kcm Insight

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Dear Reader,

We are happy to present kcmInsight, comprising of important legislative changes in finance & market, direct & indirect tax laws, corporate & other regulatory laws, as well as recent important decisions on direct & indirect taxes.

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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Introduction

Investor behaviour in financial markets is often governed more by psychological tendencies than logical considerations. Although financial markets appear to be data-driven and analytical on the surface, a deeper inspection reveals that cognitive and emotional biases routinely influence investment decisions, frequently leading to irrational behaviour and market inefficiencies. This phenomenon has particularly pronounced of late, where retail investor participation has surged due to proliferation of mobile trading platforms and growing influence of social media-driven financial content.

Episodes ranging from exuberant responses to Initial Public Offerings (IPOs) to panic-induced selloffs, and from an overreliance on familiar stocks to a blind embrace of prevailing market narratives, underscore the power of behavioural biases in shaping investment decisions. Understanding these psychological biases and traps is therefore crucial for both individual investors seeking rational decision-making and for analysts aiming to decode market trends in the equity landscape.

Prominent Investor Biases & Traps

The table below outlines key behavioural biases commonly observed among investors, supplemented with contextualised examples for better clarity:

Bias Type	Description	Bias in Action	Example
Loss Aversion	Reluctance to realize losses, even when logically necessary	Refusing to exit a once-prominent private sector lender despite prolonged capital erosion	Banks mired with governance lapses
Disposition Effect	Premature selling of winners and undue retention of losers	Booking quick profits in quality defensive stocks while holding on to stagnant and even declining cyclical stocks	Exiting FMCG stock too early while holding on to Infrastructure stock
Sunk Cost Fallacy	Continued commitment to a poor investment due	Averaging down in cyclical investments despite persistent	Infrastructure & PSU stocks

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	to previous expenditures	delays in execution and poor performance	
Endowment Effect	Overvaluation of owned assets due to psychological / emotional attachment	Persisting with investment in a known banking stock primarily due to personal familiarity	PSU Banks
Attachment Bias	Emotional connection to specific stocks, often family-run businesses	Investing in a legacy family owned and managed business despite poor fundamentals	Family-owned companies
Confirmation Bias	Seeking out information that aligns with our pre-existing beliefs	Highlighting selective positive news in a struggling or sunset industry	Crude oil exploration companies

Cognitive Dissonance	Rationalizing conflicting information to protect existing beliefs	Interpreting regulatory setbacks for a particular stock / industry as long-term positives	Airline stocks
Hindsight Bias	Belief that past events were predictable after they occur	Claiming foresight into specific sector rallies following economic recovery	Consumer cyclical sector (e.g., automobiles)
Framing Effect	Judgement swayed by presentation rather than content	Responding more favorably to "100% investor gains" messaging than to "15% CAGR over 5 years"	Promotional campaigns run by financial intermediaries / finfluencers

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Narrative Fallacy	Acceptance of compelling stories over factual analysis	Investing in new ventures of a known conglomerate solely based on persuasive narratives rather than capabilities	Unrelated diversification by well-known business houses
Availability Heuristic	Decisions influenced by recent or vivid information	Jumping into IPOs of new age / digital companies following a widely publicized success	New age tech companies
Anchoring Bias	Fixation on arbitrary benchmarks like IPO price or historical highs	Using IPO price as a value reference despite poor long-term performance	New age tech companies

Representativeness Bias	Expecting similar outcomes from superficially similar situations	Comparing new-age tech IPOs to the legacy IT services industry	Tech Startups vs IT Services
Law of Small Numbers	Drawing conclusions from insufficient data	Evaluating long-term potential of pharma companies' stocks based on temporary price surge	Pharma stocks during pandemic period
Neglect of Probability	Disregard for statistical likelihoods	Investing heavily in a loss-making early-stage startup	Tech Startups
Herd Mentality	Following the crowd without independent analysis	Joining IPO subscriptions based purely on peer enthusiasm	Small & Microcap stocks

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Groupthink	Sacrificing personal judgment to conform to group consensus	Investing in niche sectors due to peer pressure	Specialty chemical stocks during a rally
Social Desirability Bias	Making decisions to appear sophisticated or rational	Purchasing stocks / funds primarily for perceived credibility rather than understanding	ESG themed funds
Fear & Greed	Emotional extremes governing buy/sell decisions	Overbuying during bull markets and capitulating during corrections	Cyclical phases in financial markets
Emotional Gap	Letting emotions overrule logical analysis	Selling blue-chip / fundamentally strong stocks amid temporary market corrections	Blue-chip IT companies during outsourcing mania

Mood & Optimism Bias	Overly optimistic investment outlooks driven by sentiment	Over-investment in sunrise sectors solely based on policy narratives	Renewable energy sector
Halo Effect	Misattributing competence in one area to another	Investing in non-core ventures of a successful conglomerate	Group company stocks
Fundamental Attribution Error	Blaming external factors for own losses, while judging others harshly	Justifying losses in certain sectors by blaming poor economic policies and governance structures	Infrastructure & PSU Banks
Self-Serving Bias	Attributing success to personal skill	Claiming research prowess for gains, blaming	Small & Microcap stocks

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	and failure to external causes	"operators" for losses	
Negativity Bias	Giving disproportionate weight to negative developments	Overreacting to attrition rates in leading IT services firms	IT outsourcing companies
Recency Bias	Assuming recent trends will persist indefinitely	Believing a cyclical trend to be a secular trend that will continue without correction	Midcap IT stocks post pandemic
Status Quo Bias	Preference for familiar but sub-optimal choices	Retaining low-yield though touted as safe investments due to inertia	Insurance plans providing fixed income
Changing Risk Preferences	Altered risk appetite following gains or losses	Moving from stable sectors to volatile sectors / stocks after	Penny stocks

		seeing initial profits	
Blind Spot Bias	Recognising biases in others but not in oneself	Criticising speculative trading while indulging in similar behaviour elsewhere	Crypto trading
Regret Aversion	Avoiding action due to fear of future regret	Retaining an over-valued stock due to fear of missing out on future potential returns	Jewellery stocks
Survivorship Bias	Focusing only on successful outcomes and ignoring failures	Comparing top performing Startups with traditional market benchmarks, overlooking failed peers	Tech Startups

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Conclusion

Investor psychology plays a defining if not definitive role in financial decision-making, particularly in volatile and sentiment-sensitive financial markets. These biases or traps, often subconscious, can distort rational analysis and lead to suboptimal outcomes. Whether manifested through an unwillingness to realise losses, an emotional attachment to certain stocks, or a susceptibility to persuasive narratives, such cognitive traps hinder disciplined investing.

Recognising and confronting these biases is essential. Investors must foster self-awareness, adopt data-driven strategies, and remain grounded in their investment thesis, regardless of market euphoria or panic. Ultimately, the cultivation of psychological resilience (and not merely financial literacy) differentiates successful investors from the impulsive and ill-prepared.

