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kcm Insight

June 2024

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Dear Reader,

We are happy to present ***kcm*Insight**, comprising of important updates in the legislative changes in direct tax law, corporate & other regulatory laws, as well as recent important decisions on direct taxes and transfer pricing matters.

We hope that we are able to provide you an insight on various updates and that you will find the same informative and useful.

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For detailed understanding or more information, send your queries to knowledge@kcmehta.com

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Lower Tax Regime-Delay in filing of Form 10IC is procedural lapse and curable defect

Aprameya Engineering Ltd [ITA No 456/Ahd/2024 – Order dated 11 June 2024 (Ahmedabad ITAT)]

The Taxpayer is limited company, and it has filed the return of income u/s 139(1) and Form 10IC for exercising option u/s 115BAA of the ITA on 01.12.2022 for AY 2022-23. The return of income u/s 139(1) is processed by CPC rejecting claim u/s 115BAA on account of delay in filing return of income and Form 10IC.

Against intimation order u/s 143(1), the Taxpayer filed an appeal before CIT(A) contending that the delay in filing form is not mandatory but directory in nature and thus same can be condoned within powers accorded u/s 119(2)(b) of the ITA.

The CIT(A) dismissed the appeal on the ground that strict interpretation shall be adopted for application of beneficial provisions.

The Taxpayer has challenged the decision of CIT(A) before ITAT by arguing that the intention for opting concessional tax regime u/s 115BAA of the ITA was unambiguously reported in the relevant clause of tax audit report filed on 30.09.2022 which was before filing the return of income. The non-filing of Form 10-IC was a procedural lapse and thus benefit of lower tax regime shall not be denied on technical grounds.

On the other hand, the revenue supported the contention of the CIT(A) by alleging that filing of Form 10IC on or before the due date of furnishing the return of income u/s 139(1) is mandatory for availing benefit of section 115BAA of the ITA.

The ITAT has adjudicated the appeal in favour of the Taxpayer by holding as under -

- Filing Form 10-IC during assessment proceedings is sufficient compliance for eligible Taxpayers.
- The procedural requirements shall not override substantive benefits in accordance with 'Principle of Beneficial Interpretation'. The furnishing of report for claiming the deduction/exemption is mandatory requirement, however, mode and stage of filing thereof is a procedural aspect.
- Circulars issued by the CBDT extending the due dates for filing such forms in previous years acknowledge the procedural challenges and recognize that procedural errors should not automatically result in the denial of substantive benefits.

The aforesaid judgement has backed the established principle that procedural oversight does not hinder the eligibility for deduction/exemption that is otherwise admissible.

ESOP expenses is allowable as revenue expenditure under section 37

CBRE South Asia (P) Ltd [ITA No 3489 of 2023 – Order dated 31 May 2024 (Delhi ITAT)]

The Taxpayer is a private limited company engaged in the business of providing real estate related advisory. The parent company of the Taxpayer has allotted shares as 'Employee Stock Option Plan' (ESOP) to the employees of the Taxpayer in AY 2018-19. The Taxpayer has debited ESOP expenses in Profit and Loss Account being expenses incurred on exercise of ESOP by the employees and corresponding

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amount charged by its parent company. The AO has disallowed ESOP expenses on the ground that said expenses are notional and contingent in nature while finalizing the assessment proceedings.

Aggrieved by decision of the AO, the Taxpayer filed an appeal before CIT(A) who accepted the contention of the Taxpayer and deleted disallowance of ESOP expenses u/s 37 of the ITA made by the AO.

The revenue has challenged the decision of CIT(A) before the ITAT. The revenue has alleged that ESOP expense incurred by the Taxpayer and cross charged by its parent company is notional and contingent in nature and therefore the same is not allowable u/s 37.

Before ITAT, the Taxpayer has argued that parent company has charged ESOP expenses to the Taxpayer based on fair value of ESOP as on exercise date and amortized on vesting period. The ESOP expenses are actually determined and paid by the Taxpayer and accordingly the same is allowable as revenue expenditure. The Taxpayer has relied on decisions of Hon'ble Jurisdictional Delhi High Court in the case of Lemon Tree Hotels Ltd (Writ Petition No. 107 of 2015), Hon'ble Madras in the case of PVP Ventures Ltd (Writ Petition No 1023 of 2015), High Court of Karnataka in the case of Biocon Ltd. v. Dy. CIT (Writ Petition No 653 of 2013) and ITAT Delhi in the case of Cvent India (P) Ltd (ITA No 523 of 2020).

ITAT after perusing the facts and material on record has supported the findings of CIT(A) and held that ESOP expense is allowable as deduction. The ITAT has observed that there are plethora of judgements wherein the courts have allowed ESOP expenses as deduction u/s 37 of the ITA. ITAT has referred one of the interesting rulings of the Hon'ble Karnataka HC in the case of Biocon Ltd (supra) wherein the court has held that the expression 'expenditure' includes 'loss' and therefore issue of shares at a discount (being difference between market price and exercise price) is allowable expenditure for the purposes of section 37(1) of the ITA.

It is pertinent to note that under the ESOP Scheme, the company issues share to the specified employees at a price less than the market price of the shares. In other words, the company issues share at discount to its employees. The discount amount/ESOP expenditure being business expenditure is allowable as deduction u/s 37 of the Act and said view is supported by ITAT Delhi in above judgement.

Applicability of provision of section 43B in case of non-deposit of TCS collected

Aay Kay Manufacturing Co. [ITA No 319/ASR/2023 – Order dated 04 June 2024 (Amritsar ITAT)]

The Taxpayer is engaged in the business of trading in scrap. In AY 2022-23, the Tax Auditor has issued a qualified audit report for non-deposit of TCS collected from the buyer. Based on the tax audit report, CPC has processed the return of income *vide* intimation u/s 143(1) by making disallowance on account of non-deposit of TCS by invoking provision of section 43B of the ITA.

The Taxpayer has filed an appeal before CIT(A) challenging order u/s 143(1) passed by CPC. However, CIT(A) has sustained the disallowance made by CPC.

Aggrieved by the action of CIT(A), the Taxpayer filed an appeal before ITAT on the ground that

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TCS payable is neither debited to Profit and Loss Account nor claimed in the return of income and accordingly said amount is not disallowable u/s 43B of the ITA. Before ITAT, the revenue contended that since TCS is reported as outstanding liability as on 31.03.2022 in the balance sheet and also reported as unpaid under relevant clause of the Tax Audit Report, the disallowance u/s 43B of the ITA is rightly sustained by CIT(A).

The ITAT, after hearing the contentions of the Taxpayer and the revenue, has observed that the Taxpayer is following exclusive method of accounting and thus TCS is not routed through Profit and Loss Account. The ITAT has explained that TCS is not 'sum payable' but same is 'income tax' of the buyers collected and retained by the Taxpayer as custodian of the Government. The default in deposit of TCS by the Taxpayer would invite consequences of provision of section 206C but said default would not be hit by the provisions of section 43B of the ITA.

