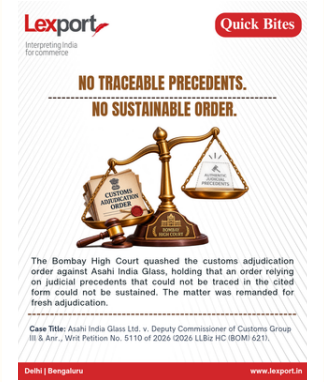
The Court also observed that where subsequent imports comprise goods identical to those previously classified by a superior customs authority, consistency in classification must be maintained. It noted that the earlier classification of the imported goods under CTH 7005 10 had been accepted by the Committee of Commissioners of Customs and directed the adjudicating authority to consider the same while deciding the matter afresh.

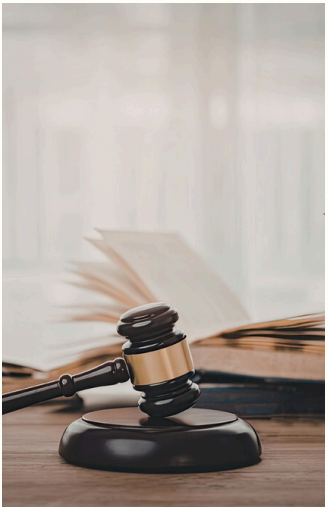
Accordingly, the Court quashed the impugned order and remanded the show cause notice to the Deputy Commissioner of Customs for fresh adjudication, preferably within four weeks, after providing the company an opportunity of personal hearing. The question of jurisdiction to issue the show cause notice was expressly kept open.

Asahi India Glass Ltd. v. Deputy Commissioner of Customs Group III & Anr., Writ Petition No. 5110 of 2026 (2026 LLBiz HC (BOM) 621).



Soumya Shrivastava





Indirect Tax

Customs Appeals involving prohibited goods not exempt from ₹1 Crore monetary threshold: Delhi High Court

The Delhi High Court held that the involvement of prohibited goods in a customs dispute does not exempt the Customs Department from complying with the minimum monetary threshold of ₹1 crore prescribed for filing appeals before the High Court under the Central Board of Indirect Taxes and Customs (CBIC) instructions dated November 2, 2023.

The matter arose from an appeal filed by the Commissioner of Customs under Section 130A of the Customs Act, 1962, challenging an order passed by the Customs, Excise and Service Tax Appellate Tribunal (CESTAT). The respondent raised a preliminary objection to the maintainability of the appeal, contending that the amount involved was below the prescribed monetary limit of ₹1 crore.

The Customs Department argued that the monetary threshold would not apply as the dispute involved prohibited goods. However, the Division Bench of Justices Avneesh Jhingan and Shail Jain observed that the CBIC instructions expressly provide only three exceptions to the monetary limits: cases involving the constitutional validity of statutory provisions, cases where notifications, instructions, orders or circulars have been held illegal or ultra vires, and classification or refund issues involving questions of a legal or recurring nature.

The Court noted that the instructions did not provide any separate exception for disputes involving prohibited goods. Accordingly, it held that the Department could not bypass the prescribed monetary threshold merely on the ground that the dispute concerned prohibited items.

Consequently, the High Court dismissed the appeal as not maintainable, reiterating that the monetary limits prescribed under the CBIC instructions must be adhered to unless the case falls within one of the specified exceptions.

Commissioner of Customs v. M/s The Craft Harvest, CUSAA 7/2024 (2026 LLBiz HC (DEL) 1221).



Soumya Shrivastava





Indirect Tax

GST Paid Under Wrong Tax Head Cannot Trigger Recovery Without Evasion: Bombay High Court

The Bombay High Court held that payment of GST under an incorrect tax head, without any deliberate attempt to evade tax, cannot justify the invocation of Section 74 of the Central Goods and Services Tax (CGST) Act, 2017, particularly when the amount already paid can be transferred to the correct tax head.

The matter arose from a petition filed by DHR Holding India Private Limited, which had paid ₹7.65 crore as CGST and SGST on consideration received from its foreign group companies towards warranty support services. Subsequently, the GST Department treated the transactions as inter-State supplies and issued a show cause notice under Section 74 of the CGST Act, demanding IGST on the same transactions for the same period.

The company contended that the entire GST amount had already been discharged and that the amount paid under CGST and SGST could be transferred to the IGST account instead of demanding payment again. The Department, however, argued that the three tax components were credited to separate government accounts and that it was not obligated to adjust the amount already paid.