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Important Rulings

Date of handing over the documents by AO of the searched person to the AO of the other person u/s.153C should be the same

Carol Infrastructure Private Limited vs. ACIT, W.P (C) 3927/2025, Delhi HC

The Taxpayer is a Company, and it filed its ITR for the AY 2015-16. Subsequently, search and seizure operation was conducted u/s 132 in respect of a third party (searched person) wherein the document belonging to or containing to Taxpayer was found during the course of search. Thus, the AO of the searched person had recorded a satisfaction note dated June 24, 2022, satisfying that the documents belonged to or containing information relating to Taxpayer and also recorded that the documents in question were handed over to the AO of the Taxpayer. The AO of the Taxpayer issued notice u/s 153C against the Taxpayer and initiated the proceedings u/s 153C of the ITA.

Aggrieved by the proceeding u/s 153C, the Taxpayer filed a writ petition before Delhi High Court. The Taxpayer argued that the time limit to pass an assessment order has already lapsed as the documents were handed over to the AO of the Taxpayer by AO of the searched person on June 24, 2022, and the time limit of 12 months from the end of the financial year from such date was already expired on March 31, 2024.

The Revenue, however, argued that the material and documents were received by the AO of the Taxpayer on June 9, 2023, and therefore, the time for passing the assessment order had not lapsed as on the date of petition filed by the Taxpayer on March 22, 2025. Further, Revenue argued that a false statement containing that the documents have been handed over to the AO of taxpayer was recorded in the satisfaction note dated June 24, 2022, which would render it a false document.

The Delhi High Court observed that in terms of proviso to Section 153C of the ITA in respect of taxpayer, the date of search is required to be construed in reference to the date of receiving the books of account or documents or assets seized or requisitioned by the AO having jurisdiction over such person other than the searched person. Further, the court observed that section 153C(1) and the proviso does not contemplate any difference between the handing over of the documents by the AO having jurisdiction over the searched person and receipt of the same by the AO having jurisdiction over the person other than the searched person.

The court held that the date of receiving the documents or material by the AO of the taxpayer from the AO of the searched person is required to be considered as the date of intimation of search u/s 132 of the ITA or the date of requisition u/s 132A of the ITA which in the present case is considered as June 24, 2022. Thus, the court concluded that the time limit of 12 months from the end of the financial year in which the documents were handed over i.e. March 31, 2024, 12 months from the end of FY 2022-23 for making an assessment has already lapsed on the date of filing of present petition on March 22, 2025. Thereby the writ of the taxpayer was allowed.

The above ruling emphasis that the provisions of Section 153C(1) do not consider any difference between the handing over of the documents by the AO of the searched person and receipt of the same by AO of the person other than searched person to consider the date of intimation of search u/s 132 or date of requisition u/s 132A of the ITA in the case of person other than searched person.

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Delhi HC quashes reassessment proceedings as escapement is not represented in form of asset

Ratnagiri Gas and Power Pvt. Ltd. vs. ACIT, Delhi, W.P (C) 221/2023, Delhi HC

The Taxpayer is a joint venture company formed by two public sector undertakings GAIL and NTPC Limited and it had filed ITR for AY 2013-14 after claiming deduction of Rs.6.29 Crores on account of salaries and wages pertaining to prior years, which was crystalized during the year under consideration. The case of the taxpayer was selected for scrutiny assessment and completed the assessment by passing an assessment order u/s 143(3) of the ITA.

Subsequently, almost after 4 years, the AO issued notice u/s 148 of the ITA (before its amendment vide Finance Act 2021) on May 24, 2021. Aggrieved, the Taxpayer filed a writ petition challenging the validity of such notice u/s 148 on the ground that the procedure prescribed under section 148A of the ITA was not followed and on various other grounds.

Revenue argued that the said notice is sustainable on the basis of provisions of the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 ("TOLA") and the circulars issued by CBDT. The AO in compliance to the direction of Supreme Court in the case of Union of India vs. Ashish Agrawal treated the issuance of notice u/s 148 as deemed notice issued u/s 148A(b) of the amended provisions and provided the information and material on May 30, 2022, basis of which the reassessment proceedings were initiated.

The AO disregarded the objection filed by the Taxpayer and passed an order u/s 148A(d) of the ITA and issued notice u/s 148 on July 25, 2022. Aggrieved, the Taxpayer challenged the same by filing a writ petition on the ground that the said order u/s 148A(d) was passed without considering the response filed by Taxpayer. The said petition of the Taxpayer was allowed by the Delhi High Court and directed the AO to pass a fresh order within a period of 8 weeks. However, the AO passed a fresh order u/s 148A(d) reiterating its view that it was a fit case for issuance of notice u/s 148 of the ITA. Against the same further writ petition was filed by the Taxpayer on various grounds. One of the grounds provides that provision of section 148 of the Act is not applicable since there is no escapement of income represented in form of asset.

The High Court held that the period for which assessments could be reopened was reduced to three years, except in cases where the conditions as stipulated in Section 149(1)(b) of the ITA were satisfied. The court further observed that the rationale for amending the provisions of section 149(1) by the Finance Act 2021 was to reduce the time period for reopening the assessment from six years to three years except in case of escapement of income represented in the form of assets amounts to or likely to amount to Rs. 50 lakhs or more, the period would extend to ten years. The court held that any expenditure incurred on the salaries and wages irrespective of the years in which it is incurred, the same would not represent any asset. Therefore, the HC held that notice issued u/s 148 for AY 2013-14 was time barred in view of the provisions of Section 149(1)(b) of the ITA.

The judgement emphasis that the reassessment proceedings cannot be initiated after expiry of three years if conditions of Section 149(1)(b) if the escapement of income does not represent in the form of Asset. The decision is also helpful where the proceedings are initiated after expiry of four years and the taxpayer has disclosed fully and truly all the material facts in the original assessment proceedings u/s 143(3) as per the provisions which were in force prior to 1st April 2021.

Delay in filing Form 10B is Procedural, not Prejudicial to Revenue

Gujarat Technological University, ITA No 935/Ahd/2024, ITAT Ahmedabad

The Taxpayer is a State University engaged in imparting education in the field of engineering and is registered as a charitable institution u/s 12A of the ITA. The matter in question pertains to allowability of exemption u/s 11 in case of delay in filing audit report in Form 10B. For AY 2017-18, the taxpayer filed Form 10B after completion of the assessment order u/s 147 r.w.s 144 of the ITA. The AO did not deny the exemption u/s 11 of ITA on grounds of delay in filing Form 10B.

However, the CIT(E) has invoked revisionary powers u/s 263 of the ITA, asserting that the assessment order was both erroneous and prejudicial to the interests of the Revenue. The CIT(E) emphasized that Form 10B had not been filed even at the time of completion of assessment proceedings and accordingly set aside the assessment order for fresh verification of allowability of exemption u/s 11 of the ITA.

Before ITAT, The taxpayer contended that the delay in filing Form 10B was a procedural lapse rather than a substantive default, and all other conditions necessary for claiming exemption u/s 11 had been duly fulfilled. It was argued that denial of exemption solely on procedural grounds would be unjustified. The Revenue, on the other hand, argued that a valid Form 10B is statutory prerequisite for claiming exemption u/s 11. Therefore, the AO's failure to disallow the exemption despite the absence of Form 10B rendered the assessment order erroneous and prejudicial, justifying action u/s 263.