The aforementioned ruling supports the perspective that section 43B of the ITA shall not be applicable when the amount has not been claimed as a deduction in the return of income or same has not been routed through the Profit and Loss Account.

Intra head set off of losses for differential tax rates is allowable

iShares MSCI EM UCITS ETF [ITA No 4564 to 4570 of 2023 – Order dated 31 May 2024 (Mumbai ITAT)]

The Taxpayer is an exchange traded fund registered with SEBI as foreign portfolio investor. In AY 2021-22, the Taxpayer filed return of income u/s 139(1) claiming set off of short-term capital losses with STT (taxable u/s 111A @ 15%) against short term capital gain without STT (taxable @ 30%). The case of the Taxpayer was selected for scrutiny assessment. The AO disallowed set off of short-term capital losses having lower tax liability against the short-term capital gain having higher tax liability.

Taxpayer argued that section 70 of the ITA does not prescribe the method or order for set off of short-term capital losses against short-term capital gains, especially when the gains are subject to varying tax rates. The taxpayer further argued that in absence of any specific provision for set off of capital losses, the Taxpayer may adopt the basis for set off of losses that is most beneficial to it.

The ITAT has analyzed the provisions of section 70 which provides for the set off of losses from one source against income from another source under the same head of income. The ITAT has allowed the matter in favor of the Taxpayer by holding that short term capital loss can be set off against capital gain (short term or long term) computed as per section 48 to section 55 of the ITA (which deals with computation mechanism of capital gains). The ITAT observed that there is no provision which restricts set off of short-term capital loss (taxable at lower rate) with capital gain (taxable at higher rate).

It is important to note here that there is no bar under the provisions of section 70 with respect to the inter-head adjustment of short-term capital loss against the short-term capital gains even when they fall under different tax brackets. The short-term capital loss can be offset against short term capital gains as well as long term capital gains which may be brought forwarded from earlier years or pertaining to

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current year. Mumbai ITAT had recently delivered another similar judgement in case of JS Capital LLC *(refer KCM Insights for March 2024).*

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For detailed understanding or more information, send your queries to ***kcminsight@kcmehta.com***

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Department's multi-faceted PE trap overruled by Delhi HC, PE Law Explained

Progress Rail Locomotive Inc. [W.P.(C) 12405-12411/2019 – Order dated 28 May 2024 (Delhi HC)]

Delhi HC has given in-depth analysis for PE constitution under the India-USA DTAA in its recent judgment passed in the case of Caterpillar group. The department had alleged that the taxpayer's Indian subsidiary constituted PE in India under various clauses of Article 5.

Taxpayer, a US resident was engaged in supplying equipment to Indian Railways. I Co. which was wholly owned subsidiary of the taxpayer, had a manufacturing unit in Noida and an office in Varanasi. I Co. provided back-office and technical support services to the taxpayer as well as support in relation to marketing, engineering, servicing, warehousing, assembly, and sourcing etc. A survey was conducted at I Co.'s premises and statement of various employees were recorded. Based on survey report, the taxpayer's case was selected for reassessment and an opinion was formed that taxpayer had a PE in India.

A summary of departments contention, taxpayer's defence, and courts observations, is reproduced below:

Type of PE	Department's Allegations	Taxpayer's Contentions	Court's Observations
Fixed Place PE	I Co. was a virtual projection of taxpayer. I Co.'s premises in India were at the disposal of taxpayer considering visit of taxpayer's employees to India.	It was not established that any of I Co.'s premises were at the disposal of taxpayer or its employees. It was also highlighted that the core activities of taxpayer were not carried out in Noida or Varanasi premises, since the products manufactured and supplied by the taxpayer and the subsidiary were different.	It was nowhere alluded by the department that the space in premises of Noida or Varanasi have been under exclusive or significant "control" or "disposal" of taxpayer.

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Type of PE	Department's Allegations	Taxpayer's Contentions	Court's Observations
Service PE	Foreign expatriates undertaking visits to India to overview I Co.'s operations, devise short term and long-term plans for India, diversify business and formulation of future business strategies would satisfy Service PE test.	Managerial oversight and visits by taxpayer's employees do not constitute the rendering of a service by itself in absence of any finding that the taxpayer had rendered services to I Co.	Exercising a degree of managerial oversight would not result in a Service PE. To fall within the ambit of Article 5(2)(l)(ii), it was incumbent to have established that the employees of the taxpayer were discharging functions in connection with the business of the Indian entity.
DAPE	Seal of the taxpayer was discovered during the survey and department alleged that the I Co.'s employees were affixing seal of taxpayer and that they had authority to conclude contracts.	I Co.'s employees were merely performing back office and support services and did not have authority to conclude contracts.	It was not disputed that both the taxpayer as well as the I Co. had independent dealings with DLW and other arms of the Indian Railways. Hence, tests as per Article 5(4) (DAPE) would not be satisfied since I Co. did not habitually secure orders wholly for the taxpayer as there was no authority to conclude contracts with I Co. Further, out of the revenue earned by I Co., there was only a miniscule percentage of revenue which was related to the taxpayer. The mere discovery of seal would not be viewed as the authority to conclude contracts.
Subsidiary PE	The subsidiary was merely an alter ego of the parent, being entirely dependent on the parent, it resulted in a virtual projection of the foreign enterprise in India thereby creating a PE in India.	It was submitted that a wholly owned subsidiary, would by virtue of the investments in its capital and in the larger business interest of a group, always be subject to policy interventions and broad oversight by the holding entity.	The concept of virtual projection is concerned with a functional integration between the two units which had also been failed to be established. A subsidiary PE may come into existence where both the entities undertake joint business activity which was not the case. Collaborative tender submissions by the petitioner and Indian subsidiary employees do not constitute a complete takeover, virtual projection, or make the subsidiary an "alter ego."

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Type of PE	Department's Allegations	Taxpayer's Contentions	Court's Observations
Preparatory and Auxiliary Character	I Co. was discharging functions pertaining to compliance, inventory management, transportation and shipping functions and such activities would not be "preparatory" or "auxiliary" in nature.	I Co. provided back-office support services which were activities of 'preparatory or auxiliary character'. These activities supported the core business but were not core business functions themselves.	Tracking of Letters of Credit for shipments, monitoring of upcoming tenders, coordinating with the taxpayer for timely bid submission for tenders in the Indian market, gathering technical details would fall under the larger umbrella of preparatory and auxiliary services. The follow-up tasks would be considered auxiliary rather than core business functions.

Determination of existence of a PE has always been a vexed issue requiring a thorough examination of the actual facts and conduct of the parties involved. The court's meticulous explanation in present case, thereby reinforces the critical role these activities play in establishing a PE.

