

THE ORACLE

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The Institute of Chartered
Accountants of India
(Set up by an Act of Parliament)



विश्वासनिष्ठा

ICAI encapsulates the theme for the year, **VISHWASNIYA**, a trusted partner contribution to India's economic growth. This guiding principle will steer the Institute this year toward transformative advancements that will revolve around:

- V** - Vision for Viksit Bharat
- I** - Integrity & Ethics
- S** - Sustainability & Social Impact
- H** - Holistic Professional and Leadership Development
- W** - Wellness & Work-life Balance
- A** - Accelerating Digital Transformation
- S** - Stakeholder Engagement
- N** - Nation-first Approach
- I** - Innovation & Entrepreneurship
- Y** - Youth and Women Led Development
- A** - Accountability, Trust and Transparency



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Upcoming Events in April 2025

Peer Review – Preparation and best practices

Money Laundering – Compliance and risk management

Co-operative Audits – Key challenges and strategies



From the Desk of the Chairman
CA. Prashanth Pai K.
Chairman- ICAI Mangaluru Branch



Dear Esteemed Members,

As we step into a new financial year, I, take immense pleasure in reflecting on the productive events held in March and sharing our upcoming initiatives.

March 2025 was a month of learning, awareness, and celebration. On 8th March, we commemorated International Women's Day by inviting esteemed resource persons—doctor, nutritionist, and women's rights advocate—who shared invaluable insights on empowerment, health, and equality. It was an inspiring session that reinforced our commitment to inclusivity.

On 15th March, we successfully conducted a Bank Audit Seminar, attended by over 120 members. The seminar delved into crucial topics such as the use of audit tools in bank audits, fraud detection, and audit planning, equipping our members with practical knowledge for the upcoming audit season.

Further, an Investor Awareness Program was held on 25th March, where experts discussed capital market trends, inflation, and financial planning. With over 50 attendees, the session was highly interactive and beneficial for both professionals and investors.

Recognizing that our members will be occupied with bank audits commencing in the first week of April, we have planned a brief break in activities until 15th April. Post this period, we have lined up a series of knowledge-sharing sessions on pivotal topics such as:

- Peer Review – Preparation and best practices
- Money Laundering – Compliance and risk management
- Co-operative Audits – Key challenges and strategies

These sessions aim to enhance your expertise and keep you updated on evolving professional landscapes.

I extend my best wishes to all members for a successful bank audit assignment. May this season bring new learning and growth opportunities for everyone.

To conclude, here's a thought for the month:

"Excellence is not a skill, it's an attitude. Strive for progress, and success will follow."

Warm regards,
CA Prashanth Pai K
Chairman, ICAI Mangalore Branch

Condonation of Delay in Filing Appeal Beyond Statutory Limits



CA. Ritesh Arora
Amritsar



1. Whether a SCN issued beyond the prescribed time limit under Section 73(2) of the GST Act is valid?

No, the Honorable Andhra Pradesh High Court in case of M/s Cotton Corporation of India v. Assistant Commissioner (ST) (Audit) & Others (W.P. No. 1463 of 2025, Dated: 05-02-2025) held that the time permit set out under 73(2) of the CGST Act is mandatory and any violation of that time period cannot be condoned, and would render the SCN otiose. The Honorable Court noted that the petitioner, was issued a SCN dated 30.11.2024 for the assessment year 2020-2021, under Section 73(1) read with Rule 142 of the APGST Rules, alleging short payment of tax. The petitioner challenged the notice on the ground that it was issued beyond the time limit prescribed under Section 73(2) of the APGST Act.