The Division Bench of Justices M.S. Karnik and Sandesh D. Patil referred to Section 77 of the CGST Act and Section 19 of the Integrated Goods and Services Tax (IGST) Act, which deal with payment of tax under an incorrect head. Relying on the Supreme Court's decision in Tata Steel Limited v. Union of India, the Court observed that proceedings under Section 74 require the establishment of fraud, wilful misrepresentation or suppression of facts, supported by foundational facts in the show cause notice.

Finding no deliberate attempt to evade tax, the Court held that invocation of Section 74 was unwarranted and that the Department could have transferred the amount already paid under CGST and SGST to the IGST account.

Accordingly, the Court quashed the impugned demand order and directed the company to apply, along with proof of payment, within three weeks for transfer of ₹7,65,03,407 to the IGST account. The Department was directed to effect the transfer forthwith upon receipt of the application. The Court clarified that it had not determined the total IGST liability and that the Department remained free to recover any additional amount legally payable.

DHR Holding India Private Limited v. Union of India & Ors., Writ Petition No. 1214 of 2025 (2026 LLBiz HC (BOM) 637).



Soumya Shrivastava





Indirect Tax

Gujarat High Court Rejects Challenge To State Tax Inspector's Authority To Intercept Vehicles Carrying Goods

The Gujarat High Court dismissed a writ petition challenging the authority of a State Tax Inspector to intercept vehicles carrying goods and sign Form GST MOV-01 under Section 68(3) of the Gujarat Goods and Services Tax Act, 2017.

The matter arose from a petition filed by M/s Riddhi Siddhi Enterprises challenging detention and confiscation proceedings initiated against it. The petitioner contended that Form GST MOV-01 dated July 8, 2026, was signed by a State Tax Inspector, although the relevant powers had allegedly been delegated only to State Tax Officers under an earlier order dated June 23, 2017. It argued that the State Tax Officer could not further delegate such powers to an Inspector. The petitioner also complained that the physical verification and inspection reports relied upon by the authorities had not been furnished.

The State Government opposed the petition, relying on an amended order dated June 15, 2019, issued by the Chief Commissioner of State Tax, which expressly included State Tax Inspectors among the officers authorised to intercept conveyances and inspect documents, devices and goods under Section 68(3) of the Gujarat GST Act.

Accepting the State's submission, the Division Bench of Justices Sangeeta K. Vishen and P. M. Raval observed that the 2019 order specifically designated State Tax Inspectors to exercise powers under Section 68(3). Accordingly, the Court rejected the contention that Form GST MOV-01 had not been signed by an authorised officer.

On the issue of non-supply of inspection reports, the State Government undertook to furnish the reports in accordance with Section 169 of the Act. The Court also observed that the petitioner could avail itself of the statutory remedies available under the GST Acts if an adverse order was passed in the detention and confiscation proceedings.

Accordingly, the High Court dismissed the writ petition, declining to interfere with the proceedings initiated through Forms GST MOV-06 and MOV-10.

M/s Riddhi Siddhi Enterprises v. State of Gujarat & Ors., R/Special Civil Application No. 16482 of 2026 (2026 LLBiz HC (GUJ) 169).





Soumya Shrivastava



Indirect Tax

Bombay High Court Quashes Denial Of ₹6.29 Crore Transitional ITC Over Wrong TRAN-1 Entry

The Bombay High Court set aside the denial of transitional Input Tax Credit (ITC) amounting to ₹6.29 crore to Laxmi Organic Industries Limited, holding that eligible credit cannot be denied merely because it was inadvertently claimed under an incorrect provision or column in Form GST TRAN-1.

The matter arose from a dispute concerning transitional credit of ₹6,29,02,146, which the company had carried forward from the erstwhile CENVAT regime into the GST regime by filing Form TRAN-1. The GST authorities denied the credit on the ground that it had been claimed under Section 140(5) of the Central Goods and Services Tax (CGST) Act, 2017, instead of Section 140(1). The demand for reversal was confirmed by the adjudicating authority, and the company's subsequent appeal was also dismissed.

The company contended that its eligibility for the credit and the amount involved had never been disputed by the Department. It argued that the credit had been claimed within the prescribed time and that an inadvertent error in mentioning the relevant statutory provision could not justify denial of an otherwise admissible credit.

The Division Bench of Justices M.S. Karnik and Sandesh D. Patil observed that Form TRAN-1 is a declaration subject to verification and scrutiny by the Revenue. It held that mentioning an incorrect provision or reporting the credit under a wrong category or column could not, by itself, constitute a valid ground for disallowing the credit. The Court further observed that unutilised credit arising from duty or tax already paid is a vested and indefeasible right that cannot be taken away on technical grounds.

