

Stare Decisis - Special Focus on GST Tribunals

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The establishment of the Goods and Services Tax Appellate Tribunal (GSTAT) marks a transformative step in strengthening the dispute resolution framework under India's GST regime. These tribunals will not only address pending litigation but also set authoritative precedents, fostering uniformity in the interpretation of GST laws across the country. As a critical pillar in the tax adjudication system, GSTAT will play a pivotal role in ensuring the application of the doctrine of stare decisis, balancing the need for consistency with the flexibility to address evolving complexities in indirect taxation.

The principle of precedent establishes that decisions made in earlier legal cases become authoritative for courts or tribunals when adjudicating future cases with similar facts or legal issues. This concept is encapsulated in the doctrine of stare decisis, which obligates judges to respect and follow established precedents. The term originates from the Latin maxim *Stare decisis et non quieta movere*, meaning "to stand by decisions and not disturb the settled." In practice, it ensures that courts adhere to prior rulings, fostering stability and predictability in legal systems. However, precedents may occasionally originate from lower courts.

Precedents are categorized as follows:

- **Binding Precedents:** Decisions by superior courts or the same court in prior cases that must be followed by the court itself and by subordinate courts within its jurisdiction.
- **Persuasive Precedents:** Decisions that may influence a court but are not obligatory, especially when revisiting its own earlier rulings.

For stare decisis to function effectively, two primary conditions must be met: reliable documentation of court decisions and a clearly established court hierarchy. Decisions of higher courts binding lower courts exemplify **vertical stare decisis**, whereas the adherence of courts to decisions by their coequal counterparts represents **horizontal stare decisis**.

Key Dimensions of Stare Decisis

1. **Vertical Precedent:** This doctrine mandates that lower courts within a jurisdictional hierarchy follow the rulings of higher courts. For example, in a typical common law system, decisions of supreme courts bind trial courts.

The Supreme Court of California's explanation of this principle is that under the doctrine of stare decisis, all tribunals exercising inferior jurisdiction are required to follow decisions of courts exercising superior jurisdiction. Otherwise, the doctrine of stare decisis makes no sense. The decisions of Supreme Court are binding upon and must be followed by all the state courts of California. Courts exercising inferior jurisdiction must accept the law declared by courts of superior jurisdiction. It is not their function to attempt to overrule decisions of a higher court.

2. **Horizontal Precedent:** This principle requires courts to respect their own prior decisions. For

instance, in the U.S. federal court system, intermediate appellate courts (divided into 13 circuits) must adhere to precedents established within their circuit. Decisions can only be overturned by an en banc panel (involving all active judges of the circuit) or the U.S. Supreme Court, not by a smaller judicial panel.

The Doctrine in Indian Jurisprudence

Article 141 of the Indian Constitution asserts that “law declared by the Supreme Court are binding on all subordinate courts within India”. This reflects the Supreme Court's law-creating authority. However, the Supreme Court can deviate from its prior decisions if convinced of errors or adverse public impacts, as noted in **Bengal Immunity Co. v. State of Bihar**. High Court rulings are binding on lower courts within their jurisdiction, although they hold only persuasive authority outside it.

Again, a single Bench of a High Court is bound by the decisions of a Division Bench of that court and a Division Bench by the decision of a Full Bench (except that the latter Division Bench has the right to refer the case to a Full Bench for reconsideration of the earlier decision in the event of the disagreeing with the view of the former Division Bench). However, the decision of a High Court has only persuasive authority outside the territory subject to its jurisdiction (Law Commission, 14th Report). Thus, a High Court is not bound by the decision of another High Court.

Tribunal decisions similarly bind tax authorities under their jurisdiction, as established in multiple landmark judgments. Supreme Court in *UOI Vs. Kamlakshi Finance Corporation Ltd* ruled thus *“The principles of judicial discipline requires that the order of the higher appellate authorities should be followed unreservedly by the subordinate authorities. The mere fact that the order of the appellate authority is not ‘acceptable’ to the department - in itself an objectionable phrase - and is subject matter of an appeal can furnish no ground for not following it unless its operation has been suspended by a competent appellate court. If this healthy rule is not followed, the result will only be undue harassment to assessee and chaos in administration of tax laws”* Full Bench or Special Bench decision to bind on other benches. One bench of the Tribunal should normally follow the decision of another bench on same facts. If a bench wants to take an opinion different from that of an earlier bench, it should place the matter before the President so that he can refer the matter to a full bench. Otherwise, it will lead to destruction of the institutional integrity.” Judgement of any High Court has to be preferred over the judgement of a Special Bench of the Tribunal.

What does commissioners need to do?