Subscription-based product sale under a reseller agreement is royalty

Gartner Ireland Ltd [ITA No. 2460/MUM/2022 – Order dated 30 May 2024 (Mumbai ITAT)]

The taxpayer is a tax resident of Ireland engaged in the business of sale of subscription-based products and related services which includes periodicals, reports, and publications that highlight industry developments. The taxpayer during the year under consideration entered into a reseller agreement with their subsidiary in India ('Gartner India') whereby the Indian customers subscribed to products through Gartner India. The taxpayer also sold products to Gartner India for internal use.

The AO considered revenue generated from sale of online subscription in the nature of royalty liable to tax in India which was also upheld by DRP.

The Hon'ble bench of Mumbai ITAT held that the consideration received for sale of products to Gartner India for further resale to Indian customers amounted to Royalty basis the following:

- The taxpayer claimed that the products sold to Gartner India were for resale to Indian customers, however no stock for subscription-based products was found in the books of Gartner India.
- The taxpayer failed to correlate the sale quantity of the product sold with sale quantity of the product further resold by Gartner India.
- Quarterly invoicing was done by taxpayer to Gartner India, however there was no mention on the invoices of quantity of products sold.

From the above, the ITAT inferred that the taxpayer had charged one-time quarterly fee in the invoice whereas Gartner India had option to

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resale the same product multiple times and actually sold the same product to multiple customers. The ITAT further held that the fact that the taxpayer provided for the userID and password for downloading to every customer was not of much relevance since the same was provided on behalf of Gartner India. Thus, in substance, the taxpayer had not only sold the product but also copyrights under the product which fell within the scope of royalty under Article 12 of India-Ireland DTAA and as per domestic laws. The matter was restored back for further verification based on the ITAT's observation.

This ruling highlights the importance of invoicing and documentation evidencing proper details of the transaction *viz* price, quantity, date etc. for substantiating one's stand before authorities at various levels.

Clauses of Article 16(2) of India-USA DTAA not to be read independently

Rajat Dhara [ITA No. 1914/Kol/2019– Order dated 19 February 2024 (Kolkata ITAT)]

The taxpayer, a resident and ordinarily resident in India, claimed his US salary income as exempt under Article 16 of the India-USA DTAA. However, the AO noted that the taxpayer was a resident and ordinarily resident in India and ruled that his global income, including the US salary, was taxable in India under section 5(1) of the ITA.

The Tribunal noted that section 90 permits a taxpayer to choose the provisions of either the DTAA or the Income Tax Act, whichever are more beneficial. The taxpayer claimed his US salary to be taxable exempt in India under Article 16 of the Indo-US DTAA. Article 16(2) provides conditions wherein salary is taxable only in state of the residence and the conditions include (a) period of stay in the source state for less than 183 days (b) remuneration paid by employer who is not a resident of source state and (c) remuneration is not borne by the PE which the employer has in the source state. In the case under hand, the Tribunal noted that the taxpayer stayed in the USA for less than 183 days, hence clause (a) would be satisfied. However, since the salary was paid by a resident of the USA, conditions prescribed in clause (b) and (c) would not be satisfied and hence Article 16(2) would not be applicable to the case at hand. The Tribunal held that all the three clauses (a), (b) and (c) of Article 16(2) are written conjunctively, implying that they could not be applied independently. The Tribunal therefore held that the salary earned by taxpayer for employment exercised in USA was taxable in USA and not in India.

While the ruling was held in the favour of the taxpayer, it seems that the Hon'ble tribunal erred in interpreting the provisions of the treaty. Though Article 16(1) of DTAA provides that the other country may have the right to tax such income provided employment is exercised in that country, however, it cannot be interpreted that resident Country shall forgive its right to tax such income.

If Indian subsidiary is remunerated at arm's length, no further profit attributable to its PE

Ricardo UK Ltd [ITA Nos.1408, 1409 & 1410/Del/2023 – Order dated 30 May 2024 (Delhi ITAT)]

Taxpayer Company was a tax resident of UK and was engaged in providing testing services to its clients and customers in India. The testing of prototypes designed by Indian customers was

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carried out by the company at its technical centre in UK. Considering Indian subsidiary of Taxpayer as PE, AO computed income of the Taxpayer applying Rule 10 of Income Tax Rules, 1962 by adopting global net profit ratio and attributing 50% of the same to the PE in India based on approach adopted in past assessment years. Taxpayer submitted that entire simulation and testing service was carried outside India and that since the Indian subsidiary has been remunerated on an arm's length basis, no further profit can be attributed to the PE.

The Tribunal held that as per Article 7(2) of the DTAA, not all profits of the foreign company are taxable in India but only those which are attributable to the Indian PE and that quantum of such taxable income is to be determined in accordance with the provisions of the ITA. The Tribunal held that even if profits were to be attributable to the PE in India, the same should be computed after deduction of commission / remuneration paid to Indian subsidiary and where such remuneration was paid to Indian subsidiary at arm's length, no further profits were attributable to the PE.

The Tribunal relied on decisions of jurisdictional High Court and co-ordinate bench of the Tribunal held in Taxpayer's own case in past assessment years on identical issue and accepted Taxpayer's contentions. Reliance was also placed on the decisions of Supreme Court in case of Morgan Stanley & Co. and Delhi Tribunal in the cases of Amadeus Global Travel Distribution S.A. and Galileo International Inc.

It may be relevant to note that "market" as a nexus has already gained importance in the international tax forum and accepted under Pillar One. It would be interesting to see if the above decisions would hold good if the principle of "FARM" proposed in public consultation paper on amendment to Rule 10 vis-à-vis allocation of profits based on ALP based on "FAR" are introduced.

Income from feeder vessels qualifies for exemption as shipping income under Article 8 of DTAA

Hapag-Llyod Aktiengesellschaft [ITA No. 4535/Mum/2023 – Order dated 04 June 2024 (Mumbai ITAT)]

The taxpayer, tax resident of Germany, is engaged in the shipping business and claimed tax exemption on shipping income from India as per Article 8 of India-Germany DTAA wherein profits from operation of ships in the international traffic is taxed in the country in which the place of effective management is situated.

In the year under consideration, the taxpayer also earned freight charges from transportation of cargo through feeder vessel and claimed that such income also falls under Article 8 and hence not taxable in India. However, the revenue was of the view that such income does not qualify as Shipping Income and hence should be charged at 7.5% as per section 44B of the ITA. Further, the revenue also contended that the taxpayer created PE in India as one of its agents' concluded contracts on its behalf in India.