The ITAT, after considering facts of the case along with relevant judicial precedents, ruled in favor of the Taxpayer. The ITAT held that the delayed filing of Form 10B constituted a procedural irregularity, which did not warrant denial of the substantive exemption u/s 11. The ITAT observed that the assessment order could not be deemed as "erroneous" or "prejudicial to the interests of the Revenue" merely due to procedural non-compliance. The ITAT placed reliance on decisions of Hon'ble Gujarat High Court in the cases of Brahmchari Wadi Trust (SCA No 24687 of 2022), Shri Parshwanath Bhakti Vihar Jain Trust (SCA No 17385 of 2023) and Sarvyodaya Charitable Trust (SCA No 6097 of 2020).

In conclusion, the ITAT underscored that procedural lapses should not override substantive rights, especially where compliance with the primary conditions of the law is evident. This decision serves as an important precedent, reaffirming that exemption u/s 11 should not be denied solely due to procedural non-compliance when the foundational eligibility criteria are met.

No Prima Facie Adjustment u/s 143(1)(a) on 'debatable issue"

Raj Kumar Bothra [TAXC No. 56 of 2025, order dated 8th May 2025, Chhattisgarh High Court

The Taxpayer, an individual proprietor, filed ITR u/s 139 of the ITA. The Centralized Processing Center (CPC) processed the ITR and issued an intimation u/s 143(1)(a) disallowing deduction claimed u/s 36 (1) (va) for delayed deposit of employee's contribution under the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (EPF) and Employees' State Insurance Act, 1948 (ESI) u/s 36 (1) (va) of the ITA.

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Challenging this disallowance, the Taxpayer filed an appeal before the CIT(A), which was subsequently upheld by both the CIT(A) and the ITAT. Both authorities held that employees' contributions to EPF and ESI must be deposited within the due dates prescribed under the respective employee welfare statutes to qualify for deduction under Section 36(1)(va), placing reliance on the Hon'ble Supreme Court's decision in Checkmate Services Pvt. Ltd. (Civil Appeal No. 2830 to 2833 of 2016 and 159 of 2019).

Aggrieved by the ITAT order, the taxpayer appealed before the High Court, arguing that issue with regard to deposit of employee's contribution on or before the due date was highly debatable and could not be adjusted u/s 143(1)(a) which is limited to prima facie errors. The taxpayer cited Supreme Court rulings in Kvaverner John Brown Engg (Civil Appeal No. 3073 and 3074 of 2008) and Rajesh Jhaveri Stockbrokers (Civil Appeal No of 2830 of 2007), which held that adjustments u/s 143(1)(a) cannot be made for debatable issues.

The Revenue, in contrast, defended the disallowance, contending that the adjustment was well within the powers conferred u/s 143(1)(a). It further argued that the Supreme Court's ruling in Checkmate Services (supra) applied retrospectively, thereby validating the disallowance at the time of processing.

After analyzing the issue, the High Court ruled in favour of the taxpayer, making the following key observations:

- The scope of section 143(1)(a) is limited to carrying out prima facie adjustments and does not extend to resolving debatable or interpretational issues.
- There were divergent views across various High Courts on whether delayed deposits of employees' contributions qualify for deduction u/s 36(1)(va), with some courts allowing the deduction if paid before the filing of the return, and others denying it if not paid within the statutory due date under the EPF/ESI laws.
- At the time of processing the return, the issue was unsettled and debatable, especially since the Supreme Court's decision in Checkmate Services (supra) was rendered after the return was processed.
- No adjustment should have been made u/s 143(1)(a) on a debatable issue relying on precedents cited by the taxpayer.

This ruling highlight a key principle in tax law that adjustments u/s 143(1)(a) must be confined to clear, undisputed errors and cannot be used to settle debatable legal issues. The High Court has reinforced the taxpayer's right to procedural fairness and clarified that unsettled matters require full assessment, not summary disallowance. This ruling is a significant safeguard against overreach in processing and sets a clear precedent for handling similar disputes in the future.

Important Updates

Extension of ITR Filing Due Date for Certain Non-Corporate Taxpayers

Circular No 6/2025/F. No 225/205/2024/ITA-II dated 27th May 2025

The due date of filing of return of income for an individual and other non-corporate taxpayer including partner of a firm who are not subject to audit under the ITA or audit any other law is required to file their tax return for AY 2025-26 on or before July 31st 2025. CBDT has now extended due date for filing ITR for AY 2025-26 for such taxpayers from **July 31st 2025 to September 15, 2025.**

This extension has been granted in view of extensive changes in the notified ITR forms and to allow adequate time for system readiness and rollout of updated ITR utilities.

Notification of ITR Forms 1 to 7 for AY 2025-26

Notification No 42 to 46/2025 and Notification No 49 of 2025 dated 01.05.2025

CBDT has notified ITR Forms 1 to 7 for AY 2025–26 making various changes in line with various amendments made by the Finance Act as applicable for AY 2025-26.

On the important changes is in relation to disclosure of individual assets and liabilities to be shown in Schedule AL. Earlier an assessee is required to report all its assets and liabilities in case when total income exceeds by Rs.50 lacs. In AY 2025-26, such limit has been increased to Rs. 1 Cr.

The key disclosure-related changes in the notified forms are as under:

Sr No	Applicable ITR Forms	Schedule	Key Changes in Forms
1	ITR 1, 2, 3, 4, 7	Part A Gen - Personal Information	Aadhaar Enrolment ID will no longer be accepted. Only Aadhaar number to be quoted in Aadhaar Number Field
2	ITR 3 and 5	Part A Gen - Filing Status	Method of opting out from new tax regime u/s 115BAC is to be disclosed in Filing Status (such as by filing Form 10IEA or by exercising option in the return of income)
3	ITR 2, 3, 5, 6, 7	Schedule CG	Separate reporting for transfer of capital assets made before and on or after 23rd July 2024
4	ITR 2, 3, 5, 6, 7	Schedule CG and Schedule OS	In case of buyback after 01.10.2024, buy-back proceeds are to be reported as deemed dividend in Schedule OS and capital loss on buyback is to be shown in Schedule CG
5	ITR 2, 3, 5, 6, 7	Schedule PTI	Reporting of Passthrough income by Venture Capital Funds/Undertakings u/s 115U
6	ITR 3, 5, 6	Schedule VI-A	Detail disclosure is to be made for deductions under chapter VI-A (for which no separate schedule is prescribed) such as 80C, 80CCC, 80CCD, 80E, etc.

