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08.12.2025  
AK

**Calcutta High Court  
In the Circuit Bench at Jalpaiguri  
Appellate Side  
From Principal Bench**

**CPAN 71 of 2024  
with  
RVW 21 of 2025  
IA No: Can 1 of 2025  
CAN 2 of 2025  
In MAT 104 of 2024**

The Assistant Commissioner of West Bengal State Tax,  
Cooch Behar Charge and others  
Vs.  
Suraj Mangar

Mr. Ankit Kanodia  
Ms. Megha Agarwal  
Mr. Abhilash Mittal

.... for the petitioners.

Mr. Abhrotosh Majumder  
Mr. Tanoy Chakraborty  
Mr. Saptak Sanyal

....for the State.

1. On hearing learned counsel for the parties, we find sufficient explanation for the delay having been made out.
2. Accordingly, CAN 1 of 2025 is allowed, thereby condoning the delay in preferring RVW 21 of 2025.
3. Learned senior counsel appearing for the State/ review applicant submits that the judgment

dated July 30, 2025 passed in MAT 104 of 2024 ought to be reviewed.

4. Learned senior counsel seeks to bring on record by way of supplementary affidavit certain minutes of meetings held by the GST Council, which, it is contended, have a vital bearing on the matter.
5. However, we are unable to permit the review applicant to bring on record further materials which were not before us at the time when the judgment under review was passed.
6. More importantly, since, by way of the supplementary affidavit, merely minutes of the meetings of the GST Council are sought to be brought on record, which do not have any statutory binding effect, we are of the opinion that consideration of the same, particularly within the limited scope of a review, is beyond our purview.
7. Accordingly, we refuse the prayer to file supplementary affidavit.
8. Learned senior counsel appearing for the State/review applicant argues that in paragraph no.23 of the judgment in review, it was observed that sub-Section (7) of Section 54 of the West Bengal Goods and Services Tax Act, 2017 (hereinafter referred to as “the 2017 Act),

stipulates that the Proper Officer shall issue the order under sub-section (5) within 60 days from the date of receipt of the application, complete in all respects. It was further held that it is such outer limit of 60 days which was under consideration before this court.

9. Learned senior counsel next takes us to Paragraph-45 of the judgment under review, where it was observed that it has been consistently held by the Division Benches of the Delhi High Court in *Smartad Media v. Commissioner of Delhi Goods and Service Tax* reported at (2024) 19 Centax 106 (Del.), *M.D. Securities Pvt. Ltd. v. Sales Tax Officer Avato* reported at (2025) 31 Centax 138 (Del.), and *Jian International v. Commissioner of Delhi Goods and Services Tax* reported at 2020 (39) G.S.T.L. 385 (Del.) that the non-adherence to the timelines stipulated in the Act and the Rules vitiates the entire process and disentitles the PO from claiming any deficiency in the application.
10. Learned senior counsel places reliance on a subsequent order dated August 4, 2025 passed in *M.D. Securities Private Limited*, where it was recorded that learned counsel for the respondent therein had submitted that an order had been passed rejecting the refund.

11. It is contended that the said rejection of refund was contrary to the proposition of *M.D. Securities Private Limited* relied on by this court, passed at an interlocutory stage of the matter, and, as such, was not binding in the true sense.
12. Learned senior counsel places reliance on *Commissioner of Customs vs. Canon India Private Limited*, reported at (2025) 4 SCC 509, where the Hon'ble Supreme Court observed that when a court disposes of a case without due regard to a provision of law or when it its attention was not invited to a provision of law it may amount to an error analogous to one where there is error apparent on the face of the record, sufficient to bring the case within the purview of Order XLVII Rule 1 of the Code of Civil Procedure, 1908.
13. In other words, it was held, if a court is oblivious to the relevant statutory provisions, the judgment would in fact be per incuriam.
14. In such circumstances, it was observed by the Hon'ble Supreme Court, a judgment rendered in ignorance of applicable law must be reviewed.
15. Learned senior counsel appearing for the review applicant argues that provisions like Section 56 of the 2017 Act as well as Rule 94 of the

connected Rules were not considered in the judgment under review.