The Mumbai Tribunal followed Hon'ble High Court's decision in the taxpayer's own case and decided in favour of the taxpayer by stating that even income from feeder vessels qualifies to be shipping income as per Article 8 of the Treaty. The Hon'ble High Court had discussed that the tax authorities taxed income from federal vessels u/s 44B of the ITA which dealt with income from operation of ships, a provision

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similar to the provisions of Article of the treaty which referred to profit and gains of business from operation of ships. Therefore, the High Court held that the income arising from slot hire arrangement had to be considered as the income referred to under the treaty as the phrase "operation of ship" had not been defined in the treaty and hence it must be given the same meaning as described in section 44B. It further discussed that slot hire facility becomes necessary for carrying on the business of operation of ships in international traffic and such cases have to be considered as having close nexus with the main business of enterprise of operation of ships.

The Tribunal was of the view that merely because the revenue had filed SLP with Supreme Court against the HC order is not a valid reason to not follow the court's decision. Accordingly, the tribunal held in favour of the taxpayer by not taxing such income in India.

In absence of FTS clause, technical services not taxable in absence of PE

Denso (Thailand) Co. Ltd., [ITA No.1986/Del/2023 – Order dated 31 May 2024 (Delhi ITAT)]

Taxpayer is a tax resident of Thailand acting as a regional service centre of the Denso Group for Asia and Oceania undertaking business administration, material engineering services, design, and development services, testing and technical services of automotive components for the group. The taxpayer contended that the said services constituted fees for technical services, however in the absence of FTS clause in India – Thailand DTAA, services would be in the nature of business activities of the taxpayer and not taxable in the absence of a PE in India. It further argued that the absence of a provision for FTS clause in the DTAA is a deliberate mutual agreement between the contracting states to not classify any income as FTS for taxation. Hence if the services are business activities, their taxability should be tested under Article 7 first and not directly under Article 22 when the services were provided in the normal course of business of the taxpayer.

The AO argued that in the absence of FTS clause in the tax treaty, income should fall under Article 22 (i.e., other income) of DTAA and accordingly should be taxed as FTS at 10% as per section 9(1)(vii) of the ITA since the services provided by the taxpayer were not the primary business activities of the taxpayer. The AO further argued that DTAA never confers a right to tax any income, as right to tax and its chargeability is derived from domestic Act.

The Tribunal relying on the available jurisprudence held that where the business profits of the non-resident include items of income for which specific or separate provisions have been made in other articles of the tax treaty, then those provisions would apply to the items. However, in case it is found that those provisions are not applicable then the items of income would have to be considered in Article taxing business income. When the source of revenue of a taxpayer is out of "profits of an enterprise", under Article 7 of DTAA, then Article 22 would not be applicable. Where a DTAA does not make a reference for taxability of FTS, as separate item, then Article 22, which vests residuary powers, cannot be invoked. The intention of having residuary powers of taxing an income is to deal with those incomes which due to lack of regularity, continuity and frequency do not form part of regular business activity of the entity. Accordingly, the Tribunal allowed the taxpayer's appeal and held that in

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the absence of a PE, the business profits would not be taxable in India.

This issue has been addressed by various Tribunals across the country. The Chennai Tribunal in the case of TVS Electronics took a negative stance holding that if DTAA is silent on a particular type of income, such income would not automatically become business income of the recipient, instead the provisions of the ITA must be considered and applied in such a case. However, Madras HC in a subsequent year in the case of Bangkok Glass Industry ruled in favour of the taxpayer which has been subsequently followed by various Tribunals. When drafting memoranda and other documents that specify the business activities of an organization, it is crucial to include the services a company may provide to its group entities in the course of business. This inclusion is necessary to substantiate the business activity test before the authorities in such scenarios.

Foreign Ruling

Capital Gains Tax erroneously paid on shares exempt under DTAA is liable to refund

Siemens Aktiengesellschaft (CTA CASE NO. 10797 - Philippines Court of Tax Appeals)

Taxpayer, a company incorporated in Germany sold shares of a Philippines Subsidiary to another German Company and paid capital gains tax thereon. Subsequently, the Taxpayer claimed refund of tax so paid by filing Application for Tax Credit / Refund followed by a Tax Treaty Relief Application (TTRA) claiming exemption of capital gains under Article 13(5) of DTAA between Philippines and Germany as the shares of the Philippines company did not principally derive its value from immoveable property in Philippines. This was followed by an application before the Court of Tax Appeals on the ground that the application for refund was not processed or not acted upon by the Revenue authorities.

Revenue authorities contended that the refund claim was subject to Board of Internal Revenue's (BIR's) routine administrative investigation. The Revenue contended that all administrative remedies must first be exhausted by the Taxpayer before filing a petition before a Court and challenged filing validity of judicial application by the Taxpayer before the Court.

The Court observed that Taxpayer was required to (i) File a written claim for refund with BIR Commissioner within 2 years from date of payment of tax and (ii) If administrative claim is denied or not acted upon within the said 2 year period, the judicial claim for refund must be filed with the Court within 30 days from receipt of denial and within 2 year from date of payment of tax. Considering the said provisions of National Internal Revenue Code (NIRC), the Court held that the Taxpayer is required to file both the administrative applications and judicial claims within a period of 2 years and hence Revenue Authority's decision on the administrative claim is not a condition sin qua non for filing of a judicial claim for refund of erroneously collected tax u/s 229 of the NIRC.

The Court took note of documents such as Articles of Association, Tax Residency Certificate issued by German Tax Authorities, Certificate of Non-Registration by Philippines

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SEC, Share Transfer Agreement and Financial Statements of the Philippines company and held that the Taxpayer was a German resident and was entitled to exemption from tax under the DTAA. The Court further noted that since the assets of the Philippines company did not principally (i.e., more than 50% of entire assets in value terms) consist of immovable property situated in Philippines, the taxpayer's capital gains derived from sale of shares of such Philippines company was exempt from capital gains tax in Philippines pursuant to the treaty. Considering that the Taxpayer had filed both the applications within the specified timelines, the Court held that the Taxpayer's judicial claim was valid, and the Taxpayer was entitled to refund of the erroneously paid taxes.

The decision provides practicality to making timely applications where no time limit has been provided for action by Tax authorities and remedies available to Taxpayer are bound to be barred by time. It may be noted that Indian judicial authorities have also held that taxes paid / collected erroneously have to be refunded with interest.

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Foreign Updates

Georgia announces tax exemption for transfer of assets from foreign enterprises in preferential tax countries

The Georgian Revenue service issued Law No. 4197-XIVмс-Xмп as on 29 May 2024, to amend the Tax Code of Georgia introducing tax exemptions on transfer of assets from foreign enterprises registered in countries with preferential tax regimes to Georgia. Significant provisions of the law include:

(a) If the ownership rights of all assets (including shares) of a foreign enterprise registered in a country with preferential taxation is transferred to a Georgian enterprise before January 1, 2028:

- The income or benefit derived by the foreign enterprise and its natural person shareholders from this transaction, considered as Georgian-sourced income is exempt from profit/income tax.
- Importing the assets/goods of the foreign enterprise into Georgia is exempt from import duty, subject to specific rules and conditions to be defined by the Minister of Finance of Georgia.
- The Georgian enterprise is exempt from property tax on the received assets until January 1, 2030.

