

Katalyst Kaleidoscope

May 2026: Tax and Regulatory Insights

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A. Income Tax Highlights

1. Supreme Court¹: Interest deduction on capital borrowed for subsidiary's benefit allowed as business expenditure

The assessee, transferred borrowed funds to a group entity and claimed deduction of interest expense under Section 36(1)(iii) of the Income-tax Act, 1961²; the AO disallowed the interest expense on the ground that funds were ultimately utilised for the benefit of the subsidiary and not directly for the assessee's own business. The ITAT allowed the assessee's appeal wherein it held that the assessee's business was composite in nature, and the interest was allowable on the basis of commercial expediency, whereas the Karnataka HC reversed the ITAT stand and held that the business of the subsidiary could not be considered in law as the business of the assessee and that the finding based on commercial expediency was not correct.

On Appeal, the SC reaffirmed that the test for allowability of interest under Section 36(1)(iii) is whether the borrowed funds were deployed for the purposes of the borrower's business, and to be examined from the standpoint of commercial expediency, and not merely from the standpoint of direct income generation; relying on its decision in *Sharp Business Systems*³, held that interest on borrowed funds invested in a subsidiary or group company for acquiring controlling interest is allowable as a business expenditure where the transfer is commercially expedient. Accordingly, the SC allowed the assessee's appeal and set aside the High Court's order.

Katalyst comment:

The SC judgement above is important for holding companies that routinely deploy borrowed funds downstream into subsidiaries as part of a composite business strategy. Revenue authorities have often disallowed interest in such cases by insisting on a direct nexus between the borrowing and income generation at the level of the borrower, a position the SC has consistently and correctly rejected.

2. Gujarat HC⁴: Income tax assessments completed during CIRP extinguished upon approval of resolution plan under IBC

The assessee, a company undergoing Corporate Insolvency Resolution Process (CIRP), had been subjected to income tax assessments; the Revenue obtained the NCLT approval to continue assessment proceedings during the pendency of CIRP. Pursuant to this approval, which was additionally approved by the PCIT, the AO completed assessments under Section 153A read with

¹ L.K. Trust vs. CIT & Anr. [Civil Appeal No. 527/2012] dated 7th May 2026

² Corresponding to Section 32(b) of the Income-tax Act, 2025

³ Sharp Business Systems vs. CIT [2025 SCC OnLine SC 2892]

⁴ PCIT Vs Diamond Power Infrastructure Ltd IT Appeal No 663 of 2025 dated 23rd March 2026

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Section 144 and 143(3) of the Income-tax Act, 1961⁵. Subsequently, the NCLT approved a resolution plan submitted by the assessee.

On Appeal, the CIT(A) and the ITAT held that, upon approval of the resolution plan, the assessments completed by the AO stood extinguished being bad in law, as the approved plan under the IBC overrides other statutory claims not forming part of the plan. The Revenue appealed to the Gujarat HC, contending that the assessments having been completed with express NCLT permission could not be invalidated, and also relied on the Supreme Court's decision in case of *Rainbow Papers Ltd.*⁶ that a resolution plan ignoring statutory dues is liable to be rejected.

On Appeal, Gujarat HC referred to the Supreme Court's decision in case of *Ghanashyam Mishra*⁷ wherein it was held that once a resolution plan is approved under the IBC, all claims not included in the plan shall stand extinguished, and prior NCLT permission to continue assessments does not survive such approval; hence, dismissed Revenue's appeal.

Katalyst comment:

This judgement reinforces what is now well-settled law i.e. that the IBC's resolution framework has overriding force over the Income-tax Act by virtue of Section 238 of the IBC, and a tax claim that is not incorporated into an approved resolution plan is extinguished, regardless of whether assessments were completed with NCLT's express permission during CIRP.

3. Delhi HC⁸: Foreign Company income not taxable in the hands of Indian shareholders by lifting corporate veil

The assessee, an Indian resident, held shares of a company incorporated in the British Virgin Islands which owned residential properties in London and earned rental income and generated capital gains therefrom, and paid applicable taxes in the United Kingdom. The AO based on documents relating to expenditure on the London properties found at the assessee's residence invoked Section 9 read with Section 139(1) of the Income-tax Act, 1961⁹ and concluded that the respondents were the real and beneficial owners of Company's assets, treating Company as a mere cover and taxed income of Company in the hands of the assessee by applying the doctrine of substance over form and lifting the corporate veil. The CIT(A) upheld the taxability of Company's income in the assessee's hands. The ITAT allowed the assessee's appeals and held that the assessee were not beneficial owners of Company's assets.