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8	ITR 3, 5, 6	Part A Gen - Audit Information and Schedule BP	Disclosure for presumptive income from cruise ship operations u/s 44BBC in case of non-resident
9	ITR 2 and 3	Schedule 80DD and Schedule 80U	New column to specify disability certificate numbers for other types of disability (for which Form 10IA is not mandatory) as per section 80DD and section 80U
10	ITR 2 and 3	Schedule AL	Change in threshold for disclosure of Assets and Liabilities. Where total income at the end of the year exceeds ₹1 crore (earlier ₹50 lakh)
11	ITR 3	Schedule 5A	Expanded scope to disclose information about books of accounts of spouse or books of accounts of firm in which spouse is partner is audited u/s 44AB or any other provisions of ITA or any other law (Information regarding Spouses governed by Portugal Civil Code)
12	ITR 1 to 7	Part B - TTI	Mandatory disclosure of section under which tax is deducted in Tax Payment Schedule (details of tax deducted at source on income)
13	ITR 6	Part A - P & L Account and Schedule BP	Foreign companies having eligible business of selling raw diamond is required to disclose gross receipts/turnover
14	ITR 1 and 4	Part C - Deductions and Taxable Total Income	Resident Individual having Long Term Capital Gain u/s 112A up to ₹ 1.25 lakhs are eligible to file ITR 1 and ITR 4. Details for Long Term Capital Gain not chargeable to tax u/s 112A is to be disclosed
15	ITR 1 and 4	-	Individual having assets including financial interest in any entity outside India are not eligible to file ITR 1 and ITR 4

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Business loss of PE against FTS Income originated in India is allowed to be set off

Hyosung Corporation [ITA No. 2943/DEL/2023 – Order dated 23 April 2025]

The case signifies the tax treatment of the of business losses incurred by a PE in India and their set-off against FTS income under India-Korea DTAA. The ruling underscores the applicability of domestic law provisions where DTAA is silent and upholds the principle of granting taxpayers the benefit of the more favourable legal provision.

The Hon'ble bench of Delhi ITAT allowed the appeal of Hyosung Corporation, a Korean Company engaged in the power business in India, permitting set-off of losses attributable to its Indian PE against income earned through FTS and interest on tax refund. AO had denied the set-off on the grounds that FTS income, earned by the Head Office (HO), was not attributable to the Indian PE and hence, the two income streams could not be merged for tax computation under Article 7 of the India-Korea DTAA.

The AO placed reliance on Article 7 of India-Korea DTAA to reject the taxpayer's claim, holding that income from FTS and business loss from PE were separate and could not be offset. The Hon'ble bench of Delhi ITAT observed that there is no specific restriction under the DTAA on intra-head adjustments and held that, in such a case, the provisions of the ITA, particularly sections 70 and 71, would apply. It was held that section 115A does not prohibit the set-off of PE losses against FTS income, unlike the sections 115BBDA and 115BBH which specifically bar such adjustments. Hence, legislative intent does not support the AO's restrictive interpretation. The Tribunal also relied on earlier rulings, including Foramer S.A. v. DCIT and Sumitomo Mitsui Banking Corporation v. DDIT, to affirm that a foreign taxpayer may adopt provisions of the ITA if they are more beneficial in the absence of specific clause under DTAA.

It was concluded that both streams of income, i.e., PE losses and HO's FTS income, originated in India and fall under business income for the taxpayer. Thus, inter-head adjustment under section 71 was permissible. Accordingly, the Hon'ble bench of Delhi ITAT directed the deletion of the disallowance and allowed the taxpayer's claim of set-off of losses against FTS income, thereby granting relief for the impugned assessment year.

Option to Claim DTAA Benefit for Different Income Streams: Scope of 143(1) Explained

Qualcomm Asia Pacific Pte. Ltd. [ITA NO. 686 (MUM) OF 2025 – Order dated 28 March 2025]

The taxpayer, a Singapore-based company was resident in Singapore for tax purposes. It earned LTCG from the sale of shares of Indian companies and claimed exemption under Article 13 of the India-Singapore DTAA. It also incurred LTCL from sale of scripts of Indian Company and sought to carry them forward under the provisions of the ITA.

In intimation order passed u/s 143(1) of the ITA, partial long-term capital loss was not to be allowed to be carried forward. The taxpayer filed a rectification application under Section 154 of the ITA, challenging the adjustment, but the AO rejected the claim. Subsequently, the CIT(A) ruled that the entire LTCL must be set off against LTCG before any carry forward is allowed.

Important Rulings

Aggrieved by the CIT(A)'s order, the taxpayer filed appeal to Hon'ble bench of Mumbai ITAT wherein it noted that charging sections 4 and 5 of the ITA have been expressly made subject to the provisions of the ITA, which means that they are subject to the provisions of section 90 of the ITA. Consequently, if certain income is exempt under the DTAA, it cannot be included in the computation of total income, nor should it be considered for set-off. Moreover, various judicial precedents were relied on to hold that each transaction is a separate source of income, and the taxpayer can choose to apply either the provisions of the DTAA or the ITA for each of the transactions.

The Hon'ble bench of Mumbai ITAT further held that the adjustment u/s 143(1) disallowing the carry forward of LTCL was incorrect, as the issue is debatable and hence beyond the scope of section 143(1) of the ITA.

From this judgement, it is amply clear that taxpayers can pick and choose a transaction-by-transaction basis when applying DTAA provisions. Taxpayers may opt to exempt gains under DTAA while simultaneously invoking domestic tax laws to carry forward losses, even if both arise from the same head of income.

Centralised support services paid to AE not chargeable as FTS, "Make available" criteria not satisfied

Shell International B.V. [ITA No. 1027 (Ahd) of 2023 – Order dated 15 April 2025]

The taxpayer, a tax resident of the Netherlands, rendered various centralized support services to its associated enterprises in India covering areas such as CHR Recruitment, External Information, Real Estate and Corporate Travel, Health Ecotox, IT Services, Internal Communication, Remuneration and Benefit, Talent and Development, Brand Advertising, Media Relations, Social Performance, ER Strategy and Planning, and Managing ER Functions.

The AO held that such services constituted FTS as per article12 of the India-Netherlands DTAA and taxed the same accordingly. The CIT(A) has also upheld the order of the AO. Thus, taxpayer filed appeal with Hon'ble bench of Ahmedabad ITAT which has been examined the nature of services as under:

- CHR Recruitment Services: Managing global recruitment and attraction teams, supporting regional recruitment processes, and talent acquisition activities.
- External Information Services: Subscribing to EIS providers for research reports, newsletters, and market data analysis, with costs pooled in by the taxpayer.
- IT Migration Services: Setting up a shared services center, providing guidance/support for IT infrastructure setup, and migrating operations to the Indian center.
- Real Estate and Corporate Travel Services: Providing consultancy and assistance in managing real estate transactions, leveraging global relationships, and contract management.
- IT Services: Rendering IT services to including its implementation, Prowatch software configuration, and project management.
- •Health Ecotox Services: Managing the "One Health IT System" for confidential medical information of employees, with costs allocated based on the number of full-time employees per entity.

Considering the nature of services, Hon'ble bench of ITAT noted that even though the services may qualify as technical services given the use of technology for providing the same,

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however make available criteria as given in India-Netherlands DTAA might not be fulfilled in these services. It was observed that neither has technology be made available to the recipient of services nor there is any such intention to render services in a manner that the recipient of services is enabled to perform the services itself without recourse to the taxpayer. Consequently, since the services did not transfer technology or expertise to the recipient, they failed to meet the definition of FTS under the India-Netherlands DTAA.

