

# WCC WATCH

Your Monthly Digest to Stay Ahead in the Evolving Realm of White Collar Crime



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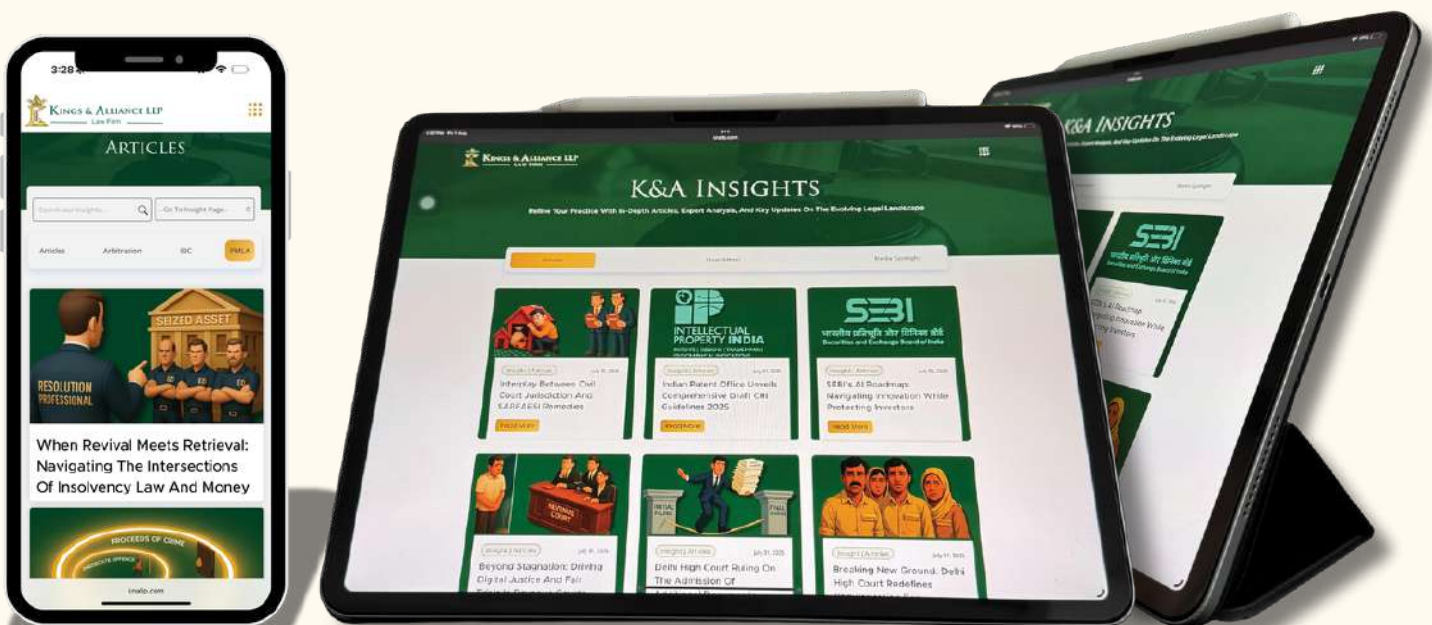
***The Breakthrough***, our cover story this month reveals how the Supreme Court's gavel is striking a new balance, proving that even the PMLA's unyielding finality can bend for justice and commercial continuity. This pivotal decision sets a precedent for how the ED's power to freeze assets can be navigated with judicial flexibility.

Beyond this, we bring you up to speed on other significant legal developments. We delve into how judicial stays and critical remarks are reshaping PMLA law, particularly concerning the "predicate offense" doctrine. We also analyze the application of the new BNSS in high-profile cases involving investigative agencies and explore the evolution of jurisdictional rules under the N.I. Act. On the corporate front, we dissect the ITAT's decision on Section 270A, which redefines the landscape of tax penalties by focusing on taxpayer intent.

Finally, this issue provides a brief overview of the latest regulatory updates, including the three pillars of GST 2.0 and the major overhaul promised by the Income Tax Bill, 2025. This paints a clear picture of an evolving and increasingly assertive legal and economic landscape.

