

M/s Indian PAC Consulting Pvt. Ltd. v. Union of India and Others

Case number: Civil Writ Jurisdiction Case No. 18978 of 2021

Citation: 2023(7) eILR(PAT) HC 4020

Decision date: 24 July 2023

GST-transition savings, legacy service-tax notices, limitation and pure-agent evidence

Court: High Court of Judicature at Patna

Bench: Hon'ble the Chief Justice K. Vinod Chandran and Hon'ble Mr. Justice Partha Sarthy

Decision stage: Final dismissal of the writ challenge on limitation, Rule 5(1) and GST-transition jurisdiction grounds, with underlying allegations expressly reserved. The subsequent statutory appeal against adjudication substantially succeeded before CESTAT on 17 October 2025.

01 Facts of case and issues

Indian PAC challenged a demand-cum-show-cause notice dated 20 July 2021 under the proviso to Section 73(1) of the Finance Act, 1994, covering FY 2015–16, FY 2016–17 and April–June 2017. It disputed limitation, the reliance on an invalidated valuation rule and the officer's jurisdiction after GST legislation.

The notice alleged differences between service-tax returns and income-tax data, unsupported pure-agent deductions of Rs.44,73,36,000 and reverse-charge liability on legal charges. These were allegations requiring adjudication. The High Court examined the threshold objections despite its general reluctance to entertain a writ against a show-cause notice.

Pinpoint: Court paragraphs 1–5 and 15–18; printed judgment pp. 1–3 and 8–10, physical PDF pp. 3–5 and 10–12.

02 Discussion by Hon'ble Court

On limitation, the Court treated 25 July 2016, when the earliest relevant ST-3 return was filed, as the starting point. The 20 July 2021 notice fell within five years where wilful misstatement and suppression were alleged. Its delayed-return discussion also addressed Rule 7C and payment; it did not finally establish suppression.

The invalidation of Rule 5(1) in Intercontinental Consultants did not itself invalidate this notice. The Court distinguished automatic inclusion of reimbursed expenses from the taxpayer's obligation to establish that claimed deductions represented actual reimbursable expenditure incurred as a pure agent. The notice also raised a separate legal-charges issue.

For GST transition, the Court read Section 19 of the Constitution (101st Amendment) Act with CGST Sections 173 and 174. Although Chapter V of the Finance Act was omitted, the savings provision preserved earlier operations, accrued rights and liabilities, and the legacy proceedings. GST enactment therefore did not remove the officer's jurisdiction on the ground advanced.

Pinpoint: Court paragraphs 6–12, 13–19 and 20; printed pp. 3–12, physical pp. 5–14.

03 Judicial decision and operative relief

The writ was dismissed. The Court refused to interfere with the notice, preserved appropriate remedies subject to just exceptions, expressly made no observation on the merits of the allegations, and left each side to bear its costs.

Later development: CESTAT's 17 October 2025 order concerning the same notice set aside the adjudication order and allowed the statutory appeal except for Rs.20,000 late fee, with consequential relief, if any, according to law. That was subsequent adjudication of the reserved dispute, rather than an appeal reversing this High Court judgment.

Pinpoint: Court paragraphs 22–23, printed p. 13, physical p. 15. CESTAT Final Order 77567/2025: paragraph 1, pp. 1–2; paragraphs 20–22, pp. 20–21.

04 In favour of

Union of India and respondents on the High Court's threshold challenges. The later statutory appeal favoured Indian PAC except for the retained late fee.

Final rejection of the writ's legal objections, without a final tax-liability finding or remand. Later CESTAT relief must accompany any description of the taxpayer's ultimate success or failure on the demand.

Pinpoint: Court paragraphs 19–23; CESTAT Final Order 77567/2025, paragraphs 11–22.

05 AKHB REVIEW POINT

AKHB analysis: A saved legacy proceeding can survive GST transition while the eventual demand fails on evidence. Keep jurisdiction, the applicable limitation window and proof of suppression separate. Reconcile ST-3 declarations, actual filing and payment dates, income-tax figures, contracts, invoices and reimbursement records before deciding how to respond.

Read this ruling with the later CESTAT order; it is unsafe to present the High Court's preliminary observations as final findings of evasion or tax liability. Check the statutory version for each period, including the 2015 valuation amendment and 2016 limitation amendment. Pure-agent treatment is evidence-dependent and does not automatically exempt every reimbursement.