Relying on its earlier decision in Heritage Lifestyles and Developers Private Limited v. Union of India, the Court reiterated that admitted input tax credit cannot be denied merely on account of procedural or technical defects when the substantive eligibility remains undisputed.

Accordingly, the High Court allowed the writ petition, quashed the impugned order denying transitional credit of ₹6.29 crore and made the Rule absolute.

Laxmi Organic Industries Ltd. v. Union of India & Ors., Writ Petition No. 5508 of 2024 (2026 LLBiz HC (BOM) 645).





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Intellectual Property Rights

Delhi High Court Grants Interim Injunction Against Intas' 'NO-CINV' for Prima Facie Infringement of Helsinn's Patent

The Delhi High Court granted an ad interim injunction in favour of Helsinn Healthcare SA and its Indian exclusive licensee, restraining Intas Pharmaceutical Limited from dealing in its generic product 'NO-CINV', which allegedly infringes Indian Patent No. 426553. The patent covers a combination of Netupitant (200–400 mg) and Palonosetron hydrochloride (0.56 mg) for treating Chemotherapy-Induced Nausea and Vomiting (CINV). Intas' product comprised two separate tablets containing Netupitant 300 mg and Palonosetron 0.5 mg, packaged together as a single combipack.

The Court held that the product prima facie fell within Claims 1 to 4 of the suit patent, observing that packaging the two active ingredients as separate tablets in an integrated combipack did not take the product outside the scope of the patent. It also noted that Intas had not initiated any proceedings challenging the validity of the granted patent before launching its product. Relying on the clear the way principle, the Court observed that Intas had taken a commercial risk by proceeding with the launch without first challenging the patent. Its plea of lack of novelty, based on the combination of two known substances, required detailed examination and could not be determined at this initial stage.

Accordingly, Intas was restrained, until the next hearing, from manufacturing, selling, offering for sale, distributing, advertising, exporting or otherwise dealing in NO-CINV or any other product infringing the suit patent. The Court clarified that its observations were prima facie and Intas remained free to raise all permissible defences. The matter was listed for further consideration on 17 November 2026.

Helsinn Healthcare SA & Anr. v. Intas Pharmaceutical Limited, CS(COMM) 1219/2026



Anushka Tripathi





Intellectual Property Rights

Delhi High Court Restrains Former Franchisee from Publishing 'The Pioneer' Newspaper After Termination of MoU

The Delhi High Court granted an interim injunction in favour of CMYK Printech Limited, restraining Ascendas Media Private Limited from printing, publishing or circulating the Hyderabad edition of The Pioneer after termination of their Memorandum of Understanding (MoU). The Plaintiff, which claimed continuous use of the mark since 1865, had granted the Defendant franchise rights in 2018 to publish the Hyderabad edition. Following alleged payment defaults, the Plaintiff terminated the MoU on 17 February 2026. Despite the termination and subsequent assurances to cease publication, the Defendant allegedly continued publishing the newspaper under the Plaintiff's mark.

The Court observed that the Defendant's right to use "THE PIONEER" arose solely from the MoU and was dependent on the authorisation granted under it. The Court noted that the Plaintiff's earlier trademark registrations had expired, with renewal/restoration pending, but held that its longstanding use since 1865 prima facie established goodwill and reputation. Continued publication without authorisation was likely to mislead readers and advertisers into believing that the newspaper remained associated with or approved by the Plaintiff, thereby causing irreparable injury to its goodwill.

Accordingly, the Court restrained the Defendant from using the mark "THE PIONEER" or any identical or deceptively similar mark in relation to newspapers, e-papers, digital media publications and related goods or services, and from passing off its publications as those of the Plaintiff.

CMYK Printech Limited v. Ascendas Media Private Limited, CS(COMM) 1204/2026



Anushka Tripathi







Intellectual Property Rights

Delhi High Court Grants Ex Parte Injunction Against Sale of Counterfeit 'ALPS GOODNESS' Products on Amazon

The Delhi High Court granted an ex parte ad interim injunction in favour of Manash Lifestyle Private Limited, the owner of the registered trademark ALPS GOODNESS, against the sale of counterfeit ALPS GOODNESS ROSEMARY WATER products through Amazon. The Plaintiff alleged that Defendant Nos. 1 and 2 were using its genuine product listings to sell counterfeit goods bearing deceptively similar packaging, artwork, labels and trade dress. Test purchases revealed that the counterfeit products closely imitated the original packaging, with only minor discrepancies.

