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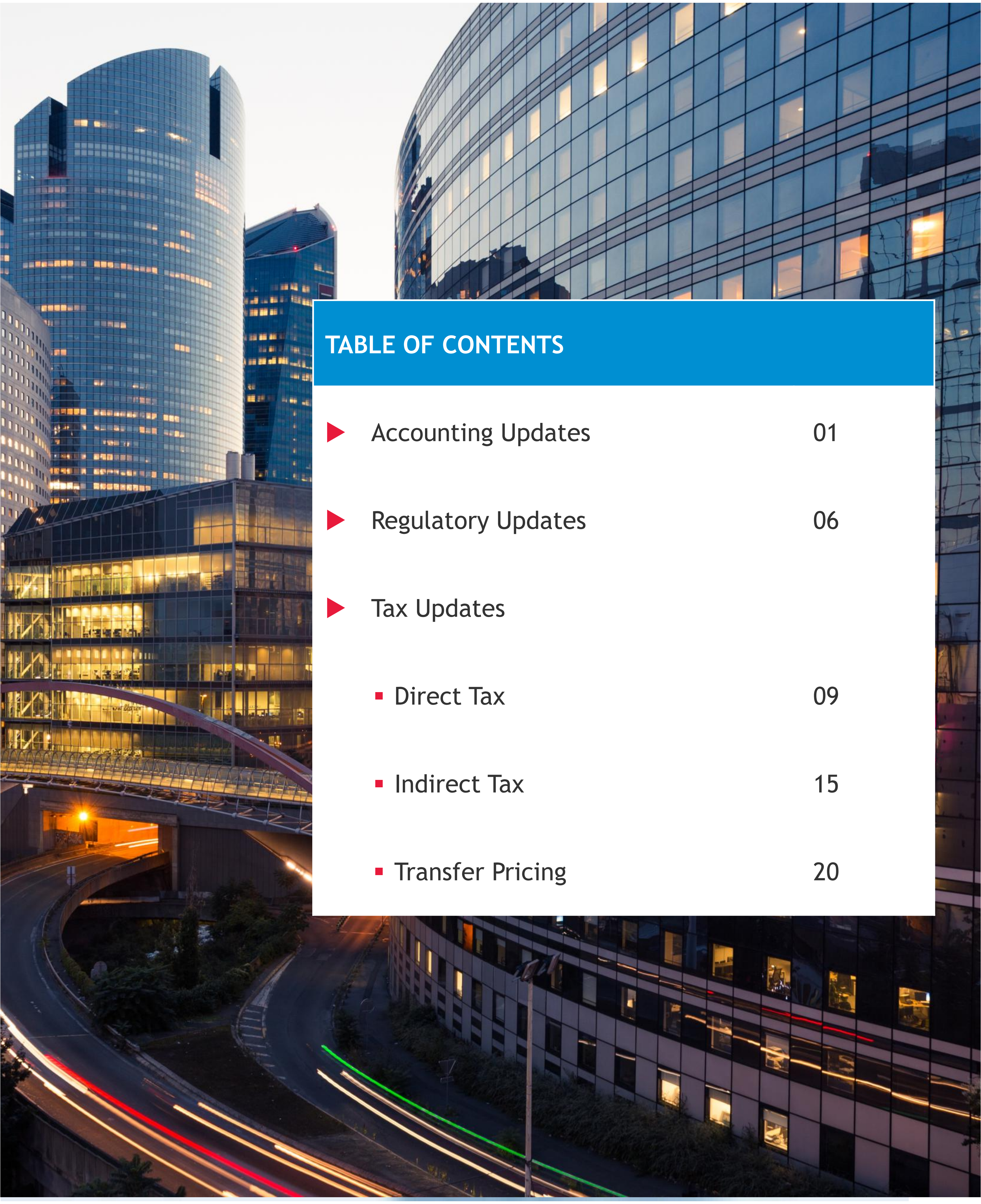

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ACCOUNTING UPDATES

The Institute of Chartered Accountants of India (ICAI):

Accounting treatment of Structured Package of assistance for setting up a Hardwood Pulp Plant under Ind AS 20.

The Company received a Structured Package of Assistance from the Government of Tamil Nadu for setting up a Hardwood Pulp Plant (Expansion Project II). The assistance, described as a "capital subsidy in lieu of SGST reimbursement", was linked not only to the Company's investment in eligible fixed assets but also to fulfilment of employment-related commitments and continued operation of the plant during the incentive period. The Company treated the subsidy as a grant related to income under Ind AS 20 and recognised it in profit or loss as and when the annual eligibility conditions were satisfied. However, the CAG auditors contended that since the subsidy was calculated as a percentage of capital investment in the plant, it constituted a grant related to assets and should be recognised over the useful life of the related assets.

The Committee noted that under Ind AS 20, the classification of a government grant depends on its substance and the conditions attached to it rather than the nomenclature used or the basis adopted for quantifying the grant. It observed that grants related to assets are those for which the primary condition is the purchase, construction or acquisition of long-term assets, with any additional conditions generally relating to the type, location or holding period of such assets. In the present case, although investment in the Hardwood Pulp Plant was one of the eligibility requirements, the grant was also contingent upon achieving specified employment commitments during the investment period and maintaining such employment and operational activity throughout the fifteen-year incentive period. Failure to satisfy these ongoing conditions would result in loss of eligibility for the subsidy for the relevant year.

The Committee further observed that the Company was required to establish compliance with these operational and employment conditions annually before becoming entitled to each instalment of the subsidy. Accordingly, the grant was not linked solely to the acquisition of the plant and related assets. Rather, the continued operation of the plant and maintenance of employment levels constituted substantive eligibility conditions for availing the assistance. The Committee also noted that the fact that the subsidy amount was determined as a percentage of eligible capital investment merely provided a basis for measuring the grant and did not determine its nature. Similarly, the annual disbursement of the subsidy over fifteen years did not, by itself, influence its classification.

Accordingly, the Committee concluded that the subsidy was not a grant related to assets within the meaning of Ind AS 20. Since grants related to income comprise all government grants other than those related to assets, the subsidy qualified as a grant related to income. Therefore, the accounting treatment adopted by the Company, namely recognising the subsidy in profit or loss as an income-related grant upon satisfaction of the prescribed conditions, was considered appropriate under Ind AS 20. Overall, the Committee concluded that classification of the assistance as a grant related to income, rather than as a grant related to assets amortised over the useful life of the plant, was in accordance with the requirements of Ind AS 20.

Accounting treatment of payments made to NHAI for development of road connectivity to the Exhibition-cum-Convention Centre (ECC Centre) Project.

The Company incurred expenditure towards development of external road connectivity to its Exhibition-cum-Convention Centre (ECC) project through the National Highways Authority of India (NHAI) and capitalised the amount as part of Property, Plant and Equipment (PPE). The Company's view was that the road connectivity was integral to the operational readiness and accessibility of the ECC project and therefore constituted a directly attributable cost under Ind AS 16. This position was also supported by the Company with reference to the ITFG clarification relating to external infrastructure. However, the audit authorities questioned the accounting treatment and contended that the expenditure should not be capitalised and should instead be charged to the Statement of Profit and Loss.

The Committee noted that Ind AS 16 permits capitalisation only of those costs that are directly attributable to bringing an asset to the location and condition necessary for it to be capable of operating in the manner intended by management. It emphasised that this requirement does not extend to every expenditure that may contribute to the commercial success, accessibility or attractiveness of a project. Rather, only those costs without which the asset could not have been constructed or made capable of operating in its intended manner qualify for inclusion in the cost of PPE.

In the present case, the Committee observed that the expenditure was incurred for providing enhanced road connectivity to the ECC project and not for acquiring or constructing the road itself as an asset dedicated to the Company. It further noted that the ECC site already had access to existing transport infrastructure and road connectivity at the time of site selection and project development. The road development undertaken by NHAI primarily related to the creation of additional entry and exit points, modifications to nearby highways and expressways, and other traffic management measures intended to improve accessibility and convenience for visitors. The Committee also noted that the development of the road connectivity and the construction of the ECC project proceeded simultaneously, indicating that the road development was not necessary for the construction or existence of the ECC facility itself.

The Committee therefore concluded that, although the additional road connectivity may enhance future economic benefits and improve the attractiveness and accessibility of the ECC project, it was not necessary to bring the ECC Centre to the location and condition required for it to operate in the manner intended by management. Accordingly, the expenditure did not meet the criterion of a directly attributable cost under Ind AS 16 and could not form part of the cost of Property, Plant and Equipment.

Overall, the Committee concluded that the payments made to NHAI for development of road connectivity should not be capitalised as part of the ECC project. Instead, such expenditure should be recognised as an expense in the Statement of Profit and Loss when incurred, as it does not qualify for inclusion in the carrying amount of any item of Property, Plant and Equipment under Ind AS 16.

REGULATORY UPDATES

Securities and Exchange Board of India (SEBI)

SEBI (Buy-Back of Securities) (Amendment) Regulations, 2026

SEBI has notified the SEBI (Buy-Back of Securities) (Amendment) Regulations, 2026. These amendments come into force from 1 August 2026. Key highlights include:

- With effect from 1 August 2026, the buy-back from the open market through the stock exchange shall be less than 15% of the paid up capital and free reserves of the company, based on both standalone and consolidated financial statements of the company.
- Company shall not propose any offer of buy-back of shares or other specified securities that results in the breach of the minimum public shareholding requirements prescribed under the Securities Contracts (Regulation) Rules, 1957 or specified under the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015.
- Revising timelines and disclosure requirements for open market buy-backs.
- Freezing of promoter and promoter group holdings during the buy-back period and allowing companies the option to undertake buy-backs without appointing a merchant banker, subject to specified responsibilities being discharged by the company and other designated intermediaries.

Consultation paper on rationalising the requirement of obtaining investor consent and ambit of conflicted transactions requiring investor consent under SEBI (Alternative Investment Funds) Regulations, 2012

SEBI has released a consultation paper proposing a more standardised framework for obtaining investor consent under the AIF Regulations, 2012, while strengthening oversight of conflicted transactions. Key proposals include:

- Allowing AIFs to choose one of three consent mechanisms Deemed Consent, Present and Voting, or Express Voting with clear disclosures and consistent application at the fund level.
- Introducing a uniform 75% investor approval threshold (by value) across AIF regulations, replacing existing two-thirds approval requirements in certain cases.
- Mandating greater transparency around voting processes, disclosures, and investor communications.
- Expanding the scope of conflicted transactions by replacing the narrow concept of “associate” with a broader “related party” definition aligned with the Companies Act, 2013, for conflict-related provisions.
- Requiring investor approval for a wider range of transactions involving related parties of the AIF’s manager or sponsor.
- Public comments on the proposals have been invited until 21 July 2026.

SEBI Operationalises ISIN-Level Freeze on Promoter Holdings During Buy-back Offers

SEBI has issued a circular operationalising the freezing of promoter and promoter group holdings, including those of their associates, at the ISIN level during buy-back offers under the tender offer route. The framework follows the amendment to the SEBI (Buy-back of Securities) Regulations, 2018, notified on 1 July 2026.

