

**A
PRESENTATION
ON**



Interplay between GST and Income Tax -A Practitioner's Guide

Seminar organized by :

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"Good people do not need laws to tell them to act responsibly, while bad people will find a way around the laws"

— Plato

INTERPLAY BETWEEN GST AND INCOME TAX

“Same transactions, two laws – and two very different consequences”

GST V/s Income Tax – Foundational Difference

- GST → **Consumption-based Indirect Tax**
- Income Tax → **Direct Tax on Net Earnings**

KEY ASPECTS OF INTERPLAY

- **Real-time coordination** between authorities
- **Data mining** using advanced technology
- **Enhanced scrutiny** and synchronisation
- Increased **compliance burden**

- **GST**
 - Multi-stage levy; **burden on final consumer**

- **Income Tax**
 - **Non transferable tax burden**

- **GST**
 - **Monthly / Quarterly / Annual**
 - Transaction-level tracking
- **Income Tax**
 - **Annual return**
 - Consolidated reporting
- GST discrepancies may trigger **Income Tax scrutiny**

TURNOVER RECONCILIATION

- GSTR-1 vs GSTR-3B vs **ITR turnover**
- GSTR-9 / 9C vs **Audited Financials**
- GST data reflected in **AIS**
- ITR captures **GST turnover and registration**
- “Turnover mismatch is the ***starting point*** of most cross-enforcement actions”

- Financials based on **GAAP**
- GST turnover is a **statutory construct**

Includes:

- Schedule I transactions
- Credit notes (financial vs statutory)
- Sale of capital goods
- Discount treatment

OTHER DISTINCTIONS

- **ITC vs Expense reporting** (Clause 44)
- Treatment of **bad debts**
- **Job work** implications
- Place of supply vs **accrual concept**

- **Income Tax**
 - **Previous Year vs Assessment Year**
 - Advance tax and self-assessment

- **GST**
 - Tax on **each supply**
 - GST exemptions not relevant for IT

Business Purpose Test is recognised under both laws

Issue: Allowability under Income Tax

Interest

- **Compensatory in nature**
- Allowable u/s 37(1)
(Lachmandas Mathuradas – SC)

Late Fee

- **Penal? – debatable**
(Swadeshi Cotton Mills)
- “Penalty vs. compensatory distinction is decisive”
- Late fee under section 47 and General penalty under section 125
- Is simultaneous imposition permissible?

- ✓ **Tvl. Jamsons Castor's case (Madras HC)**
 - ✓ **Rathore Building Materials' case (Ahmedabad HC)**
 - ✓ **Kandan Hardware Mart's case (Madras HC)**
 - ✓ **Kalanther Madeena Textiles' case (Madras HC)**
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- A debatable issue

Issue: Deductibility under Income Tax

- Payments during investigation, audit or alleged evasion
- Judicial view

(Kaypee Mechanical – Gujarat HC)

- **Reversal of ITC**
- **Blocked ITC**

Issue: Deductibility under Income Tax

OVERLAP AREAS

- **Subsidies**
- **Reimbursements**
- **Discounts**
- **Related-party transactions**

GST

- Government subsidy → **Excluded**
- Price-linked subsidy → **Taxable**

Income Tax

- Capital receipt → **Exempt**
- Revenue receipt → **Taxable**
- Same receipt – opposite tax treatment

- Schedule I → **Deemed supply under GST**
- May have **no Income Tax implication**

REVENUE RECOGNITION

- GST → **Time of supply**
- Income Tax → **Annual computation**

INTERPLAY BETWEEN GST AND INCOME TAX

“Same transactions, two laws – and two very different consequences”

- **GST vs Income Tax Conflicts in Practice**
- Bogus Purchases / Fraudulent ITC
- “The interplay becomes most visible – and most aggressive – in cases involving suspected non-genuine transactions.”