As per Section 73(10), the final assessment order must be issued within three years from the due date for filing the annual return, and as per Section 73(2), the notice initiating the assessment must

be issued at least three months before this deadline. Since the due date for filing the annual return for FY 2020-21 was 28.02.2022, the last date for issuing a SCN was 28.11.2024. The notice was, however, issued on 30.11.2024, leading the petitioner to argue that it was time-barred and invalid. The Honorable Court noted that the primary contention of the respondents was that a "month" should be construed as a calendar month, allowing flexibility in computing the last date for issuing notices. The petitioner argued that the word "shall" in Section 73(2) made the requirement mandatory, not directory. The Court relied on Supreme Court judgments, including *Himachal Pradesh v. Himachal Techno Engineers* (2010) 12 SCC 210 and *Dodds v. Walker* (1981) 2 WLR 609 (HL), which established that when a period is prescribed in months, it must be computed based on the corresponding date in the final month. The Court held that the deadline for issuing a notice was 28.11.2024, and issuing it on 30.11.2024 rendered it invalid and unenforceable. The Court emphasized that time limits under GST law are meant to protect taxpayers and cannot be diluted, as it would defeat the purpose of statutory safeguards. Accordingly, the Writ petition is allowed quashing the SCN.

Author's Comments

The time limit prescribed under Section 73(2) of the CGST Act mandates that notices under Section 73(1) must be issued at least three months before the deadline under Section 73(10). The Revenue's contention—that the term "months" should be interpreted as calendar months, thereby permitting the issuance of notices even beyond the exact three-month period—is flawed and inconsistent. Such an interpretation would introduce ambiguity and contradictions in the computation of limitation periods, not only for issuing notices but also for filing appeals and refund claims.

The ruling rightly reinforces the principle of strict adherence to statutory timelines, preventing arbitrary extensions that could erode taxpayer protections.

It remains to be seen how the Revenue will address this issue moving forward, especially considering that numerous SCNs were issued between 28.11.2024 and 30.11.2024. Additionally, it will be interesting to observe the Revenue's stance when this issue comes up before different High Courts across the country.

[Link to download judgment](#)

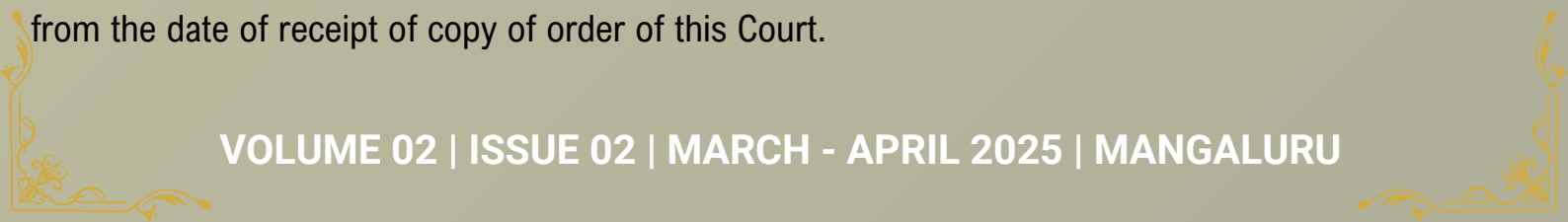


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2. Whether a writ petition is maintainable if the remedy of appeal is not availed?

No, the Honorable Jharkhand High Court in the case of Sursarita Vanijya (P.) Ltd. v. Principal Commissioner of Central Goods and Services Tax [Writ Petition (T) No. 1598 of 2024 dated September 02, 2024] disposed of the writ petition directing the petitioner to avail the statutory remedy of appeal under Section 107 of the CGST Act. The Honorable Court noted that the petitioner has filed writ challenging the GST demand issued in Form GST DRC-07 dated December 6, 2023 on the ground that Input Tax Credit has been availed in contravention of Section 16(2)(c) of the CGST Act, 2017. The Impugned order confirmed tax liability of Rs.42,58,557 under Section 73 of the CGST Act along with 18% interest under Section 50 and penalty of Rs. 4,25,856 under Section 122(2)(a) of the CGST Act and Rs.42,58,557 under Section 122(1) of the CGST Act. The petitioner contended as the supplier has undergone liquidation under the IBC, its liabilities, including GST dues has been extinguished through the liquidation process. The Honorable High Court noted that as per Section 107 of the CGST Act, the Petitioner had an alternative remedy of appeal before the Appellate Authority and held that since merit-based and procedural issues were involved, the matter should be adjudicated at the appellate level rather than directly in a writ petition. The Honorable Court directed the Petitioner to file an appeal within two weeks and the Appellate Authority must decide the matter within four weeks from the date of receipt of copy of order of this Court.