Under the revised provisions, promoter holdings will remain frozen at the ISIN level from the date the board or shareholders approve the buy-back until the closure of the offer. However, promoters will continue to be permitted to tender their shares in the buy-back. Additionally, encumbrances created prior to the commencement of the buy-back period may still be invoked, with the freeze continuing to apply to the invoked or released securities.

To facilitate implementation, depositories have been directed to establish the required operational framework and system enhancements by 1 August 2026. The framework will cover procedures for initiating ISIN-level freezes, operational modalities for tendering shares during buybacks, treatment of pre-existing encumbrances, and other system requirements necessary for effective implementation. Listed companies, stock exchanges, depositories, merchant bankers, and registrars and share transfer agents (RTAs) are required to comply with the circular and the operational framework prescribed by the depositories.

The circular came into effect immediately upon its issuance on 21 July 2026.

The Institute of Chartered Accountants of India (ICAI):

Implementation of ICAI (Global Networking) Guidelines, 2025

ICAI has announced that further implementation of the ICAI (Global Networking) Guidelines, 2025, notified vide Notification No. 3-CACAF/GN-F/2026 dated 11th February 2026 and published in the Gazette of India, Extraordinary, Part III, Section 4, dated 17 February 2026, is kept in abeyance until further orders.

Guidance Material on Ind AS 117

ICAI has issued Guidance Material on Ind AS 117 – Insurance Contracts, including Background Material, MCQs, and Case Studies to support understanding, implementation and practical application of the standard.

Guidance Note on Tax Audit under Section 44AB of the Income-tax Act, 1961 (Revised 2026)

The Direct Taxes Committee of ICAI has issued the Guidance Note on Tax Audit under Section 44AB of the Income-tax Act, 1961 (Revised 2026). This publication reflects key legislative developments such as introduction of the Digital Personal Data Protection Act 2023, introduction of VDAs and Carbon Credits, where dealt with on regular basis, New Guidelines on Ethical Issues, relevant judicial pronouncements and prevailing professional practices. Key highlights include:

- Virtual Digital Assets and Carbon Credits are included under the term "gross receipts in business".
- Bad debts recovery, Remission of liability and capital receipt would not form part of "gross receipts in business".
- Added a clarification that if more than one branch office of an auditee is audited by the same auditor, it should be counted as one tax audit assignment.
- Incorporated Taxation Audits Quality Review Board observations under relevant clauses.
- Inserted new paragraphs discussing the implications of the Digital Personal Data Protection (DPDP) Act, 2023.

NFRA Updates:

General Principles for Technology Adoption in Audit

NFRA has released the first paper in its Staff Series on Technology in Audit, providing guiding principles for the responsible adoption of technology, including data analytics, automated tools, AI, Generative AI, and Agentic AI, in statutory audits. The guidance reiterates that while technology can enhance audit quality and efficiency, auditors remain fully responsible for exercising professional judgement and complying with existing auditing and ethical standards. Key Highlights include:

- Technology enhances audit quality, not auditor responsibility - AI, data analytics and automated tools can improve efficiency and risk identification, but the auditor retains full responsibility for the audit opinion and professional judgement.
- Technology-generated outputs must be evaluated for relevance, reliability and sufficiency with the same rigour as any other audit evidence.
- Auditors must guard against automation bias and critically evaluate technology outputs rather than relying on them blindly.
- Tools should be validated, approved, monitored continuously and re-assessed when there are material changes to models, data sources or configurations.
- Firms must ensure confidentiality of client data, maintain traceable documentation of technology-assisted procedures and be able to explain the use of technology in audits.

Insurance Regulatory and Development Authority of India (IRDAI)

Formats for publishing financial results as required under the SEBI (LODR) Regulations, 2015

IRDAI has revised the formats for publication of quarterly financial results by listed insurers and reinsurers following the adoption of Ind AS. The updated formats apply to listed life, general, health insurers and reinsurers preparing financial statements under Ind AS, while insurers granted forbearance for FY 2026–27 may continue using the existing formats.

The revised formats are intended solely to facilitate compliance with SEBI's LODR Regulations, 2015 and do not alter the financial reporting requirements under the Insurance Act, 1938, the IRDA Act, 1999 or the regulations made thereunder.

Clarifications on implementation of Indian Accounting Standards

IRDAI has issued additional clarifications on the implementation of Indian Accounting Standards (Ind AS) for insurers, covering the role of the Appointed Actuary, Independent Validation, and Ind AS-compliant financial statements for consolidation. Key highlights are:

- Clarifies the responsibilities of the Appointed Actuary in providing actuarial inputs for the preparation of Ind AS financial statements, including the valuation of policy liabilities and submission of a technical report to the Board and IRDAI. On first-time adoption, the report must also reconcile policy liabilities under the previous accounting framework with those reported under Ind AS.
- Mandates independent validation of its Ind AS implementation process during the first year of implementation viz., FY 2026–27, or FY 2027–28 for insurers granted regulatory forbearance. The validator must be an independent Chartered Accountant firm that is neither the insurer's statutory auditor nor its Ind AS implementation service provider or knowledge partner and must use actuarial inputs from an actuary independent of the insurer.
- The validation covers the adequacy and operating effectiveness of the insurer's implementation strategy, governance, accounting policies and methodologies, transition approach, data and models, systems readiness, documentation and internal controls, including ICFR. It is a validation of the implementation process and does not constitute an audit of the financial statements, an actuarial opinion on policy liabilities or assurance on the accuracy of the financial statements.
- The validator must be involved from the first quarter onwards and Validation Reports are to be submitted quarterly to the Board and annually to IRDAI before publication of audited Ind AS financial statements.
- Insurers granted regulatory forbearance may continue using Ind AS 104-compliant financial statements for consolidation until the end of the forbearance period.
- Provides FAQs clarifying the reporting and website-disclosure requirements for insurers under forbearance, the applicable submission timelines, the determination and documentation of foreign-currency risk-free yield curves under Ind AS 117, and the separate IRDAI circular governing the financial-result formats for listed insurers.

Ministry of Labour and Employment

Employees' Provident Funds Scheme, 2026

The Ministry of Labour and Employment has notified the Employees' Provident Funds Scheme, 2026 under the provisions of the Code on Social Security, 2020, superseding the Employees' Provident Funds Scheme, 1952. It shall come into force on the date of its publication in the Official Gazette. Subject to the provisions of sections 20, 21 and 143 of the Code on Social Security 2020, this Scheme shall apply –

- to every establishment, to which the Chapter III of the Code applies; and
- to every establishment belonging to or under the control of the Central Government or State Government or set up under any Central Act or State Act or any other law for the time being in force, employing such number of employees as specified in the First Schedule to the Code and whose employees are not entitled to the benefits of contributory provident fund or old age pension in accordance with any scheme or rules framed under that law.

Ministry of Corporate Affairs (MCA)

Extension of Companies Compliance Facilitation Scheme, 2026 (CCFS-2026)

MCA had introduced the Companies Compliance Facilitation Scheme, 2026 (CCFS-2026) to provide an opportunity to companies to complete pending statutory filings. The Scheme is presently valid up to 15th July 2026. In view of the capacity enhancement/restoration activities being done at data centre consequent to a fire incident on 05.06.2026, it has been decided to extend the validity of the Companies Compliance Facilitation Scheme, 2026 (CCFS-2026) up to August 31, 2026.

Reserve Bank of India (RBI)

The RBI has recently issued/ updated many its Directions effective from 31 July 2026. Some of the major updates relates to:

Fraud Risk Management

- Reserve Bank of India (Commercial Banks – Fraud Risk Management) Directions, 2026
- Reserve Bank of India (Small Finance Banks – Fraud Risk Management) Directions, 2026
- Reserve Bank of India (Payments Banks – Fraud Risk Management) Directions, 2026
- Reserve Bank of India (Urban Co-operative Banks – Fraud Risk Management) Directions, 2026
- Reserve Bank of India (Local Area Banks – Fraud Risk Management) Directions, 2026
- Reserve Bank of India (Rural Co-operative Banks – Fraud Risk Management) Directions, 2026
- Reserve Bank of India (Regional Rural Banks – Fraud Risk Management) Directions, 2026
- Reserve Bank of India (All India Financial Institutions – Fraud Risk Management) Directions, 2026
- Reserve Bank of India (Non-Banking Financial Companies– Fraud Risk Management) Directions, 2026

Statutory Audit

- Reserve Bank of India (Commercial Banks – Statutory Audit) Directions, 2026
- Reserve Bank of India (Small Finance Banks – Statutory Audit) Directions, 2026
- Reserve Bank of India (Payments Banks – Statutory Audit) Directions, 2026
- Reserve Bank of India (Urban Co-operative Banks - Statutory Audit) Directions, 2026
- Reserve Bank of India (Local Area Banks – Statutory Audit) Directions, 2026
- Reserve Bank of India (Rural Co-operative Banks - Statutory Audit) Directions, 2026
- Reserve Bank of India (Non-Banking Financial Companies - Statutory Audit) Directions, 2026

Fraud Risk Management

- Reserve Bank of India (Small Finance Banks – Financial Statements: Presentation and Disclosures) Fourth Amendment Directions, 2026
- Reserve Bank of India (Payments Banks – Financial Statements: Presentation and Disclosures) Second Amendment Directions, 2026
- Reserve Bank of India (Commercial Banks – Financial Statements: Presentation and Disclosures) Eighth Amendment Directions, 2026.

Other Regulatory Updates

Report of The Joint Committee on Corporate Laws (Amendments) Bill, 2026

The Joint Committee on the Corporate Laws (Amendment) Bill, 2026, has submitted its report on 3 August 2026, to both the houses of parliament recommending the adoption of the Bill with a series of clause wise modifications. The Joint Committee had invited clause-specific suggestions from experts, industry bodies, organisations and other stakeholders on the proposed amendments to the Companies Act, 2013 and LLP Act, 2008. The Bill broadly seeks to ease compliance, decriminalise procedural defaults, enhance National Financial Reporting Authority's (NFRA) enforcement power over auditors and tighten auditor independence.

The Corporate Affairs Ministry is expected to bring a revised Bill incorporating these recommendations in the Winter Session of Parliament.

REGULATORY UPDATES

Reserve Bank Of India (RBI):

RBI (Non-Banking Financial Companies – Credit Facilities) Second Amendment Directions, 2026

RBI vide its Amendment Directions dated 15 July 2026 has modified the RBI (Non-Banking Financial Companies – Credit Facilities) Directions, 2025 to provide greater flexibility in project financing, effective immediately.

Key Amendments include

- **Independent project units:** Non-Banking Financial Companies (NBFCs) may finance independently viable units of a project as separate projects, each with separate financial closure, subject to ex-ante standalone viability assessment.
- **Power projects:** For projects involving electricity generation and transmission/ evacuation infrastructure, the transmission right-of-way requirement may be determined as per the specified regulatory framework.

Reserve Bank of India (Non-Banking Financial Companies - Resolution of Stressed Assets) Second Amendment Directions, 2026

RBI vide its Amendment Directions dated 16 July 2026 has amended the RBI (NBFC – Resolution of Stressed Assets) Directions, 2025 to introduce a framework for the acquisition, valuation, disposal and reporting of Specified Non-Financial Assets ('SNFAs') acquired by NBFCs in satisfaction of claims, effective from 01 October 2026.