Courts and tribunals maintain institutional integrity by respecting precedents. For instance:

- Decisions by tribunals are binding on commissioners, even if disagreements arise. Commissioners may note dissent but must adhere to tribunal rulings until higher authorities intervene.
- Conflicts between tribunal decisions and administrative circulars are resolved in favor of tribunal rulings, as demonstrated in cases like *Fresenius Kabi India v. CC*

Let us now see some important rulings on this subject:

In *Agrawal Warehousing v. CIT Commissioner (Appeals)* did not follow Tribunal decision stating that the decision did not lay down the correct law. Interestingly, Tribunal (consisting of same members who had rendered decision in earlier case) upheld the view of Commissioner (Appeals). It was held by MP High Court that Commissioner (Appeals) not only committed judicial impropriety but also erred in law in refusing to follow order of Tribunal. It was also held that Tribunal was wrong in reviewing its own decision and it, was proper to have referred the matter to larger bench.

In case of *Laxm Steel Traders v. CCE* it was held that commissioner is bound to follow Tribunal decision cited before him, even if he does not agree. He cannot take law in his hands and set his authority above that of Tribunal. He has to follow the decision, though he may point out in his order what he feels is incorrect.

Where there is conflict between Tribunal decision and Board circular, the Tribunal decision prevails as held in various ruling including *Fresenius Kabi India v. CC* and *Dabur India v. CCE*

Decision of CESTAT is binding on Commissioner (Appeals) and he cannot 'disagree' with it as held in *Birla Yamaha v. CCE, Gahlout & Choudury Steel (P.) Ltd. v. CCE*.

Decision of CESTAT is binding on lower authorities even in subsequent matters on same issue and identical set of facts. Department cannot take contrary view. Proper course for department is to challenge the order of Tribunal in court of law. - *Eicher Motors Ltd. v. CCE*

Overruling Precedents

While the principle of stare decisis promotes consistency, it is not absolute. The Court overrules earlier rulings to address misinterpretations, outdated principles, or conflicting precedents. Societal changes and advancements in technology often necessitate re-evaluations to align laws with contemporary realities. As the guardian of the Constitution, the Court revisits its interpretations to uphold its living nature, ensuring relevance in changing times.

Judicial review under Articles 32 and 136 empowers the Court to rectify past judgments that undermine justice or constitutional principles. Overruling also resolves conflicts among precedents, provides clarity in law, and ensures fairness. The Court's evolving judicial philosophy and its commitment to justice take precedence when older rulings perpetuate injustice or fail to reflect modern values. Using tools like the Doctrine of Prospective Overruling, it balances continuity with progress. This flexibility safeguards the dynamic nature of the judiciary while upholding its fundamental duty to deliver justice and preserve constitutional values.

In case of *Chikkusappa v. State of Karnataka*, it was decided that decision cannot be considered as binding authority in view of statutory provisions having undergone legislative changes.

In case of *Municipal Corporation of Delhi v. Gurnam Kaur*, and *State of Uttar Pradesh v. Synthetics and Chemicals Ltd.*, the Supreme Court has laid down that the following categories of decisions of the Supreme Court have no binding force:

1. Obiter dicta, i.e, statements which are not part of the ratio decidendi.
2. A decision per incurium, i.e, a decision given in ignorance of the terms of a statute or rule having the force of a statute.
3. A decision passed sub-silentio, i.e, without any argument or debate on the relevant question.
4. An order made with the consent of the parties, and with the reservation that it should not be treated as a precedent.

Hon'ble supreme court in case of *Dilip Kumar & Co. v. Commissioner of Customs*, [2018] 9 SCC 10 overruled *Sun Export Corporation v. Collector of Customs* (1997) 6 SCC 564 and held that in cases of ambiguity in tax exemption notifications, the benefit of the doubt cannot be given to the taxpayer. Instead, such exemptions must be interpreted strictly.

Conclusion in Light of GSTAT Being Set Up

The principle of stare decisis remains pivotal in fostering consistency and predictability in India's legal and tax systems. With the establishment of the Goods and Services Tax Appellate Tribunal (GSTAT), the doctrine assumes even greater significance, as the GSTAT is poised to become the primary adjudicatory body for resolving disputes under the Goods and Services Tax regime. While adhering to binding precedents ensures institutional integrity, GSTAT's decisions will also shape the evolving jurisprudence of GST, reflecting the dynamic nature of indirect tax laws.

As the GSTAT begins to function, its rulings will set benchmarks for interpreting GST provisions, promoting uniformity across states. However, in instances where earlier precedents fail to align with contemporary realities or constitutional principles, the tribunal must exercise its authority to revisit and refine them. This ability to overrule outdated interpretations will ensure that GST jurisprudence remains relevant and responsive to modern business practices, technological advancements, and economic policies.

The GSTAT, while respecting the doctrine of stare decisis, must also embrace the flexibility to correct

errors, resolve conflicts, and adapt to the complexities of GST laws. This balanced approach will solidify its role in upholding justice, fostering taxpayer confidence, and ensuring the efficient administration of the GST framework in India.