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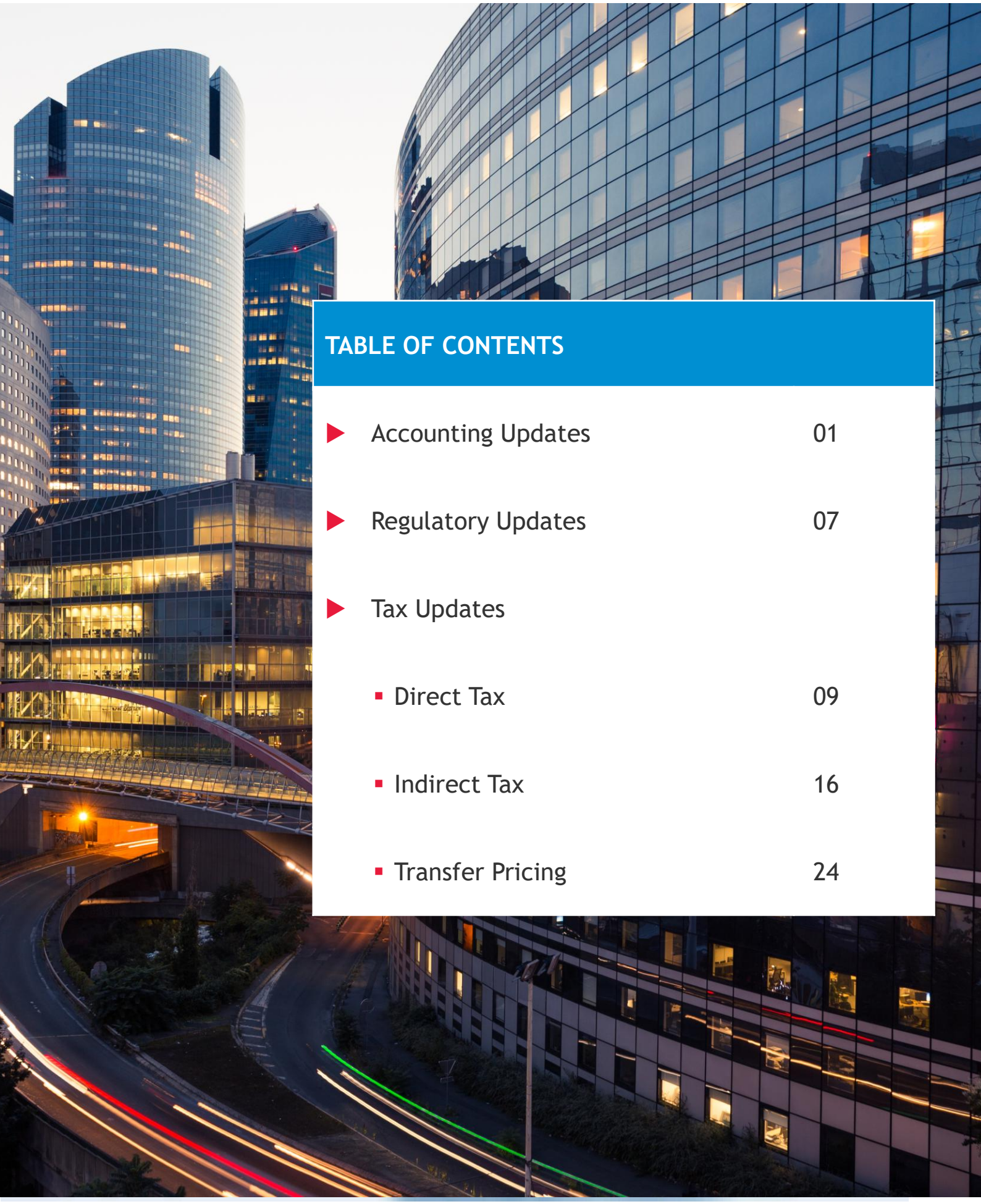

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ACCOUNTING UPDATES

The Institute of Chartered Accountants of India (ICAI):

Expert Advisory Committee (EAC) Opinion on accounting treatment of non-construction fee under the Ind AS framework.

The Company was incorporated in June 1964 and later became a subsidiary of N Limited pursuant to financial restructuring in April 2017. The Company operates in Project Management Consultancy (PMC) and Engineering, Procurement & Construction (EPC) segments and has been preparing the financial statements under Ind AS since FY 2017-18. In February 2011, for the purpose of constructing an office building complex, the Company was allotted a plot of land by the Greater Mohali Area Development Authority (GMADA). Conveyance deed entered and signed between GMADA and the Company required construction to be completed within three years; however, due to financial constraints, restructuring process and disruptions caused by the COVID-19 pandemic, construction activities were delayed.

Subsequently, as the stipulated time had expired, GMADA levied and demanded payment of construction extension fees (hereinafter referred to as "non-construction fees"). The Company capitalised such costs, under Capital Work-in-Progress (CWIP), as the cost was directly attributable to the asset on the location which is yet to be put to use as per para 16 of IndAS 16. Additionally, GMADA demanded penal interest, which was recognised in the Statement of Profit and Loss.

The Comptroller and Auditor General (C&AG) raised observations for multiple financial years, stating that the treatment followed by the Company regarding capitalisation of non-construction fees under CWIP should be under the nature of a penalty. C&AG added that a penalty was levied as the Company could not adhere to the conditions of the allotment order and the sale deed. Accordingly, the inclusion of such non-construction fees has resulted in overstatement of CWIP with understatement of expenses and consequent overstatement of profit.

The Company contended such non-construction fees are not penal in nature but are payable under the legal framework allowing extension of time for construction and hence should not be treated as penalties. Further, the Company submitted that in the absence of specific guidance under Ind AS, the accounting treatment was based on the substance of the transaction.

Accordingly, EAC was referred by the Company to decide on the existing accounting treatment adopted and whether the non-construction fees paid/payable to GMADA and debited to CWIP are in compliance with applicable IndAS and require any modification. Evaluating the Committee noted IndAS 16 requires only those costs which are directly attributable to bringing the asset to the location and condition necessary for it to be capable of operating in the manner intended by management to be capitalised. Further, the Committee noted that the non-construction fees levied due to delay in initiating or completing construction within the stipulated timeline have arisen on account of non-compliance with the conditions of allotment rather than from construction activity itself. Such costs do not contribute to bringing the asset to its intended operating condition.

The EAC viewed the non-construction fees as costs for holding the asset without construction or where there are delays, or similar in nature to administrative or avoidable costs, rather than directly attributable costs. Accordingly, the Committee opined that the non-construction fees cannot be capitalised as part of CWIP. Such expenditure should be recognised as an expense in the Statement of Profit and Loss with appropriate disclosures in accordance with Ind AS 16.

REGULATORY UPDATES

The Institute of Chartered Accountants of India (ICAI):

Handbook on Key Compliances and Exemptions for Private Limited Company under the Companies Act 2013

ICAI has released the Handbook on Key Compliances and Exemptions for Private Limited Companies to provide practical guidance on statutory obligations applicable to private limited companies in India.

The handbook has been meticulously prepared to serve practitioners, members of the profession, company directors, compliance officers, and other stakeholders as a practical, user-friendly, and comprehensive reference on statutory compliance covering incorporation and ongoing operations through expansion, along with the applicable exemptions and procedural aspects relevant to private limited companies.

Guidance Note on Audit of Banks (2026 Edition)

The Auditing and Assurance Standards Board (AASB) of ICAI has released an updated Guidance Note on Audit of Banks (2026 edition).

Key Focus Areas in the Guidance Note:

- Update of relevant directions/circulars issued by RBI up to 28 February 2026 and aligning those to relevant guidance.
- Audit approach, considerations and documentation required, especially advances, NPAs, and provisioning.
- Audit considerations while auditing foreign exchange business, clearing house operations and NPA recovery branches.
- Audit of information technology and special considerations in the CBS environment. Emphasis on digital banking.
- Illustrative format of reports and letters for central and branch audits

Frequently Asked Questions on Section 8 Companies under the Companies Act, 2013

The ICAI has released "Frequently Asked Questions on Section 8 Companies under the Companies Act, 2013" to provide practical and structured guidance on the legal and procedural implementation. The guidance aims to reduce procedural ambiguity and facilitate effective and timely adherence to applicable regulatory obligations.

Announcement on Deferment of Effective Date of SQM 1 and SQM 2

SQM 1 and SQM 2 were scheduled to come into effect from 1 April 2026. ICAI has now decided to defer the mandatory effective date of SQM 1 and SQM 2 until further announcement.

SQC-1 will remain in effect for all engagements and will continue to apply to all firms in respect of the services covered thereunder.

National Financial Reporting Authority (NFRA)

Audit Committee - Auditor Interactions Series 5

NFRA has published its Auditor–Audit Committee Interactions Series focusing on the audit of provisions, contingent liabilities, and contingent assets under Ind AS 37 and relevant auditing standards SA 540 and SA 501.

Key Highlights:

- Emphasises the importance of robust communication between auditors and Those Charged with Governance (TCWG), particularly in areas involving significant accounting estimates and judgments
- Reinforces that provisions should be recognised only when a present obligation exists and outflow of resources is probable, and a reliable estimate can be made, including obligations arising from both legal and constructive aspects.
- Highlights the need for rigorous evaluation of management assumptions, including estimation techniques, discount rates, expected cash outflows and risks of material misstatement.
- Draws attention to auditor responsibilities under Standards on Auditing (notably SA 540, SA 501, and SA 505) in assessing accounting estimates, obtaining sufficient appropriate audit evidence and evaluating disclosures.
- Stresses the importance of testing internal controls around identification and measurement of provisions, including areas such as litigation, onerous contracts, restructuring, and environmental liabilities.
- Draws attention regarding auditor scrutiny over completeness of provisions and contingent liabilities, including the use of external confirmations and, where necessary, direct communication with legal counsel.
- Emphasises the need to assess special situations, including restructuring provisions, decommissioning obligations, and liabilities arising under environmental regulations such as Extended Producer Responsibility (EPR).
- Stresses continuous reassessment of provisions and contingencies, including consideration of subsequent events impacting recognition or disclosure.

Ministry of Finance

Securities Contracts (Regulation) Amendment Rules, 2026

IMinistry of Finance notified the Securities Contracts (Regulation) Amendment Rules, 2026, amending Rule 19 of the Securities Contracts (Regulation) Rules, 1957. This fundamentally revises the minimum public offer and public shareholding requirements for listed companies, especially large and mega cap companies. The amendment is effective immediately from the date of publication in the Official Gazette

Key Highlights:

- New tiered framework for minimum public offer size, linked to a company's post issue market capitalisation, instead of a flat 25% requirement.

Consolidated Turnover of Listed Entity	Threshold
Less than or equal to INR 1600 cr.	Minimum 25%
INR 1600 cr.- INR 4000 cr.	Equal to INR 400 cr.
INR 4000 cr.- INR 50,000 cr.	Minimum 10%
INR 50,000 cr.- INR 100,000 cr.	INR 1,000 cr. and at least 8%
INR 100,000 cr.- INR 500,000 cr.	INR 6,250 crore and at least 2.75%
Above INR 500,000 cr.	INR 15,000 crore and at least 1%

- New tiered framework for minimum public offer size, linked to a company's post issue market capitalisation, instead of a flat 25% requirement.
- Minimum floor of at least 2.5% of shares must be offered to the public.
- For listing in International Financial Services Centres Authority exchanges, minimum public shareholding is 10%, irrespective of post-issue capital.
- Companies with superior voting rights (SVR) shares must list those shares along with ordinary shares.
- Recognised stock exchanges may impose penalties for past non-compliance with public shareholding norms.

Ministry of Corporate Affairs:

Companies Compliance Facilitation Scheme, 2026

MCA Vide circular dated 24 February 2026, has introduced the Companies Compliance Facilitation Scheme, 2026. This is a one-time 90-day compliance window from 15 April 2026 to 15 July 2026, allowing companies to regularise delayed annual returns and financial statements by paying only 10% of the additional fees. Under the Scheme, firms can also opt for dormant status with 50% or strike-off with 25% fee. Also, the Scheme grants immunity from penalty if filings under sections 92 and 137 of the Act were made prior to issuance of, or within 30 days of issuance of notice by the adjudicating authority.

In respect of certain other e-forms – ADT-1, FC-3, FC-4, Form 20B, Form 21A, Form 23AC & 23ACA, Form 66 and 23B – immunity from penalty shall be granted against prospective penal action for delayed filing of such forms, provided filing has been regularised vide the Scheme and no adjudicating proceedings/ prosecution have been initiated.

Amendments to AS 22 'Accounting for Taxes on Income'

Key highlights:-

- Enterprises should not recognise or disclose deferred tax assets/liabilities related to Pillar Two income taxes.
- Enterprises must disclose that they have applied the exception for deferred tax recognition under Pillar Two. Availment of this exception is to be highlighted and applies from the date of this notification and retrospectively.
- Current tax expense (income) related to Pillar Two must be disclosed separately.
- In case Pillar Two legislation is enacted but not yet effective, enterprises must disclose known or reasonably estimable information about their exposure. Disclosures include both qualitative (jurisdictions affected, nature of exposure) and quantitative (proportion of profits subject to Pillar Two, indicative effective tax rate impact).
- MSME entities may not apply the detailed disclosure requirements. However, the application of the exception to recognise and disclose information under DTA/L related to the Pillar Two model applies.
- Disclosure requirements will apply for annual reporting periods beginning on or after 1 April 2025. Exemption granted for any interim period ended on or before 31 March 2026.

The Corporate Laws (Amendment) Bill, 2026

The Corporate Laws (Amendment) Bill 2026, introduced in the Lok Sabha on 23 March 2026, aims to amend the Companies Act, 2013. The following are the key proposals:

- Relaxing requirements related to auditor appointments for a certain class of companies (to be prescribed).
- An auditor or audit firm of prescribed class or classes of companies shall not provide, directly or indirectly, any non-audit services to the company or its holding company or subsidiary. It also seeks to provide that this restriction shall also apply for a period of three years after the auditor or audit firm has completed his or its term.
- Strengthening the role of the National Financial Reporting Authority, for example, powers of NFRA would extend to certain bodies corporate (presently companies), professional or other misconduct shall also include contravention of the provisions of the Companies Act, insofar as they related to the matters within the jurisdiction, functions, or regulatory remit of the NFRA
- The upper limits for classification as a small company have been enhanced, with the paid-up share capital limit increased from INR 10 crore to INR 20 crore and the turnover limit from INR 100 crore to INR 200 crore
- Companies are permitted to conduct Annual General Meetings in physical or hybrid mode, providing greater flexibility in holding meetings. It is mandated that at least one AGM must be conducted in physical mode within every three-year period.
- Expands the scope of disclosures by requiring the Board's Report to include explanations or comments on qualifications, reservations, adverse remarks, or disclaimers made not only by statutory auditors and company secretaries but also on observations impacting the functioning of the company. Mandates disclosure of the composition of the Audit Committee and reasons for non-acceptance of its recommendations, if any.
- The net profit threshold for applicability of CSR provisions has been increased to INR 10 crore. The timeline for the transfer of unspent CSR amounts to a designated account has been extended from 30 days to 90 days. Empowers the Central Government to exempt certain classes of companies from CSR obligations. Provides that companies with CSR expenditure up to INR 1 crore are not required to constitute a CSR Committee.
- Relaxes compliance requirements for One Person Companies (OPCs), small companies, and dormant companies by requiring only one Board meeting in a year. Removes the earlier requirement of maintaining a minimum gap of 90 days between Board meetings.
- Restricts appointment of individuals as directors if they have been associated with the company in the capacity of auditor, valuer, or insolvency professional during the preceding three years. Reduces the disqualification trigger period for non-filing of financial statements and annual returns from three years to two years.