Key Amendments include

- **SNFA -** Immovable asset acquired by an NBFC in full/ partial satisfaction of a borrower's claims
- **Board Policy -** Board-approved policy required, including asset limits, eligibility, delegation, recovery measures and disposal within 7 years
- **Acquisition -** Permitted only against NPAs, subject to title transfer and independent control; partial extinguishment is treated as restructuring.
- **Valuation -** The SNFA shall be recognised at the lower of the proportionate Net Book Value ('NBV') of the extinguished exposure and the Distressed Sale Value ('DSV') of the SNFA determined by at least two independent external valuers
- **Disposal:** To be made at the earliest and within 7 years; preferably through public auction. Sale to the borrower/related parties is prohibited
- **Reporting:** SNFAs to be separately disclosed and excluded from specified asset-quality metrics, with reporting through CIMS / NHB as applicable.
- **Legacy SNFAs:** Existing SNFAs as of 30 September 2026, to comply by 30 September 2027

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

RBI, vide its Amendment Directions dated 16 July 2026, has amended the RBI IRACP Directions, 2025 following the introduction of prudential norms for Specified Non-Financial Assets ('SNFAs'), effective 1 October 2026

Income Recognition: Accrued but unrealised interest/ charges on extinguished exposures will not be recognised as income on acquisition of SNFAs. Any such income already recognised as of 30 September 2026 must be reversed by 30 September 2027. Income from SNFAs will be recognised on actual realisation, while upkeep expenses will be recognised when incurred

RBI Circular dated 17 July 2026 on Special Rupee Vostro Accounts ('SRVAs')

RBI, vide its circular dated 17 July 2026, has consolidated and rationalised the framework for International Trade Settlement in INR, superseding earlier circulars issued between July 2022 and October 2025

The revised framework, effective immediately, provides greater flexibility for SRVAs, including their opening by AD banks, use for permissible current and capital account transactions, broader funding options, investment of balances in debt instruments as permitted under RBI regulations, and continued compliance with applicable Foreign Exchange Management Act (FEMA) documentation and reporting requirements.

Securities And Exchange Board Of India (SEBI)

SEBI Circular dated 30 July 2026: 'Green-Channel: AIF Rollout Upon Document Acknowledgement' ('GARUDA') Mechanism for Processing of Placement Memorandum of Alternative Investment Funds (AIFs) filed with SEBI

SEBI, vide its circular dated 30 July 2026, has introduced the GARUDA (Green-Channel: AIF Rollout Upon Document Acknowledgement) mechanism for processing Placement Memorandums (PPMs) of Alternative Investment Funds (AIFs) to expedite AIF scheme launches.

Key requirements include -

- **Regular AIFs:** May undertake scheme launch 10 working days after filing the Placement Memorandum ('PPM') with SEBI through a Merchant Banker
- **Accredited Investor-only (AI-only) Funds:** May undertake scheme launch immediately upon filing the PPM with SEBI, without Merchant Banker certification
- **Large Value Funds for Accredited Investors (LVFs):** May undertake scheme launch upon filing/ registration, as applicable, without Merchant Banker certification
- **Angel Funds:** May undertake scheme launch immediately upon filing the PPM, without Merchant Banker certification
- **Merchant Banker Due Diligence:** Merchant Bankers remain responsible for due diligence and certification of PPMs for regular AIF schemes
- **AIF Manager Responsibility:** AIF Managers are responsible for ensuring the accuracy and completeness of PPM disclosures

SEBI (Issue and listing of securitised debt instruments and security receipts) (Amendment) Regulations, 2026

SEBI, vide its notification dated 01 July 2026, has amended the SEBI (Issue and Listing of Securitised Debt Instruments and Security Receipts) Regulations 2008, introducing changes to the governance and disclosure framework for securitised debt instruments and security receipts

The amendments, effective from the date of publication in the Official Gazette, include restrictions on the representation of RBI-regulated originators on the boards of special purpose distinct entities ('SPDEs'), revised eligibility and conflict-of-interest provisions for trustees, replacement of the term "originator" with "servicer" in specified provisions, enhanced investor protection measures, and additional disclosure requirements relating to concentration risk arising from single asset securitisation.

SEBI (Foreign Portfolio Investors) (Amendment) Regulations, 2026

SEBI, vide its notification dated 03 July 2026, has amended the SEBI (Foreign Portfolio Investors) Regulations, 2019 to simplify FPI registration and rationalise fee payments.

The amendment replaces US dollar-denominated fees with Indian rupee amounts payable in eligible foreign exchange equivalent, revises the timeline for payment and remittance of registration fees, requires disclosure of the FPI's date of birth/ incorporation in the registration form, and updates certain operational provisions.

The regulations will come into force 180 days from the date of publication in the Official Gazette, except for the specified provision relating to the registration form, which takes effect immediately

Master Circular for Merchant Bankers registered with SEBI

SEBI, on 14 July 2026, has issued an updated Master Circular for Merchant Bankers, consolidating applicable circulars, directions and regulatory requirements into a single reference document

The Master Circular incorporates changes arising from the SEBI (Merchant Bankers) (Amendment) Regulations, 2025, effective January 3, 2026, along with updated compliance timelines and operational requirements

The update aims to streamline regulatory guidelines, ease of compliance and strengthen governance standards for merchant bankers

Circular dated 21 July 2026: Certification Requirements for Distribution of Specialized Investment Funds ('SIFs')

SEBI, vide its circular dated 21 July 2026, has revised the certification requirements for SIF distributors.

The distributors must hold NISM Series V-D-Mutual Fund-SIF Distributors Certification, which also permits mutual fund distribution without a separate NISM Series V-A certification. The NISM Series XIII – Common Derivatives Certification requirement for SIF distribution will be withdrawn from 21 September 2026

The existing NISM Series V-A certification will continue to apply to distributors engaged exclusively in mutual fund distribution

The revised framework is effective immediately.

Circular dated 23 July 2026: Ease of Doing Investment and Ease of Doing Business - Simplification and standardisation of the framework for transmission of securities

SEBI circular dated 23 July 2026 aims to simplify and standardise the process for transmission of securities to legal heirs / nominees by consolidating and streamlining the existing requirements and procedures.

Key features include -

Harmonised framework: Standardised, risk-based transmission process

Quick Transmission Processing ('QTP'): Introduced for low-value claims: INR 10,000 (physical) and INR 30,000 (demat)

Simplified documentation threshold: INR 10 lakh (physical)* and INR 30 lakh (demat)

*Listed entities may enhance the INR 10 lakh threshold for physical securities at their discretion

Documentation simplification: Probate of Will is no longer mandatory; a combined affidavit-cum-NOC is introduced; QR-enabled death certificates are accepted; and additional verification mechanisms are provided for foreign death certificates

The framework applies to listed entities, RTAs, Depositories, DPs, AMCs and Mutual Funds and will come into force 30 days from the date of issuance.

SEBI Circular dated 10 July 2026 - Intraday Borrowing Facility Availed by Mutual Funds

SEBI vide its circular dated 10 July 2026 has permitted mutual funds to avail intraday borrowings to address liquidity mismatches arising from settlement timing differences.

The facility may be used for unitholder payouts, investment settlements, MTM / forex settlements and repayment of existing borrowings, subject to prescribed conditions.

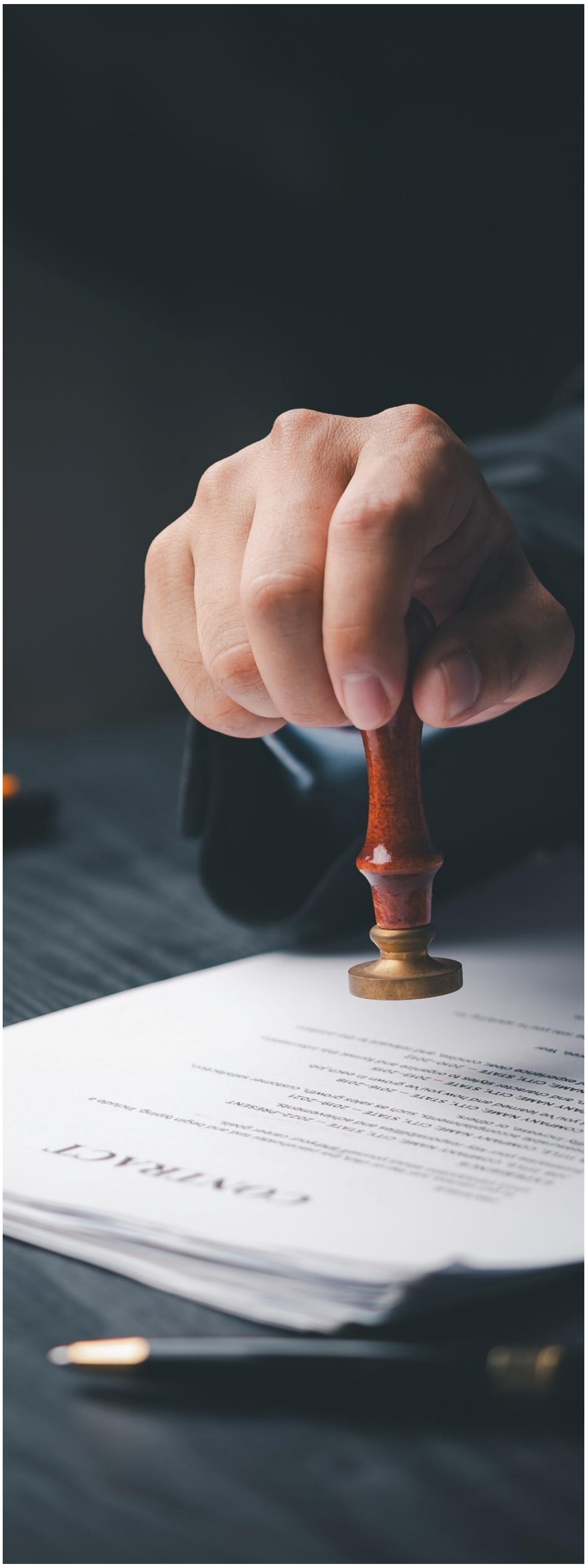
Asset management companies ('AMCs') must ensure same-day repayment and have a Board-approved policy, controls and monitoring mechanism.

The circular is effective from 01 September 2026

Institute of Chartered Accountants of India (ICAI)

Announcement dated 25 July 2026: Increase in time-limit for transfer of goodwill of a deceased member's proprietary firm

The Council of the ICAI has approved an increase in the time limit for the transfer of goodwill of a proprietary firm of a deceased member from one year to three years from the date of the member's death



Circulars / Notifications / Press Release

CBDT notifies Cost Inflation Index for the Tax Year 2026-27

Cost Inflation Index ('CII') is notified annually by the Central Board of Taxes ('CBDT') and is used to compute indexed cost of acquisition and cost of improvement for the purpose of calculating capital gains arising from the transfer of long-term capital assets. Pursuant to the powers conferred under Section 72(8)(a) of the Income-tax Act, 2025 ('IT Act 2025'), the CBDT has notified the CII for Fiscal Year ('FY') 2026-27 as '384'. The notification shall apply to tax year 2026-27 on and from 1 April 2026 and subsequent tax years.