Author's Comments

To approach the High Court, it must be demonstrated that the notice:

- (a) warrants the court's intervention to prevent the march of injustice, and
- (b) involves a remedy that cannot be effectively pursued through adjudication or appeal.

Taxpayers must recognize that High Courts, as Courts of Equity, have the discretion to admit petitions seeking relief from injustices evident in the notice, particularly when the statutory remedies of adjudication and appeal are not sufficiently efficacious to prevent such injustice.

The core issue in the petition must be one that is immediately apparent—an injustice that leaps off the pages—establishing the maintainability of the petition. It must be evident that no other forum is empowered to grant the relief necessary to redress the exposed injustice. The petition should not require the High Court to engage in adjudication. Instead, it must urge the court's intervention on specific grounds, seeking appropriate orders to prevent miscarriage of justice arising from the misapplication, misinterpretation, or misuse of legal provisions.

A similar stance was taken by the Hon'ble High Court of Allahabad in M/S Bushrah Export House v. Union of India (Writ Tax No. 200 of 2024, dated 31.07.2024).

In this case, the petitioner could have argued that the imposition of a penalty under Section 122(1) of the CGST Act is inconsistent with proceedings initiated under Section 73 of the CGST Act.

Section 122(1) prescribes penalties across 21 different clauses, each with its own ingredients, applicable in cases involving fraud, willful misstatement, or suppression of facts to evade tax. However, by the Doctrine of Election, the Proper Officer, by resorting to Section 122(1), has implicitly acknowledged the presence of fraud, willful misstatement, or suppression of facts. Conversely, the issuance of a notice under Section 73 signifies an affirmation that no such fraud exists. As a result, the Proper Officer, having opted for Section 122(1), lacked the jurisdiction to invoke Section 73, thereby rendering the proceedings legally unsustainable.

[Link to download judgment](https://drive.google.com/file/d/1Xj84x2UKg5YMeTMrhjKuB12uUUgeL9Zi/view?usp=sharing)



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3. Can an appeal be dismissed as time-barred if it is filed within 90 days from the date of communication of the order being appealed against?

No, the Honorable High Court of Karnataka in case of M/S S.K. TAKAPPA COIR ROPES DEALER vs. THE ASSISTANT COMMISSIONER OF COMMERCIAL TAXES (APPEALS), DAVANGERE-577004 (W.P. No.3841 of 2025 dated 11.02.2025) held that the Impugned Order rejecting appeal for being time-barred is set aside as the appeal was presented within the condonable period. The Honorable Court noted that the appeal dated 22.03.2024 was preferred against the order under section 73(9) & 73(10) dated 20.12.2023 which was communicated to the petitioner on 22.10.2023 through an email. The appeal was dismissed without examining as to whether the appeal filed was within the time and without providing an opportunity of hearing, solely on the ground of delay of two days in filing the appeal. Subsequently, petitioner filed rectification application and along with rectification application, petitioner had also filed affidavit praying to condone the delay if any, in preferring the appeal. The Honorable Court noted in terms of Section 169 of 2017 Act, one of the mode of communication is by e-mail. From the date of communication, appeal is filed on 90th day. Section 107 of KGST Act, 2017 provides three months' time to file appeal from the date of order or from the date of communication. The Honorable Court held that the respondent ought to have exercised its power under Section 107 (1) and (2) of 2017 Act judiciously and ought to have entertained the appeal and passed order on merits. If the Appellate Authority was of the view that the appeal filed was beyond the period prescribed under Section 107(1) of 2017 Act, second Respondent-Appellate Authority ought to have

heard petitioner before passing the order rejecting the appeal. Hence, Impugned Order set aside and directed to hear the appeal filed by the petitioner on merits.

