R. C. Jain and Associates LLP

February 2026

"The secret of getting ahead is getting started."
— Mark Twain

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Case Laws

A. [2026] 183 taxmann.com 517 (Mumbai - Trib.)[13-02-2026]

INCOME TAX : Where assessee invested in an under-construction flat and took possession within two years of transfer of original residential property, date of purchase for purposes of section 54 is to be reckoned as date of taking possession upon completion of construction and payment of consideration, and not earlier date of booking or allotment; therefore, exemption under section 54 was allowable

[2026] 183 taxmann.com 517 (Mumbai - Trib.)

IN THE ITAT MUMBAI BENCH

Prakash Devidas

v.

Asst. Commissioner of Income-tax

SANDEEP SINGH KARHAIL, JUDICIAL MEMBER
AND VIKRAM SINGH YADAV, ACCOUNTANT MEMBER
ITA NO. 6548 (MUM) OF 2025
[ASSESSMENT YEAR 2014-15]
FEBRUARY 13, 2026

Held that for an under-construction flat, the relevant date of "purchase" under Section 54 is the date when the assessee paid the full consideration and took possession upon completion (7-1-2015), not the earlier booking/agreement date (23-5-2012). Since possession was taken within two years of selling the original residential property (28-10-2013), the assessee was eligible for exemption under Section 54.

1. **Facts**

Assessee sold a residential flat on 28-10-2013, yielding long-term capital gain.
Claimed exemption under Section 54 by investing in a new under-construction flat.
The purchase agreement for the new flat was executed on 23-05-2012.
Construction completed on 26-12-2014; possession taken on 07-01-2015 after full payment.

2. **Assessing Officer's View**

AO treated the agreement date (23-05-2012) as the date of purchase and denied Section 54 exemption because it fell outside the statutory window.

3. **Tribunal's Findings**

The flat was under construction at the time of the agreement, with staged payments linked to construction progress.

The assessee gained full rights only upon completion, full payment, and taking possession of the flat.

Following the Beena K. Jain principle, the relevant date for Section 54 purposes is the date of possession after full payment, not the earlier booking/agreement date.

4. **Legal Conclusion**

Since the assessee took possession on 07-01-2015, which was within two years of selling the original property (28-10-2013), he satisfied the condition in Section 54.

Accordingly, the Tribunal allowed the exemption and set aside the AO's denial.

Transaction	Date
Date of agreement for the new flat no. 201, F – Wing, Octacrest, Akurli, Kandivali East, Mumbai	23rd May 2012
Date of transfer of the residential property at flat no. C/504 at Anand Heritage Bldg.	28th Oct 2013
Completion of Construction of the new flat no. 201, F – Wing, Octacrest, Akurli, Kandivali East, Mumbai	26th Dec 2014
Possession taken of the new flat no. 201, F – Wing, Octacrest, Akurli, Kandivali East, Mumbai on making the final payment to the developer M/s. Lokhandwala Construction	07th January 2015

B. INCOME TAX: Where assessee claimed exemption under section 10(26) for substantial cash deposits, relying solely on tribal status, residence, and supporting certificates without conclusively proving that income arose from legitimate business activity within specified area or explaining nature and source of deposits, such exemption claim could not be allowed and additions under section 69A were justified.

[2026] 183 taxmann.com 382 (Guwahati - Trib.)

IN THE ITAT GUWAHATI BENCH

Laltanpuia Chawghlut

v.

Income-tax Officer[*]

DUVVURU RL REDDY, VICE PRESIDENT
AND LAXMI PRASAD SAHU, ACCOUNTANT MEMBER
IT APPEAL NOS. 190 & 191 (GTY) OF 2025
[ASSESSMENT YEARS 2013-14 AND 2014-15]
FEBRUARY 11, 2026

Held that since the assessee failed to file returns and could not substantiate that the large cash deposits represented income from business carried on within the specified area under Section 10(26), and did not explain the nature and source of the cash (deposits were not recorded in books), the Assessing Officer rightly invoked Section 69A

to treat deposits as unexplained money and rejected the Section 10(26) exemption; appeals were dismissed in favour of the revenue.

1. **FACTS**

The assessee, a trader, did not file income-tax returns under Section 139 for AY 2013-14 and AY 2014-15.

The Income-tax Department, using the Insight portal, found large cash deposits in his bank accounts for both years.

Reassessment proceedings were initiated under Section 148; despite notices under Sections 148 and 142(1), the assessee did not file returns or provide details within time.