[Notification No. 85/2026, F.No. 370149/112/2026-TPL, dated 15 July 2026]

CBDT issues clarificatory FAQs related to transition provisions under Section 536 of the Income-tax Act, 2025 - Repeals and Savings

Section 536 of the IT Act, 2025 deals with repeal and savings of the provisions of the Income-tax Act, 1961 ('the Act'). CBDT has issued a set of Frequently Asked Questions ('FAQs') vide its Office Memorandum dated 6 July 2026 to explain these transition-related provisions. The FAQs cover clarifications relating to:

a) Summons and notices;

b) Search, requisition and post-search proceedings;

c) Power to call for information;

d) Jurisdiction, permanent account number ('PAN') migration and search cases;

e) Provisional attachment, attachment and recovery;

f) Director's liability, penalties, tax clearance, prosecution and retention;

g) Applications seeking benefits under the Income-tax Act, 1961

h) Pending application under Section 12AB/80G of the Income-tax Act, 1961

i) Pending lower deduction certificates/no deduction certificate applications.

[Office Memorandum F.No.370149/107/2026-TPL dated 6 July 2026]

CBDT amends the definition of 'specified fund' under Rule 157 of the Income-tax Rules, 2026

CBDT has notified the Income-tax (Second Amendment) Rules, 2026, to substitute the definition of 'specified fund' in Rule 157(5)(c) of the Income-tax Rules, 2026 ('IT Rules 2026'). As per the amended definition, 'specified fund' now means:

i. Any fund established or incorporated in India in the form of a trust or a company or a limited liability partnership or a body corporate which has been granted a certificate of registration as a Category I or Category II Alternative Investment Fund and is regulated under —

   - The Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012 made under the Securities and Exchange Board of India Act, 1992; or
   - The International Financial Services Centres Authority (Fund Management) Regulations, 2022 made under the International Financial Services Centres Authority Act, 2019 and which is located in any International Financial Services Centre; or

ii. Any fund which has been referred to in Schedule VI[Note 1(g)] to the IT Act, 2025.

[Notification No. 94/2026/F. No. 370142/24/2026-TPL, dated 21 July 2026]

Cabinet of the Republic of Mauritius agrees to ratify the 2024 Protocol amending the India-Mauritius Double Taxation Avoidance Agreement, paving the way for a principal purpose test

The Double Taxation Avoidance Agreement ('DTAA') between India and Mauritius ('India-Mauritius tax treaty'), was amended by a Protocol signed on 7 March 2024 ('2024 Protocol') which incorporates the DTAA-related minimum standards flowing from the final report on Action Plan 6 of the Organisation for Economic Co-operation and Development ('OECD') Base Erosion and Profit Shifting ('BEPS') Project. The 2024 Protocol has provided for:

1. Substitution of the Preamble to reiterate the common intention of both the countries to eliminate double taxation without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance, and
2. Inclusion of an article on Entitlement to Benefits embodying the principal purpose test ('PPT').

The Cabinet of the Republic of Mauritius has at its meeting held on 17 July 2026 agreed to the promulgation of the Double Taxation Avoidance Agreement (India) (Amendment) Regulations 2026, giving effect to the 2024 Protocol. The 2024 Protocol would enter into force on the date on which the Indian authorities are notified of the completion of the Mauritian ratification procedures.

The Cabinet of the Republic of Mauritius has also agreed to the promulgation of the Income Tax (Qualified Domestic Minimum Top-up Tax) Regulations 2026. To supplement the legislative provisions of the Qualified Domestic Minimum Top-up Tax ('QDMTT') framework for its effective implementation, the Regulations provide, *inter alia*, details on how to compute the effective tax rate, how to apply the top-up tax as well as the persons excluded from the application of the domestic minimum top-up tax.

[Highlights of Cabinet Meeting, Republic of Mauritius, dated 17 July 2026]

CBDT releases Guidance Note on FATCA and CRS

CBDT has released a revised Guidance Note to guide Reporting Financial Institutions('RFIs'), Regulators and officers of the Income Tax Department in complying with the reporting obligations contained in Section 508 of the IT Act 2025 and in Rules 238 to 240 and Form 166 of the IT Rules 2026. The revised edition realigns the earlier guidance dated 30 November 2016 with the IT Act 2025, IT Rules, 2026 and the Consolidated Text of the Common Reporting Standard('CRS') issued by the OECD in 2025.

[Guidance Note on FATCA and CRS, released on 24 July 2026]

CBDT releases Guidance Note on reporting obligations of Crypto-Asset Service Providers under the Crypto-Asset Reporting Framework

CBDT has released a Guidance Note on the reporting obligations of Reporting Crypto-Asset Service Providers ('RCASPs') for compliance with Section 509 of the IT Act 2025 and Rules 241 to 244 and Form 167 of the IT Rules 2026. The Guidance Note covers the scope of crypto assets to be covered, intermediaries and other service providers in scope, identifying where RCASPs should report, identification of reportable persons, due diligence procedures, reporting requirements, etc.

[Guidance Note on Crypto-Asset Reporting Obligations, released on 24 July 2026]

Central Government notifies Protocol amending the India-Sri Lanka DTAA, inserting principal purpose test

The Central Government has notified a Protocol amending the India-Sri Lanka DTAA ('the Agreement'). The Protocol was signed on 16 December 2024. The date of entry into force for the Protocol is 19 June 2026.

In the absence of a Covered Tax Agreement between India and Sri Lanka under the Multilateral Instrument ('MLI'), the Protocol now explicitly replaces the preamble to the DTAA and inserts the principal purpose test in the DTAA to align with the internationally accepted standards.

The provisions of the Protocol would be effective in India in respect of income derived in any fiscal year beginning on or after the first day of April next following the calendar year in which the Agreement enters into force (i.e., Tax year 2027-28).

[Notification No. 88/2026/F. No. 503/8/2005-FTD-II, dated 16 July 2026]

JUDICIAL UPDATES

Mumbai Tax Tribunal holds that periodic visits by an officer of the taxpayer's overseas managing agent to an Indian agent's premises do not create a fixed place PE in India

The taxpayer is a company incorporated in Mauritius, engaged in the business of transportation of goods by sea as a non-vessel owning container carrier, i.e., it owns containers and moves cargo in such containers through slots purchased on ships. During various years under consideration, the taxpayer computed income @ 7.5% of gross receipts towards freight under Section 44B of the Act and offered nil income by claiming exemption under Article 8 of the India-Mauritius DTAA.

The tax authorities denied the benefit under Article 8 of the India-Mauritius DTAA on the footing that the taxpayer's 'place of effective management' is situated neither in Mauritius nor in India, but in Dubai. The tax authorities observed that taxpayer has an Indian agent who conducts business operations in India on behalf of the taxpayer. Further, worldwide operations of the taxpayer were managed by one of the Dubai entities, and employees of the Dubai entity regularly visited India and used the premises of the Indian agent for conducting business affairs. Accordingly, the tax officer proceeded to hold that the Indian agent constituted both a dependent agent permanent establishment ('DAPE') under Article 5(4) and a fixed place permanent establishment ('PE') under Article 5(1) of the India-Mauritius DTAA. Aggrieved, the taxpayer filed an appeal before the First Appellate Authority. The First Appellate Authority held that the Indian agent, being an agent of independent status, is not a DAPE, but upheld the existence of a fixed place PE by placing reliance on the Apex Court ruling in Hyatt International South West Asia Ltd.[1], after which appeals and cross appeals were filed by the taxpayer and the tax authorities before the Mumbai Bench of the Income Tax Appellate Tribunal ('Tax Tribunal').

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

Re. Applicability of Article 8 of India-Mauritius DTAA

- The issue is covered against the taxpayer by consistent orders of the Tax Tribunal in its own case for earlier fiscal years, holding that the place of effective management is situated neither in Mauritius nor in India, and accordingly the beneficial provisions of Article 8 of the India-Mauritius DTAA are not available.

Re. Fixed place PE

- Two cumulative tests are required to be satisfied for establishing fixed place PE as per Article 5(1) of the India-Mauritius DTAA, that is, there must be a fixed place at the disposal of the non-resident in India (disposal test), and the non-resident must carry on its business through such fixed place (business activity test).
- The General Manager concerned is not an employee of the taxpayer but of the Dubai entity, who visits India once in 3 to 4 months for approximately a week, aggregating to not more than 30 to 40 days in a year, and is accommodated in the conference room of the Indian agent.
- During his visit, the General Manager does not exercise any control in the mode and manner of business carried out by the agent.
- Further, a premise can be regarded as a fixed place only when it is at the disposal of a person who can exercise control over the premises and use it at his own discretion, which is not established on the record.
- The statement recorded during the survey nowhere demonstrates that the visiting officer carried out any business activity of the taxpayer in India. On the contrary, it establishes that it is the Indian agent which negotiates with customers, sources cargo, collects freight and remits the balance to the taxpayer after deducting expenses and commission.
- No dedicated desk or designated permanent space has been set up by the taxpayer or its managing agent within the Indian agent's premises.
- The Indian agent was using its own tracking software even prior to April 2014, and the substitution of that software by the taxpayer's application does not bring about any perceptible change in the nature of the Indian agent's work or establish supervision and control over Indian operations.
- The reliance placed on Hyatt International South West Asia Ltd.(supra) is misplaced, as the factual position therein demonstrated that it had a fixed place at its disposal and business was carried on from such place.
- There is no distinct change in the factual position between the pre-survey and post-survey periods and the earlier orders of the Tax Tribunal in the taxpayer's own case continue to hold good.
- Further, as held in E Funds IT Solution Inc.[2], the burden of demonstrating the existence of a PE lies on the tax authorities, which has not been discharged. Hence in absence of PE, no part of receipts which are in the nature of business can be made taxable in India.

Re. Dependent Agent PE

- The Indian agent is not working exclusively for the taxpayer and acts in an independent capacity for various other entities in the ordinary course of its business.
- Commission income earned by the Indian agent from the taxpayer ranged between 25.76% and 49% of its total receipts.

  Further, past decisions of co-ordinate benches in the taxpayer's own case have held that the taxpayer does not have DAPE in India as per Article 5(4) of the India-Mauritius DTAA, as the Indian agent retained the status of an independent agent.

  Thus, the Tax Tribunal ruled that the taxpayer had neither fixed place PE nor DAPE in India and, thus, in the absence of any PE, no part of the business receipts can be made taxable in India.

  [Bay Lines and Arc Lines vs. DCIT (Int. Tax.) - IT(IT)A Nos. 520 to 524/Mum/2026, ITA Nos. 583, 584, 516, 565/Mum/2026 and multiple cross-appeals (Mumbai ITAT)]

[1] Hyatt International South West Asia Ltd. [2025] 176 taxmann.com 683 (SC)
[2] ADIT vs. E Funds IT Solution Inc. [2017] 86 taxmann.com 2000 (SC)

Visakhapatnam Tax Tribunal holds that fresh allotment of shares by a company does not constitute ‘receipt of property’

The taxpayer, an individual, was allotted certain equity shares by M/s. Sardar Projects Private Limited (‘the company’) at face value during FY 2013-14. Based on information that these shares were issued substantially below their fair market value (‘FMV’), the tax officer initiated re-assessment proceedings and, after computing FMV of shares, brought the differential amount to tax as deemed income under Section 56(2)(vii)(c)(ii) of the Act. On appeal, the First Appellate Authority deleted the larger addition relying on an earlier Tribunal ruling in the taxpayer's brother's case[3]. The tax authorities filed an appeal before the Visakhapatnam Bench of the Tax Tribunal.