Ministry of Labour and Employment:

Compliance Handbook for Employers Under the Four Labour Codes

The Ministry of Labour and Employment has released the Compliance Handbook for Employers Under the Four Labour Codes (Central Government Sphere) to guide organisations through statutory obligations under the new labour regime. This has been prepared to make the employers aware of the new provisions in a simplified manner.

Additional FAQs on the Labour Code

- Code on Wages, 2019:

  FAQ clarifies about payments forming part of the 50 per cent wage calculation rule. It is clarified that overtime payments are included for the purpose of calculating the 50% threshold, while only specified statutory components such as employer contributions to provident fund and pension are excluded; gratuity and ESI are not part of such exclusions. Where total exclusions exceed 50% of remuneration, the excess is required to be added back to wages. Performance-linked incentives are excluded from wages, and overtime eligibility is extended to all employees whose wages are notified, not limited to workers alone. The revised definition of wages is effective from 21 November 2025 and is also applicable for gratuity calculations, thereby ensuring uniformity and consistency in wage determination.

- Code on Social Security, 2020:

  FAQ clarifies on gratuity provisions, fixed-term employment, and compliance requirements. Fixed-term employees are eligible for gratuity upon completion of one year of service with effect from 21 November 2025 and based on last drawn wages. In cases of contract labour, the responsibility for payment of gratuity lies with the contractor. The existing ESI applicability threshold of INR 21,000 continues, and only specified wage components are considered for gratuity calculation. Additionally, the framework enables extension of social security benefits to gig and platform workers through a centralised fund mechanism, thereby strengthening inclusivity and coverage under the social security regime.

- Industrial Relations Code, 2020:

  Clarifies that fixed-term employees are eligible for gratuity upon completion of one year of service.

- Occupational Safety, Health and Working Conditions Code, 2020:

  FAQs clarify provisions on leave, working hours, and welfare. Leave applies mainly to workers (including sales promotion employees), with carry forward capped at 30 days and no limit on encashment at separation. Overtime is payable beyond 8 hours per day or 48 hours per week at double the rate. Crèche facilities must be gender neutral. In case of conflict, the more beneficial provision (central or state) applies, and applicability depends on whether the central or state government is the appropriate authority.

FAQ on OSH&WC Code, 2020

The Ministry of Labour and Employment issued FAQs on Occupational Safety, Health (OS&H) & Working Conditions Code, primarily clarifying that the Central Government will prescribe standards on OS&H for workplaces relating to factories and rules thereof. This includes dock workers. The FAQ clarifies that the state government shall amend those standards with prior approval of the central government.

Annual health examination prescribed by code, regardless of age, for workers employed in factories carrying hazardous processes shall be free of cost. The FAQ clarifies that state governments can frame rules to prescribe the periodicity of such examination not exceeding 12 months. The FAQ emphasises on introduction inspector cum facilitator mechanism that would make employers aware of the law and workers aware of their rights while ensuring randomised web-based inspections. It also confirms that penalties would remain stringent for serious violations. Reinforce worker welfare by clearly extending benefits to contract labour (with responsibility on the principal employer), along with rights such as the issuance of experience certificates.

Insurance Regulatory Development Authority of India (IRDAI)

IRDAI Introduces Ind AS-based Financial Reporting Framework for Insurance Sector

IRDAI has issued the IRDAI (Actuarial, Finance and Investment Functions of Insurers) (Amendment) Regulations, 2026.

Key highlights include the following:

- These amendments mandate the preparation and presentation of financial statements by insurers in accordance with Ind AS with effect from 1 April 2026.
- The implementation will be applicable to all categories of insurers, including life, general, stand-alone health insurers and reinsurers.
- The regulations also provide for a parallel reporting period of two years, during which insurers will present financial statements under both Ind AS and the existing accounting framework.
- Additionally, a one-year forbearance option has been introduced for insurers facing implementation challenges, while still requiring submission of Ind AS-based financial information to the IRDAI.

Income tax:

Income-tax Rules, 2026

The Ministry of Finance has notified the Income-tax Rules, 2026, thereby laying down the procedural framework for the implementation of the provisions of the new Act. These rules shall come into force with effect from 1 April 2026.

FAQs on Interplay and Transition from the Income Tax Act, 1961, to the Income Tax Act, 2025

The Central Board of Direct Taxes has released FAQs on Interplay and Transition from the Income Tax Act, 1961, to the Income Tax Act, 2025. These FAQs are designed to systematically address the critical queries & concerns that taxpayers and professionals are likely to encounter during the transition phase. These include inter alia the treatment of pending proceedings, continuity of TDS compliance, filing of returns for AY 2026-27 and the status of pending appeals. The FAQ is a compilation of ten critical thematic areas providing clear, practical and scenario-based guidance while remaining firmly anchored in the statutory framework

The Finance Act, 2026

The Finance Act, 2026, has received the assent of the President of India. The Finance Act, 2026, prescribes the phased commencement of its provisions. Sections 2 to 129, clause (b) of section 152, and section 156 shall come into force from 1 April 2026. Further, sections 153 to 155 will become effective from such date as may be notified by the Central Government in the Official Gazette.

Reserve Bank of India (RBI)

RBI mandates disclosure of deposit insurance premium payments in the bank's annual report

RBI amended and issued Financial Statements: Presentation and Disclosures Directions for various categories of banks, which are commercial banks, small finance banks, payments banks, local area banks, regional rural banks, and co-operative banks. The circular shall be effective from 1 April 2026.

The amended direction requires banks to disclose in their annual report, as applicable, details of payment of deposit insurance premium within the prescribed timelines, and in case the respective bank has not paid as per the prescribed timelines, disclose the same. The amendment is a post-review of the risk-based premium framework issued earlier.

RBI Prudential Norms on Declaration of Dividend and Related Regulations

RBI has issued a comprehensive set of revised Directions

and streamlined prudential norms on declaration of dividends and remittance of profits across various categories of banks.

Key highlights:-

- Fresh Prudential Norms on Declaration of Dividend have been notified separately for Commercial Banks, Local Area Banks, Payment Banks, Small Finance Banks and RRBs, bringing uniformity and regulatory clarity.
- Under the revised framework, total dividend payouts are capped at up to 75% of Profit After Tax (PAT), subject to prudential conditions and capital thresholds.
- Banks must have Board-approved policies for dividend declaration, ensuring financial soundness.
- The framework aims to ensure prudent capital management and financial stability while allowing dividend distribution.

RBI Updates on Prudential Norms on Capital Adequacy and Related Regulations

RBI has issued multiple Capital Adequacy Amendment Directions, 2026 across regulated entities to strengthen prudential regulation, improve risk resilience, and ensure regulatory consistency among different financial institutions.

Key highlights:

Raised NBFCs capital requirements, refine risk weights, clarify hybrid instruments treatment, and ensure adequate capital post-dividends with stronger supervisory oversight aligned to Basel III.

RBI Direction on component reckoned in computation of Owned Fund for Asset Reconstruction, Core Investment, Housing Finance and Mortgage Guarantee Companies

The Directions clarify components reckoned in computation of Owned Fund for regulatory and concentration norms. The amendment defines eligible components of Owned Fund, allows inclusion of quarterly profits subject to statutory audit or limited review and dividend adjustment, clarifies treatment of Right-of-Use (Ind AS 116) lease assets, and stipulates that Tier 1 Capital for credit and investment concentration norms shall be based on the latest audited or limited-review financial statements.

Reserve Bank of India (Non-Banking Financial Companies - Concentration Risk Management) Second Amendment Directions, 2026

RBI has issued Directions with immediate effect to align concentration norms with the capital adequacy framework. The amendment links the definitions of "Owned Fund" and "Tier 1 Capital" to the NBFC Capital Adequacy Directions, 2025, requires NBFCs to obtain an external auditor's certificate before considering any capital augmentation for concentration limits, and clarifies that Tier 1 Capital shall be based on the latest audited or limited review financial statements.

Master Direction - Reserve Bank of India (Unique Identifiers in Financial Markets) Directions, 2026

RBI has issued a consolidated framework mandating the use of Legal Entity Identifier (LEI) code applicable to all OTC transactions undertaken by entities and Unique Transaction Identifier (UTI) applicable for all Over the Counter (OTC) derivative transactions.

Key highlights:

- LEI mandatory for all eligible Over-the-counter (OTC) transactions by non-individual entities in RBI-regulated markets with immediate effect.
- For entities undertaking non-derivative forex transactions, the LEI code shall apply for transactions equivalent to or exceeding USD 1 million.
- UTI assigned to OTC derivative transaction to be generated/ reported from 1 January 2027.
- The direction elaborates on the determination of the entity for UTI generation of transactions reportable in India or cross-border, reporting timelines, and requirements of UTI in case contracts are amended due to lifecycle events such as novation that result in the creation of a new reportable derivative contract.
- Clearing Corporation of India Limited – Trade Repository (CCIL-TR) will be issuing operating guidelines and reporting formats for reporting of UTI.

Securities and Exchange Board of India ("SEBI")

Key decisions taken in the SEBI Board Meeting dated 23 March 2026

SEBI has approved amendments to the Alternate Investment Fund (AIF) Regulations to provide flexibility in winding up schemes and surrendering registration, aiming to reduce compliance burden and improve ease of doing business.

Key highlights:

- AIFs allowed to retain liquidation proceeds beyond fund tenure under specified conditions (litigation/tax demands, investor consent, or operational expenses).
- Retention permitted with 75% investor approval or supporting documentation, capped at 3 years for operational expenses.
- Introduction of 'inoperative fund' category for AIFs with no active fund management but pending liabilities.
- Inoperative funds to enjoy lighter compliance (no periodic filings, PPM updates, or benchmarking).
- These measures aim to ease compliance for AIFs without active fund management, while preserving essential regulatory oversight.

REGULATORY UPDATES

REGULATORY UPDATES:

Circular dated 27 March 2026: Direction to all Authorised Dealers to Limit their Net Open Position in INR (NOP-INR) in the Onshore Deliverable Market

The Reserve Bank of India (RBI) has issued a new directive regarding the Net Open Position involving the Indian Rupee (NOP-INR) for Authorised Dealers. Authorised Dealers are now required to maintain their NOP-INR positions in the onshore deliverable market within a cap of USD 100 million at the end of each business day.

The directive requires immediate action, with full compliance mandated by 10 April 2026.

Securities And Exchange Board of India (SEBI)

Key amendments to Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015

The Securities and Exchange Board of India has notified the SEBI (Listing Obligations and Disclosure Requirements) (Amendment) Regulations, 2026, introducing a set of targeted changes aimed at rationalising compliance requirements, strengthening investor protection and improving clarity in the existing LODR framework.

One of the key amendments is the revision of the threshold for classification as a High Value Debt Listed Entity ("HVDLE"), which has been increased from ₹1,000 crore to ₹5,000 crore of outstanding listed non convertible debt securities. Entities that fall below the revised threshold will cease to be treated as HVDLEs, and the enhanced corporate governance norms applicable to such entities will no longer apply to them, thereby reducing compliance burden for smaller debt listed issuers.

The amendments further reinforce SEBI's dematerialisation first approach. Listed entities are now required to process investor service requests relating to subdivision, consolidation, split, renewal, exchange and issuance of duplicate securities only in dematerialised form and within 30 days of receipt of complete documentation. Transfer, transmission and transposition of securities are also mandated to be carried out in demat mode, subject to limited grandfathering for transfers executed prior to 1 April 2019.

Changes have also been introduced in relation to unclaimed amounts lying in escrow accounts. Any amount transferred to the escrow account and remaining unclaimed and unpaid must be transferred to the Investor Education and Protection Fund under the Companies Act, or SEBI's Investor Protection and Education Fund, as applicable, after the prescribed period, with a specific clarification that no interest shall be payable on such transferred amounts.

The amendments specifically clarify exemptions from related party transaction approval requirements for certain government linked transactions. Payment of statutory dues, statutory fees, or statutory charges, including taxes, duties, levies and licence fees, made by a listed entity or an HVDLE to the Central Government, State Governments, or both, have been expressly excluded from the scope of related party transactions. The regulations also exempt transactions entered into between public sector companies and the Central or State Governments from related party transaction approvals. This clarification recognises that such transactions arise from statutory or sovereign arrangements rather than negotiated commercial relationships and, therefore, do not warrant shareholder or audit committee approvals.

In addition, the amendments streamline audit and disclosure requirements by aligning secretarial audit obligations with Regulation 24A of the LODR Regulations. This has eliminated overlapping requirements and introduced a unified compliance framework.

SEBI Circular dated 11 March 2026: Ease of Doing Business - Relaxation in certification requirement for Persons Associated with Research Services (PARS)-Sales and other non-core services

The Securities and Exchange Board of India (SEBI) has introduced an important relaxation in certification requirements for Persons Associated with Research Services (PARS), particularly those engaged in sales and other non-core functions.

Previously, all PARS - including sales staff, relationship managers, and client-facing personnel were required to obtain the NISM Series-XV: Research Analyst Certification Examination. However, through its circular dated 11 March 2026, SEBI has now specified a lighter certification pathway for such roles. These individuals will henceforth be required to clear the NISM Series-XXV-A: Persons Associated with Research Services (Sales and Other Non-Core Services) Certification Examination, which is tailored to their responsibilities and does not impose the full research analyst curriculum. Importantly, PARS is directly involved in research activities and will continue to be governed by the earlier requirement of passing the Series-XV examination.

For those who have already obtained the Series-XV certification, SEBI has clarified that they need not immediately undertake the new Series-XXV-A exam; they will only be required to do so upon expiry of their current certification.