After notice, the assessee claimed exemption under Section 10(26) (Schedule tribes), submitting tribal certificates and GST registration to show business in the specified area.

The Assessing Officer (AO) rejected the Section 10(26) claim, holding:

- Certificates and GST particulars did not prove that the cash deposits were income from a business carried on within the specified area.
- Deposits were not recorded in any books, and their source and nature remained unexplained.
- He invoked Section 69A, treating the cash deposits as unexplained money, and completed reassessments under Sections 147 read with 144/144B.

On appeal, the CIT(A) dismissed the assessee's appeals.

2. **HELD (Tribunal)**

The assessee deposited huge amounts in his bank accounts in both years but only provided vague replies during proceedings; remand evidence did not explain the source of deposits.

The GST returns and documents produced did not establish a legitimate source for the bank deposits without supporting evidence such as books, bills, or vouchers.

The assessee failed to maintain books of account, furnish invoices, or compute his business income (claimed FMCG business), which is required before claiming exemption under Section 10(26).

The entire bank deposits do not automatically qualify for Section 10(26). Exemption applies only to income actually computed and shown to arise from business in the specified area.

There were huge variations in bank deposits between the two years, and the assessee did not explain the reasons.

Merely belonging to a Scheduled Tribe and residence in a specified area is not sufficient to claim exemption; the assessee must conclusively prove the deposits are from legitimate income in the specified area.

Since the assessee did not discharge this burden, the Tribunal dismissed the appeals and upheld the additions under Section 69

3. KEY TAKEAWAY

Burden of proof is on the assessee to show that bank deposits are income from business within the specified area and not unexplained. Simply holding tribal status or GST registration does not satisfy Section 10(26) requirements when deposits are unexplained**.**

GST

GOODS AND SERVICE TAX APPELLATE AUTHORITY, NEW DELHI

Sterling & Wilson (P.) Ltd.

v.

Commissioner, Odisha, Commissionerate of CT GST

JUSTICE DR. SANJAYA KUMAR MISHRA, PRESIDENT

APPEAL CASE NO. APL/1/PB/2026

FEBRUARY 11,2026

- **Facts of the Case**

For the financial year 2018–19, the taxpayer reported outward supplies amounting to Rs.31,36,18,763 in GSTR-1, whereas the corresponding liability declared in GSTR-3B was Rs.31,09,12,131. This resulted in a difference of Rs.27,06,634, which the department treated as short-payment of tax. A demand was issued under Section 74 of the CGST/SGST Act, alleging fraud and suppression. During appellate proceedings, it was established that all the debit notes and credit notes responsible for the variance were duly recorded in the books of account and supported by valid invoices. The mismatch arose solely because these documents were not reflected correctly in the periodical GSTR-3B returns, despite being accounted for in the annual return and books. In view of this, the First Appellate Authority concluded that there was no fraudulent intention and therefore reclassified the case under Section 73, reducing the penalty to 10% of the tax.

- **Grounds of Appeal**

The taxpayer challenged the order on the basis that the demand was raised purely due to a return mismatch without considering the reconciliation statements and supporting accounting records. It was argued that all transactions were fully disclosed in the books as well as in the annual return, and therefore the allegation under Section 74 was not justified. The taxpayer reiterated that the issue was entirely revenue-neutral and arose from a reporting error rather than any attempt to evade tax. It was further submitted that the department had not verified whether the ITC passed on to the recipients had actually been utilised, and therefore the levy of interest and penalty was not sustainable in law.

- **Ruling and Judgment**

The Court held that the mismatch between GSTR-1 and GSTR-3B was a result of non-reporting of debit and credit notes in monthly returns and not due to fraud, wilful misstatement, or suppression of facts. The Court agreed with the First Appellate Authority that the matter appropriately fell under Section 73 and not Section 74. It also noted that the department had not produced any evidence to show utilisation of the passed-on ITC by the recipients, making the basis of the demand insufficient. Recognising the reconciliatory nature

of the discrepancy, the Court directed that the taxpayer should be allowed to amend or rectify the relevant GST returns, even beyond the prescribed statutory period. Accordingly, the matter was remanded to the original adjudicating authority for fresh determination of tax liability after proper reconciliation and return correction.