- **Paper transactions without actual supply**

“Invoice is the largest-selling commodity”

MOTIVATION

- **Profit suppression**
- Inflated turnover
- **Cash generation**
- Refund frauds

GST FRAUD MECHANISM

- **Fake invoices**
- **Non-existent suppliers**
- Return defaulters
- **Fraud in supply chain**

Whether ITC can be denied?

- Are conditions **cumulative**?
- Supplier default vs **recipient compliance**
- **“Is the recipient expected to ensure the supplier’s honesty?”**

KEY QUESTIONS

- **Genuineness at inception**
- Compliance by recipient
- Retrospective cancellation
- GSTR-2A vs GSTR-3B mismatch

Supplier sins; Recipient repents?

- Need for **independent inquiry**
- **Borrowed satisfaction** — permissible?
- Entire vs partial disallowance
- Sales accepted — impact
- Acceptance of sales # automatic acceptance of purchases

Entire purchase may be disallowed

- N.K. Industries
- Shoveline Hotels
- Kachwala Gems

Building the evidentiary chain

- **Movement of goods**
- **Documentary trail**
- Banking channel
- Stock records

Building the evidentiary chain

- Purchase orders and invoices
- E-way bills
- Bank statements
- Ledger records

Building the evidentiary chain

- Lorry receipts / FASTag
- Weighment slips
- Quality control reports
- Stock register

Building the evidentiary chain

- Supplier affidavit
- **No immediate cash withdrawal**
- Participation in proceedings
- **Cross-examination**
- Correlation with sales

- Nikunj Exim Enterprises
- Mohammad Haji Adam
- Shapoorji Pallonji

No borrowed satisfaction

Retrospective cancellation not decisive

- Shanti Kiran India
- LGW Industries

Section 16(2)(c)

- Arise India
- On Quest Merchandising

2A vs 3B mismatch

- ITC denial not sustainable
- Diya Agencies
- Raju Joseph

ITC denied where

- **No movement of goods**
- Fictitious transactions
- Shiv Trading
- Trendship Online

Gujarat High Court (01.05.2026)

- Section 16(2)(c) upheld
- Marks a possible shift from ***recipient protection – revenue protection***

COMPARATIVE INTERNATIONAL JURISPRUDENCE

- Bona fide buyer → **Protected**
- Knowledge / involvement → **Denied ITC**

(Optigen, Kittel)

Innocence vs Complicity Test

*“Ngakyaw ate it,
but it was Ngakyi who had to pay.”*

The enduring tension in tax law

Quote

“The future of tax litigation will turn not on documentation alone, but on the taxpayer’s ability to demonstrate bonafides”

RELEVANT JUDICIAL PRONOUNCEMENTS

Lachmandas Mathuradas vs. CIT

- 254 ITR 799 (SC)

Swadeshi Cotton Mills Ltd. vs. CIT

- (1967) ITR 57 (SC)

CIT-III vs. Kaypee Mechanical India (P) Ltd.

- (2014) 45 taxmann.com 363 (Gujarat)

Shoreline Hotel (P) Ltd. vs. CIT

- (2018) 98 taxmann.com 234 (Bom)

N.K. Industries Ltd. vs. DCIT

- (2016) 72 taxmann.com 289 (Guj.)

[SLP dismissed by SC in N.K. Proteins Ltd. vs. DCIT- (2017) 84 taxmann.com 195 (SC)]

CIT vs. La Medica

- (2001) 117 taxmann.com 628 (Del.)

RELEVANT JUDICIAL PRONOUNCEMENTS

Kaveri Rice Mills vs. CIT

- (2006) 157 taxmann.com 376 (All.)

Kachwala Gems vs. JCIT

- (2007) 12 SCC 761

PCIT vs. Kanak Impex (India) Ltd.

- (2025) 172 taxmann.com (Bombay)

PCIT vs. Drisha Impex Pvt. Ltd.