(b) Conditions for the exemptions include:

- The same natural person (or group of individuals) must own 100% of the shares in both the foreign enterprise and Georgian enterprise; and
- The foreign enterprise must have owned the assets transferred to Georgian enterprise as of the law's enactment date.

This law was published on 3rd June 2024 and was made effective immediately.

Malaysia releases public ruling amending the existing tax treatment of investment holding companies

The Inland Revenue Board of Malaysia issued Public Ruling No. 2/2024 updating and replacing Public Ruling No. 10/2015 on tax

Important Updates

treatment of investment holding companies incorporating two major changes:

(a) A new paragraph has been inserted regarding expenses and deductions related to single-tier dividends. This paragraph clarifies that starting from the 2017 Year of Assessment (YA), dividend income not eligible for tax deduction at source shall be exempt from taxes. Furthermore, any related deductions shall not be considered when computing chargeable income. This means that expenses related to dividends, allowances under Schedule 3 of the ITA, and other deductions such as zakat and donations associated with dividend income shall be excluded when determining chargeable income.

(b) A new paragraph on unabsorbed adjusted business loss has also been added that explains that starting from YA 2019, unabsorbed adjusted business losses can only be carried forward for up to 10 consecutive YAs which begins immediately after the YA in which loss occurs. Any remaining unabsorbed adjusted business loss after this period will lapse.

Luxembourg proposes reduced corporate income tax rates from January 2025

In a recently released State of the Nation address delivered by Prime Minister, an initiative was taken to align the corporate tax rate with international average. The government proposed to reduce the corporate tax rate from 17% to 16% effective from January 1, 2025. Other proposed measures include the introduction of a new "single tax class" by 2026 along with relief measures for single -parent taxpayers.

Austria amends tax treaty with Chile activating MFN Clause

Austria published amendments to its 2012 tax treaty with Chile triggered by the activation of MFN Clause from Chile's 2016 tax treaty with Japan, effective from January 1, 2017. The amendments impact the second paragraph of Articles 11(Interest) and 12(Royalties).

(a) Interest Income

The following withholding rates shall apply:

- 4% if the beneficial owner is a bank, insurance company, a company that substantially derives its gross income from the active and regular conduct of a lending or finance business involving transactions with unrelated persons and the company is unrelated to the payer of the interest, machinery seller on credit, or a company with more than 50% liabilities from bonds or deposits and over 50% assets in debt-claims against unrelated persons. *(earlier rate was 5%).*
- 5% on interest from regularly traded bonds or securities.
- 10% in other cases (15% from January 1, 2017, to December 31, 2018). *(earlier rate was 15%).*

For interest income taxed at the 4% rate, if part of back-to-back loans or similar arrangements, the rate is 5% for banks or insurance companies, and 10% otherwise.

(b) Royalty Income:

The following withholding rates shall apply:

- 2% for royalties on industrial, commercial or scientific use. *(earlier rate was 5%).*
- 10% in other cases

Important Rulings

UAE publishes Corporate Tax Guide for Free Zones Persons

The UAE Federal Tax Authority (FTA) has published the Corporate Tax Guide for Free Zone Persons. This guide is designed to provide detailed instructions on how the Corporate Tax Law applies to Free Zones and their entities. It includes:

- The criteria that a Free Zone Person must meet to be recognized as a Qualifying Free Zone Person (QZFP) and qualify for the 0% Corporate Tax rate.
- The activities that are deemed Qualifying Activities and Excluded Activities for a QFZP.

This guide is crucial for anyone doing business in a Free Zone in the UAE and should be referred to alongside the Corporate Tax Law, implementing decisions, and other relevant guidance from the FTA.

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Important Rulings

Additional spread over and above the third-party guarantee commission not reflective of ALP conditions

Astral Limited [TS-230-ITAT-2024(Ahd)-TP]

The taxpayer is engaged in the manufacturing and supply of PVC pipes, and had provided corporate guarantee to its associated enterprises without charging any guarantee fee for the same. The taxpayer's case was selected and referred to the transfer pricing officer ('TPO') for determination of the arm's length price in respect of the requisite guarantee fee.

The TPO made an upward TP adjustment towards the guarantee provided by the taxpayer on the basis of the third-party guarantee furnished by a private sector bank and adding a certain markup over to the guarantee fee rate i.e., totaling to a benchmark rate of 0.77%. Aggrieved by the TPO's order, taxpayer made an appeal before the CIT(A) which reduced the guarantee fee to 0.20% of the guaranteed amount.

The tax authorities appealed before the Ahmedabad ITAT which reiterated the guarantee fee at 0.2% of the guaranteed amount. The Ahd ITAT regarded the third party guarantee fee as the untainted comparable transaction for the purpose of determining the arm's length rate and accordingly, disregarded the act of the TPO of further adding a markup since the guarantee fee rate of the private sector bank is self-sufficient as it is reflective of the profit and risk elements prevalent in case of a dealings between unrelated parties.

Reader's Focus:

Mere changing of hands does not call for addition of markup especially in circumstances wherein the underlying transaction is between the parties having knowledge of the market and are subject to market forces of demand and supply i.e., Guarantee fee rate quoted by IndusInd Bank takes into account the rate offered by its competitors as well as the customer's choice and capacity to opt for a different debt servicing provider.

In conclusion, the determination of the arm's length price (ALP) for guarantee commission in transfer pricing requires a nuanced approach that takes into account several critical factors. Firstly, the industry in which the tested party operates must be closely comparable to the industry of the taxpayer, ensuring that external economic pressures and market conditions are aligned. Secondly, the volume of transactions between the taxpayer and its associated enterprises should be considered, as it can significantly impact pricing strategies and risk assessments. Thirdly, the capacity of the taxpayer to bear or extend guarantees should be evaluated, as this reflects the economic capability and financial strength of the entity. Additionally, the nature of the guarantee, whether it is financial or performance-based, should be analyzed to ascertain its impact on the pricing of the guarantee commission.

While previous judicial pronouncements have often pegged the ALP of guarantee commission at 0.5%, it is important to recognize that this percentage is not an inflexible standard. The appropriate rate may vary depending on the specific circumstances of the taxpayer, as each entity's financial profile and market dynamics are unique and there cannot be a one-size-fits-all rule for determining the guarantee commission ALP. Consequently, both the

Important Rulings

Transfer Pricing Officer (TPO) and the taxpayer may consider prevailing bank rates as a reference point for establishing the ALP. However, it is imperative that all the aforementioned factors are meticulously evaluated to ensure the comparability of the chosen benchmark. The precision of such analysis is paramount to uphold the principles of transfer pricing, ensuring that intercompany transactions are aligned with the arm's length standard as prescribed under the Indian Transfer Pricing Regulations.