- **Legal Impact**

This judgment reinforces that a mismatch between GSTR-1 and GTR-3B, when supported by proper books of account, does not constitute fraud and cannot be automatically brought under Section 74. It emphasises that clerical or procedural reporting errors must be handled under Section 73, which prescribes lower penalties. The ruling also clarifies that tax officers cannot presume utilisation of ITC by recipients without verification, and that taxpayers must be given an opportunity to correct returns in genuine and revenue-neutral situations. This decision therefore strengthens taxpayer protection against unjustified invocation of fraud provisions and reaffirms the importance of reconciliation-based assessment under GST.

HIGH COURT OF UTTARAKHAND
Raj Shekhar Pandey
v.
State Tax Officer*

MANOJ KUMAR GUPTA, CJ. AND
SUBHASH UPADHYAY, J.
WRIT PETITION (M/B) NO. 1140 OF 2025
FEBRUARY 16,2026

- **Facts of the case**

The petitioner had applied for cancellation of his GST registration on 29.04.2023, which the department accepted. After cancellation, the department issued a show-cause notice dated 16.11.2024 and later passed an order on 13.01.2025—all through the GST portal only.

The petitioner argued that since his GST number stood cancelled, he was not expected to monitor the GST portal, and therefore the notice was never effectively served.

He relied on judgments of the Allahabad High Court (Ahs Steels, Katyal Industries) which held that once registration is cancelled, the taxpayer is not bound to check the GST portal.

- **Grounds of Appeal**

Whether service of notice only through the GST portal is valid when a taxpayer's registration stands cancelled.

Whether the impugned order violates Section 75(4) of the CGST Act—which mandates an opportunity of hearing before passing an adverse order.

- **Ruling and Judgment**

  The Court held that Section 169 provides multiple methods of valid service (email, post, courier, etc.) ; the portal is not the exclusive method.

  When registration is cancelled, insisting only on portal-based service imposes an unreasonable duty on a non-registered person.

  Effective communication of notice is mandatory.

  The impugned order was passed without valid service and without giving opportunity of hearing as required under Section 75(4).

  The Court quashed the order dated 13.01.2025.

  The petitioner may file a reply to the show-cause notice within two weeks.

  The department may issue a fresh order strictly in accordance with law.

  A personal hearing must be granted under Section 75(4).

- **Legal Impact**

  If a dealer's GST registration is cancelled, the dealer is not required to keep checking the GST portal regularly. Therefore, the department must issue any notices through other valid modes such as email, post, or courier.

  If the department uploads a notice only on the GST portal and the dealer does not get to see it, any order passed on the basis of such notice can be set aside by the court.

  Before passing any adverse order against a dealer, the department must provide an opportunity of personal hearing. If this opportunity is not given, the order becomes legally defective for violating the principles of natural justice.

  This judgment protects dealers from unexpected demands and orders passed without proper communication. It ensures that GST officers follow due procedure even in cases where the registration stands cancelled, thereby preventing misuse and guaranteeing fair and transparent treatment to dealers.

SUPREME COURT OF INDIA
Union of India
v.
Torrent Power Ltd.

SANJAY KUMAR AND
K. VINOD CHANDRAN, JJ.
SLP APPEAL (C) NO. 13084 OF 2025
FEBRUARY 10,2026

- **Facts of the Case**

The taxpayer, Torrent Power Ltd., engaged in electricity generation and distribution, imported natural gas on a CIF basis and paid IGST and service tax on ocean freight under reverse charge as per applicable notifications. Subsequently, the levy of tax on ocean freight was declared unconstitutional in the judgment involving Mohit Minerals Pvt. Ltd., making the tax refundable. Torrent Power applied for a refund of the tax paid. However, it was established that the company had already passed on the tax burden to consumers by including the amount in tariff calculations approved by the Gujarat Electricity Regulatory Commission. The High Court allowed the refund and accepted the company's proposal to deposit the refund in a separate account and pass the benefit to consumers through tariff adjustments. The Union of India challenged this order before the Supreme Court.

- **Grounds of Appeal**

The Union of India contended that under GST law, where the incidence of tax has been passed on to another person, the refund cannot be paid to the taxpayer but must be credited to the Consumer Welfare Fund. It was argued that the High Court created a mechanism for refund distribution to consumers that was not contemplated by statute. The taxpayer, on the other hand, argued that since the levy was unconstitutional, the amount should be refunded and passed on to consumers through tariff reduction, ensuring equitable benefit to those who bore the tax burden.