Let's dive in!

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## COVER STORY 04

PMLA's New Face: SC Order on M3M Group's Property Substitution Breaks from the Past



## PIVOTAL ISSUES 05

A New Legal Horizon: How Judicial Stays and Critical Remarks Are Reshaping PMLA Law



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Rethinking Due Process: BNSS's Application to ED Complaints and the Road Ahead



## PIVOTAL ISSUES 07

From Dashrath to Sheth: Evolution of Jurisdictional Rules Under Section 138 NI Act



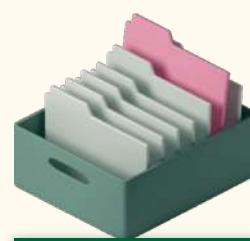
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- GST 2.0: A New Era of Economic Freedom for India
- India's Tax Code Gets a Major Overhaul: New Bill Promises Clarity for Taxpayers



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# COVER STORY

## PMLA's New Face: SC Order on M3M Group's Property Substitution Breaks from the Past



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*Let us substitute the attached property with another one, of equal or greater value, and let our project proceed.*

Have you ever wondered what happens when a rigorous legal process designed to stop financial crime collides with the everyday realities of a multi-million dollar business? The PMLA is a law known for its severity, a tool that empowers the ED to freeze assets with a definitive finality that leaves little room for negotiation. But what if a company, facing the prospect of a massive project being stalled, offers a creative solution? Could the law, designed to be unyielding, bend to allow for commercial continuity without compromising justice?

This is exactly the situation that unfolded in the Supreme Court with the M3M Group in Joint Director and Another Versus Eastern Institute for Integrated Learning in Management University and Another. When the ED provisionally attached a prime land parcel, the company's flagship project was suddenly in jeopardy. Instead of a protracted legal battle over the attachment itself, M3M made an unprecedented proposal: "Let us substitute the attached property with another one, of equal or greater value, and let our project proceed."

This was not just a legal maneuver; it was a test of the judicial system's flexibility. The ED, in a surprisingly pragmatic move, agreed to the proposal after an independent valuation confirmed the proposed substitute—a collection of unsold commercial units in their "M3M Broadway" project—was worth a solid ₹317 crores, exceeding the value of the original property. With this financial security in place, the Supreme Court delivered a landmark ruling.



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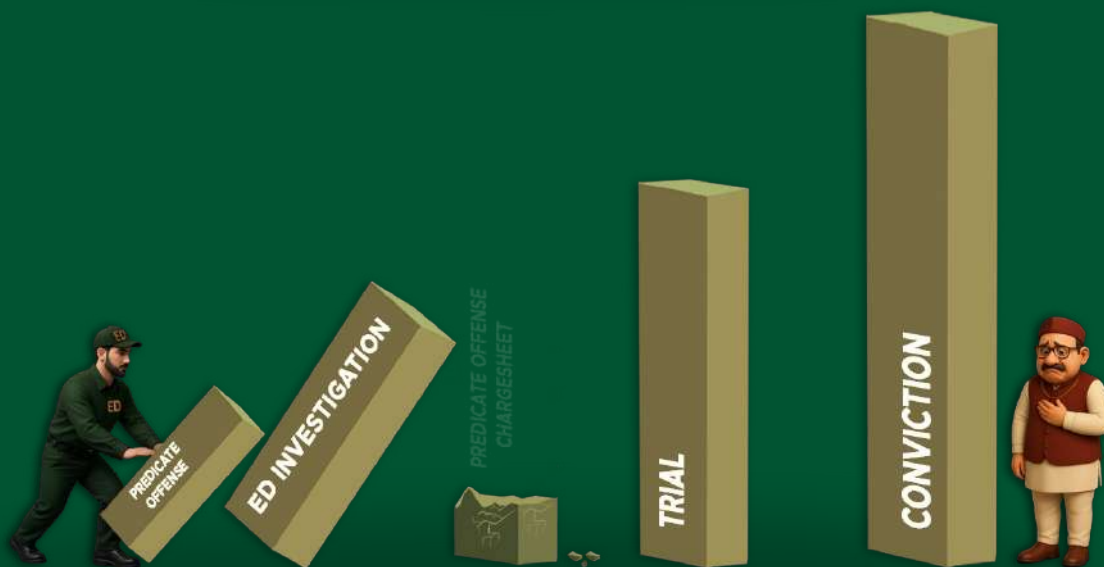