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

- Section 56(2)(vii)(c) of the Act uses the expression ‘receives’ property from another person. The provision does not use ‘is allotted’ or ‘is issued’. The expression ‘receives’ necessarily presupposes the prior existence of the property which is received.
- There is a well-recognised distinction in company law between allotment of fresh shares and transfer of existing shares. An allotment is the company's appropriation of a portion of its unissued share capital to a person, so the shares do not exist as property in anyone's hands until allotment. On the other hand, a transfer involves passing an existing share from one holder to another.
- Reliance is placed on the Supreme Court's ruling in Khoday Distilleries Ltd[4], the Gujarat High Court's ruling in Jigar Jashwantlal Shah[5], and the coordinate Hyderabad ITAT ruling in Thermodyne Dynamics Pvt. Ltd[6] wherein it has been held that issuance of fresh shares results in creation of share capital, not transfer of an existing property. Further, the deeming fiction under Section 56 of the Act applies only when an existing property is received from another person and not when the company creates new shares upon allotment.
- The deeming provisions contained in Section 56(2)(vii)(c)(ii) of the Act create a legal fiction requiring strict construction. Accordingly, in the absence of clear statutory language covering fresh allotments, the provision cannot be extended to transactions not expressly covered by Parliament.

The Tax Tribunal ruled that fresh allotment of shares by a company does not constitute ‘receipt of property’ and would not be taxable under the provisions of section 56(2)(vii).

[ACIT vs. Ramesh Chandra Yarlagadda, ITA No. 642 & 643 of 2025 (Visakhapatnam ITAT)]

Bangalore Tax Tribunal held that repurchase of stock options before exercise would be taxable as capital gains and not as salary

The taxpayer, an individual, was employed during FY 2019-20 with Flipkart Internet Private Ltd. (‘FIPL’), a company incorporated in India and a step-down subsidiary of Flipkart Private Limited, Singapore (‘FKS’). The taxpayer was granted stock options under the stock option scheme of FKS. This amount was reflected in Form 16 (salary certificate) as perquisite taxable u/s 17(2) of the Act. For fiscal year 2019-20, certain stock options granted to the taxpayer were repurchased by FKS. The taxpayer offered purchase consideration to tax as long-term capital gains. The tax authorities initiated reassessment proceedings on the ground that the income was offered to tax at a lower rate of 20% instead of the applicable slab rate of 30%, and the letter of offer for repurchase stated that the entire consideration would be taxable as a perquisite under the head 'Salaries'. On appeal, the first appellate authority upheld the tax officer's findings.

The Tax Tribunal allowed taxpayer's appeal and made the following observations:

- The security offered under the stock option scheme can be considered to be 'specified security' under Section 17(2)(vi) only upon exercise by the taxpayer, and the perquisite value of such specified security can be computed only after such exercise. In the case of B.C. Srinivasa Setty[7], the Apex Court held that when in a case the computation provisions cannot apply, such a case would not fall within the charging section. Since the options were never exercised and no shares were ever allotted to the taxpayer, no 'specified security' has come into existence and therefore, the charging provisions relating to perquisites would fail.
- The definition of ‘short term capital asset’ in clause (e) of Explanation 1 to Section 2(42A) treats a right to subscribe to any financial asset as a capital asset. The stock options, being a right to subscribe to shares at a future date, constitute a capital asset and their repurchase amounts to 'transfer', giving rise to long-term capital gains taxable under the Act.
- Tax treatment stated in the letter of offer is merely an indicative summary. It cannot determine taxability. The arrangement between the parties does not determine the tax liability of any assessee and the same needs to be ascertained only on the basis of the law.
- The withholding of tax by the payer is not the ultimate factor in taxability of income.
- The tax authorities' reliance on the Madras High Court[8] decision was misplaced, as it involved a taxpayer who retained all stock options after receiving compensation for a business divestment, unlike the repurchase of options in the present case.

The Tax Tribunal ruled that repurchase of stock options before exercise would be taxable as capital gains and not as salary income.

[Pramod Kumar Jain vs. DCIT, ITA No. 3034/Bang/2025 (Bangalore ITAT)]

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[3] ACIT vs. Y.Venkanna Choudary ITA No. 272/Viz/2018 (Vishakhapatnam ITAT)
[4] Khoday Distilleries Ltd. vs. CIT (2008) 307 ITR 312 (SC)
[5] Jigar Jashwantlal Shah vs. PCIT (2024) 468 ITR 628 (Gujarat HC)
[6] Thermodyne Dynamics Pvt. Ltd. vs. ITO (ITA 500/Hyd/2020) (Hyderabad ITAT)
[7] CIT vs. B.C. Srinivasa Setty [1981] 128 ITR 294 (SC)
[8] Nishithkumar Mukeshkumar Mehta vs. DCIT [2024] 165 taxmann.com 386 (Madras HC)

Mumbai Tax Tribunal holds that AMP expenditure on an already-operational streaming platform is revenue in nature

The taxpayer is engaged in online video-streaming and e-sports business through its streaming platform 'Loco'. For FY 2021-22, the taxpayer incurred marketing and advertisement ('AMP') expenditure and claimed the entire amount as revenue expenditure under Section 37(1) of the Act. The tax officer allowed only 20% of this expenditure and treated the balance as capital expenditure eligible for amortisation under Section 35D of the Act, holding that the expenditure built an enduring brand advantage.

On appeal, the First Appellate Authority deleted the addition. Aggrieved, the tax authorities filed an appeal before the Mumbai Bench of the Tax Tribunal.

The Tax Tribunal, while dismissing the appeal, made the following key observations:

- 'Loco' was an already existing and operationalised business asset and not a newly created venture.
- AMP spend was for promoting and expanding an existing business, not for setting up a new one.
- As held in Empire Jute Co. Ltd[9], the 'enduring benefit' test is not conclusive; expenditure that merely facilitates the carrying on of business more efficiently, without creating an asset in the capital field, retains its character as revenue in nature.
- A comparative detail demonstrated similar AMP expenditure being incurred by the taxpayer in subsequent years as well, establishing that the spend was recurring in the ordinary course of business.
- Merely because the AMP expenditure was large in comparison to the revenue generated does not, by itself, justify its characterisation as capital expenditure, absent any finding that a new capital asset or any advantage was created.

The Tax Tribunal ruled that AMP expenditure is revenue in nature as per the provisions of section 37(1) of the Act and could not have been subjected to amortisation under section 35D of the Act.

[ITO vs. Stoughton Street Tech Labs Pvt. Ltd., ITA No. 885/Mum/2026 & ITA No. 268/Mum/2026 (Mumbai ITAT)]

Mumbai Tax Tribunal held that expatriate salary in respect of employees deputed to the Indian PE falls outside the scope of head office expenditure and rules on applicability of non-discrimination clause under India- United Kingdom DTAA for claiming head office expenditure in excess of limits prescribed

The taxpayer, a bank incorporated under the laws of England and Wales, is engaged in the business of banking, financial services and allied activities, in India through its branch constituting its PE in India. For FYs 2003-04 and 2004-05, the taxpayer, *inter alia*, had claimed deduction for salary of employees deputed by the head office in United Kingdom ('UK') to India branch, including amount paid to employees by head office and subsequently reimbursed by India branch to head office, as deduction of expenditure under general provisions of Section 37(1) of the Act. Section 44C of the Act places a statutory ceiling on the quantum of deduction of executive and general administrative expenditure incurred outside India by the head office of a non-resident enterprise. The taxpayer claimed that in view of the non-discrimination clause in Article 26(2) of the India-UK DTAA and the decision in the case of Metchem Canada Inc.[10], it was entitled to claim deduction of entire head office expenditure without applying limits prescribed in Section 44C of the Act. Even if salary expenses are treated as head office expenditure, it would be allowed as a deduction as head office expenditure. The tax authority treated the expatriate salary reimbursed to the head office as head office expenditure governed by Section 44C of the IT Act and disallowed head office expenditure, including expatriate salary reimbursement, in excess of limits prescribed in Section 44C. On appeal by the taxpayer, the First Appellate Authority granted relief on the disallowance of salary expenses and head office expenses but confirmed additions made by tax authority on certain other issues. Aggrieved by the order of the First Appellate Authority, both the taxpayer and the tax authorities preferred an appeal before the Tax Tribunal.

Before the Tax Tribunal, the tax authorities contended that in view of the Supreme Court decision in the case of American Express Bank Ltd.[11], once the expenditure falls within the ambit of 'head office expenditure', the deduction is subject to the restriction prescribed under Section 44C. Also, attribution of profits to a PE under Article 7 of the India-UK DTAA is subject to the provisions of the Act, thereby requiring application of Section 44C. The provisions of Section 44C cannot be regarded as discriminatory merely because a similar restriction does not apply to resident enterprises in India.

The Tax Tribunal dealt with various issues raised in the appeal and, while ruling on the issues relating to applicability of Section 44C to expatriate salary and applicability of the non-discrimination clause, made the following key observations:

Expatriate salary reimbursed to head office

- The applicability of Section 44C depends on the nature and character of the expenditure and not merely on the fact that payment is made from outside India.

[9] Empire Jute Co. Ltd. v. CIT (124 ITR 1 SC)
[10] Metchem Canada Inc. vs. DCIT [2006] 100 ITD 251 (Mumbai Trib)
[11] DIT v. American Express Bank Ltd. [2025] 181 taxmann.com 433 (SC)

- The expatriate employees are deputed to India for a period of two to three years, are heading various functional divisions and are exclusively engaged in carrying out the business activities of the Indian branch. The expenditure therefore represents salary cost in the hands of the taxpayer for services rendered in India, having a direct nexus with the business operations carried on in India.
- The expenditure is neither incurred for managing any office outside India nor is it in the nature of common executive and administrative overheads of the head office requiring allocation between Indian and overseas operations and cannot be regarded as 'head office expenditure' merely because the salary component is initially disbursed by the head office.
- Allowability under Section 37(1) of the Act is to be tested by reference to the purpose for which the expenditure is incurred and not merely on the basis of the entity from which the payment originates.
- Under Article 7 of the India-UK DTAA, deduction is required to be allowed for expenses incurred for the purposes of the PE, whether incurred in the state in which the PE is situated or elsewhere. As the salary is incurred wholly for the purposes of the Indian PE, it is allowable while computing profits attributable to the PE.
- It has consistently been held in the taxpayer's own case for earlier years that expatriate salary expenditure incurred for the Indian branch is allowable expenditure and cannot be treated as head office expenditure under Section 44C.
- In respect of the entire salary component, withholding tax provisions have been complied with in India and are offered to tax by the concerned employees under the head 'Salaries'. The overseas disbursement is only a mode of payment, and its subsequent reimbursement by the Indian PE cannot be regarded as consideration for any independent service rendered by the head office.