On Appeal, the HC held that the assessee, being shareholders of Company, were only owners of the shares and not of the underlying properties, and that the income earned by Company could not be treated as the income of its shareholders merely because they were residents of India;

⁵ Corresponding to Section 270 and 271 of the Income-tax Act, 2025

⁶ State Tax Officer vs. Rainbow Papers Ltd. [2022] 142 taxmann.com 157 (SC) / (2023) 9 SCC 545

⁷ Ghanashyam Mishra & Sons Ltd. vs. Edelweiss Asset Reconstruction Co. Ltd. [2021] 126 taxmann.com 132 (SC)

⁸ PCIT vs. Pradeep Wig [TS-605-HC-2026(DEL)] dated 24th April 2026

⁹ Corresponding to Section 9 read with Section 263 of the Income-tax Act, 2025

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further held that the AO's invocation of the substance over form doctrine was held to be not backed by any statutory framework and neither the GAAR provisions were sufficient to sustain the tax levied, and that fiscal provisions are required to be interpreted strictly. Accordingly, the HC dismissed the Revenue's appeals.

Katalyst comment:

1. *The High Court's rejection of the substance over form doctrine is well reasoned; shareholders cannot be taxed on income earned by a foreign company merely because documents relating to such foreign company were found at their residence.*
2. *On a 'see through' basis, although the above judgement did not discuss the concept of 'Place of Effective Management' (POEM) which is applicable to a Foreign Company having turnover of more than 50 crs; however, even if POEM would have been applicable; the subject matter of taxation in India should have been the Foreign Company itself and not the shareholders of the company.*

4. Kerala HC¹⁰: Notional mark-to-market gains on derivative contracts not taxable prior to accrual or realization

The assessee had entered into forward contracts in commodity derivatives and recorded notional mark-to-market profits in its books of account; the AO treated these as taxable income and made an addition, which was confirmed by the CIT(A). The ITAT deleted the addition, relying on the SC judgement in case of *Woodward Governor India (P.) Ltd*¹¹ wherein it was held that unrealized mark-to-market gains on forward contracts are not taxable until actual accrual or realization. The Revenue appealed to the HC on the grounds that since the notional profits is included in assessee's accounts, the amount should be taxable.

On Appeal, the Kerala HC held that in a mark-to-market forward commodities contract, gains and losses fluctuate continuously until the instrument matures on expiry; relying on *Woodward Governor India*¹¹, the Court reiterated that a prudent trader would not account for anticipated profit in the shape of appreciated value of closing stock until it is actually realized, and that merely recording notional profits in accounts does not render such profits taxable. Accordingly, The HC dismissed the Revenue's appeal and upheld the ITAT order.

Katalyst comment:

The above judgement reinforces the principle under Section 5 of the Income-tax Act, 1961¹² that taxability is tied to real accrual or realization of income, not to accounting entries reflecting unrealized or fluctuating notional profits on derivative contracts; this becomes relevant in the

¹⁰ PCIT Vs Kalyan Jewellers India Ltd. IT APPEAL NO. 71 OF 2025 order dated 11th March 2026

¹¹ CIT, Delhi v. Woodward Governor India (P.) Ltd - [2009] 223 CTR 1 / 312 ITR 254 / 179

¹² Corresponding to Section 5 of Income-tax Act, 2025

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context of IND AS accounting framework, and more so in the current context of highly volatile commodity / forex derivative markets.

5. ITAT Mumbai¹³: Securitisation Trust income taxable in hands of security receipt holders

The assessee, a trust constituted by Asset Reconstruction Company India Ltd. (ARCIL) under the SARFAESI Act and the RBI Guidelines for the purpose of acquiring and recovering non-performing assets (NPAs), declared nil income on the basis that all income was taxable in the hands of the Security Receipt (SR) holders. The AO rejected this position and assessed the trust as an Association of Persons (AOP), holding that the trust was not revocable and that the provisions of Section 164(1) of the Income-tax Act, 1961¹⁴ would apply, thereby attracting tax at Maximum Marginal Rate. The CIT(A) reversed the AO's order.

On Appeal, the ITAT followed the decision of the coordinate bench in case of *ARCIL Retail Loan Portfolio-Trust*¹⁵, wherein it was held that securitisation trusts are revocable trusts within the meaning of Sections 61 to 63¹⁶ and its income is taxable in the hands of the SR holders; further held that in absence of inter se arrangement amongst the beneficiaries, the trust cannot be considered as an AOP, rendering Section 164 inapplicable; accordingly, the ITAT dismissed the Revenue's appeal and upheld the CIT(A)'s order.