# PIVOTAL ISSUES

## A New Legal Horizon: How Judicial Stays and Critical Remarks Are Reshaping PMLA Law

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*where a right to set-off exists based on a contract predating the CIRP, is a simple matter of respecting pre-existing agreements*



The PMLA is currently undergoing a significant shift in how it's being interpreted and applied by the judiciary. The central nerve of this change is the inordinate delay in filing a chargesheet for the "predicate offense," the very crime that gives rise to the "proceeds of crime" under the PMLA. This issue has sparked a renewed debate about the PMLA's nature as a "standalone" offense, leading to a new wave of judicial criticism against the ED.

The recent stay order of the Supreme Court, issued on July 27, 2025, in *S. Srividhya & Ors. v. Assistant Director & Anr.*, signals a renewed shift in this judicial paradigm. In this case, a bench of Justices Vikram Nath and Sandeep Mehta stayed the PMLA trial because a chargesheet in the predicate offense had not been filed for over seven years.

The court's reasoning was rooted in the "live and sustainable predicate offence" doctrine, where it questioned the very basis of a PMLA trial when the core offense had not been formally charged. The delay was deemed "fundamental," and the court's action indicates a clear departure from the absolute "standalone offense" theory. This stay is a strong indication that while the PMLA might have its own procedures, it cannot exist in a vacuum, especially when procedural fairness is so severely compromised by an inordinate delay in the predicate case. The order suggests that the lack of a chargesheet for years is sufficient grounds to question the legitimacy of the PMLA trial itself...



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# PIVOTAL ISSUES

## Rethinking Due Process: BNSS's Application to ED Complaints and the Road Ahead



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*No cognizance of an offence shall be taken by the Magistrate without giving the accused an opportunity of being heard*

Navigating India's evolving legal landscape, recent judicial interpretations have solidified the procedural safeguards guaranteed to an accused person under the BNSS, marking a new era of legal fairness. Courts across the country are clarifying that strict adherence to the new law is not optional but a fundamental requirement. This principle, which began in cases of private complaints, is now being rigorously applied to high-profile cases involving powerful investigative agencies.

The judicial momentum was set by courts like the Kerala High Court, which, in *Saji John and Anr. v. State of Kerala and Anr.* firmly held that a magistrate must give a pre-cognizance hearing to the accused before taking notice of an offense. It quashed proceedings where this crucial step was omitted, stressing the sanctity of the accused's right to be heard. Similarly, the Allahabad High Court, in *Prateek Agarwal vs State Of U.P. Thru. Addl. Chief Secy on Application U/S 482 No. 10390 of 2024 (Lucknow Bench)*, ruled against the premature summoning of an accused, emphasizing that statutory procedure must be followed, including recording the statements of the complainant and witnesses on oath before notice is issued.

This emerging legal consensus has found its most compelling application yet in a case involving the ED, where the Delhi High Court extended the procedural safeguards of Section 223 of the BNSS to prosecution complaints filed under the PMLA. So, what was the issue...



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# PIVOTAL ISSUES

## From Dashrath to Sheth: Evolution of Jurisdictional Rules Under Section 138 NI Act



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*Where do you file the complaint?*

An interesting legal question often arises in cases involving a dishonored cheque: where do you file the complaint? The Supreme Court of India recently addressed this very issue in a case that highlights the importance of understanding a specific provision of the Negotiable Instruments Act, 1881 (N.I. Act). The case, *Prakash Chimanlal Sheth vs. Jagruti Keyur Rajpopat*, serves as a crucial reminder for anyone involved in such a legal dispute. It clarifies that the decisive factor for territorial jurisdiction is not where the cheque was physically presented, but rather the location of the bank branch where the payee maintains their account. This judgment provides a clear roadmap for complainants seeking legal recourse under Section 138 of the N.I. Act.