This change, effective immediately, is aimed at easing compliance burdens, aligning certification requirements with actual job roles, and promoting ease of doing business in the securities market

SEBI Circular dated 25 March 2026- Clarification regarding eligibility of members of the Institute of Cost Accountants of India to conduct annual audit of Investment Advisors

The Securities and Exchange Board of India (SEBI) has issued a regulatory clarification allowing members of the Institute of Cost Accountants of India (ICMAI) to undertake annual audits of Investment Advisers (IAs), in addition to members of the Institute of Chartered Accountants of India (ICAI) and the Institute of Company Secretaries of India (ICSI).

SEBI Circular dated 25 March 2026: SEBI Expands Auditor Eligibility for Research Analysts. Cost Accountants can now conduct Annual Compliance Audits for Research Analysts.

The Securities and Exchange Board of India (SEBI) has issued a circular dated 25 March 2026. This update provides a significant clarification regarding the inclusion of members of the Institute of Cost Accountants of India as eligible professionals to conduct annual audits alongside Chartered Accountants and Company Secretaries.

SEBI Circular dated 24 March 2026: SEBI issued a consultation paper proposing the introduction of Gift Cards / Gift Prepaid Payment Instruments (PPIs) for Mutual Fund Investments

The Securities and Exchange Board of India (SEBI) has issued a Consultation Paper proposing the introduction of Gift Cards or Gift Prepaid Payment Instruments (PPIs) for investment in mutual fund units. The proposal aims to enhance financial inclusion and facilitate the onboarding of new investors into the mutual fund ecosystem.

Key Proposal:

- SEBI has proposed a framework enabling the issuance of **Gift Cards / Gift PPIs** that can be utilised exclusively for subscribing to mutual fund units.
- The initiative seeks to make mutual fund investments more accessible, convenient, and user-friendly, especially for individuals with limited exposure to capital markets.
- The proposed mechanism allows investors to gift mutual fund investments through prepaid instruments, thereby promoting a culture of financial gifting and long-term wealth creation.
- By enabling such instruments, SEBI aims to increase awareness and retail participation in mutual funds through innovative distribution channels.
- The proposal contemplates alignment with the regulatory framework of the Reserve Bank of India ("RBI") governing PPIs, along with necessary safeguards around KYC, transaction limits, and usage restrictions.

SEBI has invited public comments on various aspects of the proposed framework, including operational feasibility, regulatory structure and responsibilities of intermediaries, investor protection measures and risk mitigation, appropriate limits, validity, and usage conditions.

Ministry Of Corporate Affair (MCA)

MCA Notifies Key Amendments to DIR 3 KYC Framework

The Ministry of Corporate Affairs has notified the Companies (Appointment and Qualification of Directors) Amendment Rules, 2025 vide G.S.R. 943(E) dated 31 December 2025, replacing the earlier annual DIR 3 KYC regime with a simplified, periodic framework. These amendments will come into force from 31 March 2026 and are aimed at reducing repetitive compliance while ensuring the accuracy of director records.

The most significant change from the earlier position is the reduction in frequency of DIR 3 KYC filing. Under the substituted Rule 12A, every individual holding a Director Identification Number (DIN) as on 31 March of a financial year is now required to file DIR 3 KYC Web once every three consecutive financial years, on or before 30 June of the relevant year. This replaces the earlier requirement of mandatory annual KYC filing, even where no particulars had changed.

At the same time, the amendment strengthens event based compliance by mandating that any change in personal mobile number, email address, or residential address must be intimated within 30 days through Form DIR 3 KYC Web, along with the prescribed fee.

Another key change is the complete consolidation of KYC forms. The earlier e Form DIR 3 KYC and DIR 3 KYC Web have been substituted with a single unified Form — DIR 3 KYC Web. As a result, all KYC compliance, updation of particulars, and DIN reactivation will now be routed exclusively through this web based form, streamlining the compliance process.

DIRECT TAX

Circulars / Notifications / Press Release

Key Amendments to the Finance Bill 2026 as passed by the Lok Sabha

The Finance Bill, 2026, was introduced by the Hon'ble Finance Minister (FM), Mrs Nirmala Sitharaman, in the Lok Sabha on 1 February 2026. The FM has proposed amendments to the Bill, which were tabled before and passed by the Lok Sabha on 25 March 2026.

Key highlights include a minimum 30-day response window for reassessment notices, removal of arrest powers for Tax Recovery Officers, expansion of reassessment scope to cover court orders, and higher turnover limits for start-up tax holiday eligibility. The Bill was approved by the Rajya Sabha on 27 March 2026, and upon its approval, the Finance Act, 2026, came into place. To read our detailed analysis, please go to: https://www.bdo.in/en-gb/insights/alerts-updates/direct-tax-alert-key-amendments-to-the-finance-bill-2026-as-passed-by-lok-sabha

CBDT notifies Income-tax Return Forms for Fiscal Year (FY) 2025-26

The Central Board of Direct Taxes (CBDT) has notified the Income Tax Return (ITR) forms for FY 2025-26. The key changes in the ITRs are as follows:

1. The eligibility criteria for filing ITR-1 and ITR-4 have been expanded by including taxpayers with two house properties.
2. The Finance Act, 2026, inserted a new section 234-I in the Act to provide that where the revised tax return is furnished on or after 31 December but before 31 March of the relevant Assessment year, the taxpayer shall pay prescribed fees. In line with the same, a separate disclosure has been added for reporting of fee payable on revised returns under ITR-1, ITR-2, ITR-3 and ITR- 4.
3. Under ITR-3, separate reporting of turnover and income from trading in futures & options has been introduced. Further, a specific row for reporting of interest payable to Medium, Small and Micro enterprises has been inserted.
4. The Finance Act, 2026, extended the due date for taxpayers having income from business and profession but are not required to get their books of accounts audited, from 31 July to 31 August. Accordingly, to give effect to the same, the revised due date for ITR-3 is mentioned as 31 August for such taxpayers.

   Other disclosure requirements include:

   - Separate reporting of interest and remuneration due or received from the partnership firm in ITR-3.
   - Name and Permanent Account Number of political parties to which contribution is made.
   - IFS code of the bank and the transaction reference number in respect of the transaction of donation made under section 80G of the Act.
   - Filing by representatives has been simplified by removing the requirement of reporting address, PAN, and the capacity of the representative.
   - Address reporting has been expanded to include secondary address details, mobile no, and e-mail ID.

[Notification No. 45/2026, 46/2026, 47/2026, 48/2026, 49/2026 and 50/2026 dated 30 March 2026]

CBDT notifies the Income-tax Rules, 2026

The CBDT has notified the Income-tax Rules, 2026 (IT Rules, 2026). These rules have been framed in exercise of the powers conferred under section 533 of the Income-tax Act, 2025 (IT Act, 2025) and shall be effective from 1 April 2026.

The new rules are a comprehensive overhaul aimed at aligning the procedural framework with the restructured and simplified IT Act, 2025.

Notification No. G.S.R. 198(E) [No. 22/2026/F.No. 370142/41/2025-TPL] dated 20 March 2026

CBDT amends the General Anti-Avoidance Rules, clarifying the scope of GAAR grandfathering

The General Anti-Avoidance Rules (GAAR) provisions were introduced in the Income-tax Act, 1961 (ITA) and made effective from FY 2017-18 onwards. As per Rule 10U(1)(d) of IT Rules, 1962, GAAR shall not apply to any income derived from the transfer of investments made before 1 April 2017. Further clause (2) of the said rule provides that, without prejudice to the condition stated in Rule 10U (1)(d), GAAR shall apply irrespective of the date on which it has been entered into, in respect of the tax benefit obtained from the arrangement on or after 1 April 2017.

Recently, the Supreme Court of India in the case of Tiger Global International II Holdings[1] have held that the GAAR grandfathering on income arising from the transfer of investments made prior to 1 April 2017 stands diluted by the 'without prejudice provision' and that GAAR shall apply to any arrangement (in respect of which a tax benefit has been obtained on or after 1 April 2017), irrespective of the date of execution of such an arrangement. This resulted in an ambiguity on the applicability of GAAR grandfathering on income arising from the transfer of investments made prior to 1 April 2017.

In order to provide clarity on the same, on 31 March 2026, the CBDT issued two notifications amending GAAR under the IT Rules, 1962 and the IT Rules, 2026. As per the said notifications, GAAR shall not apply to income derived from the transfer of investments which were made before 1 April 2017. GAAR shall apply to an arrangement in respect of which a tax benefit has been obtained or after 1 April 2017, irrespective of the timing of such an arrangement. However, this provision shall not apply to income arising on the transfer of an investment which was made prior to 1 April 2017. The amendment to IT Rules, 2026, shall be effective from 1 April 2026, whereas the amendment to IT Rules, 1962, shall be effective from 31 March 2026.

Notification No. 54/2026 (F. No. 370142/15/2026TPL) dated 31 March 2026; Notification No. 55/2026 (F. No. 370142/15/2026TPL) dated 31 March 2026)

Ministry of Finance notifies protocol amending India-Brazil DTAA

The protocol amending the India–Brazil Double Taxation Avoidance Agreement (DTAA) was notified on 30 March 2026 and shall be effective from FY 2026-27. The key amendments notified are as follows:

1. **Article 5 - Permanent Establishment** rules have been expanded and include a 183-day Service PE threshold, an anti-fragmentation rule to prevent artificial splitting of functions, and a wider Dependent Agent PE scope, making it harder for businesses to structure operations to avoid PE exposure in either country.
2. **Article 8 - Shipping and Air Transport** – Taxability based on "place of effective management" has been shifted to taxability based on residency.
3. **Article 10 - Dividend** - Flat rate of 15% tax on dividend to beneficial owner companies now replaced with two-tier taxation - 10% if the beneficial owner company holds at least 20% of the capital in the paying company for 365 days, and 15% tax in other cases.
4. **Article 11 - Interest** - Flat rate of 15% tax on interest to beneficial owner companies now replaced with two-tier taxation - 10% if the beneficial owner is a bank and a loan is granted for at least 5 years for financing the purchase of equipment or investment projects; 15% tax in other cases.
5. **Article 12 - Royalties** – Rate of taxation on royalties arising from use or right to use trademarks is now reduced from 25% to 15%, and for other cases, it is reduced from 15% to 10%.
6. **Article 12A - Fees for Technical Services (FTS)** – A new article has been introduced stating that FTS can be taxed in the source state @ 10%, provided the recipient is a beneficial owner and resident of another state.
7. **Article 13 - Capital Gains** – The treaty is amended to include a clause that gains from alienation of shares in a company shall be taxable in the state in which the company is resident.
8. **Article 14 - Independent personal services** – Fixed base test and 183 days stay test inserted. Accordingly, if the professional has a fixed base regularly available in the other country for performing their work, only income attributable to that fixed base can be taxed there. If a person stays in the other country for 183 days or more in any 12-month period, only income from activities performed during that stay can be taxed there.
9. **Article 19 - Government Payments** - The taxing right is now only with the paying state unless the recipient is both a resident and national of the other state.
10. **Article 23 -Elimination of Double Taxation** – The tax sparing provision, where a deemed credit of 25% tax on interest and royalties was allowed, has been removed.
11. **Article 26A on Entitlement to benefits inserted** – Limitation of benefit clause has now been inserted, preventing treaty abuse.

[Notification No. 39/2026 dated 30 March, 2026]

[1] Authority for Advance Ruling v. Tiger Global International III Holdings CIVIL APPEAL NO. 262, 263 & 264 OF 2026

CBDT extends the due date for issuance of TDS certificates for the quarter ending 31 December 2025

Section 203 of the Act, read with Rule 31 of the IT Rules, 1962, prescribes the time limits for issuance of tax deducted at source (TDS) certificates to deductees. The CBDT received representations from deductors regarding delays in generating and issuing TDS certificates for the quarter ending 31 December 2025, attributable to technical glitches on the e-filing portal.

In view of the genuine hardship faced by deductors, the CBDT, in exercise of its powers under section 119 of the Act, has extended the due date for issuance of TDS certificates under section 203 of the Act, read with Rule 31 of the Rules, for the said quarter to 31 March, 2026. TDS certificates issued on or before the extended due date shall be treated as having been issued within the prescribed time, thereby providing relief from any penal consequences for delayed issuance.

[Circular No. 2/2026 dated 25 March, 2026]

CBDT issues Circular No. 4/2026 on mandatory referencing of communications by Document Identification Number (DIN).

CBDT in exercise of powers under Section 119 and Section 292BA of the Act and Section 522 of the IT Act, 2025, has issued circulars specifying mandatory referencing of communications issued by income-tax authorities with a computer-generated DIN. The erstwhile *Circular No. 19/2019 dated 14.08.2019* shall immediately cease to have effect.

Key Provisions of this circular:

Mandatory DIN - All notices, letters, orders, summons, etc., issued to any person (other than an officer or authority under the Income-tax Act or any other law) must carry a DIN. DIN may be printed on the document, attached separately, or mentioned in an email. Every page need not bear the DIN. Further, public communications, such as frequently asked questions and guidelines, shall not require DIN.

Exceptions: Under the following circumstances, communications can be issued without DIN-

- Technical difficulties in generating DIN or where electronic issuance is technically not possible.
- Where authority is operating outside the office and lacks access to electronic means.
- Delay in PAN migration where the PAN is lying with a non-jurisdictional tax officer.
- PAN of the taxpayer is not available, or
- The system does not have the functionality to issue the communication.

Post-facto compliance - Communications issued without DIN must state that it is issued without DIN and the ground for not mentioning DIN. Further, all such communications shall require post-facto approval from competent authority, within 15 days from communication.

Further, communications issued without DIN on account of technical difficulties or authority operating outside the office or under PAN migration cases must be uploaded on the system with appropriate DIN referencing within 15 working days of their issuance.

[Circular No. 4/2026 F. No. 370142/14/2026-TPL, CBDT, dated 31 March 2026]

Judicial Updates

Delhi Tax Tribunal holds that buy-back of shares within group qualifies as 'business reorganisation' under Article 13(5) of India-Netherlands DTAA

Under the India-Netherlands DTAA, capital gains arising from alienation of shares are generally taxable in the resident state. However, where the alienator holds 10% or more shares in an Indian company, India (as the source state) gets the right to tax such gains unless the gains arise during a corporate reorganisation, in which case the taxing right reverts to the resident state. A long-standing debate existed as to whether a share buy-back within a corporate group qualifies as a "corporate reorganisation" under Article 13(5) of the India-Netherlands DTAA.

Recently, the Delhi Income Tax Appellate Tribunal's Third Member has pronounced a ruling providing much-needed clarity on whether such a buy-back executed within a wholly owned corporate group can be characterised as a "reorganisation" for the purposes of treaty benefit. To read our detailed analysis, please go to: https://www.bdo.in/en-gb/insights/alerts-updates/direct-tax-alert-buy-back-qualifies-as-reorganization

Huntsman Investment [Netherlands] BV (ITA NO. 764/DEL/2014) (Delhi Tax Tribunal) dated….

