

LEGAL MAXIMS AND PHRASES

A legal maxim or legal phrase elucidates or expounds a legal principle, proposition or concept. There are many legal maxims, which are commonly used. This chapter selectively seeks to explain some maxims/phrases, which are relevant to tax context. An attempt is made to not only state the legal principle signified by a maxim/phrase but its application in case laws is also stated to enable readers to apply it in appropriate situations in GST.

<u>Alphabet</u>	<u>Legal maxim/phrase</u>	<u>Legal principle/concept</u>	<u>Case law reference</u>
A	<i>Ab initio</i>	From the beginning or inception. From the first act.	Dilip Kumar Mukherjee Vs. Commercial Tax Officer &Ors, AIR 1965 Cal 498 : MANU/WB/0104/1965
	<i>Actio Personalis Moritur Persona Cum</i>	A personal right of dies action with the person	C.P.Kandaswamy & Ors Vs. Mariappa Stores &Ors., MANU/TN/0141/1974
	<i>Actus Curiae Neminem Gravabit</i>	An Act of the Court shall prejudice no man	1. Sree Balaji Nagar Residential Association vs. State of Tamil Nadu 2015 (3) SCC 353; MANU/SC/0794/2014. 2. Anil Rai Vs. State of Bihar, 2009 (233) ELT 13 (SC)
	<i>Actus Non Facit Reum Nisi Mens Sit Rea</i>	The intent and act must both concur to constitute the crime	1. Commissioner, Trade Tax U.P., Lucknow Vs. Project Technologist Pvt. Ltd., MANU/UP/1335/2012 = 2012 (48) VST406(All).

			2. UOI Vs. Ganesh Das Bhojraj 2000 (116) ELT 431 (SC)
	<i>Ad hoc</i>	For this. For this special purpose.	Addison & Co. Ltd., Madras Vs. Collector of Central Excise, Madras 1997 (91) ELT 532 (S.C.) = MANU/SC/1211/ 1997
	<i>Ad valorem</i>	To the value or based on value.	Ganesh Oil Mills Ltd. and Ors. Vs. State of J and K and Ors. MANU/JK/0275/2 004
	<i>Allegans Contrari a Non Est Audiendus</i>	He is not be heard who alleges things contradictory to each other.	Sikkim Manipal University Vs. State of Sikkim MANU/SI/0071/20 14 = 2014 (369) ITR 567 (Sikkim).
	<i>Audi Alterem Partem</i>	No man shall be condemned unheard.	1. Hari Nivas Gupta Vs. The State of Bihar and Ors. MANU/BH/0314/ 2015 2. Shreematha Precision Components Vs. Commr. Of C.Ex., Bangalore 2015 (325) ELT 529 (Kar)
	<i>Abundans cautela non nocet</i>	Abundant or extreme caution does no harm.	George Vs. George, MANU/KE/0431/2 010
	<i>Actori incumbit onus probandi</i>	The burden of proof lies on the plaintiff	Dr. Indra Raja and Dr. Paten Raja Vs. John Yesurethinamalias

			Durai, MANU/TN/4369/ 2011
	<i>Actus Reus</i>	A guilty deed or act	1. Additional Commissioner of Income Tax and Anr. Vs. Dargapandinath Tuljaya & Co. MANU/AP/0176/ 1976. 2. Vinod Solanki vs. UOI, 2009 (233) ELT 157 (SC)
C	<i>Contemporanea Expositio Est Optima Et Fortissimo In Lege</i>	Contemporaneous exposition or interpretation is regarded in law as the best and strongest (most prevailing). The best and surest mode of construing an instrument is to read it in the sense which would have been applied when it was drawn up	Employees' State Insurance Corporation, Hyderabad Vs. Andhra Pradesh Paper Mills Ltd., Rajahmundry MANU/AP/0126/ 1978 = AIR 1978 AP 18.
	<i>Cuilibet in Sua Arte Perito Est Credendum</i>	Credence should be given to one skilled in his peculiar profession. Credit is to be given to any one skilled in his own art or profession.	-
	<i>Cursus curiae est lex curiae</i>	The practice of this Court is the law of the Court. The course of the Court (that is, the course of procedure or practice) is the law of the Court.	Collector of Central Excise, Madras Vs. Standard Motor Products and Ors, MANU/SC/0114/1 989 = AIR 1989 SC 1298 = 1989(41) ELT 617 (SC)
D	<i>De Facto</i>	Existing in actuality, especially when contrary to or not established by law.	Assistant Collector of Central Excise, Calcutta Division Vs. National Tobacco Co. of India Ltd. 1978 (2)