The case originated from a financial transaction where Appellant lent a sum of ₹38,50,000 to Respondent, who is his wife, acting as a guarantor. To settle these debts, she issued four cheques. Appellant deposited these cheques at the Kotak Mahindra Bank, Opera House Branch, Mumbai. However, the cheques were dishonored due to insufficient funds. Following the dishonour, Appellant filed four complaints in the Judicial Magistrate First Class, Fifth Court, Mangalore. This is where the legal quagmire began. The Magistrate returned the complaints, citing a lack of territorial jurisdiction, arguing that since the drawee bank was in Mumbai, the court in Mangalore had no authority to hear the case. This decision was subsequently upheld by the High Court of Karnataka. The matter then escalated to the Supreme Court. The heart of the matter lay in the correct interpretation of the law...

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# PIVOTAL ISSUES

## Beyond the Letter of the Law: How ITAT's Decision on Section 270A Reshapes the Landscape of Tax Penalties

### Underreporting or Misreporting



*If a taxpayer genuinely rectifies their position and pays the correct tax before formal enforcement action begins, the penalty should be waived*

In the ever-evolving landscape of tax jurisprudence, where the letter of the law meets the complexities of real-world application, a recent judgment from the ITAT, Pune Bench demands close attention. This article embarks on an in-depth examination of the pivotal decision in the case of Sachin Baban Shinde v. ITO, National Faceless Assessment Centre, Delhi. At its heart lies a critical challenge: the imposition of a penalty under Section 270A of the Income Tax Act, 1961, specifically for income deemed underreported as a consequence of misreporting. What truly forms the analytical core of this report, however, is the Tribunal's striking decision to set aside this penalty, despite the initial finding of misreporting. This outcome compels us to delve into the nuanced interplay of taxpayer intent, professional reliance, and the judiciary's discerning approach to penal provisions.

This pivotal provision was meticulously crafted to address and penalise instances of underreporting or misreporting income, with the overarching objective of deterring tax evasion and upholding the integrity of the fiscal system.

The Act draws a crucial distinction between two forms of non-compliance. Underreporting of Income typically occurs when the income assessed or reassessed by tax authorities surpasses the amount declared by the taxpayer in their return. This can also arise if no return has been furnished and the assessed income exceeds the basic exemption limit, or if a declared loss is subsequently reduced or converted into positive income during...

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# SIGNIFICANT CASE LAWS

## Territorial Jurisdiction in Cheque Bounce Cases Clarified: Orissa High Court Emphasizes Proper Procedure Under BNSS

The Orissa High Court in *Sangram Keshari Routray v. Hexagon Infrastructures Pvt. Ltd.*, while dealing with a cheque bounce matter, clarified that as per Section 224 of the Bharatiya Nagarik Suraksha Sanhita (BNSS) a provision corresponding to Section 201 of the CrPC—a Magistrate lacking territorial jurisdiction cannot take cognizance of a complaint and must instead return the complaint with an endorsement for presentation before the proper court. Justice Sanjay Kumar Mishra stressed that rather than seeking transfer under Section 447 BNSS, the complainant should have approached the Magistrate at Cuttack (JMFC-II) for the return of his complaint, enabling him to refile it before the jurisdictional court at Bhubaneswar.

Referring to Section 142(2)(a) of the Negotiable Instruments Act, the Court reiterated that when a cheque is deposited in the payee's bank account and is dishonoured, the complaint must be filed before the court within whose jurisdiction the payee's bank branch is located. Since the complainant had presented the cheque in his Bhubaneswar branch, jurisdiction lay with the Bhubaneswar Court and not Cuttack. Acknowledging the petitioner's concern about limitation, the Court relied on a recent Supreme Court ruling in *M/s Shri Sendhur Agro & Oil Industries v. Kotak Mahindra Bank Ltd.* (2025) to hold that transfer orders on the ground of territorial jurisdiction cannot be passed as a routine measure. Instead, the petitioner was directed to move JMFC-II, Cuttack under Section 224 BNSS, so that the complaint could be properly returned and refiled before the competent Bhubaneswar court.