Value Addition vs. Operational Expenditure: significant value addition prerequisite for negation of RPM

D Light Energy P. Ltd [TS-237-ITAT-2024(DEL)-TP]

The taxpayer is engaged in purchasing solar products such as lanterns and power lights from its Associated Enterprises (AEs) and reselling them in India without any value addition. The taxpayer applied resale price method ('RPM') to benchmark its international transaction involving the purchase of solar goods and applied the any other method ('AOM') for transactions involving warranty claims and reimbursement of expenses, which constituted a minuscule 1.4% of the total transaction value.

The transfer pricing officer ('TPO'), in conformity with the aggregation approach, aggregated the transactions of purchasing solar goods, reimbursement of expenses, and warranty cost claims, applying the transactional net margin method ('TNMM') instead of RPM. The TPO argued that warranty claims and reimbursement expenses were intrinsically linked to the purchase transactions and thus, should be benchmarked together using TNMM. Further, TPO argued since the profit and loss statement of the taxpayer included substantial payments to contractors, technical services and commission, the taxpayer is undertaking some value addition activity.

Aggrieved by TPO and CIT(A) order, the taxpayer made an appeal to the Delhi ITAT. The Delhi ITAT while upholding the application of RPM over TNMM noted the following:

a. Payments to contractors and commission agents as the taxpayers' goods found their application in the rural areas which entailed substantial marketing and logistics expenditure, which in no way indicated any value addition on part of the taxpayer.
b. International transactions involving reimbursement expenses and warranty claims amounted to just 1.4% of the purchase cost of solar products from the AEs, making them a minor component of the total value of international transactions.

Reader's Focus:

The taxpayer incurred substantial marketing expenditure which though not provided explicitly in the ruling may have been towards product marketing or, as in present scenario, in the form of selling expenses / logistics expenses which is different from advertisement and marketing expenses which might again allow one to ponder over the advertisement, marketing and promotion expenses which leads to brand promotion of the Group.

In light of this judgment, it is crucial to recognize that the Resale Price Method (RPM) is often appropriate for entities involved in mere purchase and sale transactions with minimal value addition. In contrast, the Transactional Net

Important Rulings

Margin Method (TNMM) may be more suitable for cases where advertising, marketing, and promotion (AMP) expenses contribute to brand value creation and are integral to the business's functional profile. Therefore, understanding the nature and extent of value addition is essential in determining the appropriate method for transfer pricing analysis.

This decision highlights the need to carefully assess the nature of the taxpayer's activities and comparable to ensure accurate benchmarking. It is imperative to consider whether transactions involve substantial value addition, which would necessitate a deviation from routine RPM application to TNMM.

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RBI Notifications

Foreign Exchange Management (Overseas Investment) Directions, 2022 – Investments in Overseas Funds

RBI/2024-25/41 issued vide A. P. (DIR Series) Circular No. 09 dated June 07, 2024

Revised guidelines in the Master Direction on Foreign Exchange Management (Overseas Investment) Directions, 2022 with respect to Investments in Overseas Funds under the Overseas Portfolio Investment ("OPI") route are stated below:

Existing provision	Amended provision	Key Change	Implications
The investment (including sponsor contribution) in units of any investment fund overseas, duly regulated by the regulator for the financial sector in the host jurisdiction, shall be considered as OPI. Accordingly, in jurisdictions other than IFSC, listed Indian companies and resident individuals may make such investment. Whereas in IFSC an unlisted Indian entity may also make such OPI in units of an investment fund or vehicle, in terms of schedule V of the Foreign Exchange Management (Overseas Investment), Rules 2022, subject to limits, as applicable.	The investment (including sponsor contribution) in units or any other instrument (by whatever name called) issued by an investment fund overseas, duly regulated by the regulator for the financial sector in the host jurisdiction, shall be treated as OPI. Accordingly, in jurisdictions other than IFSCs, listed Indian companies and resident individuals may make such investment. Whereas in IFSCs, an unlisted Indian entity also may make such OPI in units or any other instrument (by whatever name called) issued by an investment fund or vehicle, in terms of schedule V of the OI Rules subject to limits, as applicable.	Amendment allows Indian companies and resident individuals to invest in not only units but also in any other instrument issued by investment fund under OPI route in jurisdictions other than IFSC. In IFSCs, unlisted Indian entities can make investment in units of an investment fund or vehicle under the OPI route.	The objective is to provide greater autonomy and flexibility for investors to invest overseas under the Overseas Portfolio Investment scheme and not be restrictive in terms of forms of investment. Furthermore, incentive is also given to promote OPI in the IFSCs by permitting unlisted Indian entities to invest in investment funds.

Existing provision	Amended provision	Key Change	Implications
A person resident in India, being an Indian entity or a resident individual, may make investment (including sponsor contribution) in the units of an investment fund or vehicle set up in an IFSC as OPI. Accordingly, in addition to listed Indian companies and resident individuals, unlisted Indian entities may also make such investment in IFSC.	A person resident in India, being an Indian entity or a resident individual, may make investment (including sponsor contribution) in units or any other instrument (by whatever name called) issued by an investment fund or vehicle set up in an IFSC, as OPI. Accordingly, in addition to listed Indian companies and resident individuals, unlisted Indian entities also may make such investment in IFSC.	Investment in IFSCs has been opened up for not only Indian entity / resident individual but also to unlisted Indian entities. Furthermore, investment options have been widened to include not only units of investment fund or vehicle but of any other instrument in the IFSCs.	The objective is to promote healthier and faster development of the IFSCs so as to ensure that funds are channelized in an orderly and transparent manner.

Effective date: Immediate effect

Amendment to Master Direction - Reserve Bank of India (Interest Rate on Deposits) Directions 2016

RBI/2024-25/40 issued vide DoR.SPE.REC.No.24/13.03.00/2024-2025

RBI has made certain amendments in Master Direction - Reserve Bank of India (Interest Rate on Deposits) Directions, 2016 with respect to the definition of "Bulk deposits". Bulk deposit shall now mean:

Sr. No.	Particulars	Amount
1	Single Rupee Term Deposit - with Scheduled Commercial Banks and Small Finance Banks	Rupees Three crore and above
2	Single Rupee Term Deposit – with Regional Rural Banks and Local Area Banks	Rupees One crore and above

Effective date: Immediate effect

RBI Notifications

International Trade Settlement in Indian Rupees (INR)- Opening of additional Current Account for settlement of trade transactions

RBI/2024-2025/43 issued vide FED Circular No. 11 dated June 11, 2024

RBI *vide* FED Circular No.08 dated November 17, 2023, had granted permission to AD Category-I banks maintaining Special Rupee Vostro Account, were permitted to open an additional special current account for their exporter constituents, exclusively for settlement of export transactions.

In line to provide more operational flexibility, the facility to open additional special current account has now been extended to include the settlement of both export and import leg transactions. This also indicates RBI's move to nudge exporters / importers to undertake larger number of foreign trade transactions in Indian Rupees so as to avoid foreign exchange fluctuations.