The Plaintiff also brought to the Court's attention a promotional leaflet depicting its ALPS GOODNESS ROSEMARY WATER as the "OLD LOOK" and the Defendants' product under the mark BUFF OUT as the "NEW LOOK", suggesting that the latter was a successor or replacement product. The Court found a prima facie case of trademark and copyright infringement and passing off, noting that the Defendants were exploiting the Plaintiff's brand identity and trade dress.

The Court restrained Defendant Nos. 1 and 2 from dealing in products bearing the Plaintiff's marks or deceptively similar packaging, and from using the impugned promotional material. Amazon was directed to delist the identified counterfeit offers without removing genuine listings and to disclose the sellers' KYC and GST details within two weeks. The Plaintiff was also permitted to bring further infringing listings and promotional material on record for extension of the injunction.

Manash Lifestyle Private Limited v. Mayur Dhanji Hanat & Ors., CS(COMM) 1180/2026



Anushka Tripathi







Intellectual Property Rights

Delhi High Court Sets Aside Trademark Refusal for Failure to Pass a Reasoned Order

The Delhi High Court set aside the Trade Marks Registrar's refusal of Amala Earth Private Limited's trademark application No. 6060045 in Class 5, holding that the impugned order was non-speaking and failed to consider the Applicant's submissions in response to the Examination Report. The Applicant had relied on its prior use of the label mark since 10 August 2023, registrations of its marks in other classes, and the dissimilarity between its mark and the cited marks "ONE" and "ONE SPORTS NUTRITION". It had also explained that "O.N.E." represented "Organic, Natural and Earth Friendly Living", with dots separating the letters.

The Court observed that the Registrar had rejected the application merely by reproducing the language of Section 11(1) of the Trade Marks Act, 1999, without addressing the Applicant's specific submissions. It reiterated that a quasi-judicial authority must apply its mind to the material placed before it and record cogent reasons supporting its decision. Merely stating that the marks were similar and likely to cause confusion does not satisfy the requirement of a reasoned order.

Accordingly, the Court allowed the appeal, set aside the refusal order and remanded the matter to the Trade Marks Registrar for fresh consideration in accordance with law within six weeks. It clarified that no observations had been made on the merits of the application.

M/s Amala Earth Private Limited v. The Registrar of Trade Marks, C.A.(COMM.IPD-TM) 16/2025



Anushka Tripathi







Intellectual Property Rights

Delhi High Court Grants Ex Parte Injunction Against Commercial Law Publishers for Copying Taxmann's Copyright-Protected Headnotes

The Delhi High Court granted an ex parte ad interim injunction in favour of Taxmann Allied Services Pvt. Ltd. against Commercial Law Publishers (India) Pvt. Ltd. and others for unauthorised reproduction of its original legal headnotes. Taxmann alleged that the Defendants had copied substantial portions of its copyright-protected headnotes across eight legal publications, including books on income tax, deductions, international taxation and direct tax law. The alleged copying extended to the precise language, structure and phrasing of the headnotes, with certain publications expressly acknowledging "TAXMANN.COM" as their source.

The Court observed that the Defendants had not merely referred to or independently derived legal propositions from judicial decisions but had verbatim reproduced Taxmann's original headnotes, including its distinctive manner of identifying, distilling and presenting legal principles. Upon examining the comparative material, the Court found a prima facie case of copyright infringement and held that the balance of convenience and irreparable injury considerations favoured Taxmann. Accordingly, the Court restrained the Defendants from printing, publishing, reproducing, distributing, selling, advertising or otherwise dealing with the eight impugned publications or any other publications containing Taxmann's headnotes or substantial reproductions thereof.

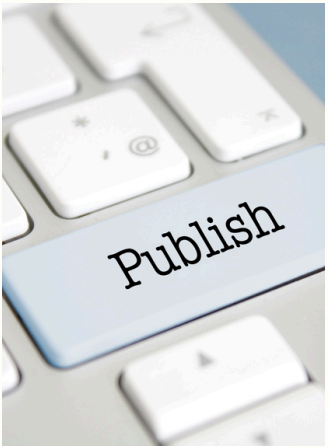
Taxmann Allied Services Pvt. Ltd. v. Commercial Law Publishers (India) Pvt. Ltd. & Ors., CS(COMM) 1133/2026



Anushka Tripathi







Litigation

Company Law / Share Capital / Oppression and Mismanagement

Shareholders Have No Inherent Right To Proportionate Allotment Of Future Shares Unless AoA Provides: Bombay High Court

The Bombay High Court has held that a shareholder does not have an inherent right to receive a proportionate allotment of future shares unless such an entitlement is expressly provided under the company's Articles of Association (AoA). Justice Abhay Ahuja observed that a bona fide increase in share capital, carried out in accordance with the company's rules and for legitimate business purposes, does not amount to oppression merely because it results in dilution of an existing shareholder's percentage holding.

