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A Ryan LLC Affiliate

Dimensions

Indirect Taxes Bulletin

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Judgements and Rulings

Supreme Court rules that regulatory or licensing classification cannot control or curtail the interpretation of a fiscal entry | Supreme Court | Hamdard (Wakf) Laboratories¹

Issue for consideration

- Whether “Sharbat Rooh Afza” is classifiable as an unclassified item (residuary) leviable to VAT² @ 12.5%, or as a “non-alcoholic beverage”/ “fruit beverage” leviable to VAT at the rate of 4% under UPVAT Act, 2008.³

Facts

- The Appellant manufactures a non-alcoholic syrup-based concentrate intended to be diluted with water or milk before consumption, popularly known as “Sharbat Rooh Afza”.
- The beverage is prepared in an invert sugar base and is blended with fruit juices, vegetable extract and added flavours.
- By virtue of fruit juice content in the beverage being 10%, the Appellant contended that the same shall be treated as “Fruit Drink” or “Processed Fruit” covered under Entry 103 of Part A of Schedule II of the UPVAT Act.
- The Assessing Authority made provisional assessments holding that the product was not a “fruit drink”, but a sugar-based “sharbat” and classified it under the residuary entry (Schedule V) attracting VAT at 12.5%. The said orders were affirmed by the Appellate Authority, the Tribunal and the HC⁴.
- The Appellant challenged the decision of the High Court before the Supreme Court.
- The Revenue Department contended that under the licence issued pursuant to the Fruit Products Order, 1955 (FPO), the Appellant is authorised to manufacture only a “Non-Fruit Syrup / Sharbat.” The FPO mandates that beverages containing less than 25% fruit juice cannot be described as fruit juice and must be labelled as “non-fruit”. Since the Appellant’s product contains less than 25% fruit juice and is legally required to be marketed as “non-Fruit,” it was argued that it cannot be classified as a “fruit drink” for taxation purposes under Entry 103. Hence,

the product should be treated as an unclassified item taxable at 12.5% under residuary entry in Schedule V of the UPVAT Act.

Findings of the Court

- The Court opined that taxing statute must be interpreted strictly in accordance with its own language. Regulatory standards framed under food safety enactments operate in a distinct domain and cannot control fiscal classification unless expressly incorporated.
- Where a term like “fruit drink” is undefined, classification must be based on how the product is understood in commercial and popular sense. Reliance solely on licensing nomenclature or percentage thresholds without examining trade perception is legally flawed.
- In the absence of statutory definition, the common parlance test must be applied as authoritatively laid down in *Ramavatar Budhaiprasad*⁵ and reiterated in *Indo International Industries*⁶.
- The Court reiterated that when the Department seeks to classify goods under a residuary entry, the burden of proof lies squarely on it. Mere assertions or reliance on regulatory labels is insufficient; cogent evidence of trade understanding is necessary.
- Court, applying the essential character test held that although invert sugar syrup constituted about 80% of the composition of the product, the quantitative predominance is not decisive. The ingredient imparting the product’s identity and beverage character i.e., fruit juice and flavoring distillates determines classification. Sugar functions merely as a carrier/preservative. The Court in this regard relied on the case of *Kemrock Industries and Export*⁷
- The Court also took note that similar VAT entries in multiple States classified the product under fruit drink/fruit-based categories at concessional rates.

Conclusion

- “Sharbat Rooh Afza”, when examined on the touchstone of common parlance, essential character, and commercial identity, cannot be relegated to the residuary

¹ M/s Hamdard (Wakf) Laboratories vs. Commissioner, Commercial Tax [TS-37-SC-2026-VAT]

² Value Added Tax

³ Uttar Pradesh Value Added Tax Act, 2008

⁴ High Court

⁵ Ramavatar Budhaiprasad vs. Assistant Sales Tax Officer [(1961) 12 S.T.C. 286]

⁶ Indo International Industries vs. Commissioner of Sales Tax [(1981) 7 S.T.C. 359]

⁷ Kemrock Industries & Export Limited vs. Commissioner of Central Excise [2007 (210) E.L.T. 497 (S.C.)]

entry holding that it cannot qualify as a “fruit drink” merely because it is sold in concentrated form containing less than 10% of fruit juice content.