- **Ruling and Judgment**

The Supreme Court of India held that the High Court's approach was not legally sustainable. Under Section 54 of the CGST Act, any refundable amount must be credited to the Consumer Welfare Fund unless the taxpayer proves that the tax burden has not been passed on to any other person. Since Torrent Power had admittedly passed the tax burden to consumers, the exception allowing refund directly to the taxpayer did not apply. The Court also held that the refund mechanism devised by the High Court for passing benefits to consumers through tariff adjustments was not provided for under the statute. Accordingly, the Supreme Court set aside the High Court's judgment and directed Torrent Power to transfer the refund amount of ₹19.28 crore to the Consumer Welfare Fund within three months.

- **Legal Impact**

This judgment reinforces the principle of unjust enrichment under GST law. Even where a tax levy is declared unconstitutional, refund cannot be granted to the taxpayer if the tax burden has been passed on to consumers. The ruling clarifies that courts cannot create

alternative refund distribution mechanisms not provided under statutory provisions. It strengthens the mandatory application of Sections 54 and 57 of the CGST Act, ensuring that refundable amounts are credited to the Consumer Welfare Fund where the taxpayer has recovered the tax from others. The decision establishes that statutory refund procedures must be strictly followed, even in cases involving unconstitutional tax levies.

HIGH COURT OF TRIPURA
Sahil Enterprises
v.
Union of India*

M.S. RAMACHANDRA RAO, CJ. AND
S. DATTA PURKAYASTHA, J.
WP(C) NO. 688 OF 2022
JANUARY 6,2026

- **Facts of the Case**

The petitioner, **Sahil Enterprises**, was engaged in the trading of rubber products. During the period **July 2017 to January 2019**, the petitioner purchased goods from a supplier and paid GST amounting to **Rs.1,11,60,830**.

Key facts:

The petitioner purchased goods and **paid GST to the supplier**.

The supplier filed **GSTR-1**, declaring the sales made to the petitioner.

However, the supplier **failed to deposit the GST with the Government** while filing **GSTR-3B**, instead filing NIL returns.

During investigation by GST authorities, this default was detected.

The department issued a **Show Cause Notice under Section 73 of the CGST Act** and denied Input Tax Credit (ITC) to the petitioner on the ground that **the tax collected by the supplier was not deposited with the Government**.

Consequently, the department raised a demand of **Rs.1,11,60,830 along with interest and penalty**.

The petitioner challenged this demand and also questioned the **constitutional validity of Section 16(2)(c) of the CGST Act** before the High Court.

- **Legal Issue**

The main issue before the Court was:

Whether Input Tax Credit (ITC) can be denied to a purchaser when the purchaser has paid GST to the supplier but the supplier fails to deposit the tax with the Government.

The petitioner argued that:

A purchaser has **no mechanism to verify whether the supplier has deposited GST** with the Government.

Denial of ITC in such cases results in **double taxation**, as the purchaser has already paid GST to the supplier.

Section 16(2)(c) of the CGST Act imposes an **impossible burden on bona fide purchasers**.

▪ **Ruling / Judgment**

The **Tripura High Court** held that:

Section 16(2)(c) of the CGST Act is constitutionally valid, but it must be **read down**.

ITC **cannot be denied to a bona fide purchaser** who has paid GST to the supplier and completed all required compliances.

A purchasing dealer **cannot be expected to verify whether the supplier has deposited GST with the Government**, as such verification is practically impossible.

Denying ITC in such situations would lead to **double taxation**, which is against the basic principles of GST.

The Court clarified that **Section 16(2)(c) should apply only in cases where the transaction is:**

- Fraudulent
- Collusive
- Not bona fide

Since the petitioner had entered into a **genuine transaction**, the Court directed the department to **allow the ITC**.

▪ **Legal Impact**

This judgment has significant implications for taxpayers:

1. **Protection to Bona Fide Purchasers**
   Businesses will not lose ITC merely because their supplier fails to deposit GST.
2. **Limitation on Department's Powers**
   Tax authorities cannot automatically deny ITC under Section 16(2)(c) without proving that the transaction was fraudulent or collusive.

3. **Practical Recognition by Court**
   The Court acknowledged that a purchaser **cannot monitor the supplier's tax compliance**.
4. **Avoidance of Double Taxation**
   The decision reinforces the core GST principle that tax should be levied only on **value addition**, not repeatedly on the same transaction.