The Court was hearing an appeal filed by Rajiv Kant Laxman under Section 10F of the Companies Act, 1956, challenging the Company Law Board's dismissal of his oppression and mismanagement petition against Bobby Electronics Pvt. Ltd. Laxman alleged that his shareholding had been reduced from 50% to approximately 8%, while Nirmala Dindayal Gosain's shareholding increased from 1% to 92%, following an increase in the company's authorised share capital from ₹10 lakh to ₹70 lakh and the subsequent allotment of 55,910 shares at an EGM held on 20 March 2009.

The Court noted that the company required additional funds for factory reconstruction in light of a demolition notice and found the capital increase to be a bona fide business decision. It held that the resulting dilution followed from the capital increase and the appellant's failure to subscribe to the additional shares. The Court further observed that a person whose name is not recorded in the company's register of members or AoA may not be entitled to formal notice of corporate changes. It emphasised that the High Court's jurisdiction under Section 10F is limited to questions of law and does not permit reappreciation of factual findings unless they are perverse, unsupported by evidence or arbitrary.

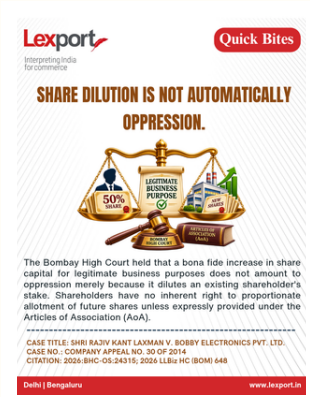


Meyank Pandey

Rejecting the appellant's challenges concerning alleged siphoning of funds, appointment of directors, share dilution and the claim that the company was a quasi-partnership, the Court found no sufficient basis to interfere with the Company Law Board's findings. It held that the appellant had failed to establish oppression or a departure from standards of probity and fair dealing. Accordingly, the High Court dismissed the appeal and disposed of the pending interim applications, with no order as to costs.

Shri Rajiv Kant Laxman v. Bobby Electronics Pvt. Ltd.

Case No.: Company Appeal No. 30 of 2014
Citation: 2026:BHC-OS:24315; 2026 LLBiz HC (BOM) 648





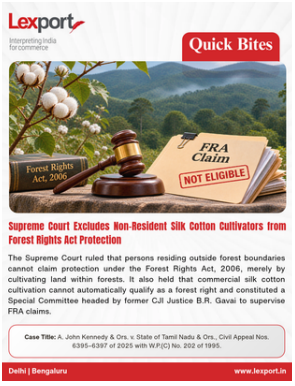
Litigation

Supreme Court Excludes Non-Resident Silk Cotton Cultivators from Forest Rights Act Claims in Megamalai; Constitutes Committee Headed by Former CJI B.R. Gavai

In the continuing proceedings on forest encroachments in the Agasthyamalai landscape, the Supreme Court considered whether occupants of the Megamalai Reserved Forest could claim protection under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 ("FRA"). The State of Tamil Nadu argued that silk cotton had historically been cultivated in the area as a "minor forest produce". It also argued that no evictions should take place until FRA claims had been decided through the three-tier mechanism, which had only recently been set in motion. The Amicus Curiae argued that the 1978 forest settlement proceedings had already dealt with occupants' claims, and that persons living outside the forest who merely cultivated land inside it could not qualify as forest dwellers. The State's own affidavit showed that 4,594 persons occupied about 5,072 hectares of forest land, of which about 3,637 hectares was under silk cotton.

The Court held that FRA claims must be decided strictly through the Section 6 mechanism, and not on the basis of present occupation alone. The Act protects only those who meet Sections 2(c) and 2(o), which require primary residence in, and dependence on, the forest. Persons who cultivate with only temporary residence in the forest, and persons who live outside the forest boundary, were therefore excluded from consideration under the FRA. Taking a prima facie view, the Court found that planned cultivation of a commercial crop is contrary to the concept of naturally occurring minor forest produce under Section 2(i). It also held that such cultivation is not a forest right that can justify continued occupation, stressing that the critical tiger habitat must take primacy. The Court found the State primarily responsible for the delay and granted it a last opportunity of 30 days to constitute the remaining Gram Sabhas. All claims are to be decided within five months after that. The Court also constituted a Special Committee headed by Justice B.R. Gavai, former Chief Justice of India, to supervise and scrutinise the decisions on claims. It directed the Central Empowered Committee (CEC) to give its opinion on whether silk cotton is a minor forest produce, and to examine who is financing the cultivation.