6. ITAT Delhi¹⁷: Valuation date is when consideration received, not when shares are allotted; deletes addition

The assessee had issued compulsorily convertible debentures (CCDs) and subsequently converted into equity shares at a premium and filed a valuation report under Rule 11UA of the Income-tax Rules, 1962¹⁸ using the NAV method, based on the latest audited balance sheet as at the valuation date. The AO rejected the valuation report and determined share premium at NIL by relying on the balance sheet of the year in which shares were allotted; consequently, an addition was made under Section 56(2)(viib) of the Income-tax Act, 1961¹⁹ of the entire premium received. The CIT(A) confirmed the AO's order.

On Appeal, the ITAT relying on the case of *I.A. Hydro Energy (P) Ltd.*²⁰ held that the provisions of Section 56(2)(viib), is triggered only when consideration is "received" during the relevant previous year, and since the funds had been received at the time of CCD issuance, no fresh consideration

¹³ Arcil Retail Loan Portfolio-001-H Trust [TS-621-ITAT-2026(Mum)] dated 30th April 2026

¹⁴ Corresponding to Section 307 of the Income-tax Act, 2025

¹⁵ ITO Mumbai vs. ARCIL Retail Loan Portfolio-001-A-Trust, ITA No. 4252/Mum/2025 dated 22nd January 2026

¹⁶ Corresponding to 98 to 100 of the Income-tax Act, 2025

¹⁷ Dinesh Kumar (HUF) [TS-617-ITAT-2026(DEL)] dated 30th April 2026

¹⁸ Corresponding to Rule 57 of the Income-tax Rules, 2026

¹⁹ Corresponding to Section 92(2)(m) of the Income-tax Act, 2025

²⁰ PCIT (Chandigarh) vs. M/s I.A. Hydro Energy Pvt Limited [ITA No. 4/2024] dated 31st May 2024

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was received upon conversion into equity; accordingly, Section 56(2)(viib) was held to be inapplicable. Further, on the valuation matter, held that "valuation date" is defined as the date on which consideration is received by the assessee; hence, the latest audited balance sheet was correctly used; accordingly, the ITAT allowed the assessee's appeal and rejected the additions made by AO.

Katalyst comment:

The ITAT has rightly held that the word "receives" in Section 56(2)(viib) refers to the date of actual receipt of consideration and not the date of formal allotment of shares. On the valuation date, anchoring the reference balance sheet to the date of cash receipt rather than the date of allotment is consistent and avoids the anomaly of requiring CCD issuers to use a balance sheet that did not exist at the time the economic decision was made.

7. ITAT Mumbai²¹: Receipts for extended warranty services to be recognized on straight-line basis over contract period

The assessee was engaged in providing extended warranty services and collected the entire warranty consideration upfront at the time of sale, but recognized revenue on a straight-line basis over the warranty contract period, consistent with AS-9 and ICDS-IV. The AO added back deferred revenue and held that upfront receipts constituted income accruing in the year of receipt and that the assessee had violated the matching concept by claiming all expenses without corresponding revenues, and that TDS had been claimed on total receipts rather than recognized income. The CIT(A) deleted the addition, relying on the Delhi HC decision in case of *Rakesh Agrawal*²².

On appeal, the ITAT held that the assessee's liability to render warranty services does not extinguish in the year of receipt, and it continues until the expiry of each warranty contract and accordingly, the right to receive the corresponding consideration accrues only as services are performed. The deferred revenue, therefore, does not accrue as income in the year of collection; further, on the matching concept, the ITAT found the AO's objection factually unsustainable since no specific instance of an expense being improperly accelerated was identified. Accordingly, The ITAT upheld the CIT(A)'s order and dismissed the Revenue's appeal.