# SIGNIFICANT CASE LAWS

## NCLT Bengaluru Rules That The Tribunal Lacks Power to De-Attach Properties Seized Under PMLA During CIRP

The Bengaluru Bench of National Company Law Tribunal (NCLT) in the case of Apartment Buyers Consumer Association Vs M/s Freamz Infra India Limited Versus Enforcement Directorate has ruled that it lacks jurisdiction under the Insolvency and Bankruptcy Code (IBC) to direct the de-attachment of properties seized by the Enforcement Directorate under the Prevention of Money Laundering Act (PMLA). In the given case, the application was filed by a Resolution Professional under Section 60(5) of the IBC, seeking release of assets attached under a Provisional Attachment Order to enable continuation of the Corporate Insolvency Resolution Process (CIRP). The applicant argued that IBC provisions, particularly Sections 14, 32A, 63, and 238, override PMLA, thereby invalidating the ED's action once CIRP commences.

The Tribunal, however, held that the IBC and PMLA operate in distinct domains. While IBC governs insolvency processes, PMLA on the other hand enforces penal measures and international obligations against tainted assets. The court, relying on precedents such as Anil Kohli vs Directorate of Enforcement and the Supreme Court's ruling in Kalyani Transco v. Bhushan Power and Steel Ltd., observed that section 238 of the IBC does not override PMLA in matters of asset attachment. Since the ED is not a creditor but a public enforcement agency, its actions fall within the realm of public law, beyond the adjudicatory scope of the NCLT/NCLAT. Accordingly, the NCLT concluded that it cannot interfere with or set aside attachments made under the PMLA, even during CIRP, and dismissed the Resolution Professional's application.



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# SIGNIFICANT CASE LAWS

## Kerala HC: Cash Loans Above ₹20,000 in Violation of IT Act Not Enforceable Under NI Act

In the recent case of Hari v. Shine Varghese and Anr, the Kerala High Court has held that debts arising from cash transactions exceeding ₹20,000, made in violation of Section 269SS of the Income Tax Act, 1961, cannot be treated as “legally enforceable debts” unless supported by a valid explanation under Section 273B. Justice P.V. Kunhikrishnan emphasized that allowing recovery of such debts through criminal courts under Section 138 of the Negotiable Instruments Act would tantamount to indirectly validating illegal transactions thereby defeating the legislative intent to discourage large cash dealings and curb parallel economy practices.

The facts of the case is that the complainant alleged an advance of ₹9,00,000 in cash to the accused, who issued a cheque for the same amount drawn on his bank account. The cheque was dishonoured due to insufficient funds. The trial court convicted the accused under Section 138 of the Negotiable Instruments Act, sentencing him to one year of simple imprisonment and directing compensation equal to the cheque amount. The Sessions Court upheld the conviction on appeal. Thereafter, the aggrieved accused filed the instant criminal revision before the Kerala High Court, contending that the alleged transaction violated Section 269SS of the Income Tax Act, 1961, since it was a cash transaction exceeding ₹20,000, and therefore could not constitute a “legally enforceable debt.” Additionally, the court held that the accused successfully rebutted the presumption under Section 139 NI Act as the complainant admitted paying ₹9 lakhs in cash without any valid explanation or tax compliance. Hence, applying this principle prospectively, the Court set aside the conviction against the accused.

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# SIGNIFICANT CASE LAWS

## Bombay High Court Issues Notice on Plea Challenging Exclusion of Same-Sex Couples from Gift Tax Exemption under IT Act

The Bombay High Court in the writ petition filed in the case of Payio Ashiho vs Union of India dealing with a petition filed by a same-sex couple challenging the constitutional validity of Section 56(2)(x) of the Income Tax Act, 1961 issued notice to the Attorney General of India. The provision exempts gifts between “spouses” from taxation but, by interpretation, it applies only to heterosexual couples. The petitioners, Payio Ashiho and Vivek Divan ( a homosexual couple) argued that the exclusion of same-sex couples is discriminatory and violates constitutional guarantees of equality u/a 14 of the Constitution of India.

