Amit Manilal Haria & Ors. vs. The Joint Commissioner, CGST & Central Excise & Anr.

Subject: Validity of penalty imposed under Section 122(1A) of the CGST Act on company employees for alleged wrongful availment and passing of Input Tax Credit.

Date of Order: February 25, 2026
Case Law No: GIB-BHC-2016-02-DB
Source: GST INDIA Biz (www.gstindia.biz)

CASE DESCRIPTION / SUMMARY

Court Decision

The Court allowed the writ petition and quashed the show cause notices and the Order-in-Original dated 1 February 2025 insofar as they imposed penalties of ₹133,60,60,889/- each on the petitioners under Section 122(1A) of the CGST Act.

The Court held:

1. **Section 122(1A) applies to a "taxable person":**
   On a conjoint reading of Section 122(1) and 122(1A), the Court held that sub-section (1A) necessarily applies to a taxable person as defined under Section 2(107) of the CGST Act. The petitioners, being employees of M/s. Shemaroo Entertainment Ltd., were not taxable persons in their individual capacity and hence could not be proceeded against under Section 122(1A).
2. **Jurisdictional requirement not satisfied:**
   Section 122(1A) requires that the person must (i) retain the benefit of the transaction covered under specified clauses of Section 122(1), and (ii) the transaction must be conducted at his instance. The impugned order did not record any finding that the petitioners retained any benefit of the alleged transactions. Therefore, the jurisdictional ingredients were not satisfied.
3. **No vicarious liability under Section 122(1A):**
   The Court held that there is no principle of vicarious liability incorporated in Section 122 or Section 137 of the CGST Act so as to fasten such penalty on employees merely because they held managerial positions.

4. **Retrospective application impermissible:**
   Section 122(1A) came into force with effect from 1 January 2021. The show cause notice covered the period from July 2017 onwards. The Court held that the penal provision could not be applied retrospectively for the period prior to 1 January 2021, in view of Article 20(1) of the

Constitution of India.
Accordingly, the impugned order was held to be illegal and without jurisdiction insofar as it related to the petitioners.

Cases Referred by the Court

1. Shantanu Sanjay Hundekari vs. Union of India, 2024 (89) G.S.T.L. 62 (Bom.)

2. Union of India vs. Shantanu Sanjay Hundekari, (2025) 27 Centax 14 (S.C.)

3. Bharat Parihar vs. State of Maharashtra & Ors., Writ Petition No. 3742 of 2023, decided on 30/06/2023.

4. Mukesh Kumar Garg vs. Union of India & Ors., 2025 (5) TMI 922 – Delhi High Court

© 2026 GST INDIA Biz. All rights reserved.