8. ITAT Mumbai²³: Section 54F exemption to prevail over set-off of losses

The assessee earned long-term capital gains (LTCG) of ~Rs. 70 lakhs from sale of equity shares and claimed exemption under Section 54F of the Income-tax Act, 1961²⁴ by investing in a residential house; during the same year, he also incurred a long-term capital loss (LTCL) of ~Rs. 38 lakhs on

²¹ DCIT vs Onsite Electro Services Pvt Ltd [ITA No. 5262/Mum/2025] order dated 11th May 2026

²² CIT vs. Rakesh Agrawal (197 Taxmann 375 [2011])

²³ ITO vs Nikesh Bhagwandas Mehta [IT APPEAL NO. 8246 (MUM) OF 2025] order dated 15th April 2026

²⁴ Corresponding to Section 86 of the Income-tax Act, 2025

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sale equity shares and carried forward the same in his return of income. The AO disallowed the carry forward of the LTCL. The CIT(A) held that the LTCL was required to be first set off against the LTCG as per Section 70(3)²⁵, and only the net LTCG of ~Rs. 32 lakhs could be considered for exemption under Section 54F²⁴, thereby restricted the exemption to reduced amount and upheld denial of carry forward.

On appeal, the ITAT Mumbai held that the Sections 45 to 55A²⁶ governs the computation of capital gains, and within these sections, the exemption under Section 54F²⁴ is subsumed; further, held that Section 45(1) itself carves out chargeability subject to Sections 54 to 54H, and hence, capital gain on which Section 54F conditions are satisfied effectively exits the charging provision at the stage of computation under Sections 45 to 55A. Section 70(3), by contrast, operates only after capital gains have been computed in accordance with Sections 48 to 55, it does not precede or override the exemption sections. Accordingly, the Tribunal held that Section 54F prevails over Section 70(3) in the order of computation, and the assessee was entitled to claim full exemption on LTCG and simultaneously carry forward the LTCL without mandatory set-off and accordingly, allowed the assessee's appeal.

B. Corporate Law Highlights

1. NFRA²⁷: Issues updated audit quality inspection guidelines

The National Financial Reporting Authority ("NFRA") has issued updated Audit Quality Inspection Guidelines under Section 132 of the Companies Act, 2013 and the NFRA Rules, 2018. The Guidelines consisting of firm-wide quality reviews and/or test-checks of individual audit assignments, aimed at evaluating compliance with auditing standards across three dimensions: (i) adequacy of the governance framework; (ii) effectiveness of internal control over audit quality; and (iii) the system of audit risk assessment and mitigation.

Other matters included in guidelines relates to selection of auditors, inspection periodicity to be risk-based, factoring in firm size, composition, audit portfolio significance, and complexity of financial statements audited; further, the inspection methodology may involve questionnaires, written confirmation, site visits, and document reviews, and NFRA would issue a draft report to the auditor for response before finalisation. Post-inspection, the auditor must submit a remediation plan within 90 days and achieve full compliance within 180 days.

Katalyst comment:

The Guidelines bring greater transparency to NFRA's inspection process; risk-based selection criteria and the 180-day compliance framework place accountability on audit firms, and the encouragement to present inspection reports to audit committees is a step towards broader governance accountability.

²⁵ Corresponding to Section 108(2) of the Income-tax Act, 2025

²⁶ Corresponding to Section 67 to 75 of the Income-tax Act, 2025

²⁷ NFRA Audit Quality Inspection Guidelines dated 30th April 2026

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2. NCLT Mumbai²⁸: Scheme of amalgamation of LLPs sanctioned

The NCLT Mumbai has sanctioned a Scheme of amalgamation under Section 60 to 62 of the LLP Act, 2008 whereby two Transferor LLPs were amalgamated into a Transferee LLP. The procedural NCLT approval process was followed i.e., obtained partners consent, submitted application and petition documents and obtained approval from regulatory authorities wherein no objections were raised.

The contribution of each Transferor LLP was entirely held by the Transferee LLP; hence no consideration was payable upon merger and the partner contributions in the Transferor LLPs stood cancelled. The NCLT held the Scheme to be fair, reasonable, and compliant with applicable laws and accordingly allowed the Applicant's petition.

Katalyst comment:

1. *The above NCLT order affirms that mergers of LLPs under Sections 60 to 62 of the LLP Act, 2008 constitute a legally permissible and NCLT-sanctioned restructuring mechanism, subject to key conditions such as partner approval, statutory compliance, and adequate creditor protection.*
2. *From a tax perspective, it should be noted that LLP mergers do not qualify as tax-neutral amalgamations, since Section 2(1B) of the Income-tax Act, 1961²⁹ specifically recognizes amalgamation only in the context of "companies"; accordingly, LLP merger may trigger tax implications in the hands of the transferor LLP, the transferee LLP, and the partners of the transferor LLP.*

C. SEBI and Other Highlights

1. RBI³⁰: Amends NBFC registration framework

The RBI issued the NBFC (Registration, Exemptions and Framework for Scale-Based Regulation) Amendment Directions, 2026, refining the regulatory framework of NBFCs not availing public funds and not having customer interface (effective 1 July 2026).