Mumbai Tax Tribunal holds that date of possession is relevant for claiming capital gains exemption under Section 54 of the Act

The taxpayer, an individual, sold a residential flat on 26 April 2016, resulting in long-term capital gains. The taxpayer claimed a deduction under Section 54[2] of the Income-tax Act, 1961 (the Act) in respect of purchase of a new residential property for which the purchase agreement was executed on 28 April 2015, and possession was received on 9 November 2015, backed by a possession letter from the developer and the Occupation Certificate issued by the Municipal Authority on the same date.

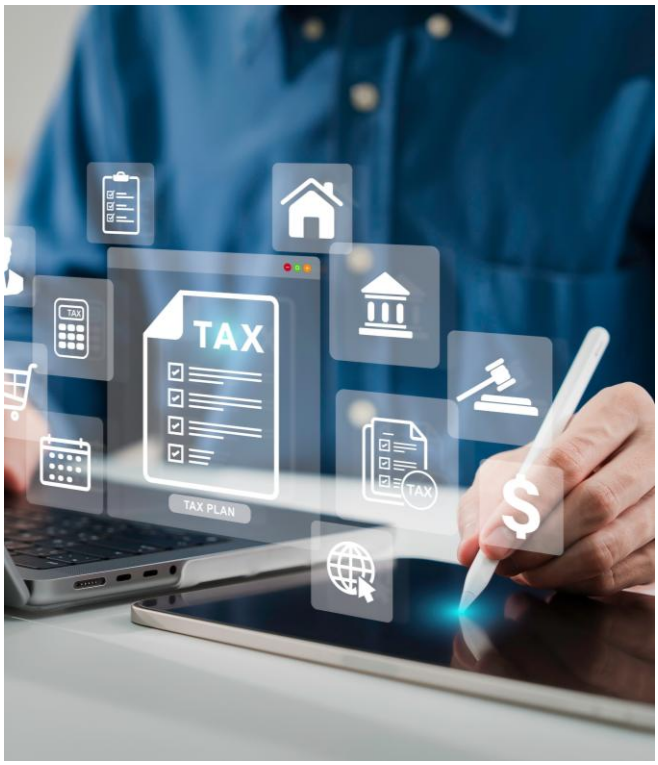
The Tax Officer rejected the taxpayer's claim of deduction under section 54/54F on the ground that the property had not been acquired within one year from the date of sale of the original property. Aggrieved by this, the taxpayer filed an appeal before the First Appellate Authority, which upheld the order passed by the tax officer. The taxpayer then preferred an appeal before the Mumbai Tax Tribunal.

[2] Section 54 of the Act provides exemption against long-term capital gains arising from the sale of a residential property, against investment in a new residential property within the prescribed time limits.

The Mumbai Tax Tribunal, while ruling in favour of the taxpayer, made the following observations:

- The date of registration of the purchase agreement cannot be regarded as the sole or determinative factor for establishing the acquisition of a property. The relevant and material date is the date of actual possession of the property.
- The Occupation Certificate issued by the Municipal Authority on 9 November 2015 substantiated that the property was ready for occupation and possession had been legitimately handed over to the taxpayer on that date. It is well settled that a builder can issue a possession certificate only after obtaining the Occupation Certificate from the competent municipal authority.
- Reliance is placed on the Bombay High Court's decision in the case of Smt. Beena K. Jain[3] and the decision of the coordinate bench of the Tribunal in the case of Bastimal K. Jain[4], wherein it was held that for purposes of Section 54/54F, the relevant date is the date of handing over of possession of the flat, and not the date of execution or registration of the purchase agreement.
- The taxpayer had acquired the new residential property and obtained possession thereof prior to the transfer of the original asset, and the transfer of the original property was affected within one year from the date of possession of the new property. Accordingly, the statutory conditions prescribed under Section 54 were duly satisfied.

[Shashank Merchant v. ITO, ITA No. 7525/MUM/2025 (A.Y. 2017-18) (Mumbai Tax Tribunal)]



Hyderabad Tax Tribunal holds that transfer of employee liabilities under slump sale does not constitute actual payment under Section 43B of the Act

The taxpayer, a Private Limited company, is engaged in providing administrative support services to the Corteva Group. Pursuant to a Business Transfer Agreement dated 26 February 2019, the taxpayer transferred one of its business undertakings, along with certain employees, on a slump sale basis to Performance Speciality Products (India) Private Limited (transferee company), with effect from 1 April 2019. As part of this slump sale, certain liabilities such as bonus to employees, leave encashment, and provision for gratuity were also transferred to the transferee entity. The taxpayer claimed a deduction towards employee liabilities under Section 43B[5] of the Act for FY 2018-19, on the basis that the same has been paid on 1 April 2019, which was on or before the due date for filing the return of income under Section 139(1)[6] of the Act.

However, Centralised Processing Centre, Bangalore, disallowed the claim through an intimation under Section 143(1)(a)[7] of the Act. Aggrieved by the same, the taxpayer filed an appeal before the First Appellate Authority, which deleted this disallowance, placing reliance on the tax audit report of the transferee company, wherein it was clearly mentioned that the employee liability acquired from the transferor company was paid by the transferee company. Further, it was mentioned that the transferee company had not availed any deduction of the said liabilities while filing its return of income. Aggrieved by this, the Revenue preferred an appeal before the Hyderabad Tax Tribunal.

The taxpayer additionally filed an application under Rule 27[8] of the Income-tax (Appellate Tribunal) Rules, 1963, contending that: (i) the Section 43B adjustment raised a debatable issue and could not validly be made under Section 143(1)(a), and (ii) the AO had failed to record proper satisfaction before making the adjustment.

The Hyderabad Tax Tribunal, while ruling in favour of the Revenue, made the following key observations:

- There is no concept of deemed payment of liability referred to under section 43B of the Act for claiming deduction towards said liability while computing the income from business or profession.
- For claiming deduction under Section 43B of the Act towards any liability, there should be actual payment of the said liability to the concerned funds or persons, and such payment, if made on or before the due date for filing the return of income under Section 139(1) of the Act in terms of the proviso to Section 43B, shall be allowed as deduction.
- Reliance in this regard is placed on the case of Union of India[9], wherein the Supreme Court affirmed that the non-obstante clause assumes an overriding character against any other provision of general application, and once the provision makes it clear that any liability referred to therein is deductible upon actual payment, then it should be allowed only upon actual payment of said liability.

[3] CIT vs. Smt. Beena Jain [1994] 217 ITR 363 (Bombay HC)
[4] Bastimal K. Jain vs. ITO [2016] 76 taxmann.com 368 (Mumbai Tribunal)
[5] Section 43B of the Act provides that certain expenses shall be allowed as deduction only on actual payment, if such payment is made on or before the due date for filing the return under Section 139(1) of the Act.
[6] Section 139(1) of the Act provides due date for filing of return of income by specified taxpayers.
[7] Section 143(1)(a) of the Act provides for processing of returns and permits specified adjustments (such as arithmetical errors, incorrect claims apparent from the return, etc.) without detailed scrutiny.
[8] Rule 27 of the Income-tax (Appellate Tribunal) Rules, 1963 allows a respondent before the Tribunal to support the impugned order on any ground decided against them by the lower authority, without filing a separate appeal or cross-objection.
[9] Union of India Vs. Exide Industries Limited, (2020) 425 ITR 1 (SC)

- The Co-ordinate Bench of the Mumbai Tax Tribunal in Pembril Engineering Pvt Ltd[10] similarly held that a person cannot, by contract, transfer or shift statutory obligations to another entity and claim a deduction under Section 43B of the Act.
- The judicial precedents cited by the taxpayer in the case of M.M. Aqua Technologies Ltd and Frontier Information Tech Limited are not applicable to the given case for the reason that those cases involved conversion of interest liabilities into equity or debentures, a fundamentally different factual matrix and were therefore inapplicable to the present case, which involves direct employee dues such as leave encashment and bonus.
- The taxpayer's consistency argument was rejected, considering that the principles of res judicata do not apply to income-tax proceedings and that each FY is independent. The fact that the tax officer allowed a similar deduction in FY 2019-20 does not bind the tax officer for FY 2018-19, particularly when there are changes in facts and circumstances for the subsequent year.
- On the Rule 27 application, the Tribunal held that the deduction claim under Section 43B without actual payment was an incorrect claim apparent from the return itself and could validly be adjusted under Section 143(1)(a), and it was not a debatable issue. The taxpayer's argument that the Tax Officer failed to record satisfaction before making the adjustment was rejected, noting that they had provided the requisite opportunity to the taxpayer before making the adjustment.
- Accordingly, the taxpayer cannot invoke the theory of deemed payment of said liabilities merely by transferring the liabilities to another company and claiming a deduction under Section 43B of the Act.

[DCIT, Circle 1(1), Hyderabad v. Corteva Agriscience Services India Pvt. Ltd.; ITA No. 996/Hyd/2025 (Hyderabad Tax Tribunal)]

Delhi Tax Tribunal holds that expenses incurred on a withdrawn IPO are revenue in nature, hence allowable under Section 37(1) of the Act

The taxpayer, a company, is a 100% Export Oriented Unit (EOU) engaged in the export of readymade garments. During FY 2008-09, the taxpayer incurred expenses towards a proposed Initial Public Offering (IPO). The IPO was, however, subsequently aborted and never brought to fruition. The taxpayer claimed the said expenses as a revenue expense under Section 37(1)[11] of the Act on the ground that since the IPO did not materialise, no capital asset or enduring benefit was created.

The Tax Officer and the First Appellate Authority disallowed the claim, treating the expenses as capital expenditure. Aggrieved by the same, the taxpayer filed an appeal before the Delhi Tax Tribunal.

The Delhi Tax Tribunal, while ruling in favour of the taxpayer, made the following key observations:

- Reliance placed by revenue on the Supreme Court decisions in the Punjab State Industrial Development Corporation Ltd[12]. and Brooke Bond India Ltd[13], are all distinguishable in facts, as in all these cases, expenses incurred were for the purposes of expansion of the capital base and created assets of enduring nature, whereas in the instant case, no such asset was created.
- Reliance is placed on the Mumbai ITAT decision in Go Airlines (India) Ltd[14], wherein it was held that expenditure incurred towards a proposed IPO that was ultimately aborted is akin to expenditure on an aborted project and, therefore, qualifies as revenue expenditure.
- Since the IPO did not materialise, the expenses incurred did not result in the creation of any asset, and the taxpayer did not derive any enduring benefit. Accordingly, the expenses incurred on such aborted IPO is revenue expenditure and allowable u/s 37(1) of the Act.

[M/s Orient Craft Limited v. DCIT, ITA No. 3625/Del/2015 (Delhi Tax Tribunal)]

Special bench of Agra Tax Tribunal holds that the taxpayer is entitled to claim a deduction u/s 10A before setting off carry-forward losses and unabsorbed depreciation

The Taxpayer, a private limited company, is engaged in the business of manufacturing and exporting silver jewellery, operating from a unit in a special economic zone (SEZ) and entitled to claim a deduction under Section 10A of the Act. While filing the return of income for FY 2008-09, the taxpayer claimed a deduction under section 10A of the Act before setting off brought forward losses and depreciation. During the course of assessment proceedings, the tax officer contended that income has to be computed by making a deduction for unabsorbed depreciation, set off of losses and then deduction under section 10A of the Act shall be claimed. Aggrieved, the taxpayer filed an appeal before the First Appellate Authority. The First Appellate Authority upheld the tax officer's order. Further, the taxpayer preferred an appeal before the Agra Tax Tribunal, wherein conflicting views were given by a judicial member and an accountant member, leading to the matter being referred to a five-member Special Bench (SB). The SB of Agra Tax Tribunal, while ruling in favour of the taxpayer, made the following observations:

- Reliance is placed on the Supreme Court decision in the case of Yokogawa India Ltd.[15] wherein it was specifically held that at the stage of aggregation of total income under other heads and the provisions for set off and carry forward contained in sections 70, 72 & 74 of the Act would be premature for application of deduction u/s. 10A of the Act. Therefore, it would be allowed prior to commencing of the exercise to be undertaken under VI of the Act for arriving at the total income of the taxpayer from the gross total income.

[10] Pembril Engineering Private Limited Vs. DCIT, (2015) 61 taxmann.com 222 (Mumbai Tribunal)
[11] Section 37(1) of the Act allows deduction of any business expenditure not covered under Sections 30-36, provided it is not capital or personal in nature and is incurred wholly and exclusively for business purpose.
[12] M/s Punjab State Industrial Development Corporation Ltd. Vs CIT (1997) 225 ITR 792 (SC)
[13] Brooke Bond India Ltd. V CIT (1997) 225 ITR 798 (SC)
[14] Go Airlines (India) Ltd. vs. DCIT [2021] ITA No.3789 (Mum.) of 2018 (Mumbai Tax Tribunal)
[15] 391 ITR 274 (SC)

- To arrive at gross total income, the deduction u/s 10A must therefore precede the Chapter VI exercise. The expression 'total income of the assessee' used in s.10A refers to 'total income of the undertaking'.
- Accordingly, it is held that deduction under section 10A of the Act shall be allowed prior to commencing the exercise of deduction under Chapter VI to arrive at the total income.

[M/s ACPL Products (P) Ltd v. ACIT, ITA No. 76/AGR/2014 (Agra Tax Tribunal)]

Mumbai Tax Tribunal, while allowing group cost allocation, holds that commercial expediency cannot be dictated

The taxpayer, a private limited company, is engaged in the business of providing workplace solutions, including executive suites, meeting rooms, conference facilities and training rooms. The taxpayer is part of the Regus group and availed centralised business support services from a group entity, Regus Business Centre Pvt. Ltd., which acted as a centralised service centre for various Indian group entities. The taxpayer was charged its proportionate share of common costs on the basis of the number of workstations, which was debited to its profit and loss account pursuant to a formal inter-company agreement.

During assessment proceedings for FY 2011-12, the tax officer disallowed the entire cost allocation on the ground that such allocation on an estimated or proportionate basis does not satisfy the requirement that the expenditure has been incurred wholly and exclusively for the purpose of business. Aggrieved by the same, the taxpayer filed an appeal before the First Appellate Authority. The First Appellate Authority upheld the disallowance. Aggrieved, the taxpayer filed an appeal before the Mumbai Tax Tribunal.