- The Revenue having failed to discharge the burden required to invoke the residuary entry, the product is appropriately classified under Entry 103 of Schedule II (Part A) of the UPVAT Act as a fruit drink / processed fruit product leviable to 4% VAT and not 12.5% during the relevant assessment period.
- The judgments of the High Court and lower authorities were set aside, and the Revenue was directed to grant consequential relief, including refund/adjustment of excess tax paid.

Dhruva Comments

The judgment reinforces some foundational principles of fiscal classification. It highlights that residuary entries cannot be invoked without proper basis and can be applied only when classification under a specific entry is clearly impossible. It further emphasises that in matters of classification, common parlance and essential character tests prevail over regulatory or technical labels. This judgment will provide a useful guidance in the context of GST laws, where classification is based on the Customs tariff code and its schedules.

Assessment, collection, and imposition of tax all fall within the ambit of the term “levy” | Kerala High Court | NLC India Limited⁸

Issue for consideration

- Whether, by virtue of Section 83(7) of the Finance Act, 2010, the Central Government could validly apply Section 11A of the Central Excise Act, 1944 dealing with recovery of duties not levied/paid or short-paid for the purpose of assessing and recovering Clean Environment Cess (“CEC”).

Facts

- The petitioner is a Central Government undertaking and one of the Navaratna companies, engaged in the production of lignite and peat.
- Section 83 of the Finance Act, 2010 provided for levy of CEC on specific goods, with the object of financing and promoting clean environment and energy initiatives, funding research in the field and allied purposes.
- In terms of the power conferred under Section 83(7), the Central Government issued Notification No. 02/2010-Clean Environment Cess, declaring certain provisions of Central Excise Act to be applicable to matters in respect of cess.
- The issue raised in the writ petition by the Petitioner was the application of Section 11A of the Central Excise Act for recovery of CEC. The issue was the levy of CEC on lignite and peat produced by the taxpayer.
- The Petitioner argued that “collection” and “recovery” are governed by the CEC Rules issued under Section 84 (which specifically deals with assessment and collection of cess), and not by Notification issued under Section 83(7), and so, the Central Government lacked the authority to invoke Section 11A of the Central Excise Act through the said notification for recovery of CEC.

Findings of the Court

- The Court observed that Section 84, which confers rule-making authority, operates in a distinct domain from Section 83(7), which embodies the well-recognized legislative device of incorporation by reference. The two provisions cannot be treated as interchangeable or of identical character.
- The existence of power in the Central Government both to issue notifications and to frame rules does not, *ipso facto*, render the Notification immune from judicial scrutiny.
- Drawing upon myriad Supreme Court and High Court judgements, the Court reiterated that statutory expressions possess an elastic character, and their amplitude may expand or contract depending upon the legislative context and purpose.
- Where the word “levy” is employed in conjunction with the word “collect”, levy may assume a narrower meaning so as to include collection, however when the word “levy”

⁸ M/s NLC India Limited vs. The Commissioner of GST & Central Excise and Another [W.P. (MD) No. 8140 of 2020]

is used in isolation, it acquires a comprehensive connotation encompassing all stages of the taxing process.

- The Court referred to authoritative lexicographical sources, including Black's Law Dictionary and P. Ramanatha Aiyar's Advanced Law Lexicon, which construe the term "levy", whether used as a noun or a verb, as capable of denoting imposition as well as realisation of tax.
- Rules belong to the realm of subordinate legislation and do not carry the same degree of constitutional immunity as plenary statutes enacted by a competent legislature. Therefore, empowering provisions are often couched in broad and enabling language.

Conclusion

- The expression "levy" in Section 83(7) of the Finance Act, 2010, includes within its ambit not only imposition, but also the processes of assessment and collection of tax.
- Notification issued under Section 83(7) applying provisions of Central Excise Act to the recovery of CEC was therefore held to be *intra vires* the parent enactment.

Dhruva Comments

The judgment reiterates the position that the term "levy", when employed in solitude, is of wide amplitude and comprehends within its fold the imposition, assessment and collection of tax.