The petitioners have contended that the exclusion of homosexual partners from the ambit of the term “spouse” is arbitrary and violative of Article 14 of the Constitution. They have sought either a declaration that “spouse” under the fifth proviso to Section 56(2)(x) be read to include same-sex couples, or in the alternative, that the provision be struck down as unconstitutional to the extent of such exclusion. Taking cognisance of the constitutional issues raised, a Division Bench of Justices Burgess Colabawalla and Firdosh Pooniwalla directed issuance of notice to the Attorney General and other concerned respondents. The matter raises a significant question at the intersection of equality jurisprudence and tax law, marking it as development of considerable legal importance to look out for.



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# SIGNIFICANT CASE LAWS

## NCLT Mumbai Holds AGM Default under Section 99 as Compoundable, Reduces Penalties on Company and Directors

The NCLT Mumbai, in the case of Nvent Thermal India Private Limited v. Registrar of Companies, Mumbai, held that an offence under Section 99 of the Companies Act, 2013 is compoundable. In the given case, the applicant Nvent Thermal India Pvt. Ltd. and its director had filed a compounding application under Sections 96 and 441 for failure to hold AGMs for FYs 2015-16 and 2016-17 within the prescribed timelines. The default, caused by delays in finalizing accounts during restructuring, was later rectified with AGMs held in February and July 2018. The company argued that the lapse was inadvertent, caused no prejudice, and that it has since remained compliant. The Registrar of Companies (RoC) reported delays of 496 and 284 days, proposing heavy penalties.

The tribunal after considering the bona fide nature of the default, the company's financial condition, and subsequent compliance, substantially reduced the compounding fee. It directed the company and its director to pay ₹1,49,000 and ₹1,56,600 for the respective financial years, with similar penalties imposed on ex-directors. The Tribunal emphasized that as Section 99 prescribes only fine as punishment, therefore offence is compoundable. NCLT allowed the application, directing payment within 30 days along with a compliance report. This ruling is significant as it adopts a pragmatic and balanced approach, deterring repeated violations while recognizing genuine lapses. It concluded that, in the interest of justice and fair play, the compounding fee would serve as an effective deterrent against recurrence of such defaults. Accordingly, the compounding application was allowed.



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# SIGNIFICANT CASE LAWS

## Kerala High Court: Mere Irregularity in Sanction Not Ground to Set Aside Conviction Under PC Act Without Failure of Justice

The Kerala High Court in *Luckose Joseph v State of Kerala* partly allowed an appeal filed by a former Village Officer convicted for demanding and accepting a bribe for issuing possession certificates and held that error in sanction cannot vitiate the proceedings unless it results in “failure of justice.” While confirming the conviction under Sections 7 and 13(2) read with 13(1)(d) of the Prevention of Corruption Act, Justice A. Badharudeen reduced the sentence of the appellant to the statutory minimum of one year rigorous imprisonment with a fine of ₹7,500 under Section 13(2) and six months rigorous imprisonment with a fine of ₹10,000 under Section 7.

The appellant in the instant case had challenged the conviction on the ground that sanction for prosecution was invalid, since it was granted by the Deputy Land Revenue Commissioner instead of the competent Land Revenue Commissioner. The High Court, however, relying on Section 19(3) of the Prevention of Corruption Act and precedents including *State v. T. Venkatesh Murthy* (2004) and *CBI v. Jagat Ram* (2024), held that mere error, omission, or irregularity in sanction including incompetency of the authority cannot vitiate the proceedings unless it results in a “failure of justice.” The court observed the trial court’s findings and evidence on record which showed no failure of justice had occurred due to the sanction defect and thereafter the court declined to interfere with the conviction. It clarified that while valid sanction is a prerequisite to take cognizance of corruption offences, appellate interference is warranted only where sanction irregularities demonstrably cause prejudice or miscarriage of justice. This judgement demonstrates that courts prioritize substantive justice over technical lapses and accused public servants cannot rely solely on sanction irregularities to escape liability unless they can prove actual prejudice or failure of justice has occasioned.