Author's Comments

Section 107(1) of the CGST Act expressly provides that an appeal to the First Appellate Authority (FAA) must be filed within "three months" from the date of communication of the decision or order. The legislature's choice of the term "three months" cannot be equated with 30 days. As per Halsbury's Laws of England, 4th Edition, para 211, a "month" refers to a full calendar month rather than a fixed period of 30 days. This principle was affirmed by the Hon'ble Supreme Court in *Bibi Salma Khatoon v. State of Bihar* [(2001) 7 SCC 197].

Additionally, in *Saketh India Ltd. v. India Securities Ltd.* [(1999) 3 SCC 1], the Apex Court held that the date of receipt of communication must be excluded while computing the limitation period, relying on Section 12(1) and (2) of the Limitation Act, 1963, and Section 9 of the General Clauses Act, 1897. Furthermore, the date of communication is distinct from the date of the order. Accordingly, the limitation period begins on the day following the date of communication and must be calculated in terms of calendar months, not days.

In *Brand Protection Services Private Limited v. State of Bihar* [C.W.P. No. 14957 of 2024, dated 04.02.2025], the Hon'ble Patna High Court reaffirmed that Section 107(1) prescribes a filing period of "three months" for appeals, while Section 107(4) allows for a condonable period of "one month."

[Link to download judgment](https://drive.google.com/file/d/1XWPd6iMadw8oOwkvINnFsrHwTdBApe21/view?usp=sharing)



<https://drive.google.com/file/d/1XWPd6iMadw8oOwkvINnFsrHwTdBApe21/view?usp=sharing>



4. Whether goods in transit can be seized under Section 129(3) of the GST Act on the ground of undervaluation?

Yes, the Honorable High Court of Allahabad in case of M/S Jaya Traders v. Additional Commissioner Grade-2 & Others (Writ Tax No. 1022 of 2021, Allahabad High Court, Judgment Date: 03-03-2025) held that the seizure can be made even on the ground of under valuation, if under valuation is deliberate for the purpose of avoiding payment of tax or to defeat the provisions of the Act. The Honorable Court noted that the petitioner engaged in the trade of pan masala and scented tobacco, challenged the order dated 25.10.2021 under Section 129(3) of the IGST/CGST Act, imposing a penalty on seized goods. The goods were transported from West Bengal/Assam to Delhi, accompanied by tax invoices but without an e-way bill, as their value was below ₹50,000. During transit, the truck was intercepted at Kanpur, and the driver stated that the goods were loaded from Kanpur, contradicting the accompanying documents. Authorities seized the goods, alleging undervaluation and irregular documentation, while the petitioner argued that seizure on undervaluation grounds is not permitted under Section 129. The appellate authority upheld the seizure, leading the petitioner to file the writ petition. The Honorable Court observed that the petitioner failed to provide substantial proof of the actual transportation of goods from West Bengal/Assam to Delhi. The petitioner did not submit (i) Vehicle details, (ii) Toll receipts and (iii) Any transport chain evidence. The Court emphasized that burden of proof lies on the assessee in the original proceedings. The truck driver's statement was given more weight, as per precedents, stating

, as per precedents, stating that first-instance statements have more sanctity than later explanations. The Court ruled that undervaluation, if deliberate and used to avoid tax, justifies seizure under GST laws, citing past judgments like *Radha Fragrance v. Union of India* and *Shiv Shakti Trading Co. v. State of U.P.* Seizure was upheld, and the petition was dismissed.

Author's Comments

The intercepting officers, drawing from their experience in the previous tax regime, often tend to overstep their jurisdiction by expanding the scope of their limited powers under GST. However, it is a settled legal principle that an authority to whom power is delegated cannot exceed the scope of that authority.

When MOV-07 (Show Cause Notice) acknowledges compliance with Rule 138A but still alleges undervaluation or misclassification, it amounts to an extra legislative inquiry beyond the jurisdiction of the intercepting officer under Section 68 read with Section 129. The officer has no authority to go beyond Rule 138A—such matters should instead be addressed through notices under Section 73 or 74 by the concerned Proper Officer.