The Mumbai Tax Tribunal allowed the taxpayer's appeal and laid down the following key observations:

- The disallowance was based on broad and generalised observations without any positive material to demonstrate that services were not received, or that the expenditure was sham, fictitious, inflated, capital or personal in nature, or hit by any specific statutory prohibition.
- The cost allocation was not a mere notional journal adjustment but was debited to the taxpayer's statement of profit and loss and duly disclosed in notes to accounts under "other expenses" and "transactions with related parties". Corresponding disclosures were also made in the books of Regus Business Centre Private Limited.
- The inter-company agreement placed on record established that the arrangement was contractual, pre-agreed and founded on an ascertainable allocation key. In modern business structures, centralised support functions are a matter of commercial expediency. Tax authorities cannot insist that every legal entity must independently replicate the same finance, HR, marketing and IT infrastructure merely to claim deduction of its share of common support costs.
- Allocation of common costs based on number of workstations was a rational and business-oriented method given that the taxpayer's receipts were directly linked to the number of workstations and related facilities. Furthermore, since the tax officer himself accepted in principle that common expenditure can be allocated on a reasonable basis, it was self-contradictory to disallow the entire amount merely because an alternative allocation key was preferred.
- In cases of centralised shared services, a watertight one-to-one correlation of every rupee of common expenditure to each entity on a daily basis is not required. Shared services, by their very nature, operate at a pool level and benefit multiple entities collectively. The law does not demand impossible standards of proof; what is required is a demonstration of business nexus and a reasonable method of allocation, which the taxpayer had adequately established.
- The Revenue cannot sit in the armchair of a businessman and dictate how business support services should be internally organised. So long as the expenditure is incurred on grounds of commercial expediency and has nexus with the business, deduction under section 37(1) of the Act cannot be denied merely because the expenditure was first incurred by another group concern and later apportioned to the beneficiary entity.

[Regus South Mumbai Business Centre Pvt. Ltd v. DCIT, ITA No. 6104/Mum/2025, (Mumbai ITAT)]

Chennai Tax Tribunal holds that disallowance under Section 94B of the Act violates the non-discrimination clause of India-Denmark DTAA

The taxpayer is a wholly owned subsidiary of Vestas India Holdings A/S, which in turn is a subsidiary of Vestas Wind Systems A/S (Vestas Denmark). The taxpayer is engaged in manufacturing blades, assembling, installing, selling, and maintaining wind turbine generators (WTGs) in India, and in supplying WTG components to the Vestas group.

For FY 2017-18, the taxpayer availed External Commercial Borrowings (ECBs) from Vestas Denmark and incurred ECB interest expenditure. The taxpayer suo motu disallowed interest expenditure of INR 9.34cr under section 94B of the Act. During assessment proceedings, the Transfer Pricing Officer (TPO) recomputed the disallowance and enhanced the disallowance from INR 9.34cr to INR 18.47cr. Notably, the TPO accepted the arm's length nature of the ECB interest and made no TP adjustment. The taxpayer also executed a Bilateral Advance Pricing Agreement (BAPA) dated 22 January 2024 with the CBDT, confirming the arm's length nature of the ECB interest for FY 2011-12 to FY 2019-20, which included the year under consideration.

Aggrieved by the enhanced disallowance, the taxpayer preferred an appeal before the First Appellate Authority. The First Appellate Authority rejected the taxpayer's grounds and upheld the disallowance, holding that Article 24(4) is unavailable as the transaction involved Associate Enterprises (AEs) and the exception under Article 12(7) of the DTAA was attracted. Aggrieved, the taxpayer referred an appeal before the Chennai Tax Tribunal contesting the suo moto disallowance as well as the enhanced disallowance made by TPO.

The Chennai Tax Tribunal, while ruling in favour of the taxpayer, made the following key observations:

- Article 24(4) of the India-Denmark DTAA mandates parity in the deductibility of interest paid to residents and non-residents. Section 94B applies exclusively where the borrowing is from a non-resident AE, with no corresponding restriction for interest paid to a resident AE. Thus, the differential treatment arises solely based on the recipient's residential status, which constitutes discrimination.
- The Revenue's reliance on Article 12(7) of the DTAA is misplaced. Article 12(7) addresses situations where interest exceeds the arm's length amount due to a special relationship between the payer and the recipient. In the present case, the TPO had accepted the arm's length nature of the ECB interest and made no TP adjustment. Since the disallowance arose solely on account of the EBITDA threshold under Section 94B of the Act and was not attributable to any arm's length deficiency, Article 12(7) was not attracted.
- With regard to computation, EBITDA must reflect actual gross depreciation and not an accounting netting. Further, only deductible interest can enter the section 94B computation. Notional Ind AS adjustments and capital interest already disallowed cannot be re-subjected to limitation under Section 94B of the Act.
- Accordingly, the entire disallowance under Section 94B of the Act is deleted as being discriminatory and violative of Article 24(4) of the India-Denmark DTAA read with Section 90(2) of the Act.

[Vestas Wind Technology India Pvt. Ltd. v. ITO, ITA No. 320/Chny/2025 (Chennai Tax Tribunal)]

Mumbai Tax Tribunal holds that proceedings cannot be considered void merely because the officer issuing notice and concluding assessment are not the same

The taxpayer is a company engaged in the business of renting and maintenance of immovable property and construction services in respect of commercial or industrial buildings and civil structures. For FY 2018-19, it failed to file its return of income (ROI) despite undertaking multiple financial transactions aggregating to INR 2.94 Cr detected from the Insight Portal. The tax officer-initiated reassessment proceedings, against which the taxpayer filed ROI declaring a total income of INR 58 Lakhs. Against the subsequent notices issued, the taxpayer failed to provide adequate replies. The tax officer accordingly made additions to the total income and initiated penalty proceedings.

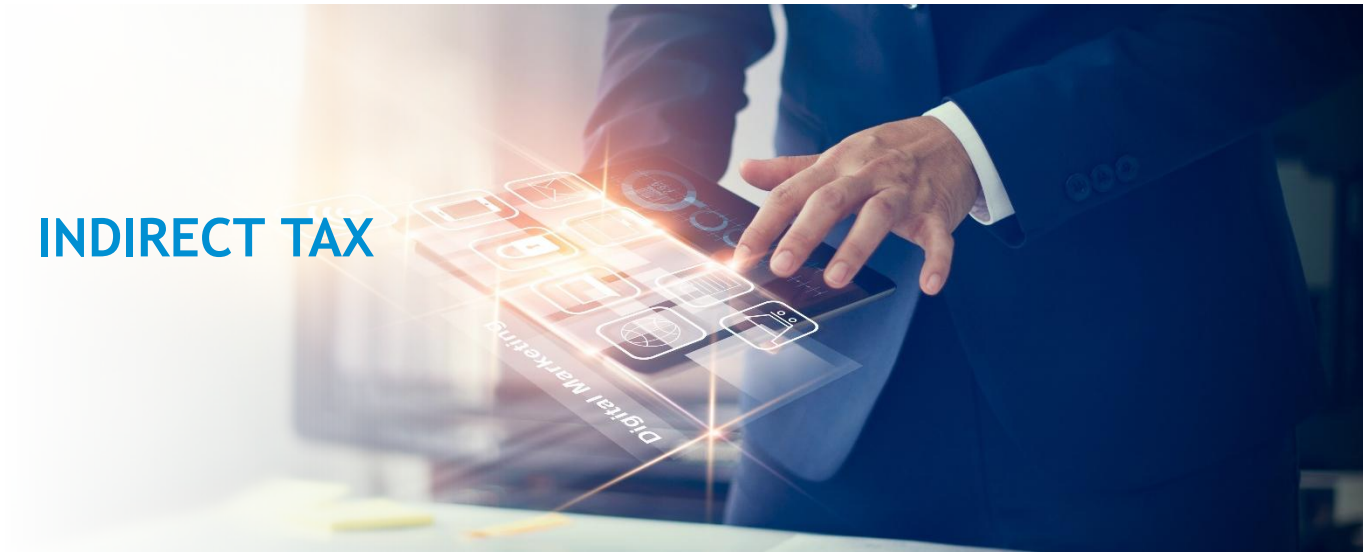
Aggrieved, the taxpayer filed an appeal before the First Appellate Authority, which upheld the tax officer's order. Further, the taxpayer filed an appeal before the Mumbai Tax Tribunal and contended that notice u/s 143(2) was issued by Jurisdictional Assessing Officer (JAO), whereas the same was concluded by the assessment unit under the faceless scheme. Further, taxpayer placed reliance on the Bombay High Court decision in the case of Hexaware Technologies Ltd[16] and contended that the process was defective as the authority issuing notice and passing the order were not the same, and hence it is a non-curable defect as per Section 292BB of the Act. Therefore, the proceedings should be held as void.

Mumbai Tax Tribunal, while ruling in favour of the revenue, made the following observations:

- There was never a statutory requirement that the same officer who issues the notice must complete the assessment.
- Since the notice under section 143(2) of the Act has been issued by a competent JAO, the argument of complete absence of notice does not survive. The provisions of section 292BB of the Act, which cure defects in service of notice, do not even arise for consideration in a situation where the notice itself stands issued.
- Evaluating the issue across different assessment regimes, whether under the traditional jurisdictional model or the transitional hybrid phase of faceless implementation, the legal position remains consistent that issuance of notice under section 143(2) of the Act by a competent tax officer satisfies the mandatory jurisdictional requirement. Completion of the assessment by another officer or designated unit, pursuant to the statutory allocation of functions, does not vitiate the proceedings in the absence of a specific statutory prohibition.
- The Bombay High Court decision in the case of Hexaware Technologies Ltd is distinguishable on the grounds that the ruling addressed the validity of notice under Section 148 of the Act. There is no finding in the Hexaware ruling that a notice validly issued by a competent tax officer under section 143(2) of the Act becomes invalid merely because the assessment is completed by the Assessment Unit.
- On the contrary, the Delhi High Court in the case of Inder Dev Gupta[17] has held that concurrent jurisdiction between the JAO and the Faceless Assessing Officer is legally sustainable, and that issuance of notice by the JAO is not ipso facto void.
- While the divergence between Hon'ble High Courts remains pending consideration before the Supreme Court of India, there is no authoritative pronouncement holding that once a valid notice under section 143(2) of the Act is issued by a competent JAO, the assessment becomes void if completed by the Assessment Unit in accordance with section 144B of the Act.
- Therefore, based on the above, the assessment proceedings cannot be held to be invalid on the basis of the bifurcation between the issuance of notice and the completion of assessment under the faceless regime.

[Arham Anmol Projects Pvt Ltd v. DCIT, ITA No. 5011/Mum/2025 (Mumbai Tax Tribunal)]

[16] Hexaware Technologies Ltd. v. ACIT WP NO.1778 OF 2023
[17] Inder Dev Gupta v. ACIT (W.P.(C) Nos. 16937, 16939, 16949 and 17082 of 2025) (Delhi HC)



LEGAL UPDATES

GST

Instructions for filing appeals before the Goods and Services Tax Appellate Tribunal ('GSTAT')

The GSTAT has issued the following instructions for filing of appeals:

- Appeals filed by taxpayers:
  - Form APL-05 must contain soft copies of the Show Cause Notice ('SCN'), Order-in-Original ('OIO'), Order-in-Appeal ('OIA'), Statement of Facts and Grounds of Appeal.
  - Pre-deposit and Court fees are compulsory. However, if there are any orders of the Higher Court(s) for exemption of pre-deposit/ court fee, then a defect regarding its short-payment should not be raised. A copy of the authorisation letter/Vakalatnama must also be attached.
- Appeal filed by tax authorities:
  - In addition to the soft copies of SCN, OIO, OIA, statement of facts and grounds of appeal, the appeal must be accompanied by the opinion of the Commissioner directing his officer to make the application.
  - Payment of pre-deposit/court fee is not required.
- One verification and a Digital Signature of the appellant are required.

[*Instruction F. No. GSTAT/Pr. Bench/Portal/125/2025-26-3368 dated 10 March 2026*]

CUSTOMS

Deposit through payment aggregators is enabled for deposit in the Electronic Cash Ledger ('ECL')

The ICEGATE e-Payment platform has enabled Payment Aggregator as an authorised mode to facilitate payment of customs duty. In this regard, suitable amendments have been made in regulations 3(6) and 3(7) of the Customs (Electronic Cash Ledger) Regulations, 2022. Further, Circular No. 13/2026-Customs is issued by CBIC, which summarises the following features of this facilitation:

- Credit/Debit card and UPI payments are introduced as a payment mechanism.
- Internet banking through Payment aggregator will now allow payment through 41 Banks instead of 23 live banks integrated directly.
- The payment aggregator also allows importers to make transaction-wise payments, wherein the systems shall route payment instantaneously through ECL before accounting for duty payment.
- A user manual[1] has been uploaded to the ICEGATE platform.

[*Notification No. 30/2026-Customs (N.T.) and Circular No. 13/2026-Customs both dated 24 March 2026*]

[1] https://www.icegate.gov.in/guidelines/payment-gateway

Concessional rate of customs duties for goods supplied by the SEZ unit to the DTA

Concessional rates of Basic Customs Duty ('BCD') and Agriculture Infrastructure and Development Cess ('AIDC') have been prescribed for specified goods manufactured in a Special Economic Zone ('SEZ') unit and supplied to a Domestic Tariff Area ('DTA') unit. The concessional rate shall be available **between 1 April 2026 and 31 March 2027** and shall be subject to various conditions as under:

1. SEZ unit has commenced production on or before 31 March 2025;
2. SEZ unit shall be subject to audit under Rule 79 of the Special Economic Zone Rules, 2006;
3. Bill of Entry for home consumption shall be filed by the SEZ unit and shall be assessed by the proper officer under faceless assessment;
4. Goods manufactured in the SEZ unit should have undergone a minimum Value Addition ('VA') of 20%;

Formula for computation of VA: VA = [A-(B+C)]/(B+C) * 100; where
A = Assessable value of goods removed into DTA by SEZ unit
B = Sum total of cost, insurance and freight value of all imported inputs used for the manufacture of such goods
C = Value of inputs procured from DTA used for the manufacture of such goods

5. Aggregate value of goods removed to DTA by availing the concessional rate of BCD and AIDC in a financial year shall not exceed 30% of the highest Free on Board ('FOB') value of exports of the manufactured goods made by SEZ unit in any one of the three immediately preceding financial years;
6. Duty drawback/any other export benefit is not availed in respect of any of the inputs used in the manufacture of such goods, either by the SEZ unit or by the supplier of such input, as the case may be;
7. At the time of removal of goods to DTA, the SEZ unit shall:
   a) Produce a certificate from the jurisdictional Development Commissioner certifying the following:
      i. Date of commencement of production by SEZ unit;
      ii. Annual FOB value of exports of manufactured goods made by SEZ unit in each of the preceding three financial years; and
      iii. Extent of VA achieved by the SEZ unit.
   b) Furnish a declaration to pay the duty leviable on such goods, but for the exemption contained in this notification, in the event of non-fulfilment of any of the conditions specified herein.

The concessional rate of BCD and AIDC shall not be available to SEZ units set up in Free Trade and Warehousing Zone or on goods, which after importation in the SEZ unit are removed, as such or after use, to the DTA.