A. John Kennedy & Ors. v. State of Tamil Nadu & Ors., Civil Appeal Nos. 6395–6397 of 2025 with W.P.(C) No. 202 of 1995





Maitreya Mahaley



Litigation

Supreme Court Upholds Compulsory Retirement of Chhattisgarh Government Employees; Says Uncommunicated Adverse Entries May Be Considered

The Supreme Court dismissed appeals filed by two Assistant Grade-III employees of the Legal Metrology Department, Chhattisgarh, against their compulsory retirement under Fundamental Rule 56 and Rule 42 of the Chhattisgarh Civil Services (Pension) Rules, 1976. A Screening Committee had reviewed the service records of 14 clerical employees under a State Circular dated 25 April 2017. It recommended the retirement of 5 employees, including the Appellants, whose overall assessment fell below the Grade 'B' benchmark and whose Annual Confidential Reports for 2013–2017 showed consistent 'C' gradings. The Appellants argued that the orders were punitive and stigmatic and that the criteria had not been applied uniformly. They also argued that their adverse entries had never been communicated to them, and that those entries had lost their effect once they were promoted and regularised.

The Court reiterated that an order of compulsory retirement is neither punitive nor stigmatic. Judicial review is limited to checking whether relevant material existed, whether the authority considered it, and whether a reasonable person could have reached the conclusion drawn from it. The Court also held that an employee cannot challenge such an order merely because a similarly placed officer was left untouched, as Article 14 does not recognise negative equality. On the facts, it found that the parameters had in any case been applied uniformly to all 14 employees. Under the principle in Baikuntha Nath Das, adverse entries lose their effect on promotion only where they pre-date the promotion. That principle does not cover entries recorded in the promoted post itself, and regularisation is not an endorsement of merit. Following Baikuntha Nath Das, the Court held that uncommunicated adverse entries may be taken into account for compulsory retirement. Dev Dutt and Sukhdev Singh operate in the separate field of promotion and career progression and did not help the Appellants.

Chatur Singh Dhruw v. State of Chhattisgarh & Ors., Civil Appeal arising out of SLP(C) No. 24392 of 2023



Maitreya Mahaley





Litigation

Supreme Court Rules Grandson Has No Birthright in Property Allotted to Living Father on Partition Among Class I Heirs

The Supreme Court dismissed an appeal by a grandson who claimed a half share, by birth, in property allotted to his father. The father received the property under a compromise partition decree dated 03.02.1994 among the Class I heirs of the appellant's grandfather. The appellant, born on 06.01.1994, filed a suit for partition through his mother in 1997, after his father had sold the property to third parties. He did not challenge the compromise decree or the sale deeds. Relying on Section 29-A of the Hindu Succession (Tamil Nadu Amendment) Act, 1989, he argued that the property kept its coparcenary character in his father's hands. The Trial Court granted a preliminary decree, which the Madras High Court set aside in first appeal.

Applying C.W.T. v. Chander Sen, Yudhishter and Radha Bai v. Ram Narayan, the Court held that Section 8 of the Hindu Succession Act, 1956 is a self-contained scheme of devolution. A son's son, while his father is alive, is not a Class I heir, and the codified law did not preserve his pre-1956 birthright in his grandfather's property. Property that devolves on a son under Section 8 is held by him individually, and not as HUF property in relation to his own son. Once the Class I heirs partitioned the property, they held their shares as tenants in common and the coparcenary came to an end. The father therefore became the exclusive owner of his share and was free to sell it. The grandfather's succession opened before the appellant was born, and the appellant was not a surviving coparcener at that time. Neither Section 6 of the 1956 Act nor Section 29-A of the Tamil Nadu Amendment applied.