- **Conclusion**

The Tripura High Court in *Sahil Enterprises v. Union of India* provided major relief to taxpayers by holding that ITC cannot be denied to a genuine purchaser merely because the supplier failed to deposit GST with the Government**.**

While Section 16(2)(c) remains constitutionally valid**, it must be applied** only in cases involving fraud or collusion**. This ruling strengthens the protection available to bona fide taxpayers and ensures that businesses are not penalized for the default of their suppliers**.

RBI

RBI/2025-26/206
FIDD.MSME & NFS.BC.No.12/06.02.31/2025-26
February 09, 2026

Lending to Micro, Small & Medium Enterprises (MSME) Sector (Amendment), Directions, 2026

Under the revised guidelines, banks are **prohibited from taking collateral security for loans up to ₹20 lakh** extended to Micro and Small Enterprises (MSEs). This also includes loans sanctioned under the Prime Minister Employment Generation Programme (PMEGP).

Further, banks may increase the collateral-free limit up to **₹25 lakh**, based on the borrower's track record and internal policy. Importantly, voluntary pledging of gold or silver within the collateral-free limit will not be treated as a violation of the norms.

These amendments, issued under the Banking Regulation Act, 1949, will apply to all eligible loans sanctioned or renewed on or after **April 01, 2026**.

RBI/2025-26/210
DOR. STR.REC. 413/21-07-001/2025-26
February 13, 2026

Reserve Bank of India (Non-Banking Financial Companies – Income Recognition, Asset Classification and Provisioning) Amendment Directions, 2026

Default Loss Guarantee (DLG) is a credit enhancement arrangement where a third party (often a fintech partner in co-lending or digital lending models) agrees to compensate the NBFC for losses up to a specified percentage of the loan portfolio.

The amendment focuses on **Default Loss Guarantee (DLG)** arrangements, which were earlier permitted in limited cases such as digital lending and co-lending. To ensure uniform application of prudential norms, RBI has now clarified the provisioning treatment for such portfolios.

NBFCs may consider DLG while computing provisions under the **Expected Credit Loss (ECL)** framework, subject to compliance with Indian Accounting Standards (Ind AS).
Proper disclosures as per Ind AS 1 are mandatory.
Whenever a DLG is invoked, NBFCs must recompute ECL provisions after adjusting for the reduced DLG cover

Notification No. FEMA 3(R)(5)/2026-RB
February 09, 2026
Foreign Exchange Management (Borrowing and Lending) (First Amendment) Regulations, 2026

One of the major changes is the introduction of clear restrictions on how borrowed foreign funds can be used. The RBI has specified that such funds cannot be utilised for activities like chit funds, Nidhi companies, speculative real estate business (with limited exceptions), trading in securities for short-term gains, repayment of certain problematic domestic loans such as NPAs, or on-lending for restricted purposes. This aims to prevent misuse of foreign funds and ensure they are used for productive activities.

The amendment also revises key definitions such as cost of borrowing, benchmark rate, related party, and real estate business to remove ambiguity. Further, the entire ECB framework has been updated to clarify eligibility of borrowers and lenders, borrowing limits, minimum maturity period (generally three years), security creation, refinancing, conversion into equity, and reporting requirements.

RBI/2025-26/222
CO.FMRD.MIOD.No.8/11.01.057/2025-26
February 18, 2026
Unique Transaction Identifier for OTC Derivative Transactions

The Reserve Bank of India (RBI) has made it mandatory to use a **Unique Transaction Identifier (UTI)** for all **Over-the-Counter (OTC)** derivative transactions from **January 1, 2027**. A Unique Transaction Identifier (UTI) is simply a unique code given to every derivative transaction. This helps regulators track each deal clearly and avoid duplication or confusion in reporting.

These transactions are currently reported to the **Clearing Corporation of India Limited – Trade Repository (CCIL-TR)**. Under the new rule, all major OTC derivatives such as foreign exchange derivatives, interest rate derivatives, government securities forward contracts, and credit derivatives must have a UTI attached to them. The UTI will follow global standards set by the **Committee on Payments and Market Infrastructures (CPMI)** and the **International Organization of Securities Commissions (IOSCO)** and will include the **Legal Entity Identifier (LEI)** of the entity generating it.

RBI/DoR/2025-26/224
DoR.GOV.REC.No.414/18.10.008/2025-26
February 26, 2026

Reserve Bank of India (Non-Banking Financial Companies – Miscellaneous) Amendment Directions, 2026

RBI Allows NUCFDC to Raise Capital from UCBs through Private Placement

The Reserve Bank of India (RBI) has issued the **Non-Banking Financial Companies – Miscellaneous (Amendment) Directions, 2026**, granting special permission to the National Urban Co-operative Finance and Development Corporation Limited (NUCFDC).