High Court rejects the contention that provisional release u/section 130(2) of the CGST Act can be contemplated only after finalization of confiscation proceedings | Kerala HC | Authentic Metals⁹

Issue for consideration

- Whether authorities under the CGST/KGST¹⁰ Act, 2017 have the power to hold/ retain goods confiscated in transit, pending proceedings of confiscation under Section 130 of CGST Act and whether Section 130(2) enables the authority concerned to release the goods as a provisional measure, pending the adjudication proceedings, by accepting fine in lieu of the confiscation.

Facts

- The Petitioner is engaged in the business of scrap materials and, in the ordinary course of business, undertook the delivery of copper scrap.
- During transit, the Assistant State Tax Officer detained the goods and directed physical verification of the vehicle, citing concerns regarding genuineness of the goods.
- A notice in Form GST MOV-10 was issued proposing confiscation of the goods, alleging several discrepancies and a fine was also proposed in lieu of the confiscation, which was duly paid off by the petitioner.
- The Petitioner contended that the release of goods, pending adjudication of the confiscation, is permissible under Section 130(2) of the CGST Act, and reliance was placed upon **Sales Tax Officer vs. Y. Balakrishnan**¹¹ in support of this interpretation.
- The Special Government Pleader, also placing reliance on the same judgement, contended that release is permissible only upon finalization of proceedings and not as a provisional measure pending adjudication.

Findings of the Court

- The Court examined the statutory framework under Sections 67, 68, 129 and 130 of the CGST Act, which govern search, inspection of goods in transit, detention/seizure, and confiscation of goods respectively.
- The Court held that Section 130(2), does not allow provisional release of goods during confiscation proceedings. Instead, it only provides an option to pay fine in lieu of confiscation, after a final confiscation order is passed.
- The Court observed that the Finance Act, 2021 amendments removed provisions relating to provisional release in the detention/confiscation framework, indicating a clear legislative intent that provisional release cannot be read into Section 130.
- The Court further clarified that confiscation becomes authorised only after a final confiscation order is passed. A notice proposing confiscation such as Form GST MOV-10 in the present case is only a proposal and does not give the authorities the right to retain the goods indefinitely.

⁹ M/s Authentic Metals vs. The Enforcement Officer & Ors. [TS-103-HC(KER)-2026-GST]

¹⁰ Central Goods and Services Tax/Kerala State Goods and Service Tax Act, 2017

¹¹ Sales Tax Officer vs. Y. Balakrishnan [RP No. 630/2021]

- Further, the Court going by the procedure contemplated under Circular No. 41/15/2018-GST held that officer has to issue FORM GST MOV-02 for conducting an inspection under Section 129 read with Section 68 of the Act.
- A direction in FORM GST MOV-02 restraining the person from taking away the goods until further orders cannot be substitute for the requirement of a formal order of detention under Section 129.
- Since the GST authorities in this case had not followed the proper detention procedure and had not issued a detention order under Section 129(1), within the time limit prescribed under Section 129(3) their continued detention of the goods and vehicle was held to be without legal authority.
- Accordingly, the High Court directed the release of the goods and conveyance, holding that the Revenue cannot retain goods solely because confiscation proceedings are pending.

Conclusion

- The Petitioner's request for provisional release of seized goods cannot be granted on account of lack of statutory provisions authorising the same.
- No order of detention under Section 129 was passed by the concerned authority. Continued detention of goods solely on the basis of ongoing confiscation proceedings under Section 130 is not legally sustainable. The Court ordered release of goods, upon the petitioner furnishing a simple bond.
- The Court directed the Respondent to comply with the proceedings for confiscation initiated as per Form MOV-10 and finalise the same after giving the petitioner an opportunity to be heard.

Dhruva Comments

This decision notices the punitive scheme of Section 130 of the CGST Act, and reinforces strict adherence to prescribed procedure, to use confiscatory powers under the GST law. It underscores that Section 130 of the CGST Act, which deals with confiscation of goods or conveyances and levy of penalty is not an automatic extension of interception proceedings and that

authorities must strictly establish the statutory ingredients before depriving a taxpayer of goods or conveyance.