1. Amended directions provide NBFCs category to include:
 - Type I NBFCs that require registration with RBI are defined as entities that do not have public funds, do not have a customer interface, and have an asset size of equal to or exceeding INR 1,000 crore.

²⁸ NCLT Mumbai Bench-I, C.P. (CAA) No. 236 of 2025, order dated 12th May 2026.

²⁹ Corresponding to Section 2(6) of the Income-tax Act, 2025

³⁰ RBI Notification No. 2026-27/43 dated 29th April 2026

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- Type I NBFCs (Unregistered) are those entities which do not have public funds, do not have customer interface and have an asset size less than INR 1,000 crore (on an aggregate basis for all such entities within a group), and accordingly, such entities are not required to obtain registration.
 - Type II NBFCs refer to all NBFCs that are registered and do not fall within the Type I category.
2. Exemption for Unregistered Type I NBFCs:
Unregistered Type I NBFCs are exempt from the provisions of Section 45-IA (relating to registration and net owned fund requirements) and Section 45-IC (relating to the creation of a reserve fund) of the RBI Act, 1934.
 3. Definition of "Public Funds" expanded to clarify that funds raised through group or associate companies that have access to public funds shall also be treated as public funds.
 4. Overseas Investment Restrictions:
Type I NBFCs (Unregistered) are not permitted to undertake overseas investments in the financial services sector, and any such entity intending to do so will be required to obtain registration with the RBI.
 5. Deregistration:
NBFCs holding certificate of registration as 'Type 1 NBFCs' and fulfilling the criteria for exemption may apply for deregistration by 31st December 2026.

Further the amended directions elaborate the deregistration process and consequent amendment to other applicable NBFCs directions. Refer link for [RBI NBFC Amended Directions, 2026](#).

Katalyst comment:

The RBI's above amendment is a positive step that appropriately recognises that entities operating solely on owned funds, without public funds or customer interface, pose limited systemic or consumer risk; however, the relief is narrowly drawn, and many NBFCs may continue to fall within the registration requirement due to the absence of carve-outs in the definition of 'customer interface' to exclude intra-group lending and loans to directors/ shareholders.

2. **SEBI³¹: Introduces fast-track mechanism for processing of placement memorandum of AIFs**

SEBI has introduced with immediate effect, a fast-track mechanism for the launch of schemes by AIFs other than Large Value Funds for Accredited Investors ("non-LVF schemes"). Under the revised framework, AIFs filing PPMs for non-LVF schemes can proceed to launch and circulate the PPM to investors after 30 days of filing the application with SEBI, without waiting for SEBI to complete its review and issue comments; however, in case of first scheme of AIF, launch shall be from the date

³¹ SEBI Circular No. HO/19/19/11(2)2026-AFD-RAC2 I/10624/2026 dated 30th April 2026

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of SEBI registration or 30 days post-filing, whichever is later. Any SEBI comments received within this 30-day window must be complied before the scheme is launch. The first close must be declared within 12 months of the AIF becoming eligible to launch.

Further, the circular emphasised on other matters such as; i) the responsibility for disclosure, accuracy and completeness shifts onto the Merchant Banker and the AIF Manager, ii) filling requirements with the SEBI, iii) a mandatory disclaimer that SEBI's receipt of the PPM does not constitute approval.

3. SEBI³²: Issues consultation paper on review and rationalization of Buy-back of Securities regulations

SEBI following its earlier consultation paper dated April 02, 2026 (covered in Katalyst Kaleidoscope edition of [April 2026](#)), has issued a second consultation paper, incorporating recommendations of the Primary Market Advisory Committee (PMAC) and internal proposals aimed at further strengthening and rationalising the buy-back framework.

Key proposals are:

Subject Matter	Existing Provisions	Recommendation of PMAC	SEBI's View / Proposal
Shareholder Intimation	Public announcement to be made within 2 working days of board/special resolution; filed with SEBI and stock exchanges and hosted on relevant websites.	Company to additionally notify shareholders electronically within 1 working day of public announcement, based on shareholding as on announcement date.	To mandate electronic intimation to shareholders within 1 working day of public announcement.
Opening of offer and its utilisation	Offer not to open later than 4 working days from public announcement; open market route was discontinued from 01 April 2025 after progressive reduction of timeline from 6 months to 22 working days.	Maximum offer duration of 6 months; minimum utilisation threshold under Regulation 15(ii) to be increased from 40% to 50% in the first half of the offer period.	Proposed maximum duration of 66 working days from opening of offer; existing 40% minimum utilisation requirement in the first half to be retained.