16. Learned senior counsel further argues that the only consequence of not adhering to the timeline of 60 days would be that the authorities would be liable to pay interest of delayed payment of refund in terms of Rule 94.
17. Thus, the recovery itself cannot be vitiated by the timeline of 60 days having been overstepped.
18. Learned counsel for the respondent in the review applicant opposes such contentions.
19. Upon consideration of the proposition laid down by the Hon'ble Supreme Court in *Commissioner of Customs vs. Canon India Private Limited (supra)*, we find that the Hon'ble Supreme Court observed that in cases where attention of the court was not drawn to a provision of law and the court was oblivious to the relevant statutory provisions, the situation may amount to an error analogous to one apparent on the face of record.
20. However, the said judgment does not lay down any absolute proposition that, as a standard rule in all cases, wherever all subsisting judgments on the topic or every provision of the statute is not considered, the court would

reopen the entire gamut of arguments and enter into a re-examination of the law and facts of a case in the garb of a review, particularly when such provision was not argued at the original hearing.

21. Such a construction would be contrary to the well-settled line of judgments that in review, the court's jurisdiction is limited to errors apparent on the face of the record, discovery of new matter, and grounds akin thereto.
22. Insofar as the present judgment under review is concerned, it was merely held therein that the time limit of 60 days as stipulated in Section 54(7) of the 2017 Act is mandatory and non-compliance of the same vitiates any order passed in violation thereof under Section 54(7) of the 2017 Act.
23. Thus, the said judgment lays down a limited proposition to the extent as indicated above.
24. It is quite well-settled that a judgment can operate as a precedent only for what has been actually held in the said judgment in the factual backdrop of the case and on the questions which directly came up for consideration before the court, and not whatever secondary or tertiary propositions or legal fictions that can be

derived or deduced from the ratio laid down therein.

25. Proceeding on such premise, we find that the provisions of Section 56 were categorically considered in paragraph-44 of the judgment under review, where it was observed that the said provision, instead of mitigating the mandatory nature of Section 54(7), highlights the same.
26. This court also took into consideration that the issue pertained to the depletion of the Public Exchequer in the event interest has to be paid to an individual applicant because of the negligence in adhering to the timelines on the part of the PO.
27. So far as the argument that the reliance placed on *M.D. Security (supra)* was incorrect, as the said judgment was passed at an interlocutory stage, although the findings arrived at at that stage may not be binding at the final stage of the self-same proceeding, if a proposition of law or ratio is laid down even in an interlocutory order, the same has binding effect as a precedent.
28. Thus, we cannot accept such argument.
29. Moreover, the subsequent order passed in *M.D. Security (supra)*, a copy of which has been

handed over to us, in the very second sentence records that it was passed in connection with an application seeking early hearing of the matter and merely recorded the submission of one of the counsel that an order had been passed rejecting the refund.

30. We do not find from the said order the ratio of such rejection order and/or the ultimate outcome thereafter.
31. Hence, in view of the above observations, we are of the considered opinion that this court had entered into the merits of the case, both on facts and law, while passing the judgment under review and had considered all the provisions of law cited by the parties at length, which is explicit from the judgment itself.
32. Thus, in the garb of a review, we cannot reopen the entire hearing and permit a re-argument on the merits of the case, by taking into consideration afresh other provisions which were not cited as well as the “real” connotation of the provisions which were already considered by us.
33. Accordingly, the present case does not come within the ambit of Order XLVII Rule 1 of the Code of Civil Procedure.

34. Accordingly, RVW 21 of 2025 is dismissed on contest without, however, any order as to costs.
35. CAN 2 of 2025 is accordingly disposed of as well.

**In Re: CPAN 71 of 2025**

36. It is submitted on behalf of the alleged contemnor, after passing of the above order, that the alleged contemnor seeks to challenge the order dismissing the review application before a superior forum.
37. Accordingly, for the sake of judicial propriety, we grant four working weeks' time to the alleged contemnor to comply with the order of this court and to await the outcome of any challenge, if preferred, against the order passed today dismissing the review application.
38. The contempt application shall next be listed on January 16, 2026 for passing further orders.

**(Sabyasachi Bhattacharyya, J.)**

**(Uday Kumar, J.)**