This principle has been upheld in various judicial precedents:

- The Kerala High Court in *Hindustan Coca-Cola Pvt. Ltd. v. Assistant State Tax Officer* (March 19, 2020) held that misclassification alone is not a valid ground for detention.
- The Uttar Pradesh Commercial Taxes Department (Circular No. 1819010, dated May 9, 2018) clarifies that intercepting officers should not detain consignments on undervaluation or misclassification grounds but instead report the matter to the Joint Commissioner for further action.
- The Allahabad High Court in *Shamhu Saran Agarwal & Co. v. Additional Commissioner Grade-2* (WP No. 33 of 2022, January 31, 2024) ruled that goods cannot be detained, nor penalty imposed under Section 129, on mere allegations of undervaluation.
- The Karnataka High Court in *Rajeev Traders* [2022 (66) GSTL 15 (Kar.)] observed that detention proceedings cannot be converted into confiscatory proceedings. If the proper officer suspects tax evasion through undervaluation, the correct recourse is to initiate proceedings under Section 73 or 74, rather than invoking Section 129 for detention.

Additionally, if the petitioner failed to provide substantial proof of the actual transportation of goods

from West Bengal/Assam to Delhi, the Revenue ought to have invoked Section 130, which deals with confiscation of goods. However, an officer exercising powers under Section 129 does not have jurisdiction under Section 130.

[Link to download judgment](https://drive.google.com/file/d/1MiR4dmb0w1tIU6DALKrJPdAEXaRYsII/view?usp=sharing)



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5. Whether the Order is valid if the reply furnished by the taxpayer is not considered?

No. The Honorable Bombay High Court, in *Panacea Biotech Limited Vs Union of India & Ors* [Writ Petition No.13587 of 2024, dated January 21, 2025], set aside the SCN and the order passed due to the non-consideration of the taxpayer's reply. The Court observed that the Department's claim—that the petitioner had not filed a reply or made submissions—was factually incorrect, as the reply was filed and received on the same day. Based on this fact, the Court held that the impugned order was liable to be set aside and remanded the matter for fresh adjudication on the SCN.

Although no decision was rendered on merits, the Court directed the Department to consider the judgment of the Honorable Gujarat High Court in *Gujarat Chamber of Commerce and Industry & Ors. Vs UOI & Ors.* [R/Special Civil Application No. 11345 of 2023, dated January 03, 2025], which held that the transfer/assignment of leasehold rights in industrial land is not taxable. The Department has been directed to adjudicate the show cause notice afresh, and the petitioner is at liberty to file a detailed reply within two weeks.

Author's Comments

This is a welcome decision by the Honorable High Court, reaffirming the supremacy of the rule of law against an overzealous administration. The Revenue Department must recognize that such an approach renders the “due process” prescribed under the statute superfluous, unnecessary, and nugatory—which is impermissible in law.

An ex parte order is one issued without the taxpayer’s participation, relying solely on available records and information. However, facing an ex parte order does not necessarily result in adverse consequences, nor does it always necessitate an immediate writ petition. In some cases, even without a reply, the records may indicate that the notice itself is unsustainable in law and on facts. Therefore, choosing the appropriate forum for challenge should be a carefully considered strategic decision, aligned with the overall litigation approach.

[Link to download judgment](https://drive.google.com/file/d/1srPEQXe4h0S2T-512TOeKHlgiewigHan/view?usp=sharing)



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THE MONTH GONE BY - MARCH 2025

INTERNATIONAL WOMENS DAY CELEBRATION 8TH MARCH 2025



THE MONTH GONE BY - MARCH 2025

INTERACTION WITH CENTRAL COUNCIL MEMBER CA. MADHUKAR N HIREGANGE 15TH MARCH 2025



THE MONTH GONE BY - MARCH 2025

ONE DAY BANK AUDIT SEMINAR 15TH MARCH 2025



THE MONTH GONE BY - MARCH 2025
INVESTOR AWARENESS PROGRAMME
25TH MARCH 2025





HOSA DIGANTHA
02/03/2025



VIJAYAVANI
06/03/2025



UDAYAVANI
02/03/2025



VIJAYAVANI
04/03/2025



VIJAYAVANI
11/03/2025

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