[*Notification No. 11/2026-Customs dated 31 March 2026, and Circular No. 18/2026-Customs dated 1 April 2026*]

Foreign Trade Policy

Benefit of RoDTEP rates restored and validity of scheme extended till September 2026

Effective 23 February 2026, the benefits under the Remission of Duties and Taxes on Exported Products ('RoDTEP') scheme were restricted to 50% of their notified rates and value caps (except for exports falling under ITC HS Chapter 01 to 24) *vide* Notification No. 60/2025-26[2] and Corrigendum[3]. The Notification and Corrigendum are superseded by Notification No. 66/2025-26[4], restoring the benefits at previous levels from 23 February 2026. Accordingly, RoDTEP benefits shall be available at the rates and value caps as applicable on 22 February 2026.

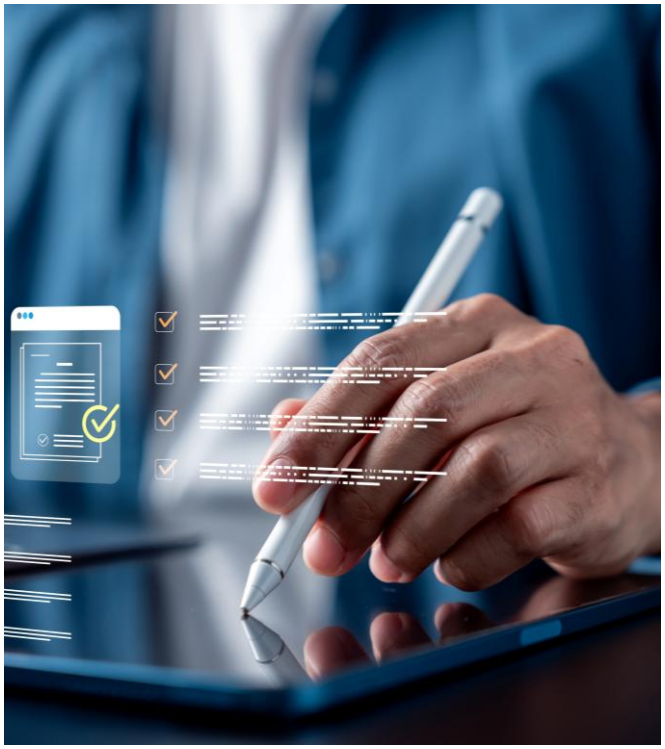
Further, *vide* Notification No. 74/2025-26[5], the benefits under the RoDTEP scheme shall continue for all eligible exports for a further period of six months from 1 April 2026 to 30 September 2026.

[*Notification Nos. 66/2025-26 dated 23 March 2026, and 74/2025-26 dated 31 March 2026*]

Export Obligation ('EO') period for Advance Authorisations and EPCG Authorisations extended

In view of the prevailing geopolitical developments affecting international shipping routes and global supply chains, and with a view to facilitating exporters, the EO period / Block-wise EO period in respect of specified Advance Authorisations and EPCG Authorisations expiring between 1 March 2026 and 31 May 2026 has been automatically extended up to 31 August 2026 without payment of a composition fee. This relaxation is in addition to the EO extension facility already available under the Foreign Trade Policy / Handbook of Procedures upon payment of composition fees.

[*Source: Public Notice No. 51/2025-26 dated 6 March 2026*]



[2] Dated 23 February 2026
[3] Dated 24 February 2026
[4] Dated 23 March 2026
[5] Dated 31 March 2026

Judicial Precedents

Corporate card rebate received on payment of excise duty is exempt from GST

In Re: M/s. John Distilleries Pvt. Ltd. [2026-VIL-80-AAR]

M/s. John Distilleries Pvt. Ltd. ('Taxpayer') is engaged in the manufacturing of liquor, *inter alia*, under the brand name 'Original Choice', which is liable to tax under the Karnataka Excise Act, 1965. The Taxpayer is also engaged in the following activities for which GST registration is mandatory:

- Royalty Income earned from granting vendors the right to sell the product;
- Scrap sales;
- Availing Goods Transport Agency ('GTA') services liable to tax under reverse charge mechanism ('RCM').

The Taxpayer obtained a corporate card from HSBC Bank for the payment of excise duty. The said card entitles the Taxpayer to avail a rebate of 0.515% based on the total payments of excise duty made during a month, which is adjusted against the outstanding card balance.

The Taxpayer approached the Authority for Advance Ruling, Andhra Pradesh ('AAR'), to determine the taxability of the aforesaid rebate. The AAR, while the usage of the card and is not attributable to an independent or identifiable supply of goods/services by the Taxpayer to HSBC Bank.

- A supply necessarily requires the existence of consideration and a corresponding quid pro quo between the supplier and the recipient. In the present case, a rebate is granted by the bank as a post-transaction financial adjustment linked to the usage of the card and is not attributable to an independent or identifiable supply of goods/services by the Taxpayer to HSBC Bank.
- The rebate merely results in a reduction of the outstanding monetary liability payable to the bank and is in the nature of a transaction in money, falling within the definition of 'money' under Section 2(75) of the Central Goods and Services Tax Act, 2017 ('CGST Act') and does not constitute a consideration for any supply.
- Applying the principle laid down in ***M/s. Intercontinental Consultants and Technocrats Pvt. Ltd.***[6], it was observed that the rebate does not represent consideration for any taxable service and hence, cannot be brought to tax under GST.
- Entry No. 27 of Notification No. 12/2017-Central Tax (Rate)[7], exempts services by way of extending deposits, loans, or advances where the consideration is represented by way of interest or discount. The corporate card arrangement essentially facilitates a short-term credit for payment of excise duty, and the rebate operates as a discount in respect of such financial accommodation. Such transactions are squarely covered within the scope of the said exemption.
- Thus, the rebate received by the Taxpayer is merely a transaction in money, devoid of any element of supply or *quid pro quo* for a taxable service, representing a monetary adjustment by the bank based on corporate card usage. Accordingly, the transaction does not fall within the ambit of Section 7 of the CGST Act and is not liable to GST.

State GST officer cannot exercise jurisdiction at the point of import of imported goods

Avanti Feeds Ltd. and Anr. Vs. Deputy Commissioner of State Tax and Ors. [2026-VIL-319-AP]

Avanti Feeds Ltd. ('Taxpayer') is engaged in the business of manufacturing and supplying aquatic feed. For manufacturing aquatic feed, the Taxpayer imports certain inputs such as fish meal, soya and algal oil. The Taxpayer claimed exemption from payment of Integrated Goods and Services Tax ('IGST') on the import of some of the inputs for the period from FY 2017-18 to FY 2022-23. It is also pertinent to note that the Taxpayer was allotted to the GST jurisdiction with the Central Tax Authorities and not the State Tax Authorities.

On 11 November 2022, the Deputy Commissioner of State Tax ('State Tax Authority') had carried out an inspection of the Taxpayer's business premises. Thereafter, on 19 December 2022, the State Tax Authority had issued an intimation of tax under section 73(5) of the CGST Act, alleging that certain exemptions claimed and classifications adopted by the Taxpayer were incorrect. Further, the exemption claimed on the supply of Rovimix AVP Mineral (an input used in the manufacturing of aquatic feed) at the time of import and import of fishing meal was also sought to be disputed. Hence, a show cause notice was issued by the State Tax Authority on 10 April 2023 ('Impugned SCN'). Thereafter, the State Tax Authority had issued a second intimation on 10 April 2023.

Aggrieved by the above, the Taxpayer filed a writ petition challenging the validity of the show cause notices/intimation while also impugning Circular No. 80/54/2018-GST[8] issued by the Tax Revenue Unit, which denied the benefit of exemption given by the Central Government under an exemption notification issued under section 6(1) of the Integrated Goods and Services Tax Act, 2017 ('IGST Act').

In the interim, the Commissioner of Customs ('Customs authorities') initiated proceedings under the Customs Act, 1962 ('Customs Act') by issuing a show cause notice dated 24 January 2024. These proceedings culminated in an order dated 8 August 2025, whereby, while accepting the contention that Rovimix AVP imported by the Taxpayer is eligible for exemption, it was held that the assessment and payment of IGST on imported goods would fall within the jurisdiction of customs officers only.

The Andhra Pradesh High Court, while ruling in favour of the Taxpayer, held as under:

- **State GST authorities do not have the jurisdiction to levy and collect IGST on goods imported into India**
  - Section 2(2) of Customs Act states that assessment under the Customs Act would not only include the determination of duty, tax or other sums under the Customs Act or the Customs Tariff Act, 1975 ('CT Act') but would also include the determination of such taxes, etc., in relation to any other law where such liability is to be determined, with reference to the provisions of CT Act or under any notification issued under the Customs Act.

[6] Union of India and Anr. Vs. M/s. Intercontinental Consultants and Technocrats Pvt. Ltd. [2018 (3) TMI 357 – SC]
[7] Dated 28 June 2017
[8] Dated 31 December 2018

- In the present case, the rate and quantum of IGST payable on the supply of goods, in the course of import of such goods, is to be determined on the basis of the provisions of the CT Act. Consequently, the assessment, for the purpose of the IGST Act, would have to be conducted by the customs authorities and not the authorities under the IGST Act.
- The aforesaid interpretation would not render the authorities under the IGST Act without any function at all. The said officers would still be necessary for assessing and collecting IGST on the movement of goods within India. Reliance was placed on the Kerala High Court ruling in ***Ajwa Dry Fruit Impex Vs. Union of India [2023-VIL-768-KER]***.
- On perusal of the language of *proviso* to section 5(1) of IGST Act, it is observed that IGST is levied and collected at the point when duties of customs are levied, i.e., at the point of import. An officer under the SGST or CGST Act, who has been notified as the proper officer, is situated in a State, which is not the entry point of the goods into India and hence, would not be able to exercise jurisdiction at the point of entry of goods. Such jurisdiction can obviously be exercised only by the customs officers under the Customs Act.
- In view of the above, the authority that can levy and collect IGST on goods being imported into India can only be the customs officers under the Customs Act. Further, even in view of the proceedings initiated by Customs authorities, it is not appropriate, even otherwise, for the tax authority to continue proceedings under the IGST Act.

- **State GST officers cannot exercise jurisdiction under the IGST Act over Taxpayers allotted to the jurisdiction with the Central Tax Authorities**
  - In ***Golden Traders***[9], it was held that section 6 of the CGST Act and section 4 of the IGST Act would empower an officer under the Andhra Pradesh Goods and Services Tax Act, 2017, to act under the CGST and IGST Acts only if the taxpayer has been allotted, administratively, to the State jurisdiction and such officer is the proper officer for such taxpayer.
  - In the present case, since the Taxpayer has been administratively allotted to the Central Tax Authority, the State Tax Authority cannot claim the benefit of cross empowerment under section 4 of the IGST Act to assume jurisdiction.
- **Circular No. 80/54/2018-GST is struck down by the Madras High Court and hence, inoperative**
  - The Supreme Court, in ***Kusum Ingots and Alloys Ltd.***[10] held that a circular, a notification, or legislation, which has been struck down by any High Court, would effectively result in the said legislation becoming inoperative across India, and the legislation would have to be deemed to be struck down in relation to the entire country.
  - Accordingly, since Circular No. 80/54/2018-GST has been struck down by the Madras High Court in ***Jenefa India Vs. Union of India [2021 SCC Online Mad 13910]***, there is no further need to strike down the said circular again.
- In view of the above, it was held that the Impugned SCN is without jurisdiction and hence, set aside to the extent the said notice deals with the exemption claimed by the Taxpayer in relation to the imported goods. For the remaining issues covered in the Impugned SCN, the same would also have to be set aside on the ground that the Impugned SCN relates to multiple financial years, and such a show cause notice is not permissible in terms of the High Court ruling in ***S.J. Constructions Vs. The Assistant Commissioner and Ors. [2025-VIL-977-AP]***.

ITC on the transfer of leasehold rights for the construction of immovable property is blocked

In Re: M/s. Inox Air Products Pvt. Ltd. [2026 (4) TMI 283 - Appellate Authority for Advance Ruling, Tamil Nadu]

M/s. Inox Air Products Pvt. Ltd. ('Taxpayer') is engaged in the manufacture and supply of industrial and medical gases, including oxygen, nitrogen, argon, etc. M/s. India Pistons Ltd. ('IPL') had leased an area of land in Hosur for 99 years from the State Industrial Promotion Corporation of Tamil Nadu. Subsequently, IPL transferred the leasehold rights in respect of a part of the property along with existing shed/superstructures thereon for the remaining period of 72 years to the Taxpayer for setting up a State-of-the-Art Ultra High Purity Cryogenic Liquid Medical and Industrial Oxygen plant, known as Air Separation Unit ('ASU'). A Memorandum of Understanding was entered into with IPL, indicating that the transfer of leasehold rights was for a consideration of INR 150 million.

The Taxpayer approached the Tamil Nadu Authority for Advance Ruling ('TN AAR') to determine whether the transfer of leasehold rights by IPL to the Taxpayer was treated as a supply and whether the Taxpayer is eligible to avail ITC on the same. The TN AAR held that ITC on the said transfer is blocked under section 17(5)(d) of the CGST Act, if such a transaction is considered as a supply. Against this, the Taxpayer filed an appeal before the Appellate Authority for Advance Ruling, Tamil Nadu ('TN AAAR'). The TN AAAR upheld the ruling of the TN AAR.

Aggrieved by this, the Taxpayer filed a writ petition before the Madras High Court, which remanded the matter for *de-novo* adjudication on merits as the TN AAAR had failed to provide reasons for treating the transfer of leasehold rights to set up ASU as an immovable property. The TN AAAR, again, held ITC on the transfer of leasehold rights to set up ASU as ineligible by holding as under:

- **Leasehold rights were transferred to enable the construction of ASU**
  - In view of the retrospective amendment of section 17(5)(d) of the CGST Act, it is clear that unless the installation is covered under the expression 'plant and machinery', as defined in explanation to Section 17 of the CGST Act, ITC on such installation is blocked under Section 17(5)(d) of CGST Act.
  - Apart from the construction of an absolutely new plant, any addition or alteration to an existing structure/immovable property is included under the expression 'construction' in sections 17(5)(c) and 17(5)(d) of the CGST Act. In the present case, the acquired land possessed existing shed/super structures, and ASU was subsequently set up on such land.

[9] Golden Traders and Ors. Vs. The Deputy Assistant Commissioner of State Tax, Andhra Pradesh and Ors. [2026-VIL-318-AP]
[10] Kusum Ingots and Alloys Ltd. Vs Union of India and Ors. [2004-VIL-59-SC]

- Hence, the service received by the Taxpayer towards acquisition of the property is for 'construction' of ASU as it enables the Taxpayer to set up the manufacturing facility. The Taxpayer could not construct ASU without IPL agreeing to transfer its leasehold rights to it.
- The amount paid to IPL for withdrawal of leasehold rights to use a part of the land forms an integral part of the cost of ASU and is capitalised along with the ASU in the books of accounts of the Taxpayer. Irrespective of whether the ASU is movable or immovable, the construction of the ASU is undertaken by the Taxpayer on its own account.