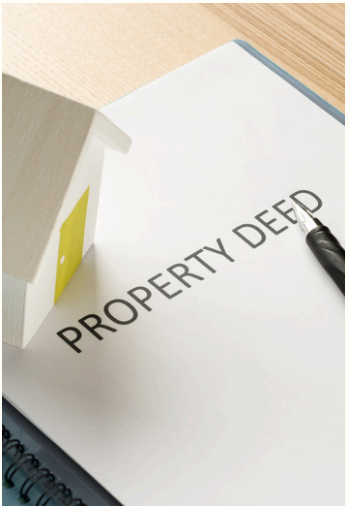
J. Rajesh (Minor) thr. Mother & Natural Guardian J. Gomathi v. M. Kumaran (Dead) thr. LRs & Ors., Civil Appeal No. 7020 of 2012



Maitreya Mahaley







Corporate

Liquidator Bound To Disclose Title Defects Even In 'As Is Where Is' Auction: NCLAT

The Chennai Bench of the National Company Law Appellate Tribunal (NCLAT) held that a liquidator cannot rely on an "as is where is" condition in an auction to avoid disclosing material defects in the title of properties or furnishing available title documents to prospective purchasers.

The matter arose from an e-auction conducted in March 2020 for the sale of properties belonging to Praiseworth Infra Private Limited, comprising vacant land measuring 34,564.30 sq. ft. and a marriage hall constructed on land measuring 14,508 sq. ft. The successful bidders, Pankaj Kumar and Chandra, had deposited earnest money and an additional 25% of their respective bid amounts. However, upon conducting due diligence, they discovered deficiencies in the title documents, discrepancies in land measurements and revenue records, and issues concerning the properties' marketable title.

The liquidator informed the purchasers that the properties had been attached by the Debt Recovery Tribunal (DRT) and that the original title documents were in its custody. The purchasers sought the documents or a refund of their deposited amounts. However, the liquidator forfeited the entire amount on the ground that the balance consideration had not been paid.

The Bench comprising Judicial Member Justice Sharad Kumar Sharma and Technical Member Jatindranath Swain observed that Section 55 of the Transfer of Property Act, 1882, governing the rights and liabilities of buyers and sellers of immovable property, applies even to auctions conducted under the Insolvency and Bankruptcy Code, 2016. It held that an "as is where is" clause does not absolve the liquidator of the obligation to disclose material information and provide available documentation relating to the property's title. The Tribunal further observed that the liquidator should have made efforts to obtain copies of the documents from the bank and DRT or disclosed their unavailability to the purchasers.

The NCLAT also noted that the auction undertakings permitted forfeiture only of the earnest money deposit (EMD) and not the additional payments made by the purchasers.



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Accordingly, the Tribunal set aside the forfeiture and directed the liquidator to refund ₹4,75,84,375 to the purchasers within six weeks. However, it declined to award interest, observing that the purchasers had also failed to undertake proper due diligence. The liquidator was further directed to clear the purchasers of other liabilities, including any restriction on their participation in future tenders.

Case Title: Pankaj Kumar & Chandra v. Praiseworth Infra (P) Ltd., Company Appeal (AT) (Insolvency) No. 462 of 2023 (2026 LLBiz NCLAT 433).





Corporate

Financial Creditors Cannot Be Forced To Accept OTS From Borrowers Who Repeatedly Default On Settlements: NCLAT

The National Company Law Appellate Tribunal (NCLAT), New Delhi, held that financial creditors cannot be compelled to accept a One-Time Settlement (OTS) proposal from a borrower who has repeatedly failed to honour earlier settlement commitments.

The matter arose from an appeal filed by Sudarshan Aithal K., suspended director of Distribution Logistics Infrastructure Private Limited, challenging the order of the NCLT Mumbai admitting insolvency proceedings against the company. The company had borrowed funds from a consortium of lenders for its container train project and subsequently defaulted on repayment obligations.

The company had initially proposed an OTS of ₹580 crore in January 2025, which was subsequently increased to ₹590 crore. The consortium of lenders, led by Bank of Baroda, conditionally accepted the revised proposal subject to an upfront deposit of ₹59 crore by October 7, 2025. However, the company failed to deposit the stipulated amount, following which the lenders rejected the proposal.

During the appellate proceedings, the suspended director offered ₹631 crore towards settlement of the outstanding debt, which was higher than the ₹621 crore consideration for which the lenders had assigned their debt to JM Financial Asset Reconstruction Company Limited. However, the company again failed to honour its commitment to deposit 50% of the proposed amount by July 9, 2026, and the remaining amount by July 20, 2026, despite directions from the Tribunal.

The Bench comprising Judicial Member Justice Mohd Faiz Alam Khan and Technical Member Naresh Salecha observed that the existence of financial debt and default had not been disputed. It further held that the financial creditors could not be compelled to accept another OTS proposal, particularly when the borrower had repeatedly failed to honour its previous settlement commitments and deposit the stipulated amounts within the prescribed timelines.

Accordingly, the NCLAT dismissed the appeal and upheld the NCLT Mumbai's order admitting insolvency proceedings against the corporate debtor.