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# SIGNIFICANT CASE LAWS

## Rajasthan HC Limits Shield of Section 17-A PC Act, Allows Prosecution Based on Prima Facie Electronic Evidence of Bribery

The Rajasthan High Court in the case of Chandra Kant Ramawat v State of Rajasthan & Anr. dismissed a petition seeking quashing of an FIR under the Prevention of Corruption Act, 2018, where a school coordinator was accused of demanding a bribe along with a co-accused principal who was caught red-handed in a trap. The petitioner argued that the investigation was invalid for want of prior approval under Section 17-A PC Act, as the allegation related to a recommendation/decision made in discharge of his official duty.

The Court, however, held that Section 17-A aims to protect honest officials from vexatious complaints but cannot be misused as a shield for corrupt officers. It clarified that prior approval is required only where the accusation arises solely from an official recommendation or decision. Where prima facie electronic evidence like voice/video recordings establishes demand or acceptance of bribe, prior sanction under Section 17-A is not necessary, and denying prosecution would be a travesty of justice. The court strike a balance between protecting honest officials from frivolous cases and ensuring that genuine corruption cases are not stalled. This ensures that investigating agencies won't be stalled by bureaucratic delays in obtaining sanction when clear electronic evidence exists, allowing quicker initiation of trials. Accordingly, the Court upheld the FIR and allowed prosecution to continue.



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# REGULATORY UPDATE:

GST 2.0: A New Era of Economic Freedom for India

# GST 2.0

## GOODS AND SERVICES TAX

Imagine India where the tax system is not a confusing maze but a clear, well-lit path. As the festive season of Diwali 2025 approaches, India stands on the brink of a monumental tax reform. In a significant announcement on the 79th Independence Day, Prime Minister Narendra Modi unveiled the "next-generation" GST reforms, signaling a decisive move to simplify the tax structure, empower citizens and businesses, and stimulate economic growth. This transformative agenda, dubbed "GST 2.0," is grounded in three core pillars: structural reforms, rate rationalization, and easing the doing of business. It is a "Diwali gift" that promises to make a tangible difference in the lives of millions, from the common consumer to the smallest of enterprises.

The proposed reforms are not merely a cosmetic change but a comprehensive overhaul of the existing tax framework. The government's proposal, already endorsed by the GoM on Rate Rationalisation, focuses on:

**Structural Reforms:** This pillar is aimed at fixing long-standing issues within the GST system. A key focus is the correction of the inverted duty structure, where the tax on inputs is higher than on the final output. By adjusting input and output tax rates, the government aims to reduce the accumulation of ITC, which has been a major drain on businesses' working capital, particularly in sectors like chemicals, pharmaceuticals, and construction. Furthermore, the reforms seek to resolve classification disputes...

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## REGULATORY UPDATE:

India's Tax Code Gets a Major Overhaul: New Bill Promises Clarity for Taxpayers

# THE INCOME-TAX (NO. 2) BILL, 2025

India's Union Finance Minister tabled the revised Income Tax Bill, 2025, in the Lok Sabha on August 11, 2025, marking a pivotal moment in the nation's tax history. Formally titled "The Income-tax (No. 2) Bill, 2025," this proposed legislation aims to consolidate and update India's income tax laws, replacing the six-decade-old Income Tax Act, 1961. The Bill incorporates most of the 285 recommendations from the Select Committee and public feedback, reflecting a responsive legislative approach.

The primary objectives of the Income Tax Bill, 2025, are to simplify and modernise the tax code by reducing its volume and sections by approximately 50%, making it easier to understand and implement. It seeks to significantly reduce the compliance burden for all taxpayers, including individuals, organizations, and MSMEs, and to establish a reliable, predictable, and clear taxation framework essential for economic growth and investment.

**Unified "Tax Year":** It replaces the distinct "assessment year" and "previous year" with a single, unified "tax year," simplifying the taxation timeline.

**Refunds for Late Returns:** The Bill now explicitly allows taxpayers to claim refunds even if their returns are submitted after the specified deadlines, providing considerable relief.

**Shortened TDS Correction Window:** The time limit for submitting Tax Deducted at...

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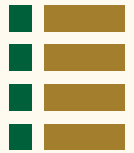
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