Importantly, this judgment holds that release of an article, under the GST law, will not be feasible until the confiscation proceedings attain finality and fine in lieu of confiscation is paid.

Mere presence of Field Service Engineers and temporary storage of spare parts does not create a fixed establishment or place of business | Odisha AAAR ¹² | Thermo Fisher Scientific India Private Limited¹³

Issue for consideration

- Whether the repair and maintenance services provided by the Head Office (HO), in Maharashtra, through FSE¹⁴s for maintenance contracts, with customers in Odisha, constitutes a place of business in Odisha and occasional storage of spare parts in Odisha amounts to a fixed establishment or place of business in Odisha requiring separate GST registration.

Facts

- The Appellant is engaged in pan-India trading of analytical and laboratory equipment. In addition to sales, the company provides repair and maintenance services to customers in Odisha under their Annual and Comprehensive Maintenance Contracts (AMCs/CMCs).
- To ensure timely service, the Appellant deploys FSEs in Odisha. On rare occasions, the Appellant also keeps insignificant amounts of stocks left from previous repairs.
- The Appellant's principal place of business is in Maharashtra from where all business operations, contract execution, billing, and administrative control are carried out.
- The customers enter into an agreement with the Appellant's HO who deploys FSEs to customer location in Odisha on a temporary and need-based basis. Spare parts are dispatched from mother warehouse located in Maharashtra.

¹² Authority of Advance Ruling

¹³ Thermo Fisher Scientific India Private Limited [TS-54-AAAR(OD)-2026-GST]

¹⁴ Field Service Engineer

- The Appellant in Odisha does not maintain any stock in their establishment.
- The Appellant argued that the mere presence of FSEs in Odisha or temporary tool kits does not alter the place of business to Odisha.
- Odisha AAR concluded that presence of FSEs in Odisha makes the Appellant an agent of the HO, falling squarely within clause (c) of Section 2(85). Aggrieved by this ruling, the Appellant filed the present appeal.

Findings of the Court/AAAR

- The Authority undertook a combined reading of Sections 2(85) (defines place of business) and 2(71) (defines location of supplier of service) and held that the “location of supplier” in respect of AMC/CMC services was the Appellant’s Maharashtra HO, since all contracts were executed, invoices issued, consideration received and GST discharged from the HO, and the services in Odisha were performed strictly under its control and direction.
- It was specifically held that the FSEs deployed in Odisha were employees of the Appellant acting under HO supervision and could not be treated as “agents” under Section 2(5), as they did not independently conclude contracts, raise invoices, receive consideration, or conduct business on behalf of the Appellant.
- The Authority observed that the spare parts retained with FSEs were minimal, incidental and temporarily held for operational efficiency, and were returned to the HO warehouse within a stipulated period; such leftover parts did not constitute trading stock or inventory maintained for sale in Odisha.
- On a holistic evaluation, the Appellate Authority concluded that no independent taxable supplies originated from Odisha and that the Appellant did not carry on business from the State through any distinct establishment.
- Accordingly, the Authority held that the Appellant was not liable to obtain separate GST registration in Odisha, as all supplies were made from the registered Head Office in Maharashtra.
- The Appellate Authority set aside the AAR ruling, holding that the earlier finding treating the presence of FSEs and temporary spare parts storage as constituting a “place of

business” or “fixed establishment” was legally unsustainable.

Conclusion

- HO driven post sale services undertaken through deputed FSEs do not create a fixed establishment or place of business in Odisha in the absence of a separate transaction between the customers and the Appellant.
- Where no fixed establishment or place of business exists, there is no requirement to obtain separate GST registration solely on account of activities performed on behalf of HO.

Dhruva Comments

The ruling reinforces the principle that GST registration and “fixed establishment” cannot be inferred merely from operational presence in a State. The Authority emphasised substance over form, focusing on where contractual control, invoicing, inventory ownership, and tax discharge actually occur, rather than on the mere physical deployment of employees.