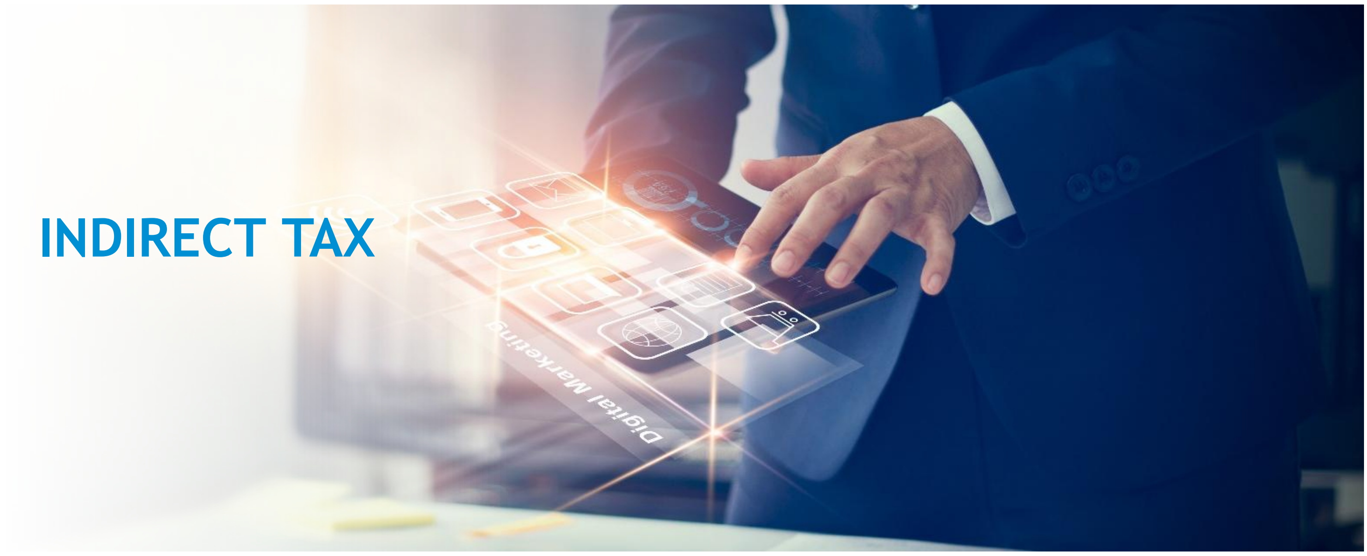
Accordingly, the disallowances made by the tax authority were to be deleted.

Deduction of head office expenditure

- The decision in the case of American Express Bank Ltd. (supra) was rendered in the context of Article 7(3) of India -US DTAA. The provisions of India-UK DTAA are materially different.
- Article 7(4) of the India-UK DTAA expressly preserves the customary domestic mechanism of attributing profits to a PE by apportionment, and Article 7(5) permits deduction of expenses of the PE only 'in accordance with the provisions of and subject to the limitations of the taxation laws of that State'. Section 44C of the Act constitutes one such domestic limitation contemplated by the DTAA.
- Section 44C of the Act cannot be held to be discriminatory in every case merely because it applies only to non-resident enterprises. Such a category of expenditure is peculiar to enterprises having their head office outside India and ordinarily does not arise in case of a resident Indian enterprise. The legislative classification is founded on the peculiar nature of the expenditure sought to be regulated.
- At the same time, Article 26(2) of India-UK DTAA is not rendered useless. Article 26(2) has a unique language and clarifies that the non-discrimination clause is not intended to override the attribution mechanism provided by Article 7(4).
- The decisions cited by the taxpayer do not examine the scope of Article 7(4) or the concluding portion of Article 26(2). These decisions cannot be understood as laying down the proposition that Section 44C is inapplicable in every case. Equally, it cannot be held that Article 26(2) can never have any application to the operation of Section 44C.

The Tax Tribunal held that in absence of such foundational facts, the matter is restored to the tax officer to classify the expenditure with reference to the Explanation to Section 44C of the Act and thereafter re-examine allowability, including the claim under Article 26(2), after affording adequate opportunity of being heard to the assessee.

[DCIT (International Taxation) v. Standard Chartered Bank – ITA Nos. 4247, 4275, 4264 and 4265/Mum/2025, order dated 16 July 2026 (Mumbai ITAT)]



INDIRECT TAX

LEGISLATIVE UPDATES

Goods and Services Tax

Clarification on filing of departmental appeal before Goods and Services Tax Appellate Tribunal ('GSTAT') where the matter stands adjudicated by a Common Adjudicating Authority ('CAA')

Where Show-cause Notices issued by the Directorate General of Goods and Services Tax Intelligence (DGGI) are adjudicated by designated Additional/Joint Commissioners of Central Tax with pan-India jurisdiction (CAA), it has been clarified by the Central Board of Indirect Taxes and Customs (CBIC) that the competent reviewing authority and the appropriate jurisdiction for departmental appeals against orders passed by the First Appellate Authority ('FAA') before GSTAT. Accordingly, the CBIC has *inter alia* clarified the following:

- The FAA, upon passing the order, shall upload the same on the common portal and forward a copy to the Pr. Commissioner/Commissioner of CGST Commissionerate having jurisdiction over CAA.
- The aforesaid Pr. Commissioner/Commissioner shall examine the order, after seeking comments and inputs from the DGGI (if required) and forward his comments along with his recommendations to the jurisdictional CGST officers, i.e., Pr. Commissioners/Commissioners of the taxable persons/ noticees covered by the Order-in-original ('jurisdictional CGST officers').
- The jurisdictional CGST officers shall be the reviewing authority under Section 112(3) of Central Goods and Services Tax Act, 2017 ('CGST Act') and may, by order, appoint and direct a subordinate officer to file and pursue the departmental appeal before the GSTAT.
- Separate appeals must be filed for each taxable person/noticee by the jurisdictional CGST officers before the Bench of the GSTAT having territorial jurisdiction over such taxable person/ noticee (and not the Bench having jurisdiction over the Commissionerate of the CAA).
- The jurisdictional CGST officers shall intimate the Pr. Commissioner/Commissioner having jurisdiction over the CAA of the appeal filed, along with a copy thereof, and shall likewise intimate cases where it is decided that no departmental appeal is to be filed.

[Source: Circular no:256/02/2026-GST dated 25 July 2026]

Working Group constituted to examine centralised administration of taxpayers having multiple GSTINs under the same PAN

With a view to promote 'ease of doing business' and enhance administrative efficiency, the CBIC is examining a proposal for centralised administration of taxpayers (having the same PAN) holding multiple GSTINs registered under various Central Tax jurisdictions. Accordingly, a Working Group has been constituted *inter alia* with the following Terms of Reference:

- To examine the difficulties arising on account of multiple tax administrations for taxpayers having the same PAN but multiple GSTINs registered in various States/Union Territories ('UT').
- To study the centralised registration and Large Taxpayer Unit mechanism under the erstwhile indirect tax regime as well as international best practices.

- To recommend the extent of coverage of the taxpayers under the proposed centralised administration:
  - Whether only the taxpayers (with same PAN) and having multiple GSYINs, all of which are registered under the central tax jurisdiction and none with the States/UT tax jurisdiction; or
  - Whether to also include Central Tax jurisdiction GSTINs of the taxpayers (with same PAN) and having multiple GSTINs, some of which are registered with central tax jurisdiction and some with the States/UT tax jurisdiction?
- To recommend the principles and modalities for determining the administering jurisdiction.

The Working Group is required to submit its report, along with a detailed implementation roadmap and draft proposals within 30 days from the date of the office memorandum.

[Source: Office Memorandum F. No. 20019/2/2026-GST dated 18 July 2026]

Customs

Drawback under Section 74 or refund under Section 27 to be granted by way of re-credit where import duty was discharged through duty credit scrips

Divergent practices were being followed by the field formations in cases where the import duty liability was discharged, wholly or partly, through duty credit scrips, with some formations re-crediting the scrips or issuing re-credit certificates and others granting the benefit in cash. This was also highlighted in Para 5.3 of the C&AG's Report no:33/2025 on the Duty Drawback Scheme. CBIC has now clarified that wherever the duty has been paid through scrip(s) at the time of import, the drawback under Section 74 or refund under Section 27 of the Customs Act, 1962 ('Customs Act'), as the case may be, shall be granted through re-credit and not in cash. Accordingly, the following clarifications are issued:

- Where the duty was paid through RoDTEP/RoSCTL scrips, the amount shall be re-credited into the electronic credit ledger of the Importer Exporter Code ('IEC') holder and shall be available for generation of e-scrip(s), utilisable in the manner prescribed under notification no:75/2021-Customs (NT) dated 23 September 2021. The necessary module on the Customs Automated System is under development and a detailed advisory will follow.
- In cases involving legacy schemes such as MEIS, SEIS, etc., where re-credit of the scrip is not feasible, the customs authority shall issue a re-credit certificate for revalidation of the duty credit scrips from DGFT, containing the details of the scrip utilised, the date of import of the goods subsequently re-exported and the amount debited at the time of import.

[Source: Circular no:30/2026-Customs dated 3 July 2026]

Standard format prescribed for Deficiency Memo issued in respect of drawback claims under Section 74 of the Customs Act

Pursuant to the observation in Audit Para 7.1 of the C&AG's Report no. 33 of 2025 wherein it was observed that no form was prescribed for the Deficiency Memo issued while processing duty drawback claims under Section 74 of the Customs Act, CBIC has directed the field formations to issue the Deficiency Memo in the standard format.

[Source: Circular no:31/2026-Customs dated 4 July 2026]

CBIC notifies tariff concessions under the India-UK Comprehensive Economic and Trade Agreement

Effective 15 July 2026, the first tranche of tariff concessions under India–UK Comprehensive Economic and Trade Agreement ('India-UK CETA') has been notified by prescribing the applicable rates of Basic Customs Duty ('BCD'), Agriculture Infrastructure and Development Cess ('AIDC') and Health Cess on goods imported from the United Kingdom.

[Source: Notification No. 29/2026-Customs dated 14 July 2026]

Framework notified for self-certification and authentication of Origin Declarations under the India-UK CETA

The Customs Tariff (Determination of Origin of Goods under Comprehensive Economic and Trade Agreement between India and the United Kingdom of Great Britain and Northern Ireland) Rules, 2026 has been notified *vide* notification no:62/2026-Customs (NT) and the same shall come into operation from 15 July 2026.

Further, the CBIC has taken steps to streamline the implementation of preferential trade benefits under the India-UK CETA. In this regard, it has issued a circular outlining the procedure for self-certification of origin declarations and a trade notice introducing the electronic filing and issuance of preferential Certificates of Origin, with the objective of enhancing efficiency, transparency, and ease of compliance for exporters and importers.

[Source: Notification no:62/2026-Customs (N.T.) dated 3 July 2026, Circular no:33/2026-Customs dated 13 July 2026 and Trade Notice no:11/2026-27 dated 13 July 2026]

Foreign Trade Policy

Aligning of ITC (HS) 2022 with amendments made vide Finance Act, 2026

Vide the Finance Act, 2026 ('FA 2026'), various changes have been made in the First Schedule to the Customs Tariff Act, 1975 ('CT Act') to harmonise certain entries with the Harmonised System of Nomenclature and to create new tariff lines in respect of certain entries. Accordingly, effective 22 July 2026, Schedule-I (Import Policy), ITC (HS) 2022 has been amended in sync with FA 2026. Similarly, Schedule-II (Export Policy), ITC (HS) 2022 has also been amended in line with FA 2026 with effect from 22 July 2026.