The concept of "make available" has been tested in multiple judicial decisions. Courts have consistently held that for this criterion to be met, the service provider must impart sufficient knowledge or expertise to the recipient, enabling them to independently provide the service going forward. Until this threshold is met, the "make available" condition is not satisfied, thereby exempting such services from FTS classification.

Recognition of Software Development as "Production of an Article or Thing" for tax depreciation purposes

Bosch Global Software Technologies (P.) Ltd. [ITA No.1696/Bang/2024 - Order dated 16 April 2025]

The taxpayer is engaged in the business of software development and embedded systems for automotive components. In its return of income for AY 2016–17, the taxpayer claimed additional depreciation under section 32(1)(iia) and investment allowance under section 32AC of the ITA, on computers used in the development of software. The taxpayer also claimed certain deductions and disallowances, including expenditure related to exempt income under section 14A and deduction of the USA taxes under section 37(1) of the ITA. The AO disallowed several of these claims, which were upheld by the CIT(A). The matter was then appealed before the ITAT.

Key issues and findings of the case are (1) Allowance of additional depreciation under Section 32(1)(iia) and investment allowance under Section 32AC; (2) Disallowance under Section 14A and Rule 8D; (3) Deduction of State Taxes Paid in the USA. The Hon'ble bench of Bangalore ITAT held that software, though intangible, is the end product of a structured production process utilizing computers as integral tools. Therefore, software production qualifies as "production of an article or thing," and computers used therein qualify as "plant and machinery." Relying on earlier decisions, including its own prior rulings in the taxpayer's case, the Hon'ble bench of ITAT allowed the claim for additional depreciation. The Hon'ble bench of ITAT clarified that computers installed for software development (not for administrative use) qualify as "new assets" for the purpose of Section 32AC, despite the exclusion of office appliances. The matter was remanded to the AO for verification of the nature of computer usage.

The taxpayer had made a suo moto disallowance related to exempt income. The AO made an additional disallowance without recording dissatisfaction as required under law. The ITAT set aside the AO's adjustment and restored the original disallowance made by the taxpayer. The taxpayer claimed deduction of U.S. state taxes paid as an expense under Section 37(1). Since no tax credit was claimed under Sections 90 or

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91, the ITAT allowed the deduction following the Bombay Tribunal's ruling in Bank of India v. ACIT.

The ITAT's ruling reinforces the recognition of software development as a production activity under Indian tax law, paving the way for eligible tax benefits on assets used in the development process. It also reiterates procedural safeguards under Section 14A and clarifies the treatment of foreign taxes not covered by treaty relief.

DTAA benefits cannot be denied unless the company is not proven as a shell company

The taxpayer, a Cyprus-based investment holding company and wholly owned subsidiary of GA Global Investments Ltd (also incorporated in Cyprus), held a valid TRC from Cypriot tax authorities. It acquired shares of the National Stock Exchange of India (NSE) in 2014 and sold them during AY 2021–22 to unrelated third parties. The taxpayer reported LTCG and claimed tax exemption under Article 13 of the India–Cyprus DTAA. Dividend income was also declared and taxed at the concessional rate of 10% under Article 10 of the India-Cyprus DTAA.

The AO denied DTAA benefits, alleging that the actual beneficiary was General Atlantic Company, USA, and that GAGIL FDI was merely a conduit. The AO cited overlapping directorships, a U.S.-based bank signatory, and the appearance of the taxpayer's Cyprus office and secretarial service provider in the Panama Papers. Based on these findings, the AO concluded the company was a shell entity controlled from the U.S. to avoid Indian taxes. The DRP upheld these conclusions.

The taxpayer filed an appeal before the ITAT, contending that it was incorporated in 2012 in Cyprus and complied with all Indian regulatory requirements. It emphasized that the shares acquired on NSE were scrutinized and approved by SEBI, RBI, and FIPB, with SEBI conducting ongoing compliance checks. The taxpayer denied control by General Atlantic USA, clarifying that its funding sources were primarily from Bermuda (91.15%), with minor inputs from Germany (8.65%) and the U.S. (0.2%). It also clarified that its secretarial services were provided by Abacus Ltd., a distinct entity not listed in the Panama Papers.

The Hon'ble bench of Delhi ITAT ruled in favor of the taxpayer, holding that regulatory approvals by SEBI, RBI, and FIPB are substantive and not procedural formalities. It found that management and control were exercised from Cyprus, not from the USA. Further, the AO had failed to link Abacus Ltd. to the entity in the Panama Papers. The Hon'ble bench of ITAT held that the taxpayer was conducting genuine business operations in Cyprus and could not be treated as a mere shell or conduit. Relying on the precedent set in Saif II-SE Investments Mauritius Ltd. v. ACIT concluded that Gagil FDI Ltd. was not a shell entity, but a legitimate foreign investor operating within the rules of Indian and international law. Hence, treaty benefits could not be denied.

This decision highlights the importance of transparency and real economic activity for multinational companies and investors & it emphasizes the need for proper documentation to prove substance. The Tribunal confirmed that valid Tax Residency Certificates (TRCs) are strong proof of eligibility for treaty benefits and cannot be ignored without solid evidence. It also stressed that treaty benefits should not be denied based on suspicion or unproven claims. Without clear proof that a company is just a conduit or lacks real business, denying benefits is not justified. This ruling protects genuine taxpayers and shows that tax authorities must base decisions on clear, factual evidence.

Important Updates

Kazakhstan Parliament Reviews Comprehensive Tax Code Reforms with Sector-Specific Corporate Tax Rates and VAT Adjustments:

Kazakhstan's lower house of parliament (the Mazhilis) is considering measures of the new draft Tax Code, which were approved in the first reading on 9 April 2025. This includes measures in the draft released by the Ministry of Finance in August 2024, with certain key changes as under:

1. The standard corporate income tax rate will remain at 20%; however, specific sectors will be subject to elevated rates. In particular, the banking and gambling industries will be taxed at an increased rate of 25%. The manufacturing sector will continue to be taxed at the standard rate of 20%, while companies engaged in financial leasing will benefit from a reduced rate of 10%.
2. Effective from 2026, a reduced corporate income tax rate of 5% will be applied to organizations operating in the social sector, including institutions such as hospitals, kindergartens, schools, and other socially oriented entities. This preferential rate is scheduled to increase to 10% in 2027.
3. One of the key proposals in the draft Tax Code is the introduction of a progressive personal income tax system. Under this system, a higher tax rate of 15% would apply to individuals whose annual income exceeds 8,500 monthly calculation indices.

OECD Releases Updated Consolidated Commentary on Pillar Two GloBE Rule: Prasanna

The OECD has released the 2025 update to the Consolidated Commentary on the BEPS rules. This updated version of the Consolidated Commentary to the Pillar Two GloBE Model Rules is accompanied by an expanded set of illustrative examples. These examples are intended to demonstrate the practical application of the model rules to various fact patterns, offering enhanced clarity and guidance for both taxpayers and tax administrations.

The revised Consolidated Commentary incorporates all administrative guidance that was approved and published by the inclusive framework up to the end of March 2025. This update supersedes the previous version released in April 2024, which reflected guidance available as of December 2023.