- (2025) 479 ITR 315 (Bombay)

- Degree of Proof :

1. The State of Karnataka vs. Ecom Gill Coffee Trading Private Limited

- 2023 (72) GSTL 134 (SC)

2. Order dated 07.04.2026 of the ITAT, Mumbai in ITO vs. INVT Electric India Private Limited

RELEVANT JUDICIAL PRONOUNCEMENTS

No cash withdrawal immediately after the payment:

- **PCIT vs. Shree Ganesh Developers**

Participation in the proceedings/investigation:

- PCIT vs. Vaman International Pvt. Ltd.
- 2020 (2) TMI 464 (Bom)
- **PCIT vs. Jagdish Thakkar**
- (2022) 145 taxmann.com 414 (Bom)
- **PCIT vs. Chawla Interbild Construction Co/ (P) Ltd.**
- (2019) 412 ITR 152 (Bom)
- **CIT vs. Nikunj Exim Enterprises (P) Ltd.**
- 2013 (1) TMI 88 (Bom)

RELEVANT JUDICIAL PRONOUNCEMENTS

Cross-examination of the suppliers, etc. – Third party information:

➤ **CIT vs. Odeon Builders Pvt. Ltd.**

- 2019 (8) TMI 1072 (SC)

No proceedings on the borrowed information:

➤ **PCIT vs. Shapoorji Pallonji and Co. Ltd.**

- 2020 (3) TMI 552 (Bom)

Co-relation between the purchase and sales transactions

➤ **PCIT vs. Nitin Ramdeoaji Lohia**

-(2023) 457 ITR 446 (Bom)

➤ **CIT vs. Mohammad Haji Adam & Co.**

- 2019 (2) TMI 1632 (Bom)

➤ **Manoj Sharma vs. ITO**

- (2019) 103 taxmann.com 105 (Delhi-Trib.)

RELEVANT JUDICIAL PRONOUNCEMENTS

Retrospective or Prospective cancellation of the supplier's registration

- No denial of ITC:

- **Commissioner Trade and Tax Delhi vs. Shanti Kiran India (P) Ltd**
- (2025) 35 Centax 222 (SC);
- **M/s. Gargo Traders v/s. The Joint Commissioner, Commercial Taxes (State Tax) & Ors.**
- 2023-TIOL-670-HC- KOL-GST
- **LGW Industries Limited & Ors. Vs. UOI & Ors**
-2021-TIOL-2308-HC-KOL-GST;

Retrospective or Prospective cancellation of the supplier's registration

- No denial of ITC:

- **Asst. Commr. of State Tax vs. LGW Industries Ltd. & Ors.**
- 2022-TIOL-1296-HC-KOL-GST;
- **M/s. D. Y. Beathel Enterprises vs. State Tax Officer (Data Cell),(Investigation Wing), Tirunelveli.**
- 2021-TIOL-890-HC-MAD-GST;
- **Sanchita Kundu vs. Asst. Commr. of State Tax**
- 2022 (63) GSTL 413 (Cal.);

Retrospective or Prospective cancellation of the supplier's registration

- No denial of ITC:

- **Shivalik Buildtech Pvt. Ltd. vs. Commr. of Commercial Taxes**
- 2019 (21) GSTL 308 (All.);
- **Suncraft Energy Pvt. Ltd. vs. Asst. Commissioner.**
- 2023 (77) GSTL 55 (Cal.)
- **Shyamalmay Paul vs. ACST.**
- (2025) 32 Centax 375 (Cal.);

Retrospective or Prospective cancellation of the supplier's registration

- No denial of ITC:

- **Solvi Enterprises vs. Additional Commissioner Grade 2**
- (2025) 29 Centax 22 (All.);
- **Himalaya Communication Pvt. Ltd. vs. Union of India**
-(2025) 31 Centax 329 (H.P.);
- **M/s Kesarwani Traders vs. State of U.P and Ors.**
- (2025) 34 Centax 98 (All.)