[Source: Notification no:24 & 26/2026-27 dated 22 July 2026]

JUDICIAL PRECEDENTS

Retrospective insertion of Section 16(5) of the CGST Act is curative and regularises ITC where GSTR-3B returns are filed up to 30 November 2021

M/s A2Z Infra Engineering Ltd. Vs. Union of India and Ors. [TS-484-HC(CAL)-2026-GST]

M/s A2Z Infra Engineering Ltd. ('Taxpayer') filed Form GSTR-3B for the period July 2018 to March 2020 beyond the prescribed due date but prior to 30 November 2021. However, *vide* Order-in-Original dated 6 March 2023, a demand of INR 42.29mn was confirmed for FY 2017-18 to 2019-20.

Thereafter, *vide* the Finance (No. 2) Act, 2024, Section 16(5) was inserted into the CGST Act with retrospective effect from 1 July 2017. This provision grants a one-time relaxation on time limit prescribed under Section 16(4) of CGST Act, allowing the registered taxpayers to avail ITC on invoices or debit notes relating to FY 2017-18 to FY 2020-21, provided such credit was claimed in a return filed under Section 39 on or before 30 November 2021. This amendment was introduced to address genuine hardships faced by taxpayers and to regularise eligible credits that could not be availed within the stipulated time.

Despite the aforesaid amendment, a rectified Order-in-Original dated 29 April 2024 ('Impugned Order') was passed under Section 73 of CGST Act where denial of ITC was confirmed for FY 2018-19. Aggrieved by the above, the Taxpayer filed a Writ Petition before the Calcutta High Court. The High Court, while setting aside the Impugned Order, held as under:

- In view of the amendment introduced under Section 16 of CGST Act, the taxpayer cannot be denied the benefit contemplated in Section 16(5), which is a beneficial and curative provision enacted with retrospective effect from 1 July 2017. Accordingly, eligible ITC claims must be examined in light of the extended time limit prescribed under the said provision.
- Reliance was placed on the decision of the coordinate bench of Calcutta High Court in ***Hiranmoy Dutta Vs. State of West Bengal, [2025 172 taxmann.com 750 (Calcutta)]***, wherein Court held that, considering the revised cut-off date introduced through Section 16(5), the taxpayer was entitled to avail the benefit of the amendment. The principle laid down therein squarely applies to the present case. Consequently, where the taxpayer has filed the relevant GSTR-3B returns on or before 30 November 2021, the corresponding ITC relating to the period from July 2018 to March 2020 would stand regularised.
- Accordingly, the Impugned Order was quashed and set aside. The tax authorities were directed to re-adjudicate within six weeks, after duly considering the implications of Section 16(5) of CGST Act and verifying the dates of filing of the relevant GSTR-3B returns. Further, no coercive action was permitted against the taxpayer until the completion of the re-adjudication proceedings.

Supply of food procured from third-party kitchens and delivered to corporate clients under a contract is a composite supply of service, taxable @18%

In Re: M/s Frutta Services Private Limited [2026-VIL-18-AAAR]

M/s. Frutta Services Private Limited ('Taxpayer') was engaged in supplying food and beverages to corporate clients for consumption by their employees. The Taxpayer did not prepare or manufacture the food itself; instead, it procured food items from third-party kitchens and vendors, arranged their delivery through external logistics service providers, and deployed personnel at client canteens to facilitate the serving of meals.

The Taxpayer approached the Tamil Nadu Authority for Advance Ruling ('AAR') seeking clarification on whether it could avail ITC and levy GST on its outward supplies based on the nature and classification of the food items procured from vendors, contending that it merely functioned as an aggregator of goods. The AAR rejected this contention and held that the Taxpayer's activity constituted a composite supply of service involving the supply of food, classifiable under SAC 996337, taxable at 18% GST (9% each of CGST and SGST) under Entry 7(vi) of Notification No. 11/2017-Central Tax (Rate) dated 28 June 2017 ('Rate Notification'). However, the AAR ruled that the Taxpayer was eligible to avail ITC on its inward supplies.

Aggrieved by the ruling, the Taxpayer filed an appeal before the Tamil Nadu State Appellate Authority for Advance Ruling ('AAAR'). After examining the nature of the activities undertaken by the Taxpayer, the AAAR affirmed the findings of the AAR and held as follows:

- **Taxpayer is not a mere aggregator of food**
  - The AAAR observed that the Taxpayer's role extended far beyond merely procuring and supplying food from third-party vendors.

   - Upon examining the agreements with the corporate clients and partner kitchens, it was noted that the Taxpayer actively participated in menu planning, coordinated with kitchens to finalise weekly menus, deployed a quality assurance team to monitor hygiene and operational standards, arranged transportation of food to client premises, supervised the return of delivery containers, and provided personnel for serving meals at client locations.
   - In view of this end-to-end involvement in the supply chain, the Taxpayer could not be regarded as a passive aggregator or intermediary of food supplies.
- **Supply of food is deemed to be a supply of service under Schedule II**
   - The AAAR relied on Paragraph 6(b) of Schedule II to the CGST Act, which deems the supply of food or any article for human consumption, provided as part of a service or in any manner whatsoever for consideration, to be a supply of service. Accordingly, the principal element of the transaction was identified as the supply of food, which, by virtue of the statutory deeming provision, is treated as a service under GST.
   - The Taxpayer's activity of supplying food to corporate customers under long-term contractual arrangements at specified industrial and institutional locations was therefore classifiable as "***other contract food services***" under SAC 996337.
- **Taxpayer's supply does not qualify as 'restaurant service'**
   - Since the CGST Act does not define the term "restaurant", the AAAR examined the ordinary meaning of the expression and the definition of "restaurant service" contained in the Rate Notification as per which, a restaurant ordinarily refers to an establishment where food is supplied for consumption, whether prepared on-site or elsewhere and whether consumed on the premises or taken away.
   - In the present case, the Taxpayer failed to establish the existence of any restaurant premises from which food was supplied. In fact, the Taxpayer had itself represented before the AAR that it functioned only as an aggregator or facilitator and not as a restaurant or caterer. Consequently, the activities undertaken by the Taxpayer could not be classified as restaurant services.
- **Supply of food falls under the residual Entry 7(vi) of Rate Notification, attracting GST @ 18%**
   - The AAAR further held that the Taxpayer's services could not be classified as outdoor catering services, as the Taxpayer neither prepared the food nor provided event-based or occasional catering services. Similarly, the services were clearly not covered under hotel accommodation services.
   - As restaurant services are confined to services provided by restaurants, messes or canteens, the contractual food supply arrangements undertaken for corporate clients did not fall within that category.
   - Since the activity did not fit within Entries 7(i) to 7(v) of the Rate Notification, the residual Entry 7(vi) was applicable to the present case. Accordingly, supply of food under contractual arrangements at industrial and institutional locations was classified under SAC 996337 and subjected to GST at 18% (9% each under CGST and SGST).
- **Taxpayer cannot be equated with an Electronic Commerce Operator ('ECO')**
   - The Taxpayer's contention that it should be treated similarly to an ECO for GST purposes was also rejected. The AAAR noted that the concessional 5% GST as applicable to restaurant services supplied through ECOs under Section 9(5) of CGST Act and notification no:17/2017-Central Tax (Rate) applies only where supplies are facilitated through a digital platform.
   - As the Taxpayer neither operated an electronic platform nor received orders through any digital marketplace, it could not be regarded as an ECO and was therefore ineligible for the concessional treatment available to such operators.
- **Reliance on agreements and the dominant intention test**
   - The AAAR rejected the argument that excessive reliance had been placed on contractual documents while determining the nature of the supply. It observed that GST is fundamentally a documentation-based tax regime and given the intangible nature of services, agreements constitute important evidence for identifying the true character of a transaction.
   - Applying the dominant intention test laid down in ***BSNL***[1], the principal and dominant element of the transaction was found to be the supply of food, which is statutorily treated as a supply of service under Schedule II to the CGST Act.
   - Therefore, the characterisation of the Taxpayer's activities as a supply of service remained unchanged notwithstanding the various ancillary activities involved in executing the contracts.
- In view of the above, the AAAR upheld the ruling of the AAR and dismissed the appeal filed by the Taxpayer.

[1] BSNL Vs. Union of India

Supreme Court upholds the constitutional validity of Section 16(2)(c) of the CGST Act

Bhandari Scrap Traders Vs. Union of India and Ors. [2026 (7) TMI 1839 - SC Order]

M/s. Bhandari Scrap Traders ('Taxpayer') challenged before the Supreme Court, the judgment of the Gujarat High Court (***Bhandari Scrap Traders Vs. Union of India & Ors. [2026 (5) TMI 127]***), wherein the constitutional validity of Section 16(2)(c) of the CGST Act was upheld. The said provision makes availment of ITC conditional upon the supplier having actually paid the tax collected on the supply to the Government.

While examining the matter, the Supreme Court considered the divergent view adopted by the Tripura High Court in ***Sahil Enterprises Vs. Union of India & Ors. [2026 (154) GSTR 108 (Tri.)]*** and ultimately affirmed the Gujarat High Court's decision, making the following significant observations:

- **Detailed analysis undertaken by the Gujarat High Court**
  - The Supreme Court noted that the Gujarat High Court had comprehensively examined the statutory framework of the CGST Act and contrasted it with the provisions of the Delhi Value Added Tax Act, 2004 ('DVAT Act').
  - Such detailed comparative analysis, particularly concerning the scheme governing availment and reversal of ITC under GST was not undertaken by the Tripura High Court in ***Sahil Enterprises (supra)***.
- **No parity between the Delhi VAT regime and the GST framework**
  - The Supreme Court observed that the Gujarat High Court had correctly highlighted the fundamental differences between the two legislative frameworks.
  - Consequently, a purchasing dealer under the GST regime cannot claim treatment similar to that accorded to a *bona fide* purchasing dealer under the DVAT Act where the supplier defaults in remitting the tax collected from customers.
  - The statutory design of GST expressly links entitlement to ITC with actual payment of tax by the supplier making such comparisons inappropriate.
- **Safeguards available under the CGST Act**
  - The Supreme Court further noted that the Gujarat High Court had duly considered Sections 41, 73 and 74 of the CGST Act.
  - These provisions contemplate situations where ITC may be reversed on account of supplier default but can subsequently be re-availed once the supplier discharges the outstanding tax liability.
  - Accordingly, the GST framework itself provides a mechanism for restoration of credit upon compliance by the defaulting supplier.
- **Section 16(2)(c) of CGST Act held to be constitutionally valid**
  - In light of the above analysis, the Supreme Court concluded that the Gujarat High Court was fully justified in rejecting the constitutional challenge to Section 16(2)(c) of CGST Act. The Court found no basis either to declare the provision unconstitutional or to read it down.
  - Expressing complete agreement with the reasoning adopted by the Gujarat High Court, the Supreme Court affirmed and upheld the judgment, thereby reiterating that compliance with the condition of tax payment by the supplier remains a statutory prerequisite for availment of ITC under the GST regime.

TRANSFER PRICING

Circulars / Notifications / Press Release

CBDT releases eighth Annual Report on Advance Pricing Agreement programme

The Central Board of Direct Taxes (‘CBDT’) has released the Advance Pricing Agreement (‘APA’) Annual Report for FY 2025-26. The report outlines key developments in India's APA programme, including its transition to the Income Tax Act 2025 and Income Tax Rules 2026.