Taiwan issued guidelines on Individual taxation

A per the Changhua Branch of the National Taxation Bureau of the Central Area, Ministry of Finance, alien individuals who have income derived from sources within the Republic of China (R.O.C.) and reside (or stay) in the R.O.C. for more than 183 days during the 2024 calendar year are required to file an alien individual income tax return.

The Branch further clarifies that foreign nationals who reside (or stay) in the R.O.C. for more than 183 days in 2024 and do not plan to leave Taiwan before 30 April 2025, must file their 2024 alien individual income tax return with the local National Taxation Bureau office based on the address listed on their Alien Resident Certificate. The filing period is from 01 May 2025 to 30 June 2025. Further, alien individuals who stay in Taiwan for more than 183 days in 2024 and intend to leave the country before 30 April 2025, without returning, that they must file their individual income tax return prior to departure.

Singapore amends guidance note on payments which are subject to withholding of tax

The Inland Revenue Authority of Singapore (IRAS) has issued revised guidance on payments that are subject to withholding of tax. The updated guidance outlines the categories of payments to non-resident companies that attract withholding of tax which includes Interest, commissions, or fees related to any loan or indebtedness, Royalties or other payments for the use of, or the right to use, any movable property, Management fees, Rent, Distribution made by a real estate investment trust etc.

The guidance also includes details on the withholding tax treatment applicable to these specific types of payments along with a set of FAQs to address common scenarios.

Contributed by

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ALP Paradox: 'NIL' determination of expense in form of AE Costs (Management Fees) erodes the Tax Base

NGA HR (India) Private Limited [TS-37-ITAT-2025(Mum)-TP]

The taxpayer was engaged in the provision of information technology service (IT enabled services). For the purpose of rendering the services to its associated enterprises, the taxpayer incurred various costs which included payment towards certain management charges as charged by the AE of the taxpayer. The taxpayer's case was referred to the Transfer Pricing Officer ('TPO') which proceeded to benchmark the aforesaid international transactions and consequently, rejected the entire payment towards management charges by treating them as NIL.

Aggrieved by the TPO's order, the taxpayer objected before the Dispute Resolution Panel ('DRP') which upheld the adjustment made by the TPO. The taxpayer further appealed before the Mumbai Tribunal, which held as discussed hereinafter. The Mumbai Tribunal noted that the taxpayer was charging a markup over and above the costs incurred by it to render the IT services to its AEs which included the payment to its AE towards management fees. The Mumbai Tribunal noted that the TPO had accepted the markup charged @ 15% which represented the profit element attributable to the functions performed by the taxpayer. The Mumbai Tribunal stated that the quantum of profit (vis-à-vis the rate of markup) would increase hand in hand with the increase in cost base and therefore, any reduction of the cost base would lead to losing out on the relevant profit portion which could have been charged on the that part of the cost base.

The Mumbai Tribunal noted that the entire disallowance of the management fees would reduce the cost base to that extent, which would further render the taxpayer bereft of the profit @15% on such costs incurred. Detailed explanation in this regard is provided by way of an example in the Reader's focus column below.

<u>Reader's focus:</u>

In case of Indian taxpayers whose operating costs include tainted expenditure in the form of intra group service charges from their AEs or any other cost component charged by the AEs which is inbuilt in the cost base which is subsequently recovered from the AEs (either in full or partially) along with a suitable markup, it would be detrimental to the Indian tax base if any of the costs so incurred is not recovered from the AEs in addition to the profit element attributable to the functions performed by the Indian entity. This principle is examined in the below charts:

(i) *<u>Considering that the costs from the AE (Rs. 400 in below example) are charged in full to the Indian entity and no amount is disallowed or reduced by the TPO.</u>*

Particulars	Cost Type	Amount (Rs.)
Salary costs	Non-AE	300
Depreciation	Non-AE	100
Other operating costs	Non-AE	200
Charge from AE	AE	400
Total Operating Costs		**1,000**
Markup @10%		100
Total amount recovered from AE / charged to AE		**1,100**

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Amount charged to the AE (recovered from the AE)	1,100
Less: Amount paid to the AE	400
Net Amount received / receivable in India	700

(ii) Considering that the costs from the AE (Rs. 400 in below example) are entirely disallowed or reduced to zero by the TPO.

Particulars	Cost Type	Amount (Rs.)
Salary costs	Non-AE	300
Depreciation	Non-AE	100
Other operating costs	Non-AE	200
Charge from AE (Considered NIL by TPO)	AE	0
Total Operating Costs		**600**
Markup @10%		60
Total amount recovered from AE / charged to AE		**660**

Amount charged to the AE (recovered from the AE)	660
Less: Amount paid to the AE	0
Net Amount received / receivable in India	660

Based on the above scenarios, the quantum of profit, forex proceeds and tax is reduced in the Scenario 2 wherein the TPO has reduced the entire payment to AE (earlier included in the cost base) to zero. This plays a triple whammy effect in terms of the following:

a. Reduced profits from the earlier Rs. 100 to Rs. 60 which directly translates to reduced tax kitty of the Indian government

b. Lesser realization of foreign currency as reduced from the earlier Rs. 700 to Rs. 660

c. Loss of tax at source on the payments which could be in the form of service charges

Actual arrangement should be in place to prove the benefit being derived by the foreign AE from AMP expenditure incurred by the Indian entity

Fujitsu India Pvt Ltd [TS-29-ITAT-2025(DEL)-TP]

The taxpayer was engaged in the trading of IT products and provision of related IT services in India. The taxpayer's case was selected for scrutiny by the TPO which made certain adjustments in respect of the international transactions entered into by the taxpayer such as purchase of goods, spares, provision / receipt of IT services, etc.

The taxpayer objected to the adjustment made by the TPO before the DRP, which made an additional adjustment with respect to the advertisement, marketing and promotion expenditure by applying the Bright Line Test (i.e., comparing the AMP / Sales ratio of the taxpayer with the entities operating in similar industry). Aggrieved by the DRP's directions, the taxpayer appealed before the Hon'ble Delhi Tribunal.

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The Delhi Tribunal noted the recent ruling by the Apex Court in case of Whirlpool India[1], wherein it was held that there should be some tangible evidence on record to demonstrate that there exists an international transaction in relation with incurring of AMP expenses for development of brand owned by the AE.

The Delhi Tribunal held that mere reference to the quantum of the AMP expenditure cannot be said to have benefitted the brand of the AE. For the purpose of establishing the supposed benefit which is passed to the foreign AE in case of AMP expenditure, it was held that the TPO / AO is required to prove that AMP expenses were not for tearing into the local market alone, but, were made at the instance of foreign AE for enhancement and creating a brand value beyond the local market. The Delhi Tribunal, accordingly, held that prima facie an international transaction should exist and thereafter, the benchmarking can be carried out considering the quantum of AMP expenditure or sales effected or another suitable base.

Reader's Focus:

The issue concerning the amount of so-called excess expenditure towards advertisement, marketing and promotions expenses incurred by the Indian entity which is part of an international group is sometimes attributed by the Indian tax authorities as a benefit which is being enjoyed by the AEs of the Indian entity in the form of increased visibility or perception in the minds of the ultimate consumers.