³² SEBI Consultation Paper dated 08th May 2026

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Minimum Public Shareholding	NA	Explicit provision to be introduced prohibiting buy-back that would result in breach of MPS.	Proposed to insert an explicit provision in Buy-Back regulations prohibiting announcement of any buy-back that may result in breach of MPS requirements.
Interval between two buy-backs	Minimum gap of one year from date of expiry of preceding buy-back offer period.	To align interval requirement with Companies Act, 2013 for automatic applicability of future amendments	Proposed to amend Regulation to specify that the interval requirement shall be in accordance with the Companies Act, 2013.

D. Goods and Service Tax Highlights

1. **Bombay HC³³: Damages paid under an arbitral award do not constitute a "supply of service"**

Facts of the case:

1) Agreement:

- A Japanese company, NTT Docomo invested \$2.7 billion to purchase 26% stake in Tata Teleservices Limited (TTSL) in 2009.
- The agreement contained a downside protection clause stating that if performance milestones are missed, Tata Sons must find a buyer or repurchase the shares at a minimum of 50% of the original investment.
- In 2014, Docomo decided to exit due to heavy losses and exercised its option.

2) International arbitration:

- Docomo filed for international arbitration at the London Court of International Arbitration, which ruled in Docomo's favour and directed Tata Sons to pay \$1.17 billion in damages for breach of contract.
- In 2017, Docomo filed to enforce the award globally, in UK, USA and in India. The Delhi HC dismissed the RBI's objections, and clarified that the payment represents judicial damages, not a share purchase price.
- Tata Sons paid the full award amount of ₹8,468 crore, and Docomo withdrew its worldwide legal claims.

3) GST demand: in 2023, the GST authorities issued a SCN demanding 18% IGST of ₹1524 crores on the entire ₹8,468 crore payout.

³³ Tata Sons Private Ltd Vs Union of India & Ors [TS-310-HC(BOM)-2026-GST] dated 30th April 2026

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Bombay HC decision:

The Bombay HC set aside the demand and held that recovering damages through an arbitral award or court decree cannot be deemed a "supply of services" based on the following:

- 1) **No Independent Agreement:** For Entry 5(e) of the schedule II of the CGST Act to apply, there must be a separate, consensual agreement where one party tolerates a situation in exchange for consideration.
- 2) **No commercial transaction:** The HC emphasized that the ₹8,450-crore payment made by Tata Sons to Japanese firm was a judicial determination of damages arising from a breach of shareholders' agreement and not a commercial transaction.
- 3) **Mandatory Legal Consequence:** When a debtor satisfies a decree, the creditor is legally required to drop enforcement actions; Docomo's agreement to withdraw asset attachment cases in the US, UK, and India was a legal necessity on receiving payment, not an independent service rendered to Tata Sons.
- 4) **Absurd logic of Revenue:** The HC held that accepting the Revenue's logic would absurdly turn every court settled money decree or litigation compromise into a taxable GST transaction.

2. **Bombay HC³⁴: Corporate guarantees issued without consideration are not liable to GST**

The assessee had extended three corporate guarantees in favour of its subsidiaries against sanctioned term loans, without consideration. The department intended to levy GST on 1% of guarantee amount based on the Rule 28(2) of the CGST Rules/valuation rules.

The Bombay HC relying on the SC judgement in case of *Edelweiss Financial Services Ltd*³⁵ under the service tax regime, held that the corporate guarantees issued without any consideration do not qualify as "taxable supply" under GST; further, the HC emphasised on the following factors to arrive at the conclusion:

- 1) **No consideration:** All three corporate guarantees in the present case have specific clause that the corporate guarantor has not received and shall not receive any security, fee, commission or any other consideration from the borrower.
- 2) **Rule 28(2) validation:** While striking down the tax liability on the no-consideration guarantees, the court upheld the constitutional validity of Rule 28(2) of the CGST Rules, which prescribes the valuation mechanism; this duality leaves room for department appeals to the Supreme Court.

³⁴ D P Jain & Co. Infrastructure Private Limited vs UOI [TS-333-HC(BOM)-2026-GST] dated 7th May 2026

³⁵ Manu/SC/0648/2023 dated 17th March 2023