			ELT 416 (S.C.) = MANU/SC/0377/1 972
	<i>De Minimis Non Curat Lex</i>	The law does not concern itself with trifles	1. State of Bihar and Ors. Vs. Harihar Prasad Debuka and Ors MANU/SC/0533/1 989 = AIR 1989 SC 1119 = 1989 (73) STC 353 (SC) 2. Foods, Fats & Fertilisers Ltd., Vs. Commissioner of C.Ex. Guntur, 2011 (22) STR 484 (TRI-Bang.)
	<i>Delegatus non potest delegare</i>	A delegate himself cannot delegate. A delegated power cannot be further delegated.	1. Gwalior Rayon Silk Mfg. (Wvg.) Co. Ltd. Vs. The Asstt. Commissioner of Sales Tax and Ors. MANU/SC/0361/1 973 = AIR 1974 SC 1660 = 1974 (2) SCR 879 = 2002-TIOL-1420-SC-CT-LB. 2. Valvoline Cummins Limited Vs DCIT & Ors, 2008-TIOL-347-HC- DEL-IT.
E	<i>Ejusdem Generis</i>	Of the same class, or kind	1. The State of Karnataka Vs. Cognizant Technology Solutions India Private Limited MANU/KA/2399/

			2016. 2. Mega Enterprises Vs CCE&C, 2015-TIOL-1142-CESTAT-MUM
	<i>Ex Post Facto</i>	After the fact.	Durga Works Vs. Assistant Collector of Central Excise, MANU/KA/0270 /1991
	<i>Expressio Unius Est Exclusio Alterius</i>	Express mention of one thing excludes others. The special mention of one thing operates as the exclusion of things differing from it.	1. Ramdev Food Products Pvt Ltd., Vs. State of Gujarat MANU/SC/0286/ 2015 = AIR 2015 SC 1742 = 2015 (6) SCC 439. 2. DHL Lemuir Logistics Pvt.Limited Vs CCE, 2012-TIOL-705-CESTAT-MUM
F	<i>Falsus in Uno Falsus in Omnibus</i>	False in one aspect is false in all respects. False in one thing, false in all.	1. Mohammed Razhur Rehman and Ors. Vs. State of Karnataka MANU/KA/1470/ 2016 = 2016(5)Kar.LJ15 2. G.SasikalaVs ITO, 2015-TIOL-823-ITAT-Mad.
G	<i>Generalia Specialibus non derogant</i>	General things do not derogate special things. General statements or provisions do not derogate from special statements or provisions.	1. Commissioner of Income Tax, Patiala & Ors. Vs. Shahzada Nand& Sons &Ors, MANU/SC/0113/1 966= AIR 1966 SC

			1342 = 1966 (60) ITR 392 (SC). 2. CTO Vs Binani Cements Ltd &Anr, 2014-TIOL-15-SC-CT.
H	<i>Habeas Corpus</i>	You have the body. A writ (court order) that commands an individual or a government official who has restrained another to produce the prisoner at a designated time and place so that the court can determine the legality of custody and decide whether to order the prisoner's release.	1. Purshottam Govindji Halaivas. Shree B.M.Desai, Additional Collector of Bombay and Ors. AIR 1956 SC 20 = MANU/SC/0017/1955 2. UOI Vs. Paul Manickam, 2003 (162) ELT 6 (SC)
I	<i>Ignorantia Facti Excusat – Ignorantia Juris Non Excusat</i>	Ignorance of facts may be excused but not ignorance of law.	1. S.A.Qadir Vs. The Union of India and Ors., MANU/RH/0695/2000. 2. Ajai Kumar Agnihotri & Anr Vs CCE, 2013-TIOL-1049-CESTAT-DEL
	<i>Impotentia Excusat Legem</i>	Impossibility excuses the law. Inability excuses the non-observance of the law.	1. Narmada Bachao Andolan Vs. State of Madhya Pradesh and Anr. MANU/SC/0599/2011 = AIR2011SC1989 2. Steel Authority of India Ltd., Vs. Commissioner of C.EX., Coimbatore 2004 (177) ELT 1128 (TRI-Chennai)
	<i>In absentia</i>	"In absence," or more fully, in	1. D. Velayutham