Importantly, the decision draws a clear line between business operations and business execution support, clarifying that employee-driven service execution, without independent contractual or commercial authority, does not create a taxable establishment

Institutions established by an Act of Parliament qualify as “specified persons” for GST TDS irrespective of the 51% equity/control requirement | Gujarat AAR | Indian Institute of Management, Ahmedabad¹⁵

Issue for consideration

- Whether IIM, Ahmedabad, established under the IIM Act, 2017, qualifies as a “specified person” within the meaning of Section 51 of the CGST Act, 2017 read with Notification No. 50/2018-Central Tax¹⁶, so as to be liable to deduct tax at source (TDS), and whether the threshold limit of INR 2.5 lakhs prescribed therein is to be computed contract-wise or invoice-wise.

¹⁵ Indian Institute of Management, Ahmedabad [TS-107-AAR(GUJ)-2026-GST]

¹⁶ Notification No. 50/2018-Central Tax dated September 13, 2018

Facts

- The Applicant is an institution established under the Indian Institute of Management Act, 2017, enacted by the Parliament.
- Section 51 of the CGST Act empowers Government to mandate certain specified persons to deduct TDS at 1% where the total value of supply under a contract exceeds ₹2.5 lakh.
- Notification No. 50/2018-Central Tax notifies authorities or boards set up by an Act of Parliament or established by Government with 51% or more participation by way of equity or control as “specified persons”.
- The Applicant contended that it is not covered under the Notification as the Central Government does not exercise 51% or more control over its functioning and that the board composition does not establish majority control.
- It was argued by the Applicant-that the Supreme Court’s ruling in **Shapoorji Pallonji**¹⁷ interpreted a similarly worded notification under the service tax regime and held that the requirement of 51% equity or control applies only to bodies established by the Government and not to those set up by an Act of Parliament.
- It was further argued that the Supreme Court’s ruling should not be automatically extended to the GST framework as the judgment was rendered in the specific context of the service tax notification and was based on the legislative scheme and intent prevailing at that time. Therefore, according to the Applicant, the decision should not be mechanically applied in the present case.
- On the monetary threshold issue, the Applicant submitted that TDS applicability should depend on the nature of contract and whether supplies are continuous or separate.

Findings of the Appellate Authority

- The AAR held that IIM Ahmedabad, being established under an Act of Parliament, falls within the category of “specified person” under Section 51 read with Notification No. 50/2018–Central Tax and is therefore liable to deduct TDS.

- The Authority rejected the argument that absence of majority board representation negates control, observing that the Central Government exercises substantial control under the IIM Act, including rule-making powers, appointment powers, audit oversight, and supervisory authority.
- The AAR rejected the Applicant’s attempt to dilute or distinguish the Supreme Court ruling in **Shapoorji Pallonji** and held that the language of Notification No. 50/2018-Central Tax is substantially similar to the notification interpreted by the Supreme Court. The Authority emphasised that the Supreme Court had undertaken a detailed textual interpretation of the notification and applied settled principles of statutory interpretation not merely legislative intent.
- Placing reliance on the Hon’ble Supreme Court decisions in **Columbia Sportwear Company**¹⁸ and **Minwool Rock Fibres Limited**¹⁹, it was clarified that the Supreme Court’s interpretation in **Shapoorji Pallonji** on similar notification language must prevail over the Circular, emphasizing that quasi-judicial authorities are bound by Supreme Court rulings.
- On the monetary threshold issue, the Authority clarified that the INR 2.5 lakh limit applies to the total value of supply under a contract, excluding GST, and not invoice-wise. In case of separate contracts with the same supplier, each contract must be evaluated independently for threshold determination.
- Where supplies are continuous or recurrent but arise from a single original contract, the threshold applies to the overall contract value and not to individual supplies or invoices.

Conclusion

- The Authority for Advance Ruling held that the Applicant is squarely covered within the expression “specified person” under Section 51 of the CGST Act read with Notification 50/2018-Central Tax and is consequently liable to deduct TDS.
- Threshold limit of INR 2.5 lakhs is to be determined contract-wise.