- **ASU is in the nature of immovable property**
  - In ***Bharti Airtel Ltd.***[11], there was no intention of permanent beneficial enjoyment of land. However, the instant case involves the setting up of a comprehensive ASU, including the machinery, equipment, apparatus, etc. and a host of other installations and paraphernalia to support its electrical, refrigeration, storage, etc. needs, on leasehold land. Hence, the intention of permanent beneficial enjoyment of land is present. The 'Object of annexation' test provides that if the attachment is for the permanent beneficial enjoyment of the land, then the property is to be treated as an immovable property.
  - Even though certain equipment/machinery/apparatus of ASU are detachable and movable, the object behind the installation of such machinery/apparatus, along with the other facilities, is to assist and enable the Taxpayer in the manufacture and supply of medical and industrial gases on a permanent basis.
  - Further, the ASU, along with the infrastructure added after the acquisition of land, is not capable of being detached as such and moved. Hence, these installations are meant for permanent beneficial enjoyment of the land and are to be considered as immovable property.
  - The attachment is also not merely to facilitate the use of a particular machinery/apparatus and cannot be treated as movable property. Even applying the marketability test, the ASU cannot be marketed as such, and the individual apparatus is tailor-made to suit the needs of a particular factory/facility and is not capable of being marketed as a stand-alone apparatus.

- **CESTAT ruling in Taxpayer's own case is not applicable**
  - The decision of CESTAT[12] in Taxpayer's own case, held an identical ASU as movable property. However, the said ruling is distinguishable on facts because –
    - The CESTAT was dealing with a case wherein the Taxpayer had entered into an agreement with M/s. Ispat Industries Ltd. to set up ASU in its premises itself, and with the help of equipment supplied free of cost by Ispat Industries, with an intention to make supplies exclusively to Ispat Industries.
    - In the present case, the Taxpayer has acquired land on a long-term lease of 72 years, from where it intends to manufacture medical and industrial gases and supply them to various clients on its own account.
    - The CESTAT had arrived at the conclusion that the property therein is not 'immovable' in nature under the erstwhile Finance Act, 1994 ('FA 1994') (pre-negative list regime) and not in general.
    - The issue involved in the present case pertains to ITC eligibility, whereas the issue in respect of the CESTAT case pertained to the taxability of the service of renting of immovable property, wherein the concept of 'Immovable Property' had a restrictive meaning.

- **ASU is not covered in 'plant and machinery'**
  - Once it is held that the service in relation to the acquisition of land received by the Taxpayer is meant for the construction of an immovable property on its own account, the only available alternative is to examine and determine whether the installed facility falls within the ambit of 'plant and machinery'. The same is to be determined strictly in line with the definition prescribed under the Explanation to section 17 of the CGST Act.
  - On perusal of the said definition, it is observed that machinery, apparatus, or equipment are seen as individual units, meant for a specific or an intended function. In the present case, the ASU involves setting up various components and other infrastructure, which are meant to perform a whole lot of functions in relation to the entire factory set-up and its manufacturing process. Hence, the ASU cannot be treated as an apparatus, equipment, or machinery by any means whatsoever, and the same is not capable of getting categorised as 'Plant and Machinery' under Explanation to section 17 of the CGST Act.

- In view of the above, it was held that the transfer of leasehold rights is meant for the construction of an immovable property on the Taxpayer's own account and the same cannot be categorised as 'Plant and Machinery' under the Explanation to section 17 of the CGST Act. Hence, ITC on such procurement is blocked as per section 17(5)(d) of the CGST Act.

[11] Bharti Airtel Ltd. Vs. Commissioner of Central Excise, Pune [2024 (11) TMI 1042 (SC)]
[12] Inox Air Products Ltd. Vs. Commissioner of Central Excise and Service Tax, Raigad [2025 (4) TMI 1598 - CESTAT Mumbai]

Intended use shall be considered for classification unless the law expressly considers actual use

M/s. Rashtriya Chemicals and Fertilisers Ltd. Vs. Commissioner of Central Excise and Service Tax (LTU) [TS-68-SC-2026-EXC]

Rashtriya Chemicals and Fertilisers Limited ('Taxpayer') operates a fertiliser manufacturing factory for the manufacture of urea and ammonia. The Taxpayer is a registered fertiliser manufacturer under the Fertiliser (Control) Order, 1985 and procures Naphtha at a 'Nil' rate of duty from Hindustan Petroleum Corporation Ltd. by claiming exemption under Notification Nos. 75/84-CE dated 1 March 1984 and 4/97-CE dated 1 March 1997 ('exemption notifications') by claiming that the Naptha is procured for its intended use in the manufacture of fertiliser.

On 13 February 2001, Central Excise officers visited the Taxpayer's premises for scrutiny of records and observed that Naphtha was being used along with natural gas as fuel for the generation of steam in the steam generation plant. Accordingly, a show cause notice ('SCN') was issued on 29 August 2001 alleging that Naphtha was also being used in the manufacture of other chemicals and proposed to demand duty amounting to INR 285.60 million. for the period from November 1996 to March 2001 by denying the exemption under the aforesaid exemption notifications. The demand was confirmed *vide* order-in-original dated 4 February 2002 ('OIO 1'). Against this, the Taxpayer filed an appeal before CESTAT, which had remanded the matter back for fresh consideration on merits as well as the quantum of demand. Concurrently, 25 SCNs were issued covering subsequent periods from April 2001 to February 2005.

Upon *de novo* adjudication of OIO 1 and the 25 new SCNs, a demand of INR 96.60 million was confirmed *vide* Order dated 28 February 2006. Against this, the Taxpayer filed an appeal before CESTAT, which again remanded the matter for fresh consideration.

Pursuant to this, 2 Orders-in-Original were issued confirming the demand for duty along with interest and penalty. Against this, the Taxpayer preferred appeals before CESTAT. CESTAT decided the appeals *vide* a common order whereby duty, along with interest and penalty under Section 11AC of Central Excise Act, 1944 ('CE Act'), was upheld, while penalties imposed under Rule 173Q of Central Excise Rules, 1944 ('1944 Rules') and Rule 25 of Central Excise Rules, 2002 ('2002 Rules') were set aside.

Aggrieved by the above, the Taxpayer filed two civil appeals before the Bombay High Court and also a Rectification Application before the CESTAT under Section 35C(2) of the CE Act. The Rectification application was rejected by the CESTAT *vide* Order dated 16 July 2012, and subsequently, the Taxpayer filed an appeal before the Bombay High Court, which dismissed the same *vide* Order dated 21 February 2013 and held that no error was committed by the CESTAT in declining to entertain the application for Rectification. Aggrieved, the Taxpayer preferred the present Special Leave Petition before the Supreme Court. The Supreme Court, while ruling in favour of the Taxpayer, held as under:

- **The taxpayer is eligible to claim an exemption on the procurement of Naphtha**
  - Reliance was placed on the Supreme Court decision in the case of ***Dalmia Dadri Cement Ltd.***[13], wherein it was held that:
    - In the phrase '***goods for use by it in the generation or distribution of such energy***', the expression '***for use***' must mean '***intended for use***'.
    - If the legislature intended to limit the exemption only to such goods sold as were actually used in the generation and distribution of electrical energy, the phraseology used in the exemption clause would have been '***goods actually used***' or '***goods used***'. The real question is whether the cement was intended for use directly in the generation or distribution of electrical energy. If it was so intended, the exemption is attracted but not otherwise.
    - The mere fact that some of the cement was used for activities not directly connected with the generation or distribution of electrical energy would not make any difference regarding the availability of the exemption.
  - Reliance was placed on the Supreme Court decision in ***Steel Authority of India Ltd.***[14] ('SAIL')', wherein:
    - SAIL had claimed exemption on the procurement of Naphtha for manufacturing fertilisers, and CESTAT had held that it should be proved that the raw Naphtha was actually used in the manufacture of fertiliser.
    - The Supreme Court disagreed with the CESTAT's view and held that it was required to show that the raw Naphtha was used for the purpose and with the intention of manufacturing fertiliser. The exemption was sustained in a case where the Naphtha had to be vented out at an interim stage due to supervening circumstances.
  - In the present case, it is evident that Naphtha was intended for use by the Taxpayer in the manufacture of fertiliser and ammonia.
  - It is immaterial that a fraction of the procured Naphtha is used for the generation of electricity, which was mostly used in manufacturing fertiliser and ammonia, but a portion of which was used in the chemical plant and was also supplied to the Maharashtra State Electricity Board.
  - Hence, the Taxpayer was entitled to avail the benefit of the duty exemption as per the exemption notifications.
- **An extended period of limitation is not invokable in case of revenue neutrality**
  - In the present case, the Taxpayer had furnished the requisite particulars to the Central Excise officers based on which the jurisdictional officer had issued CT-2 certificates, and it was on the strength of such certificates that the exemption was claimed.

[13] State of Haryana Vs. Dalmia Dadri Cement Ltd. [1987 Supp SCC 679]
[14] Steel Authority of India Vs. Collector of Central Excise [1996 (5) SCC 484]

- Since the interpretation and applicability of exemption notifications is upheld by the Supreme Court, it cannot be said that the taxpayer had any intention to evade payment of excise duty.
- Further, the Taxpayer is a Public Sector Undertaking which receives a subsidy to maintain the regulated price. If the benefit of exemption notifications was not claimed, the same would have been reimbursed by the Central Government by way of subsidy. Accordingly, it is a case of revenue neutrality; the question of invoking the extended period of limitation does not arise.

- The Taxpayer succeeded on both merit and limitation, and accordingly, the appeals were allowed.

Common parlance test and Essential Character test must be correctly applied in the absence of statutory definitions

M/s. Hamdard (Wakf) Laboratories Vs. Commissioner of Commercial Tax, Uttar Pradesh Commercial [TS-37-SC-2026-VAT]

M/s. Hamdard (Wakf) Laboratories ('Taxpayer') is the manufacturer of 'Sharbat Rooh Afza' ('subject goods'), being a non-alcoholic sweetened beverage prepared from invert sugar and blended with fruit juices, vegetable extracts and added flavours. The fruit juice content in the subject goods is 10%.

For the period from 1 January 2008 to 31 March 2012 ('relevant period'), the Taxpayer discharged Value Added Tax ('VAT') under the Uttar Pradesh Value Added Tax Act, 2008 ('UPVAT Act') @ 4% on sales of the subject goods under Entry 103 of Part A of schedule II of the UPVAT Act ('Entry 103 - '***Fruit Drink***' or '***Processed Fruit***').

The Joint Commissioner (Corporate Circle), Commercial Tax, Ghaziabad ('Tax Authority') made provisional assessments holding that the subject goods are not a 'fruit drink' but a 'sharbat', a sugar-based concentrate and consequently falls outside the ambit of Entry 103 and hence, are taxable @ 12.5% under the residuary entry in Schedule V of UPVAT Act *inter alia* basis the following:

- Letter dated 31 July 2009 issued by the Food Safety and Standards Authority of India ('FSSAI') clarified that under Part-II of the Second Schedule of the Food Products Order, 1955 ('FPO'), a 'fruit syrup' must contain a minimum of 25% fruit juice.
- On the contrary, the subject goods contain only 10% fruit juice, and hence, they fall within the category of a '***non-fruit syrup containing 10% fruit juice***'.

Against this, the Taxpayer preferred an appeal before the First Appellate Authority, which was dismissed. Subsequently, the Taxpayer filed an appeal before the VAT Tribunal, which was also dismissed. Aggrieved by the same, the Taxpayer preferred a revision application before the Allahabad High Court, which was dismissed.

Consequently, the Taxpayer filed an appeal before the Supreme Court. The Supreme Court, while ruling in favour of the Taxpayer, held as under:

- **Common Parlance Test not applied correctly by tax authorities**
  - It is well settled that a fiscal statute must be interpreted in its own language. Regulatory enactments such as FPO or standards framed by FSSAI operate in its distinct domain, namely quality control, safety and licensing. They are neither determinative nor conclusive for the purpose of fiscal classification unless a taxing statute expressly incorporates or adopts such definitions.
  - The expression '***fruit drink***' is not defined under the UPVAT Act. In the absence of a statutory definition, the principle of interpretation mandates the application of the common parlance test, i.e., how the product is understood in the commercial/popular sense by those who deal with it.
  - It is well settled that the marketing nomenclature is not decisive, and consumer perception must be established by objective material. Classification must be determined on the basis of how the product is understood in common or commercial parlance, having regard to tangible material such as its composition, product literature, label, character, and user and not merely on technical or regulatory descriptions.
  - In the present case, it appears that the documents produced by Taxpayer, including dealer testimonials and other material documents evidencing market understanding, were not adequately considered. Instead, primary reliance appears to have been placed on the manufacturing licence and clarification issued by FSSAI. Such an approach, if it substitutes regulatory classification for evidence of commercial perception, would not be in consonance with the requirements of the common parlance test.
  - It is well settled that if the tax authorities intend to classify a product under a residuary entry or an entry different from that claimed by the taxpayer, the burden of proof lies squarely upon the tax authorities. Classification relates directly to chargeability, and thus, the onus of establishing the applicability of a taxing entry rests upon the tax authorities.
  - It is also well settled that classification based on the common parlance test cannot rest on mere conjecture or assumption, especially when the tax authorities seek to classify a product under the residuary entry. It is a settled law that a recourse to a residuary clause is permissible only when the goods cannot reasonably be brought within the ambit of any specific entry. Such an inability must be established by the tax authorities based on the relevant material. The residuary entry cannot be invoked merely because the specific entry is construed narrowly or because some ambiguity is perceived.

- In the present case, the tax authorities have not produced any trade enquiry, consumer survey, market evidence or documentary material to demonstrate that the product is not understood in commercial circles as a fruit-based beverage preparation. Reliance is placed primarily on licensing norms and the nomenclature 'sharbat'. Such material cannot substitute the evidentiary burden required to displace classification under a specific entry. Thus, the tax authorities have failed to discharge the burden cast upon them under the law.

- **Essential character test not satisfied by quantitative predominance**
  - The test of essential character requires the identification of that component which imparts distinctive identity and functional utility to the finished product. Quantitative predominance of a particular ingredient is not decisive if such an ingredient merely performs a facilitating role in formulation, preservation or dilution.
  - In the instant case, although invert sugar syrup constitutes approximately 80% of the subject goods by volume, its function is essentially that of a carrier, sweetening medium and preservative base. It does not determine the commercial or beverage identity of the product. The flavour, aroma and beverage character are derived from the fruit juice component and allied distillates, which together impart to the product its distinctive character as a flavoured sharbat intended for dilution and consumption as a refreshing drink. Mechanical reliance upon the quantitative predominance of invert sugar syrup would be misplaced.
  - Chapter Note 3 of Chapter 21 of the Central Excise Tariff Act, 1985 defines 'sharbat' as any non-alcoholic sweetened beverage or syrup containing not less than 10% fruit juice or flavoured with non-fruit flavours but not including aerated preparation. Thus, the statutory definition recognises 'sharbat' as a class of beverage preparation having a direct nexus either with fruit content or with recognised traditional flavouring bases. The legislative understanding, therefore, treats 'sharbat' not as a generic sugar solution but as a flavoured beverage concentrate intended for dilution and consumption.