		one's absence.	Vs. State MANU/SC/0249 /2015 2. Webel SL- Energy System Ltd., Vs. UOI 2010 (257) ELT 532 (CAL.)
	<i>Ipse Dixit</i>	He himself said it.	Kirloskar Brothers Ltd. Vs. Commissioner of Central Excise, Pune, 2005 (181) ELT 299 (S.C.) = MANU/SC/0182/ 2005
L	<i>Leges Posteriores Priores Contrarias Abrogant</i>	Later laws repeal earlier laws inconsistent therewith.	Commissioner of Income Tax Vs. Common Wealth Trust (I) Ltd., MANU/KE/0583/2 004 = 2004 (189) CTR(Ker)393
	<i>Lex Non Cogit Ad Impossibilia</i>	The law does not compel a person to do that which he cannot possibly perform. The law does not compel the performance of what is impossible.	1. Industrial Finance Corporation of India Ltd. Vs. The Cannanore Spinning & Weaving Mills Ltd. and Ors. MANU/SC/0317/2 002 = AIR 2002 SC 1841=[2002]2 SCR 1093. 2. Jindal Steel and Power Limited Vs CCE, 2015-TIOL- 1162-CESTAT-DEL.
	<i>Lex Posterior Deroga t Priori</i>	A later law repeals an earlier law.	Central Warehousing

		A later statute derogates from a prior.	Corporation Vs. Fortpoint Automotive Pvt. Ltd., MANU/MH/1493/2009 = 2010(1)MhLJ658 = 2010(1)BomCR560
	<i>Lexspecialis derogate legigenerali</i>	Special law repeals general laws.	Radha Mohan Maheshwari Vs.D.C.I.T – ITAT Jaipur MANU/IJ/0092/20 16
	<i>Locus Standi</i>	The right of a party to appear and be heard before a court.	1. BOC India Ltd. Vs. State of Jharkhand and Ors., 2009 (237) ELT 7 (SC) = MANU/SC/0351/2 009 2. Oswal Chemicals & Fertilizers Ltd., Vs. Commissioner of C.Ex., Bolpur 2015 (318) ELT 617 (SC)
M	<i>Mandamus</i>	A writ or order that is issued from a court of superior jurisdiction that commands an inferior tribunal/court to perform, or refrain from performing, a particular act, the performance of which is required by law as an obligation.	Shenoy and Co., Bangalore and Ors. Vs. Commercial Tax Officer, Circle II, Bangalore and Ors. , AIR 1985 SC 621 = MANU/SC/0255/1 985.
	<i>Modus Operandi</i>	Method of working.	Assistant Commercial Taxes Officer Vs.Kansai Nerolac Paints Ltd,2015 (321) ELT 13 (S.C.) = MANU/SC/0259/