The Indian tax authorities contend that the Indian entity is promoting the brand or trademarks which are generally held by the foreign parent or related parties and therefore, the India entity shall be reimbursed to the extent the foreign AEs derive the benefit due to such AMP expenditure.

In this regard, the Indian tax authorities in the past have taken shelter under Bright Line Test, wherein the AMP expenditure incurred in relation to the sales effected by the Indian entity is compared with the similar expense to sales ratio of comparable entities operating in similar industries or which are comparable to the Indian entity. Post the comparison, the excess amount of AMP expenditure, if any, incurred by the Indian entity is deemed to be expended towards enhancement of the brand which is owned by the foreign parent entity.

In this regard, the Apex Court in case of Whirpool India has rejected the very bone of contention of applying the BLT method for the purpose of establishing the existence of AMP transaction with the AE and has held that there has to be an actual agreement or arrangement in place which provides for the incurring of AMP expenses either on behalf of the AE or to promote the brand extensively at the instance of the AE. Subsequently, once the existence of AMP transaction is established, then one may resort to the arm's length price computation leg.

Apart from above, other consideration while deciding upon the brand enhancement aspect of the AMP expenditure includes whether the sales were made directly to business consumers or retail consumers (which is generally seen with FMCG or other retail consumer goods industry). Further, any promotional expenditure incurred which is commensurate with the distribution of selling functions of the Indian entity may question the existence of brand promotion on behalf of AE just because the quantum of such

[1] (SLP(C) 29270/2016 order dated 20/11/2024

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expenditure may seem unreasonable which is based on a very plain vanilla comparison of the AMP expenses of the comparable entities.

MAP Agreement can't be a shortcut for transactions not covered in MAP!

Aon Consulting (P.) Ltd [2025] 171 taxmann.com 336 (Delhi)

The taxpayer is engaged in providing software development services, business process outsourcing, and human resource-related management services to its Associated Enterprises (AEs) based out of US and other regions. The taxpayer's case was selected for scrutiny by the TPO which made an adjustment to the international transactions entered into with the AEs located in both US and non-US regions.

Aggrieved by TPO's action, the taxpayer objected before the DRP which upheld the adjustment made by the TPO. The taxpayer further preferred an appeal before the Delhi Income Tax Appellate Tribunal ('ITAT'), during the course of which the taxpayer was already in discussion with the US competent authority under the Mutual Agreement route under Article 27 of the Indo-US Double Tax Avoidance Agreement for the transactions entered with the US based AEs.

Subsequently, the Tribunal reduced the TP adjustment transactions entered with US based AEs, in accordance with the MAP resolution as agreed by India and US based competent authorities. As a corollary, Delhi Tribunal remanded the TP disputes related to transactions entered with non-US based AEs to decide in accordance with the above Indo-US MAP resolution.

Aggrieved by the Tribunal's decision of remand back in relation to the non-US based transactions, the taxpayer appealed before the Hon'ble Delhi High Court. The Delhi HC held that the MAP resolution entered into by the Indo-US competent authorities shall apply only to the transactions entered into by the taxpayer with its US based AEs and not with other AEs. The international transactions entered into with non-US based AEs shall be determined in accordance with the provisions of section 92C of the Income-tax Act, 1961 ('the Act').

Reader's focus:

Mutual agreement procedure generally defined under Article 25 of the commentary on OECD Model Tax Convention ('OECD MTC') provides for the resolution of disputes arising in application of any of the provisions of the Double Tax Avoidance Agreement. In this regard, Article 9 of the OECD MTC provides that a corresponding adjustment shall be carried out for any adjustment made to the profits of an enterprise to the profits of the other enterprise which entered into the transactions with the first mentioned enterprise.

In this regard, as per the various rulings in the Indian jurisprudence has come up with various rules such as benefits of that resolution cannot be automatically extended to transactions with AEs in other jurisdictions with whom there is no MAP resolution in place.

Accordingly, the companies should ensure that their non-MAP transactions are independently justified using appropriate TP methodologies under Indian TP regulations to avoid disputes. Further, businesses should carefully assess their

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approach when applying for MAP and should not assume that a favourable MAP resolution will impact transactions outside its scope. Additionally, the business houses operating in multi-jurisdictional TP arrangements should proactively analyse whether they need separate resolutions or APA (Advance Pricing Agreements) for different countries rather than relying on MAP outcomes of one jurisdiction and applying the same to others.

Everest Kanto Ruling Not a Blanket Benchmark for Corporate Guarantee Fee; Case-Specific TP Analysis Required

PCIT vs. Laqshya Media (P.) Ltd [2025] 171 taxmann.com 462 (Bombay)

The taxpayer provided a corporate guarantee for its AE but initially proposed to charge a guarantee fee of 0.5%, which the taxpayer waived subsequently due to the poor financial health of the AE. The TPO made an adjustment for the corporate guarantee fee, holding that the company should have charged for the benefit provided. The TPO benchmarked the transaction using yield method. The taxpayer appealed before the upper court of law and the case was finally decided by the Mumbai Tribunal which held that guarantee commission should be restricted to 0.5% based on the ruling in case of Everest Kento Cylinders[2].

Aggrieved by the Tribunal's ruling, the tax authorities preferred an appeal before the Bombay High Court ('HC') which rejected the judgement of the Mumbai Tribunal by holding that the Mumbai Tribunal did not analyse whether the facts of taxpayer's case were truly comparable to the facts in case of Everest Kento. Further, the Bombay HC placed its reliance on the ruling in case of Sap Labs India[3] which basically reiterates that each case must be examined in accordance with the provisions of section 92C of the Act read with rule 10B of the Income Tax Rules, 1962. As a result, the issue was remanded back to Mumbai Tribunal for reconsideration based on proper analysis and application of transfer pricing principles.

Reader Focus:

Transfer pricing provisions operate on a single premises i.e., matching the rewards with the functions performed, assets utilised, and risks undertaken by the parties to the controlled transaction. The circumstances surrounding the tested transactions eventually determine the jurisprudence, regardless of whether it has been settled in a particular case. For this reason, it is crucial to examine the facts in addition to depending on the settled rules.

In line with above, Sap Labs India also reinforces the very foundation of TP world which is that one-size-fits-all formulas are not valid for TP adjustments – each case must follow proper TP methodologies under the law.

Tax authorities dig deep for intra-group services: Actual conduct vis-à-vis Contractual conduct

Hammond Power Solutions Private Limited [TS-201-ITAT-2025(HYD)-TP]

The taxpayer was engaged in the manufacturing and sale of electrical transformers. During the year under consideration, it entered into an international transaction with its Associated

[2] CIT v. Everest Kento Cylinders Ltd. (2015) 378 ITR 57 (Bom.)

[3] Sap Labs India (P.) Ltd. v. ITO (2023) 149 taxmann.com 327 (SC)

Enterprise (AE) for the receipt of technical and stewardship (management) services. The intra-group services so availed were reimbursed on a cost-to-cost basis without charging any markup.