- **Entry 103 is inclusive and does not prescribe a minimum fruit content**
  - Entry 103 is couched in inclusive terms and does not prescribe any minimum threshold of fruit content. The use of the expression 'including' indicates the legislative intent to encompass a broad category of fruit-based preparations. In the absence of any quantitative stipulation, it would not be appropriate to read into the entry a rigid percentage requirement.
  - The expression 'fruit drink' in Entry 103 cannot be confined solely to ready-to-consume bottled beverages. In common trade understanding, fruit squashes, concentrates, and sharbat preparations intended for dilution are all capable of being understood as fruit drink preparations.
  - The nomenclature 'sharbat' does not strip the product of its essential character as a fruit-based beverage concentrate, particularly where its composition and intended use align with that understanding.

- **Classification under the residuary entry is not sustainable when the product reasonably falls under a specific entry**
  - It is well settled that where a commodity reasonably falls within a specific enumerated entry, recourse to the residuary entry is impermissible[15]. Once it is demonstrated that the product is a fruit-based beverage preparation intended for dilution and consumption, it bears a reasonable and substantial claim for classification as a 'fruit drink' within Entry 103. It cannot be relegated to the residuary entry merely because it is marketed as a 'sharbat'.
  - If, on a proper application of the common parlance and essential character tests, the product reasonably answers the description of a 'fruit drink', the same cannot be denied merely on account of its label or regulatory categorisation or nomenclature.

- **Classification of the product under the VAT statutes of other States carries evidentiary value**
  - The subject goods are classified under the entries covering processed or preserved fruits, including 'fruit drink' and 'fruit juice', under the VAT statutes of Delhi, Gujarat, West Bengal, Madhya Pradesh and Andhra Pradesh. Accordingly, VAT is levied at a concessional rate of 4%-5% by treating the subject goods as falling within the ambit of fruit-based beverage entries.
  - VAT is a State subject under Entry 54 of List II of the Seventh Schedule to the Constitution of India, and classifications adopted by one State are not binding upon another. However, they are not wholly irrelevant. Where similarly worded entries across multiple jurisdictions have been construed in a particular manner, such uniformity assumes evidentiary value in determining commercial understanding of the product and whether the taxpayer's interpretation is at least a reasonably plausible view.
  - The consistent concessional classification adopted across several States fortifies the Taxpayer's case that its view is neither artificial nor untenable but a *bona fide* and commercially recognised interpretation. At the very least, the existence of two plausible views stands demonstrated. In such a situation, the interpretation favourable to the Taxpayer must prevail.

- Hence, the subject goods are classifiable under Entry 103 as a fruit drink/processed fruit product and are leviable to VAT @ 4% during the relevant period. Consequently, the Impugned Order affirming the classification of subject goods under the residuary entry, leviable to VAT @ 12.5%, is set aside. Consequently, the appeals are allowed, and the tax authorities are directed to grant consequential relief, including a refund or adjustment of excess tax paid, in accordance with the law.

[15] Dunlop India Ltd Vs. Union of India [1976 2 SCC 241]

TRANSFER PRICING

Circulars / Notifications / Press Release

CBDT signs 219 Advance Pricing Agreements in FY 2025-26

The Central Board of Direct Taxes (CBDT) has issued a press release dated 31 March 2026 stating that it has entered into a record **219** Advance Pricing Agreements (APAs) in FY 2025-26 with Indian taxpayers, comprising both Unilateral APAs (UAPAs) and Bilateral APAs (BAPAs). With this, the total number of APAs since the inception of the programme has crossed the 1000 mark, aggregating to 1034 APAs, including 750 UAPAs and 284 BAPAs. This year again saw the highest ever APA signings in a single financial year, with 84 BAPAs concluded—surpassing last year's record of 65. These BAPAs were signed pursuant to Mutual Agreements with 13 treaty partners, notably including India's first-ever bilateral APAs with France, Ireland, Indonesia, and Sweden. CBDT has consistently maintained momentum in this programme, having concluded 174 APAs in FY 2024-25 and 125 APAs in the year before.

[Press release dated 31 March 2026]

CBDT notifies revised critical assumption in APAs linked to Safe Harbour provisions

The CBDT has issued an Office Memorandum dated 24 March 2026, directing the inclusion of a revised Critical Assumption in APAs to enable the applicants to opt for revised Safe Harbour provisions. This may also be included in all draft agreements approved by the Board but pending for signature.

The following Critical Assumption is to be incorporated in Unilateral APAs:

"In case the Applicant applies for the Safe Harbour, consequent to a change in the safe harbour rates/margins, in respect of any international transaction(s) for any APA year, the Agreement shall be revised in accordance with the provisions of Rule 10Q, to the effect that this Agreement shall not apply to such international transaction(s) for that year, and any of the subsequent APA years covered in the Agreement."

[Office Memorandum dated 24 March 2026]

Judicial Updates

Chennai Tax Tribunal deletes transfer pricing adjustment on notional interest charged on outstanding receivables for a debt-free company

The taxpayer is a company, a wholly owned subsidiary of Freshworks Inc., USA. It is a captive service provider engaged in providing software design, development, and support services to its Associated Enterprise (AE), Fretworks Inc., USA. During assessment proceedings, the Transfer Pricing Officer (TPO) disregarded the taxpayer's Transfer Pricing (TP) study, which had adopted the Transactional Net Margin Method (TNMM) as the most appropriate method and had factored in the impact of differences in credit period. The TPO held that outstanding receivables constituted a separate international transaction, representing an interest-free advance to the AE and creating an opportunity cost for the taxpayer. Accordingly, the TPO imputed notional interest on outstanding receivables, resulting in a TP adjustment. The tax officer passed the draft assessment order incorporating this adjustment. The taxpayer raised objections before the Dispute Resolution Panel (DRP), which rejected the objections and confirmed the TP adjustment. Aggrieved, the taxpayer preferred an appeal before the Chennai Tax Tribunal.

The Chennai Tax Tribunal, while ruling in favour of the taxpayer, made the following key observations:

- A review of the taxpayer's balance sheet confirmed that it was a zero-debt/debt-free company with no borrowings from either internal or external sources. Consequently, the taxpayer had not faced any additional financial burden in managing its working capital cycle on account of overdue receivables from its AE. Accordingly, imputing notional interest cost on outstanding receivables was unwarranted.
- Reliance is placed on the coordinate bench ruling in Temenos India Pvt. Ltd[1], which had itself relied upon a chain of judicial precedents, including the Delhi High Court ruling in Kusum Healthcare Pvt. Ltd[2]. and the Supreme Court ruling in the case of Bechtel India Pvt. Ltd.[3] wherein it has been held that no TP adjustment for imputing interest on outstanding trade receivables is warranted when the taxpayer is a debt-free company.

[Freshworks Technologies Pvt. Ltd. v. DCIT, IT(TP)A No. 27/CHNY/2026 (Chennai Tax Tribunal)]

Hyderabad Tax Tribunal holds that no TP adjustment is called for where RSUs are allotted by the parent directly to the employees of the Indian Company

The taxpayer, a wholly owned subsidiary of WhatsApp Inc. USA (ultimately held by Facebook Inc.), was engaged in providing marketing and customer support services to its Associated Enterprise (AE) on a cost-plus basis. The parent company allotted Restricted Stock Units (RSUs) to taxpayer's employees.

During assessment proceedings for Fiscal Year (FY) 2019-20, the TPO made a TP adjustment in respect of RSUs allotted directly by Facebook Inc. to the employees of the Indian company. The TPO computed a notional perquisite value by considering 30% of TDS deducted on the perquisite value and applied a mark-up of 18.94%. Aggrieved by the same, the taxpayer filed objections before DRP. DRP upheld the draft order passed by the tax officer. Further, the taxpayer preferred an appeal before the Hyderabad Tax Tribunal.

Hyderabad Tax Tribunal, while ruling in favour of the taxpayer, made the following observations:

- There is no dispute with regard to the fact that the taxpayer has not incurred any cost, nor charged any expenditure to its profit and loss account in respect of ESOP received by the employees from its parent company.
- The taxpayer had only deducted applicable TDS on the value of perquisites in the hands of the employees, and the same was remitted to the government. Since this did not involve rendering of any service, the TDS deducted was reimbursed by the parent company to the taxpayer without any markup.
- Such a mere grant of RSUs does not automatically create a liability in the hands of the taxpayer.
- Rule 10B(1)(e)(i) of the IT rules 1962 provides that net profit margin shall be computed on costs "incurred". The word "incurred" signifies a real financial obligation or actual outflow. However, in the given case, no such outflow existed here.
- Therefore, making a TP adjustment on a hypothetical or notional cost and adding a mark-up on it is contrary to the scheme of TP provisions.
- Since the purchase cost of RSUs issued by the parent company to the employees of the taxpayer is not charged to the taxpayer, the T.P. Adjustment made by the tax officer on the value of perquisites in the hands of the taxpayer is deleted. Further, a similar principle was laid down in the case of VM Software India Pvt Ltd[4] and Amazon Development Centre[5].

[Whatsapp Application Services Pvt. Ltd.v. DCIT (ITA No.832/HYD/2024) (Hyderabad Tax Tribunal)]

Delhi Tax Tribunal accepts the Berry Ratio basis, agreed Limited Risk Model formula

The taxpayer, a subsidiary of Verizon Asia Pacific Holdings Pte Ltd, is engaged in providing telecommunication services in India. The taxpayer had adopted the TNMM with Net Cost Plus Margin (NCPM) as the profit level indicator (PLI) for benchmarking international transactions under a Limited Risk Model (LRM), under which it was entitled to earn the higher of 11% return on net sales or 14% of Value Added Expenses (VAE) as its targeted remuneration.

The TPO rejected the taxpayer's TNMM benchmarking, characterised it as a full-risk service provider, applied the 'Other Method' without citing any comparable uncontrolled transaction, and made an upward TP adjustment. The Dispute Resolution Panel (DRP) upheld the TPO's order. Aggrieved, the taxpayer preferred an appeal before the Delhi Tax Tribunal.

The Delhi Tax Tribunal, while ruling in favour of the taxpayer, made the following key observations:

- The group operates as a Hub and Spoke model; however, the taxpayer's role is distinct as it provides telecommunication services to its holding companies and their customers by delivering services initiated outside India.
- Reference is drawn to the Guidelines issued by the Organisation for Economic Co-operation and Development, wherein the Berry ratio is identified as one of the PLIs under the TNMM.
- On review of the LRM formula and actual financials, it is observed that taxpayer was compensated at 14% of VAE, which was only the minimum of the targeted profit. Under the agreed LRM formula, the correct targeted return should have been the higher of: (i) 11% of net sales (services to third parties) or (ii) 14% of VAE. Since the net sales-based compensation was higher, taxpayer was not properly compensated.
- The application of the TP study has to be dealt with on the basis of harmonious application and appreciation of appropriate facts on record. In this case, the taxpayer completes the services initiated by the group entities, and it adds only the value to the services offered by the group entities to their customers. Accordingly, the Berry ratio can be applied in the given case under consideration.

[1] Temenos India Pvt. Ltd[1]. v. DCIT [IT(TP)A No.32/CHNY/2024]
[2] Kusum Healthcare Pvt. Ltd v PCIT TS-129 ITAT 2015(Delhi) &
[3] Bechtel India Pvt. Ltd., vs. DCIT in ITA No.1478/Del/2015, HC – ITA 379/2016 and SC 4956/2016
[4] IT(TP)A No. 276/Bang/2023
[5] IT(TP)A No. 417/Bang/2023

- Reference in this regard is drawn to the decision of Radhaswami Satsang[6] wherein it was held that where a fundamental aspect permeating through the different assessment years has been found as a fact one way or another, it is not allowed to change the position in any subsequent year. Hence, the consistent result has to be applied in the given case, also, it cannot be a situation where the revenue cherry picks the results.
- Accordingly, directs the AO/ TPO to "restrict the ALP adjustment to the extent of INR 23.81 crores (INR 43.31 – 19.50), which is the agreed targeted margin to the OpCo, as the assessee being one of the OpCo, the agreed targeted profit should be compensated on the basis of the formula devised by the parties".

[Verizon Communications India Pvt. Ltd. v. Addl. CIT, ITA No. 442/DEL/2017]

Delhi Tax Tribunal holds that the Company is not to be excluded as a persistent loss-making comparable if there is profit in any one of the three years

The taxpayer, a wholly owned subsidiary of Keysight Technologies Inc. (USA), is a captive provider of IT-enabled Services (ITeS) and Software Development Services (SDS) to its Associated Enterprises (AEs). For FY 2019-20, the case was selected for scrutiny and referred to the Transfer Pricing Officer (TPO) for examination of international transactions pertaining to the SDS segment. The TPO proposed a TP adjustment by modifying the set of comparables used for benchmarking. The TPO excluded two comparables, M/s DCIS Dot Com Solutions India Pvt. Ltd. and Rheal Software Pvt. Ltd., on the basis that they had incurred losses in two out of the three relevant financial years. Further, the TPO included certain functionally different companies.

Post DRP proceedings, aggrieved, the taxpayer preferred an appeal before the Delhi Tax Tribunal.

The Delhi Tax Tribunal, while ruling in favour of the taxpayer, made the following observations:

- A persistent loss filter can be applied only where a company has incurred losses in all three successive assessment years. Since both companies reported profits in at least one of the three years under consideration, they could not be excluded on this ground and are directed to be included in the final set of comparables.
- With regard to other companies which were selected by TPO as Comparables, it is found that both companies were engaged in diversified activities such as IT consulting, business process management, and enterprise transformation, making them functionally dissimilar to the taxpayer, with segmental data for software development services not being separately available for either company. Hence, the same are directed to be excluded from the final comparables set.
- Reliance in this regard is placed on the Hon'ble Delhi High Court ruling in the case of Global Logic India Limited[7], wherein it was held that the absence of segmental data is a sufficient reason to exclude a company from the comparable set.

[Keysight Technologies International India (P.) Ltd. v. DCIT, Circle-13(1), ITA No. 3813 (Delhi) of 2024, (Delhi Tax Tribunal)]

[6] Radhaswami Satsang[6]v. CIT (193 ITR 321).
[7] Global Logic India Limited v. PCIT [2023] ITA No. 461/2019 (Delhi)

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