			2010
	<i>Mutatis Mutandis</i>	The necessary changes.	<p>1. Eastern Electrics Vs. The State of Tamil Nadu, MANU/TN /1373/2008</p> <p>2. Sodexo SVC India Pvt. Ltd., Vs. State of Maharashtra, 2016 (331) ELT 23 (SC)</p>
N	<i>Nemo Debet Esse Judex in Propria Sua Causa</i>	No man can be judge in his own case. No one ought to be a judge in his own cause.	<p>1. Rajesh Kumar and Ors. Vs. D. Commissioner of Income Tax and Ors. MANU/SC/4779/2006= AIR 2007 SC 181 = [2006] Supp (8) SCR 284</p> <p>2. Deo Ispat Alloys Limited Vs CCT, 2014-TIOL-1797-HC-ORRISA-VAT</p>
	<i>Nemo Debet BisVexari Pro Una Et Eadem Causa</i>	A man shall not be vexed twice for one and the same cause	<p>1. Omax Engineering Works Vs. State of Haryana and Ors., MANU/PH/0459/2016</p> <p>2. Commr. Of C.E., Nagpur Vs. Shree Baidyanath Ayurved Bhawan Ltd., 2009 (237) ELT 225 (SC)</p>
	<i>Nemobis punitur poreo dem delicto</i>	No one can be punished twice for the same crime or offence	Omax Engineering Works Vs. State of Haryana and Ors., MANU/PH/0

			459/2016
	<i>Nemopunitur pro alieno delicto</i>	No one is to be punished for the crime or wrong of another	The District Collector, Dharmapuri Vs. Tmt. T.V. Kasturi, MANU/TN/0658/2014
	<i>Non Obstante</i>	Notwithstanding (any statute to the contrary)	1. Union of India (UOI) and Ors. Vs. SICOM Ltd. and Anr., 2009 (233) ELT 433 (S.C.) = MANU/SC/8377/2008 2. Commissioner of C.Ex., Vs. Dalmia Cement (Bharat) Ltd., 2015 (323) ELT 647 (SC)
	<i>Noscitur a Sociis</i>	The meaning of a doubtful word may be ascertained by reference to the meaning of words associated with it.	M/s. Rohit Pulp and Paper Mills Ltd. Vs. Collector of Central Excise, Baroda, MANU/SC/0186/1991 = 1990 (47) ELT 491 (S.C.)= AIR 1991 SC 754
	<i>Nova Constitutio Futuris Formam Imponere Debet, Non Praeteritis</i>	A new law ought to be prospective and not retrospective, in operation.	1. Shanti Conductors (P) Ltd. and Ors. Vs. Assam State Electricity Board and Ors., MANU/SC/0972/2016 2. MRF Ltd., Vs. Assisstant Commissioner (Assessment) Sales Tax, 2006 (206)ELT 6 (SC)
	<i>Nullus Commodum</i>	No man can take advantage	Naveen Kumar

	<i>Capere Potest De Injuria Sua Propria</i>	of his own wrong.	Sharma Vs. State of Haryana and Ors. MANU/PH/3846/2015
O	<i>Obiter Dicta</i>	Remarks of a judge which are not necessary to reaching a decision, but are made as comments, illustrations or thoughts.	Natural Health Products (P) Ltd. Vs. Collector of Central Excise, 2003 (158) ELT 257 (S.C.) = MANU/SC/0912/2003
P	<i>Pari Materia</i>	Of the same matter; on the same subject	Collector of Central Excise Vs. Re - Rolling Mills, 1997(94) ELT 8 (S.C.) = MANU/SC/1430/1998
	<i>Per Incuriam</i>	By Mistake	Commissioner of Central Excise Vs. Medico Labs and Anr., 2004 (173) ELT 117(Guj.) = MANU/GJ/0635/2004
Q	<i>Qui Facit Per Alium Facit Per Se</i>	He who acts by or through another, acts for himself. A person who does a thing through the instrumentality of another, is held as having done it himself.	1. Commissioner of Income Tax Vs. Amman Steel & Allied Industries, MANU/TN/2319/2015 = 2015 (377) ITR 568 (Mad). 2. Indian Sugar and General Engg. Corpn. Vs. Collector of Cus., 1993 (68) ELT 832 (Tri-Del)
	<i>Quid pro quo</i>	What for what or Something for something.	Commissioner of Central Excise, Lucknow, U.P. Vs. Chhata Sugar