Pinpoint: AKHB commentary based on court paragraphs 6–23; CESTAT paragraphs 6–22; Intercontinental Consultants paragraph 29; Finance Act 2016, Section 152.

Sources and limitations

Relevant provisions

Finance Act 1994: Sections 67, 70, 73(1) proviso and 73(6). Service Tax Rules 1994: Rules 7 and 7C. Service Tax (Determination of Value) Rules 2006: Rule 5(1), Rule 5(2) and Explanation 1. CGST Act 2017: Sections 173 and 174(2). Constitution (101st Amendment) Act 2016: Section 19. Notifications 12/2017-Central Excise (N.T.), 9 June 2017, and 30/2012-Service Tax, 20 June 2012, appear in the challenge/allegations.

Statutory note

Targeted statutory checks on 13 October 2026: India Code's Central Act compilation retains CGST Section 173's omission and Section 174(2)'s savings, including institution/continuation of proceedings under clauses (e) and (f), at physical pp. 123–124. This is broader than saving only matters already pending. The commencement note at physical p. 10 identifies 1 July 2017 for Sections 165–174 under G.S.R.658(E), 28 June 2017. The High Court's printed 1 August 2017 date is not adopted as the statutory commencement date.

Section 73 here is the Finance Act's legacy service-tax provision, not CGST Section 73. The judgment's discussion uses the former eighteen-month ordinary period. Section 152 of the enacted Finance Act 2016 substituted thirty months in the specified parts of Section 73; the official Meghalaya Gazette republication, physical p. 86, was separately checked. The case was decided by reference to the five-year proviso. Do not apply an eighteen-month ordinary limit to all later legacy periods, or equate a pleaded allegation with proof justifying an extended demand.

Intercontinental Consultants, Supreme Court, 7 March 2018, paragraphs 24–29, distinguishes the pre-amendment valuation position from the prospective Section 67 amendment effective 14 May 2015. Indian PAC's periods cross that boundary. The later CESTAT order, paragraphs 8–11, treats proven actual reimbursements as pure-agent payments on its evidence, including after that amendment. Neither decision establishes a blanket exclusion for all reimbursed costs. The service-tax pure-agent rule must not be confused with CGST Rule 33. These were focused checks, not a comprehensive amendment, notification, limitation or current eligibility audit.

Treatment note

Official later proceedings verified on 13 October 2026: CESTAT Kolkata, Service Tax Appeal 75982/2024, Final Order 77567/2025, 17 October 2025, arose from Order-in-Original 34/ST/Commissioner/2023-24 dated 28 March 2024. Paragraph 1 identifies the same 20 July 2021 notice; paragraphs 12–13 reproduce the same gross receipts and Rs.44,73,36,000 pure-agent deduction. This establishes the connection to the reserved factual dispute. On documentary evidence, paragraphs 6–11 reject the reimbursement demand on merits; paragraphs 12–17 find disclosure in returns and reject the extended period; paragraphs 18–19 address consultants, revenue neutrality and time-bar for the legal-charges demand. Paragraphs 20–22 retain Rs.20,000 late fee and otherwise allow the appeal with consequential relief, if any, according to law. This is a statutory appeal from adjudication, not appellate reversal or overruling of the High Court. The Tribunal's reviewed reasoning does not expressly discuss the 2023 High Court judgment.

Later citation separately verified: Mahanadi Coalfields Ltd., CESTAT Kolkata, Excise Appeal 75425/2017, Final Order 75749/2026, 23 June 2026, paragraphs 9.2–9.6, pp. 13–17, expressly relies on Indian PAC's return-filing-date reasoning. That is treatment in another taxpayer's excise appeal, not disposition of Indian PAC's case or an endorsement of every statement in this judgment.

Bounded searches on 13 October 2026 used the exact party, CWJC number/date, service-tax appeal and final-order numbers, plus appeal, SLP, review and stay terms, including Supreme Court, Patna High Court and CESTAT domains. No direct appellate reversal/stay of this High Court judgment or subsequent modifying order concerning Final Order 77567/2025 was verified. This does not certify that none exists: no exhaustive registry or citator clearance, review of every connected order, or verification of actual consequential payment/refund is claimed. Unrelated income-tax and criminal proceedings were excluded.