Retrospective or Prospective cancellation of the supplier's registration

- No denial of ITC:

- **TVL. Cleon Optobiz Pvt. Ltd. vs. Assistant Commissioner (ST)**
– (2024) 14 Centax 387 (Mad.)
- **Lokenath Construction Pvt. Ltd. vs. Tax/Revenue vs Govt. of W.B.**
– (2024 (86) GSTL 130 (Cal.);
- **Singhal Iron Traders vs. Additional Commissioner.**
– 2025 (103) GSTL 380(All)

RELEVANT JUDICIAL PRONOUNCEMENTS

Retrospective or Prospective cancellation of the supplier's registration

- No denial of ITC:

- **Saniya Traders vs. Additional Commissioner Grade-2**
- (2025) 37 Centax 281 (All.);
- **Raghuvansh Agro Farms Ltd. vs. State of U.P.**
- (2026) 38 Centax 53 (All.)
- **R.P. Techsoft International Pvt. Ltd. vs. Deputy Commissioner of Revenue.**
- (2025) 33 Centax 237 (Cal.)

Supplier's failure to pay Tax- No denial of ITC:

- 1. Commissioner vs. Arise India Ltd.**
- 2022 (60) GSTL 215 (SC)
- 2. On Quest Merchandising Pvt.Ltd. vs. Govt. of India**
- 2018 (10) GSTL 182 (Del.)
- 3. Bright Star Plastic Industries vs. Addl. Commr. of Sales Tax (Appeal)**
- 2022(57) GSTL 226 (Ori.)

Supplier's failure to pay Tax- No denial of ITC:

- 4. State of Maharashtra vs. Suresh Trading Co.**
-1998 taxmann.com 1747 (SC)

- 5. R.V. Enterprises vs. State of Gujarat**
- 2025 (100) GSTL 324 (SC)

Mismatch between GSTR-2A and GSTR-3B – No denial of ITC:

- **Diya Agencies vs. STO**
 - 2024 (82) GSTL 169 (Kerala);
- **Raju Joseph vs. STO**
 - 2024 (83) GSTL 65 (Kerala);
- **Mina Bazar vs. STO**
 - 2024 (80) GSTL 282 (Kerala);

Mismatch between GSTR-2A and GSTR-3B – No denial of ITC:

- **Geetha Agencies vs. DC**
 - 2024 (80) GSTL 166 (Kerala);
- **Henna Medicals vs. STO**
 - 2023 (78) GSTL 503 (Kerala).
- **Goparaj Gopalkrishnan Pillai vs. STO**
 - 2023 (78) GSTL 501 (Kerala).

RELEVANT JUDICIAL PRONOUNCEMENTS

Fictitious transactions and absence of proof for the actual movement of goods- Denial of ITC justified:

- 1. Shiv Trading vs. State of UP**
- 2024 (80) GSTL 121 (All.)
- 2. Shiv Trading vs. State of UP**
- (2024) 23 Centax 412 (SC)
- 3. Trendship Online Services Pvt.Ltd. vs. CCT, Lucknow**
-2025 (100) GSTL 73 (All.)

Non-payment of GST by the suppliers -section 16(2)(c) read down, but Constitutionality upheld :

1. Sahil Enterprises vs. Union of India

- (2026) 38 Centax 116 (Tripura)

2. Judgement dated 09.02.2026 of the Karnataka High Court in M/s. Instakart Services Private Limited vs. Union of India

RELEVANT JUDICIAL PRONOUNCEMENTS

Court's refusal to read down Section 16(2)(c) or declare the provision ultra vires

Judgment dated 01.05.2026 of the Hon'ble Gujarat High Court in Maruti Enterprises & Ors. vs. Union of India & Ors.

ECJ's Judgements:

Joined cases C-354/03 (Optigen), C-355/03 (Fulcrum) and C-484/03 (Bond House Systems)

Joined Cases C-439/04 (Axel Kittel) and C-440/04 (Recolta Recycling)



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