			Co. Ltd. 2004 (165) ELT 369 (S.C.) = MANU/SC/0189/2 004
	<i>Quo Warranto</i>	An order issued by authority of the king. A legal proceeding during which an individual's right to hold an office or government's privilege is challenged.	1. Dr .D .K .Belsarevs . Nagpur University MANU/MH/0351/1980 : 1980(82)BomLR494 2. L. Chandra Kumar Vs. UOI 1997 (92) ELT 318 (SC)
R	<i>Ratio Decidendi</i>	The reason or rationale for the decision by Court.	The Commissioner of Central Excise and S.T., Large Taxpayer Unit vs. ABB Limited, GIDC MANU/KA/0794/2011 = 2011 (44) VST 1 (Karn)
	<i>Res Integra</i>	An entire thing; an entirely new or untouched matter.	Commnr. of Central Excise, Vadodara Vs. Gujarat State Fertilizers and Chem. Ltd. MANU/SC/7776/2008 = (2008)15 SCC 46
	<i>Res Ipsa Loquitur</i>	The thing speaks for itself	1. Rahul and Ors. Vs. State of Maharashtra and Ors. MANU/MH/0861/2016 2. T. Shankar Prasad Vs. State of Andhra Pradesh 2004 (164) ELT 143

			(SC)
	<i>Res Judicata</i>	A thing adjudged.	West Coast Paper Mills Vs. Superintendent of Central Excise and Ors., 1984 (16) ELT 91 (Kar.) = MANU/KA/0144/ 1971
S	<i>Sub Silentio</i>	Under silence; without any notice being taken	1. Ajay Gandhi and Anr. Vs. B. Singh and Ors. AIR 2004 SC 1391 = 2004(167)ELT257(S. C.) = MANU/SC/0012/2 004 2. State of Maharashtra Vs. Subhash Arjundas Kataria, 2012 (275) ELT 289 (SC)
	<i>Suppressio Veri or Suggestio Falsi</i>	Concealment of truth or a statement of falsehood	1. Dilip N Shroff Karta of N.D.Shroff Vs. Joint Commissioner of Income Tax, Special Range Mumbai &Anr., MANU/SC/3182/ 2007 = 2007 (291) ITR 519 (SC) = 2007 (7) SCR 499 2. ITC Ltd., Vs. M.K.Chipkar and Others, 1985 (19) ELT 373 (Bom.)
U	<i>Ubi Jus IbiRemedium</i>	There is no wrong without a remedy. Wherever there is a right there is a remedy.	1. Kalpana Yogesh Dhagat Vs. Reliance Industries Limited MANU/GJ/2165/2

			016 2. Mithilesh Kumari Vs. Prem Behari Khare 1989 (40) ELT 257 (SC)
	<i>Ubi Non Est Principalis Non Potest Esse Accessorius</i>	Where there is no principal there is no accessory.	Pratibha Processors Vs. UOI, 1996 (88) ELT 12 (SC)
V	<i>Vigilantibus et non dormientibus jura subveniunt</i>	Law aids the vigilant and not the dormant or laws aid/assist those who are vigilant, not those who sleep upon/over their rights.	a. Pushpammal Vs. Jayavelu Gounder (Died), Krishna Gounder (Died) and Ors. MANU/TN/3711/2010. b. Bharat Petroleum Corpn. Ltd Vs. CC&CE, 2016(340) ELT 553 (T) = MANU/CH/0060/2016
	<i>Volenti Non Fit Injuria</i>	To the consenting, no injury is done.	Sarasamma and Ors. Vs. G. Pandurangan and Ors. MANU/TN/0763/2016 = (2016) 3 MLJ 286

Note: There are many legal maxims, which are quite often used in any legal proceedings. The above is only an illustrative list of few important maxims. The participants are encouraged to read and understand more such maxims from authoritative texts and judicial decisions and use it in appropriate proceedings.

Recommended reading/Legend:

1. Trayner's Legal Maxims
2. Broom's Legal maxims
3. EXCUS DVD, Centax Publications P.Limited
4. MANU - MANUPATRA.COM
5. TIOL – Taxindiaonline
6. SCC – Supreme Court Cases
7. AIR – All India Reporter

8. ELT – Excise Law Times
9. STC – Sales Tax Cases
10. ITR – Income Tax Reporter
11. VST – VAT and Service Tax