¹⁷ Commissioner, Customs Central Excise and Service Tax vs. Shapoorji Pallonji And Company 2023 (10) TMI 748 (SC)

¹⁸ Columbia Sportwear Company vs. Director of I.T. Bangalore [2012 (11) SCC 224]

¹⁹ Commissioner of Central Excise, Bhopal vs. Minwool Rock Fibre Limited [2012 (278) ELT 581 (SC)]

- It was held that separate contracts with the same supplier are to be evaluated independently; however, continuous or recurrent supplies forming part of single contract must be aggregated for the purpose of threshold determination.

Dhruva Comments

The advance ruling adopts a strict and text-driven interpretation of Notification No. 50/2018-Central Tax, clarifying that institutions established by an Act of Parliament cannot avoid TDS liability merely by pointing to the composition of their governing boards. The AAR has emphasised substantive statutory control rather than numerical representation as the determinative test.

Importantly, the ruling underscores that wherever a notification or legislature employs distinct expressions such as “set up by an Act of Parliament” and “established by Government”, each phrase must be given independent meaning, and interpretative approaches.

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Regulatory Updates

Ministry of Commerce and Industry Notification ²⁰ | Amendment to Rule 19 of Special Economic Zone Rules, 2026

- The Government has notified SEZ Rules, 2026, amending Rule 19 of SEZ Rules 2006, to empower the International Financial Services Centres Authority (IFSCA) to issue a LoA ²¹ in newly inserted Form GA for setting up units in an International Financial Services Centre
- The new Form GA is prescribed for units to be established in the Gujarat International Financial Tech-City (GIFT-City) IFSC, which operates as a multi-service Special Economic Zone.

DGFT Notification ²² and Corrigendum ²³ | Notifies cap on RoDTEP²⁴ benefits at 50% of notified rates.

- The Government rationalises RoDTEP rates for products falling under HS Chapters 25 to 99, exporters will be able to claim 50% of the prescribed RoDTEP rate.
- Value caps, wherever applicable, are restricted to 50%
- Corrigendum to Notification No. 60/2025-26, issued on 24th February 2026 excludes HS Chapters 01 to 24 from the reduction in RoDTEP rates and value caps.

CBIC Circular ²⁵ | Rolls out contactless Customs clearance

CBIC, in a move to enhance contactless customs processing and compliance efficiency, proposes to implement the following measures:

- Auto-registration of goods and auto “Out of Charge” on arrival eligible to certain specific categories of importers.
- Auto-registration for e-sealed export cargo without physical interface with Customs. The

scheme is initiated at Nhava Sheva (INNSA1), and to be expanded in phases.

- Auto Let Export Order (LEO) for all exporters post registration of goods, based on risk treatment. Customs officers retain the power to invoke “HOLD” in the system based on intelligence.

DGFT Public Notice ²⁶ | Extends deadline for submission of Tariff Rate Quota (TRQ) application for the FY 2026-27 to March 15 under various FTAs.

- The DGFT extends that last day for filing TRQ application from 28th February 2026 to 15th March 2026.
- This extension applies to specified products under the India-Sri Lanka FTA, India Mercosur Trade Agreement, India-Mauritius CECPA, India-Nepal Treaty, and India-UAE CEPA.
- All other terms and conditions remain unchanged.

CBIC Circular ²⁷ | Circular on uniform implementation of Baggage Rules

- Issues Master Circular for uniform implementation of Baggage Rules, 2026; supersedes earlier instructions.
- Mandates electronic declaration (Atithi app) with risk-based verification; applies to accompanied and unaccompanied baggage.
- Clarifies scope of “personal effects” and prescribes duty-free allowances
- Provides distinct treatment for jewellery and valuables
- Introduces facilitative measures such as temporary export/import certificates and detention facility for re-export/re-import.

²⁰ Notification G.S.R. 114(E) dated February 03, 2026

²¹ Letter of Approval

²² Notification No. 60/2025-26 dated February 23, 2026

²³ Corrigendum dated 24 February 2026

²⁴ Remission of Duties and Taxes on Exported Products

²⁵ Circular No. 06/2026-Customs dated February 01, 2026

²⁶ Public Notice No. 50/2025-26 dated February 24, 2026

²⁷ Circular No. 04/2026- Customs dated February 01, 2026



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