Scope of source review

All 15 physical pages of the official eILR PDF were fully read and individually visually inspected. Physical pp. 1–2 are editorial material; physical pp. 3–15 correspond to court pp. 1–13. Court-body paragraphs supply the holdings. Supplementary targeted text/image review: Indian PAC CESTAT pp. 1–2, 11–15 and 18–21; Mahanadi Coalfields pp. 1 and 13–18; Intercontinental Consultants pp. 1–2, 39, 41 and 43–44, with pp. 36–44 additionally read as extracted text; Finance Act 2016 Gazette republication pp. 1 and 86. No complete new review of those supplementary documents is claimed. India Code CGST physical pp. 10 and 123–124 were checked through web-extracted text; direct binary download timed out.

Source notes

Fresh official eILR download on 13 October 2026 returned a 15-page, 188,355-byte PDF. Its SHA-256 differs from the retained original, but extracted text and rendered pixels match on every page. PDF metadata, object ordering/content-stream serialization and trailer identifiers differ; this is not a byte-identical download or a cryptographic signature validation. The retained original is preserved unchanged.

The reporter citation is printed in the eILR copy; no neutral citation is stated in the court body. Its editorial appearances differ from the actual court caption: the latter names J.K. Mittal and Alok Kumar Jha for the petitioner, and Krishna Nandan Singh and Anshuman Singh for the respondents. The caption and terminal signatures establish bench, author and date. The 10 August 2023 upload date is not the decision date.

Court paragraph 12 prints “25.07.20216” and describes 25 July 2021 as the notice date. This note follows paragraphs 1 and 7 for 20 July 2021 and paragraph 7 for the 25 July 2016 return date. Paragraphs 11–12 also discuss payment and Rule 7C; the note does not convert that discussion into a universal rule deeming tax discharged by a late return. Paragraph 9’s wording for a missing return should be read against the actual Section 73(6)(i)(b) quotation immediately above it, which refers to the last date the return was due. Paragraph 20’s commencement-date discrepancy is addressed in the statutory note. The writ annexures and underlying invoices were not independently available; their contents are reported only as recorded by the courts/Tribunal.

Access limitations: the India Code binary request timed out, though the pertinent official web text was available. The Mizoram republication returned HTTP 403; a separate official Meghalaya republication was downloaded instead. No TLS verification or access restriction was bypassed.

Primary source

Source description: Official eILR PDF: two editorial pages followed by the complete 13-page court judgment. Fresh official copy has matching text and page renders. Subsequent statutory appeal substantially succeeded on 17 October 2025; see later treatment.

Official source: [Open source document](#)

Source pages: 15

Judgment author: K. Vinod Chandran, CJ

Outcome type: final gst transition writ dismissal later statutory relief

Additional source

Indian PAC Consulting, CESTAT Kolkata, Final Order 77567/2025, 17 October 2025

Official source: [Open source document](#)

Pinpoint: ST/75982/2024; paragraph 1, pp. 1–2, links the same SCN; paragraphs 6–13, pp. 11–15, and 16–22, pp. 18–21, establish later relief and retained late fee.

Mahanadi Coalfields Ltd., CESTAT Kolkata, Final Order 75749/2026, 23 June 2026

Official source: [Open source document](#)

Pinpoint: E/75425/2017; paragraphs 9.2–9.6, pp. 13–17, later reliance on Indian PAC for the actual return-filing date.

Union of India v. Intercontinental Consultants and Technocrats Pvt. Ltd., Supreme Court, 7 March 2018

Official source: [Open source document](#)

Pinpoint: CA2013/2014 and connected matters; paragraphs 24–29, pp. 39–43; prospective 14 May 2015 amendment expressly discussed at p. 41.

CGST Act 2017, India Code official compilation

Official source: [Open source document](#)

Pinpoint: Physical p. 10, commencement note; pp. 123–124, Sections 173–174; targeted official web-text check, 13 October 2026.

Finance Act 2016, official Meghalaya Gazette republication, 29 March 2018

Official source: [Open source document](#)

Pinpoint: Physical p. 1 identifies Act28/2016 as enacted and published14May2016; p. 86, Section152, substitutes thirty months in the specified portions of Section73.

Disclosures and source rights

AI disclosure: Prepared with AI assistance from the complete official High Court judgment and identified primary sources. No human legal review is claimed.

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Source checked: 13 October 2026

Reserved date: Not stated; oral judgment. The CAV date field is blank.