NUCFDC has been set up as an **Umbrella Organisation (UO)** to strengthen Primary (Urban) Co-operative Banks (UCBs) by providing financial and non-financial support. Since there are more than 1,400 UCBs in India, NUCFDC needs to on board them as members by issuing equity shares.

Normally, under the Companies Act, 2013, a company can make a private placement offer to only 200 persons in a financial year. To help NUCFDC fulfil its mandate, the RBI has now allowed it to issue equity shares through private placement to **more than 200 persons in a financial year**, subject to certain conditions.

Key conditions include:

- Offers can be made only to UCBs and National Co-operative Development Corporation (NCDC).
- A Board-approved policy must guide the capital raising process.
- NUCFDC cannot provide loans against its own shares.
- Funds raised must be used strictly for its approved objectives.
- Quarterly reporting to RBI is mandatory.

These directions are effective immediately and will remain valid until **March 31, 2029**, unless modified earlier.

ROC

Corporate Compliance Case Studies

- **Companies Compliance Facilitation Scheme, 2026 (CCFS-2026)**

The Ministry of Corporate Affairs has introduced the Companies Compliance Facilitation Scheme, 2026 (CCFS-2026), effective from **15 April 2026 to 15 July 2026**.

This Scheme provides a **one-time opportunity** for companies to regularize their pending statutory filings at significantly reduced additional fees.

Key Highlights of the Scheme

1. Filing of Pending Annual Returns & Financial Statements

- Companies can file overdue forms by paying only **10% of the total additional fees** applicable for delay.
- Normal filing fees remain payable as prescribed.

2. Option to Obtain Dormant Status (Section 455)

- Inactive companies may apply for Dormant Status by filing e-form MSC-1.
- Only **50% of the normal filing fee** is payable.

3. Option for Strike Off

- Companies may apply for removal of name by filing e-form STK-2.
- Only **25% of the applicable filing fee** is payable.

Who Can Avail the Scheme?

The Scheme is applicable to most defaulting companies except those:

- Against whom final strike-off notice has already been issued,
- Which have already applied for strike-off or dormant status prior to the Scheme,
- Which are dissolved under amalgamation,
- Classified as vanishing companies.

Immunity & Relief

Companies making filings within the Scheme period may receive immunity from certain penalties, subject to conditions prescribed under the Companies Act, 2013.

Important Note

Companies that fail to avail the Scheme within the prescribed period may face regular penal consequences and actions by the Registrar of Companies after 15 July 2026.

Advisory:
We recommend that companies review their compliance status immediately and utilize this limited-period opportunity to regularize defaults and avoid heavy financial liabilities.

Hunar Art

By CA Aruna Wadhwa

R. C. Jain & Associates LLP

Chartered Accountants

Head Office:

Mumbai - 622-624, The Corporate Centre, Nirmal Lifestyle, L.B.S. Marg, Mulund (W), Mumbai, Maharashtra - 400080.

Email: info@rcjainca.com Tel.: 25628290/91 67700107.

Branch Offices:

Indore - 109-110, BLOCK-B, Vikram Twins, Chitawad Road, Behind Shukla Hospital, Near Navlakha Square, VTC, Indore, Madhya Pradesh - 452 001

Email: cahsbansal08@gmal.com Tel.: 9425134391.

Bhopal I - M-272, Near Arya Samaj Bhawan, Gautam Nagar, Bhopal, Madhya Pradesh - 462 023.

Email: hmjainca@rediffmail.com Tel.: 0755-2600646.

Bhopal II - Plot No. 187, Near Milan Restaurant, MP Nagar, Zone-1, Bhopal, Madhya Pradesh - 462 011.

E-Mail: ajaygupta.agst@gmail.com Tel.: 83195 56171

Aurangabad - Su-Shobha, Plot No. 7, Mitranagar, Behind Akashwani, Near Maratha Darbar Hotel, Aurangabad, Maharashtra - 431001.

Email: sskasliwal@gmail.com Tel.: 0240-2357556.

Guwahati – 3C, Gokuldham, JP Agawala Path, Bye Lane-2, Sanitpur, Bharalumukh Kamrup Metro, Guwahati, Assam - 781 009

E-mail: cashrutikamodi@gmail.com Tel.: 84863 88446

Website: www.rcjainca.com