Effective date: Immediate effect

SEBI Notifications

Timelines for disclosures by Social Enterprises on Social Stock Exchange ("SSE") for FY 2023-24

SEBI/HO/CFD/PoD-1/P/CIR/2024/0059 dated May 27, 2024

The following are the reporting requirements for Not for Profit Organizations ("NPOs") listed on the Social Stock Exchange ("SSE") for FY 2023-24:

Sr. No.	Regulation	Reporting disclosures	Timeline
1	91C (1) of the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 ("SEBI LODR Regulations, 2015")	Not for Profit Organizations (NPOs), including NPOs whose designated securities are listed on Social Stock Exchange (SSE) have to make annual disclosures to SSE as prescribed by SEBI*	October 31, 2024
2	Regulation 91E (1) of SEBI LODR Regulations, 2015	Social Enterprises registered or that have raised funds through SSE will be required to submit Annual Impact Report to SSE	

**vide SEBI Circular dated September 19, 2022*

Self-Regulatory Organizations for Social Impact Assessors in the context of Social Stock Exchange ("SSE")

SEBI/HO/CFD/PoD-1/P/CIR/2024/0060 dated May 27, 2024

"Social impact assessment" is the act of analyzing, monitoring and managing the social consequences of development. According to the International Association for Impact Assessment, "social impact assessment includes the processes of analyzing, monitoring and managing the intended and unintended social consequences, both positive and negative, of planned interventions (policies, programs, plans, projects) and any social change processes invoked by those interventions".

"Social Audit" is an independent, objective and reliable examination of impact of a project/program/ project-based activity of a Social Enterprise governed by Self-Regulatory Organization (SRO) or any other regulatory authority so as to:

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- assess whether the project/program/project-based activity is operating in accordance with the stated Strategic Intent and Planning
- assess the stated performance in terms of impacts/ outcomes
- suggest ways to improve the impact measurement and/ or performance.

Social Impact Assessors are individuals which undertake the activity of Social Impact Assessment for various projects undertaken by NPOs registered with self-regulatory organization as per section 292A(f) of the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2018, ("ICDR Regulations") and who have qualified a certification program conducted by National Institute of Securities Market ("NSIM").

The following agencies are specified as Self-Regulatory Organizations for Social Impact Assessors:

- ICAI Social Auditors Organization (ISAI) under the Institute of Chartered Accountants of India
- ICMAI Social Auditors Organization (ICMAI SAO) under the Institute of Cost Accountants of India
- ICSI Institute of Social Auditors (ICSI ISA) under the Institute of Company Secretaries of India.

Eligibility criteria for launching Options with Commodity Futures as underlying by Stock Exchanges having commodity derivative segments

SEBI/HO/MRD/MRD-PoD-1/P/CIR/2024/61 dated May 27, 2024

Certain revisions have been made by SEBI based on the representations received from market participants in Commodity Derivatives Segment specified in Master Circular of August 2023.

Options would be permitted for trading on a stock exchange only on those commodity futures as underlying, which are traded on its platform and satisfy the following criteria:

Average daily turnover of underlying futures contracts of the corresponding commodity during the previous twelve months, shall be at least:

a. INR 100 crores for agricultural and agri-processed commodities (lowered from existing INR 200 crores)
b. INR 1,000 crore for other commodities

Applicability:

June 01, 2024, for agricultural and agri-processed commodities where the average daily turnover of underlying futures contracts during the previous twelve months is INR 100 crores.

Investor Charter for Stock Exchanges

SEBI/HO/MRD/MRD-PoD-2/P/CIR/2024/63 dated May 29, 2024

SEBI in November 2021 has framed Investor Charter for Stock Exchanges to promote transparency, enhance awareness, trust and confidence among the investors. The Investor Charter was a document to facilitate investor awareness on activities such as business transacted and services provided to investors on stock exchanges, grievance redressal mechanism, rights and obligations of investors or special cases such as default by brokers.

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With the introduction of Online Dispute Resolution (ODR) platform and SCORES 2.0, SEBI felt necessary to amend the Investor Charter for Stock Exchanges so as to incorporate the changes introduced over the past three years. The charter may be accessed by https://www.sebi.gov.in/legal/circulars/may-2024/investor-charter-for-stock-exchanges_83653.html.

Applicability: Effective from the date of issuance (i.e.) May 29, 2024

Investor Charter for Depositories and Depository Participants

SEBI/HO/MRD/MRD-PoD-1/P/CIR/2024/66 dated May 29, 2024

On the lines of amendment in the Investor Charter for Stock Exchanges, SEBI has made amendments to the Investor Charter for Depositories and Depository Participants (DPs) issued in November 2021. The charter contained information on activities such as dematerialization / re-materialization of securities, transmission of securities, settlement instruction, consolidated account statement, grievance redressal mechanism etc.

As explained for revision in Investor Charter for Stock Exchanges, SEBI felt the need to amend the Depositories and DP charter so as to include recent developments in the securities market including introduction of Online Dispute Resolution (ODR) platform and SCORES 2.0. The Investor Charter can be referred from this link https://www.sebi.gov.in/legal/circulars/may-2024/investor-charter-for-depositories-and-depository-participants_83649.html.

Applicability: Effective from the date of issuance (i.e.) May 29, 2024

Ease of Doing Investments- Non-submission of 'Choice of Nomination'

SEBI/HO/MIRSD/POD-1/P/CIR/2024/81 dated June 10, 2024

SEBI, vide circular no. SEBI/HO/MIRSD/POD-1/CIR/2023/193 dated December 27, 2023, had extended the last date for submission of '**choice of nomination**' for demat accounts and mutual fund folios to **June 30, 2024,** failing which such demat accounts/folios shall be frozen for debits.

For Existing investors / unitholders:

Based on the representations received from the market participants, SEBI has relaxed certain conditions / actions for the existing investors/ unitholders:

- Non-submission of 'choice of nomination' shall not result in freezing of Demat Accounts as well as Mutual Fund Folios.
- Securityholders holding securities in physical form will continue to receive dividend, interest or redemption payment as well as to lodge grievance or avail any service request from the RTA even if 'choice of nomination' is not submitted by such securityholders.
- Dividend, interest or redemption payment withheld presently by the Listed Companies / RTAs, only for want of 'choice of nomination' shall be processed and released to such security holders.
- To encourage existing investors to provide 'choice of nomination', a pop-up message will come on web/mobile

SEBI Notifications

application/platform to the investors while logging into the Demat Account by respective DPs and by AMCs while logging in to their MF account.

- Depository Participants, AMCs and RTAs are instructed to encourage the demat account holders/ mutual fund unit holders to update 'choice of nomination' by sending a communication on fortnightly basis.