The report highlights strong taxpayer participation, greater bilateral engagement with treaty partners, and CBDT's continued efforts to improve APA administration, reaffirming the programme's role in fostering a predictable, transparent and non-adversarial tax environment. Key highlights of the report are enlisted below:

- The CBDT signed 220 APAs (136 unilateral APAs and 84 bilateral APAs) during the year, representing the highest number of APAs signed since 2012.
- A total of 84 bilateral APAs were signed, surpassing the previous number of 65 bilateral APAs in 2024-25
- This year also witnessed a noticeable increase in renewal cases (86 out of 136 unilateral APAs and 22 out of 84 bilateral APAs), reflecting trust reposed by the taxpayers in the APA programme and preference for obtaining certainty.
- India's treaty partner network expanded as it signed bilateral APAs for the first time with France, Ireland, Indonesia and Switzerland.
- The APA programme has brought about tax certainty for 1332 tax years in FY 2025-26 and over 5500 years on a cumulative basis.
- Average time taken to conclude bilateral APAs was approx. 41.47 months.
- The report highlighted that the majority of cases were resolved using the Transaction Net Margin Method (TNMM) of transfer pricing, with a combination of other methods in a few cases.
- The OECD recognised India as the third fastest-growing APA programme globally, reporting growth of 103%.

[Annual Report on the Advance Pricing Agreement Programme for fiscal year 2025-26, Central Board of Direct Taxes, July 2026]

Judicial Updates

Chennai Tax Tribunal held that no adjustment towards notional interest can be made on outstanding trade receivables where the taxpayer is a debt-free company

The taxpayer is a company incorporated in India, engaged in the business of manufacturing tractors. For fiscal year (‘FY’) 2020-21, the transfer pricing officer (‘TPO’) made, *inter alia*, an adjustment towards notional interest on outstanding trade receivables from its associated enterprise (‘AE’). The taxpayer preferred an appeal before the first appellate authority, who confirmed the disallowance and granted partial relief on other grounds. Aggrieved, the taxpayer preferred an appeal before the Chennai Bench of the Income Tax Appellate Tribunal (‘Tax Tribunal’).

Before the Tax Tribunal, the taxpayer contended that it was a debt-free company with sufficient own funds and no interest-bearing borrowings. The taxpayer further contended that the trade receivables arose from normal sale transactions under a consistently applied credit period, on which no interest was charged even to third-party customers.

The Tax Tribunal, while allowing the appeal of the taxpayer, made the following observations:

- The taxpayer was found to be a debt-free company with sufficient own funds and no interest-bearing borrowings.
- The tax authorities had not brought any material on record to show that the delay in realisation of receivables resulted in any financing cost or economic prejudice to the taxpayer.
- No comparable uncontrolled transaction was placed on record to demonstrate that an independent enterprise would have charged interest on delayed receivables in similar circumstances.

Accordingly, the adjustment towards notional interest on outstanding receivables was deleted.

[Tractors and Farm Equipment Ltd vs. DCIT, ITA No.2589/CHNY/2025 (Chennai ITAT)]

Mumbai Tax Tribunal deletes transfer pricing adjustment on interest on non-convertible debentures made by invoking section 94B

The taxpayer had borrowed funds from its holding company, BE Choice Investments Pte. Ltd., by way of non-convertible debentures ('NCDs'), carrying interest initially at 9% and subsequently increased to 12% per annum. For FY 2021-22, out of total interest amounting to INR 24.30 crore, INR 10.89 crore was debited to the profit and loss account and suo-moto disallowed by the taxpayer under section 94B of the Income-tax Act, 1961 ('the Act'). The balance interest amounting to INR 13.41 crore was capitalised to the cost of inventory as work-in-progress ('WIP') and was not claimed as a deduction. The TPO observed that the taxpayer had reported a loss and interest paid to its AE had exceeded 30% of EBITDA. The TPO held that the restriction under section 94B was to be used as the 'other method' to determine the arm's length price (ALP) and proposed a transfer pricing adjustment for the entire amount of INR 24.30 crore. The Dispute Resolution Panel ('DRP') upheld the disallowance under section 94B, holding that capitalisation to WIP cannot be used to bypass the eight-year carry-forward limitation under section 94B of the Act.

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

- The issue stood squarely covered by the Coordinate Bench's ruling in the taxpayer's own case for FY 2019-20, where an identical transfer pricing adjustment on NCD interest had been set aside.
- The restrictions under section 94B of the Act cannot be imported as an 'other method' for benchmarking an international transaction. The 'other method' takes into account price charged or paid between non-associated enterprises, whereas section 94B deals with deduction of interest paid to associated enterprises. The TPO therefore erred in treating the section 94B ceiling as a benchmarking method.
- Section 94B restricts deduction only for the interest that is otherwise claimed as a deduction. Interest cost capitalised to WIP and not debited to the profit and loss account is not 'deductible' in computing income under the head 'Profits and gains of business or profession,' and consequently cannot be brought within the scope of section 94B.
- Out of total interest amounting to INR 24.30 crore, INR 13.41 crore was capitalised to inventory as WIP and was not claimed as deduction of expenses. This amount cannot be disallowed under section 94B. The remaining amount of INR 10.89 crore, debited to the profit and loss account, had already been disallowed by the taxpayer on his own in his return of income.
- Hence, the addition so made in the hands of the taxpayer is to be deleted.

[Beauty Etoile Private Limited vs. ADDL/JOINT/DY/ACIT/ITO, Circle 4(1)(1), Mumbai; ITA No. 6456/Mum/2025 (Mumbai ITAT)]

Delhi Tax Tribunal deletes transfer pricing adjustment on advertising, marketing and promotion expenses, holds Bright Line Test unsustainable

The taxpayer, part of the Fujifilm Group, is engaged in trading of medical imaging, photo imaging, digital camera and graphic arts products imported from its AEs for resale in India. The TPO observed that the taxpayer had incurred advertising, marketing and promotion ('AMP') expenditure, which promoted the 'Fuji' brand owned by its parent AE and therefore constituted an unreported international transaction. The TPO applied the Bright Line Test ('BLT') comparing the taxpayer's AMP spend against that of comparable companies and treated the excess as brand-building expenditure for AE's benefit, proposing a protective adjustment of INR 12.01 crore and a further substantive adjustment of INR 22.91 crore computed under the 'intensity' method. The DRP upheld the applicability of BLT with certain other directions. The TPO passed a final order giving effect to the DRP's directions, as a result of which the addition on account of the intensity-method addition was reduced to Nil, and the BLT-based addition was reduced to INR 5.19 crore. The taxpayer appealed before the Delhi Bench of the Tax Tribunal.

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

- The taxpayer did not own the 'Fuji' brand or any other brand. It was importing various products from its AEs for resale in the Indian markets.
- The Delhi High Court in the case of Sony Ericsson Mobile Communications India Pvt. Ltd. had rejected the BLT for computing transfer pricing additions while determining the ALP of international transactions involving AMP expenditure incurred towards building the brands of AEs. This position squarely applies to the facts of the taxpayer.

- Although the Revenue's Special Leave Petition (SLP) against the decision in the case of Sony Ericsson Mobile Communications India Pvt. Ltd. (supra) was pending before the Supreme Court, no contrary decision of any superior court was brought to the Tribunal's notice by either party, nor were any stay or directions issued by the Supreme Court staying the operation of the Delhi High Court's decision brought to the notice of the Tribunal.
- Accordingly, the addition made by applying BLT was to be deleted. Both the parties shall be bound by the outcome of the SLP in case of Sony Ericsson Mobile Communications India Pvt. Ltd.(supra).

[Fujifilm India Private Limited vs. AO; ITA No. 3446/Del/2024 (Delhi ITAT)]

Delhi Tax Tribunal rejects segment-level benchmarking

The taxpayer is a company incorporated in India, engaged in the business of trading and manufacturing of frozen French fries and potato specialities in India and subcontinent countries. For FY 2013-14, the taxpayer and its AEs had entered into international transactions for import of finished goods, sale of finished goods, and payment of management fees and IT support expenses. The TPO held that the services rendered by the AE under the management fee arrangement were not tangible or real and determined the ALP of the transaction as nil, making an addition of the entire payment. On the trading segment (import of finished goods), the TPO rejected the transactional net margin method ('TNMM') followed by the taxpayer and applied the resale price method as the most appropriate method. For the manufacturing segment (sale of finished goods to AE), the TPO applied TNMM and made a proportionate adjustment based on a fresh set of comparables. Aggrieved, the taxpayer preferred an appeal before the first appellate authority, who granted partial relief by restricting the management fee addition on an ad-hoc basis to 70%, upheld the TPO's approach for the trading segment and partly allowed the taxpayer's contentions on comparables for the manufacturing segment. Aggrieved, both the taxpayer and the tax authorities preferred an appeal before the Delhi Bench of the Tax Tribunal.

The Tax Tribunal, while granting partial relief to the taxpayer, made the following key observations:

Re. Payment of management fees and IT support expenses

- The AE provided various services, including integrated supply chain services, scientific research services, management support services, global information services, and financial and operational planning services. The taxpayer was invoiced accordingly within the group's cost-sharing framework.
- The taxpayer has not submitted the relevant debit notes with the basis and allocation key of the costs charged by the AE. However, the absence of such documentation cannot result in outright rejection of the entire claim.
- The first appellate authority's ad-hoc restriction of the benefit to 30% was improper, and the matter was to be remanded to the tax authority with a direction to the taxpayer to file the relevant debit notes and calculations for verification.

Re. Trading segment

- Mere selection of the AE as tested party by the taxpayer without any comparative or market data of comparable companies could not be accepted.
- The taxpayer had adopted the resale price method by treating itself as the tested party in the preceding year and offered no explanation for departing from that approach in the year under consideration.
- The extraordinary loss declared in the trading segment stemmed from additional import costs incurred to meet demand from primary customers at a fixed selling price and properly belonged to the manufacturing segment rather than the trading segment; a taxpayer cannot declare a loss in the trading segment.

Re. Manufacturing segment

- The taxpayer has allocated costs on the basis of various allocation keys between the international transaction (supply to its AEs) and supply to third parties. As per the results submitted by the taxpayer, it has earned a profit of 19.14% (OP/OC) in the international transaction and a loss of 4.25% (OP/OC) in uncontrolled transactions.
- The taxpayer's cost allocation, distributing indirect costs on a volume basis and direct costs on an actuals-and-volume basis, resulted in an unexplained variance of nearly 550% for manufacturing of the same goods, indirectly suggesting a premium charged to its AEs without any supporting material on record.
- Since the trading and manufacturing businesses were interlinked and directed towards the same primary, predominantly global, customers at frozen selling prices, segment-wise benchmarking under either the resale price method or TNMM would not yield appropriate results. Hence, the tax authorities were directed to benchmark the international transaction at the entity level by adopting appropriate methods, and the taxpayer was directed to submit the relevant supporting documents and information.

[McCain Foods India Pvt Ltd vs. JCIT, ITA No.7310/DEL/2019 and ITA No.7567/DEL/2019 (Delhi ITAT)]

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