Case Title: Sudarshan Aithal K. v. Bank of India & Ors., Company Appeal (AT) (Insolvency) No. 1056 of 2026 (2026 LLBiz NCLAT 434).



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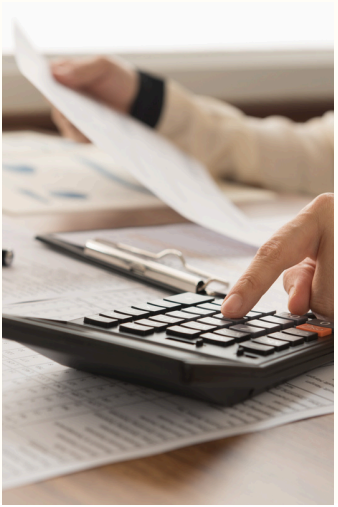

Corporate

NCLT Kochi Approves First Motion For Merger Of 51 Malabar Group Companies With Malabar Gold And Diamonds

The National Company Law Tribunal (NCLT), Kochi, allowed the first-motion application in a composite scheme of amalgamation involving 51 Malabar Group companies with Malabar Gold and Diamonds Limited under Sections 230–232 of the Companies Act, 2013.

The application was filed jointly by the applicant companies seeking directions regarding meetings of their respective shareholders and creditors for consideration of the proposed scheme. The scheme aims to consolidate the group's manufacturing, trading, retail jewellery businesses and allied activities under a single entity, thereby facilitating aggregation of turnover, eliminating cross-holdings, reducing compliance costs and improving operational efficiency.

The Tribunal noted that the respective Boards of Directors had approved the scheme and that the registered offices of the applicant companies fell within its territorial jurisdiction. It was also satisfied that the statutory requirements applicable at the first-motion stage had been complied with.

Accordingly, the Tribunal dispensed with the meetings of shareholders and creditors in 10 of the 51 transferor companies. However, it directed that meetings of shareholders, secured creditors and unsecured creditors be convened in the remaining 41 transferor companies as well as in the transferee company, Malabar Gold and Diamonds Limited, to consider the proposed scheme.

The Tribunal also issued consequential directions regarding quorum, appointment of chairpersons and scrutinisers, publication of meeting notices and service of notices upon statutory authorities, including the Registrar of Companies and the Income Tax Department.

Case Title: Aesthetic Gold Ornaments Private Limited and Ors., CA(CAA)/02/KOB/2026 (2026 LLBiz NCLT (KOC) 258).



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Corporate

Compounding of Companies Act Offence Extinguishes Foundation of Criminal Prosecution: Patna High Court

The Patna High Court, in Subodh Kumar Goel v. State of Bihar and Anr., held that once an offence under the Companies Act has been compounded by the competent statutory authority, criminal prosecution arising from the same contravention cannot continue merely because the compounding order was not communicated to the criminal court. A Single Judge Bench of Justice Ansul quashed the criminal proceedings against a statutory auditor, observing that compounding extinguishes the foundation of the prosecution.

The petitioner, Subodh Kumar Goel, statutory auditor of M/s Geeta Steels Tubes Private Limited, was facing prosecution under Section 233 of the Companies Act, 1956, for alleged non-compliance with Section 227(3)(d) concerning accounting standards, including depreciation on fixed assets, disposal of fixed assets and disclosure of managerial remuneration. During the pendency of the proceedings, the Regional Director, Eastern Region, compounded the offence under Section 441 of the Companies Act, 2013, by an order dated October 19, 2022, upon payment of ₹30,000. The compounding order remained operative and had neither been stayed nor set aside.

Relying on the Supreme Court's decision in V.L.S. Finance Ltd. v. Union of India, the Court held that the Registrar's failure to communicate the compounding order to the criminal court under Section 441(3)(d) could not justify continuation of the prosecution. It further noted that the Registrar had expressly disclosed the pending criminal proceedings while forwarding the compounding application. Accordingly, the Court allowed the petition and quashed the August 2, 2016 order taking cognizance against the petitioner.



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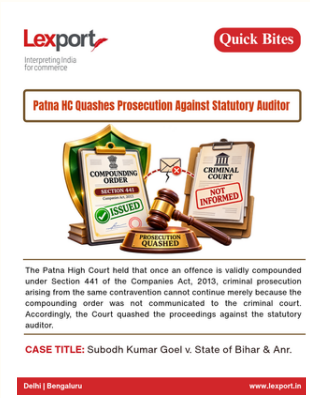

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