For New investors / unitholders:

The relaxation as stated above is only for existing investors / unitholders. For new investors/unitholders it is mandatory to provide the 'Choice of Nomination' for demat accounts/ MF Folios.

The formats for providing Nomination and Opting-out of Nomination both in case of Demat Account and MF Folios are provided at Annexure-A and Annexure-B which can be referred from this link https://www.sebi.gov.in/legal/circulars/jun-2024/-a-ease-of-doing-investments-non-submission-of-choice-of-nomination-_84053.html

Applicability: Immediate effect.

Pop up messages by DPs / AMCs / RTAs will be initiated w.e.f. October 01, 2024

Modification in Framework for Offer for Sale (OFS) of Shares to Employees through Stock Exchange Mechanism

SEBI/HO/MRD/MRD-PoD-3/P/CIR/2024/82 dated June 14, 2024

SEBI *vide* this circular has revised the Framework for Offer for Sale (OFS) of shares to Employees through Stock Exchange Mechanism.

The revised guidelines provide that employees shall place bids on T+1 day at cut-off price of T Day, instead of cut-off price of T+1 day as per Circular No. SEBI/HO/MRD/MRD-PoD-3/P/CIR/2024/6 dated January 23, 2024 issued Framework for Offer for Sale (OFS) of Shares to Employees through Stock Exchange Mechanism.

Furthermore, the allotment price shall be based on the Cut-off of the T Day, subject to discount, if any.

Applicability

Effective from 30th day of issuance of Circular

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Abbreviations

Abbreviation	Meaning
AA	Advance Authorisation
AAR	Authority of Advance Ruling
AAAR	Appellate Authority of Advance Ruling
AAC	Annual Activity Certificate
AD Bank	Authorized Dealer Bank
AE	Associated Enterprise
AGM	Annual General Meeting
AIR	Annual Information Return
ALP	Arm's length price
AMT	Alternate Minimum Tax
AO	Assessing Officer
AOP	Association of Person
APA	Advance Pricing Arrangements
AS	Accounting Standards
ASBA	Applications Supported by Blocked Amount
AY	Assessment Year
BAR	Board of Advance Ruling
BEAT	Base Erosion and Anti-Avoidance Tax
CBDT	Central Board of Direct Tax
CBIC	Central Board of Indirect Taxes and Customs
CCA	Cost Contribution Arrangements
CCR	Cenvat Credit Rules, 2004

Abbreviation	Meaning
CESTAT	Central Excise and Service Tax Appellate Tribunal
CGST Act	Central Goods and Service Tax Act, 2017
CIT(A)	Commissioner of Income Tax (Appeal)
COO	Certificate of Origin
Companies Act	The Companies Act, 2013
CPSE	Central Public Sector Enterprise
CSR	Corporate Social Responsibility
CTA	Covered Tax Agreement
CUP	Comparable Uncontrolled Price Method
Customs Act	The Customs Act, 1962
DFIA	Duty Free Import Authorization
DFTP	Duty Free Tariff Preference
DGFT	Directorate General of Foreign Trade
DPIIT	Department of Promotion of Investment and Internal Trade
DRI	Directorate of Revenue Intelligence
DTAA	Double Tax Avoidance Agreement
ECB	External Commercial Borrowing
ECL	Electronic Credit Ledger
EO	Export Obligation
EODC	Export Obligation Discharge Certificate

Abbreviation	Meaning
EPCG	Export Promotion Capital Goods
FEMA	Foreign Exchange Management Act, 1999
FII	Foreign Institutional Investor
FIFP	Foreign Investment Facilitation Portal
FIRMS	Foreign Investment Reporting and Management System
FLAIR	Foreign Liabilities and Assets Information Reporting
FPI	Foreign Portfolio Investor
FOCC	Foreign Owned and Controlled Company
FTC	Foreign Tax Credit
FTP	Foreign Trade Policy 2015-20
FTS	Fees for Technical Service
FY	Financial Year
GAAR	General Anti-Avoidance Rules
GDR	Global Depository Receipts
GMT	Global Minimum Tax
GILTI	Global Intangible Low-Taxed Income
GSTN	Goods and Services Tax Network
GVAT Act	Gujarat VAT Act, 2006
HSN	Harmonized System of Nomenclature
IBC	Insolvency and Bankruptcy Code, 2016

Abbreviations

Abbreviation	Meaning
ICDS	Income Computation and Disclosure Standards
ICDR	Issue of Capital and Disclosure Requirements
IEC	Import Export Code
IIR	Income Inclusion Rule
IMF	International Monetary Fund
IRP	Invoice Registration Portal
IRN	Invoice Reference Number
ITC	Input Tax Credit
ITR	Income Tax Return
IT Rules	Income Tax Rules, 1962
ITAT	Income Tax Appellate Tribunal
ITR	Income Tax Return
ITSC	Income Tax Settlement Commission
JV	Joint Venture
LEO	Let Export Order
LIBOR	London Inter Bank Offered Rate
LLP	Limited Liability Partnership
LOB	Limitation of Benefit
LODR	Listing Obligations and Disclosure Requirements
LTA	Leave Travel Allowance
LTC	Lower TDS Certificate

Abbreviation	Meaning
LTCG	Long term capital gain
MAT	Minimum Alternate Tax
MCA	Ministry of Corporate Affairs
MeitY	Ministry of Electronics and Information Technology
MSF	Marginal Standing Facility
MSME	Micro, Small and Medium Enterprises
NCB	No claim Bonus
OECD	The Organization for Economic Co-operation and Development
OM	Other Methods prescribed by CBDT
PAN	Permanent Account Number
PE	Permanent establishment
PPT	Principle Purpose Test
PSM	Profit Split Method
PY	Previous Year
QDMTT	Qualified Domestic Minimum Top-up Tax
RA	Regional Authority
RMS	Risk Management System
ROR	Resident Ordinary Resident
ROSCTL	Rebate of State & Central Taxes and Levies
RoDTEP	Remission of Duties and Taxes on Exported Products

Abbreviation	Meaning
RPM	Resale Price Method
SC	Supreme Court of India
SCN	Show Cause Notice
SDS	Step Down Subsidiary
SE	Secondary adjustments
SEBI	Securities Exchange Board of India
SEP	Significant economic presence
SEZ	Special Economic Zone
SFT	Specified Financial statement
SION	Standard Input Output Norms
SOP	Standard Operating Procedure
ST	Securitization Trust
STCG	Short term capital gain
SVLDRS	Sabka Vishwas (Legacy Dispute Resolution Scheme) 2019
TCS	Tax collected at source
TDS	Tax Deducted at Source
TNMM	Transaction Net Margin Method
TP	Transfer pricing
TPO	Transfer Pricing Officer
TPR	Transfer Pricing Report
TRO	Tax Recovery Officer
UTPR	Undertaxed Profits Rules
u/s	Under Section
WOS	Wholly Owned Subsidiary