The taxpayer's case was selected for scrutiny which was referred to the Transfer Pricing Officer. The TPO disregarded the receipt or rendition of the services and accordingly, determined the ALP both services as NIL. The TPO cited lack of evidence towards actual service rendition and therefore, proposed an upward adjustment of Rs.1.32 crores. The Dispute Resolution Panel (DRP) affirmed the TPO's conclusions, and as a result, aggrieved by the DRP's directions, the taxpayer appealed before the Hon'ble Hyderabad Tribunal.

The Hyderabad Tribunal upheld the actions of the TPO as well as the DRP contending that the taxpayer was unable to provide contemporaneous and verifiable evidence justifying the actual rendition of the services by the AE to the taxpayer. The Hyderabad Tribunal at great lengths discussed the nitty-gritty of the intra group services including rendition test which have been discussed below:

1. Lack of specificity in service agreement

   The ITAT observed that the intra group services agreement merely provided a broad framework mentioning management, engineering, and materials support services, without articulating any specific deliverables, cost allocation methodology, performance benchmarks, or validation mechanisms. It failed to specify how the services would be measured, delivered, or reviewed, thus lacking commercial substance.

2. Non-contemporaneous Evidence

   The emails provided by the taxpayer related to the follow-up requests raised after 4 long years of the original work order correspondence which indicated lack of commercial substance due to such long delays which is not generally the case in case of service contracts.

3. Deficiency in documentary evidence

   The taxpayer provided email correspondences and power point presentations to establish receipt of services. However, the Tribunal stated that the email correspondence was generic and vague, lacking any detailed reference to the nature or impact of the services rendered. Further, the presentations and related meeting notes did not constitute proof of execution, utility, or output of the intra-group services.

4. Incommensurate personnel profile

   The individuals who visited India included managerial personnel (finance controller, production director, marketing director), but the services in question were technical in nature. Therefore, the profile of the visitors did not meet the necessary skill set which might be required for the captioned technical and operational services or could not traced to any project specific matters.

5. Short visits unaligned with the periodicity of billing

   The visits of the personnel were for very short periods of time ranging from 4 to 14 days whereas the services have been shown to be availed throughout the year. The Tribunal noted that such visits could be consistent with shareholder oversight rather than technical services.

6. Failure to demonstrate economic benefit or cost justification

   The taxpayer did not furnish any cost allocation workings, benefit analysis, or performance documentation to prove that services were actually delivered or yielded economic benefits. Merely submitting general communication and cost entries in ledgers was considered insufficient.

Reader's Focus:

The issue with respect to availing the intra-group services has been in limelight in the recent times with the tax authorities going for the easy way of making an adjustment in respect of the international transactions. Accordingly, it becomes significant for the business houses to tread carefully in relation to the intra-group services. The prime focus of the Indian tax authorities has been the complete disallowance based on the lack of any service rendition evidence from the taxpayer(s) side. In this regard, following aspects need to be kept in mind especially for satisfying the service rendition and benefit test:

a. Comprehensive Agreements: The intra-group service agreements, like tow independent parties, should contain the detailed and exact nature of the services which would be provided by one related party to another. This may include detailed steps outlining the scope of the services including specific thresholds for various activities. It may also include the reference to the team responsible for executing the tasks or discharging the responsibilities assigned as part of the intra-group services arrangement.
b. Skilled personnel: Generally, the service recipient while engaging with an unrelated service provider converse over email, phone calls, or tickets or any other form of communication unless the services are completely automated. This provides an insight into the relevant skillset of the service provider's capabilities to provide the services. Therefore, service recipient may make a note of the team providing the services whether that it commensurate with the services being rendered.
c. Medium of service rendition: The services recipient should keep a record of the medium though which the services have been provided. In this regard, if the services have been rendered over internet, then logs or email communications of the same can be kept or in case of services though physical visits, the records of such visits should be collated
d. Invoicing and related details: The invoices raised by the service provider should contain the various services which are being billed and should not contain a generic reference to intra group service fee or a simple management recharge.

The intangibles valuation chronicle: Application of Income Method

Facebook, Inc. & Subsidiaries [TS-270-FC-2025(USA)-TP]

The taxpayer, based out of USA, operates a social networking website which primarily generated revenue from provision of online advertisement services and related credit services. Founded in the year 2004, the taxpayer was initially confined to the US market owing to the user base which was restricted to the US alone. Subsequently, owing to the humungous growth of the user base outside US, the taxpayer established its international headquarters in Dublin, Ireland.

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The Ireland HQ was established to oversee and serve various international sales offices such as those based out of United Kingdom, Singapore, Italy, France, Sweden, Spain, Germany, Australia, New Zealand, etc. Initially these entities were serviced by the Ireland HQ through the support of the US based HQ for which Ireland HQ was recharged at a cost-plus markup of 8% / 10% which was commensurate with the functions performed by the Ireland HQ.

Owing to the subsequent maturity and the increase in complexity of the functions in the international market, the US HQ decided to enter into a Cost Sharing Arrangement ('CSA') to develop an intangible and share the intangible development costs ('IDC') in accordance with the reasonably anticipated benefits ('RABs') proposed to be enjoyed by both the entities i.e., Ireland HQ and the US HQ.

As a result, Ireland HQ transitioned from being a service provider simpliciter to a intellectual property rights holder performing more complex functions for the international market other than US and Canada (which was at the helm of the US HQ).

The CSA involved the transfer of certain rights in the form of the proprietary technology [Facebook online platform ('FOP') technology], User Base developed by the US HQ and the related marketing intangibles. The bone of dispute between the taxpayer and the US revenue authorities (Internal Revenue Services or IRS) revolves around the valuation of the aforesaid rights. Additionally, Ireland HQ was required to make annual payments to compensate the US HQ for the intangible development costs in proportion to the reasonably anticipated benefits share ('RAB') of both the parties.

The US Transfer Pricing Regulations (addressed in section 482 of the Internal Revenue Code and related Treasury Regulations) provide for various methods for the purpose of valuation of the CSA which includes the CUP method, market capitalisation method, residual profit split method ('RPSM'), income method, acquisition price method, and unspecified method.

The **CUP method** was rejected as there was no comparable for the CSA as a whole. The **acquisition price method** was not applicable as there was no acquisition involved in the transaction and the **market capitalization method** was not possible as the shares of the taxpayer were not listed on any recognised exchange across the globe.

Further, w.r.t the application of the **residual profit split method**, it requires unique or non-routine contributions from the parties to the controlled transaction and in the present case, it was the US HQ which had developed the FOP technology, as well as the User Base including the marketing intangibles in the form of trademarks or brand names. As a result, no unique contribution was premeditated at the start of the CSA arrangement from the hands of Ireland HQ and therefore, RPSM was not selected for the purpose of valuing the CSA arrangement.

As a result, **income method** in one form or another was chosen to be the method for valuing the CSA, which is a valuation technique that estimates the present value of future income streams attributable to intangible assets. The income method provides for a payment towards any 'platform contribution' *(refers to any right or capability which has been developed prior to entering into the CSA and*

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which will aid in further intangible development) which is external to the CSA. As discussed above, US HQ had developed the FOP technology as well as the UBMI package (User Base and Marketing Intangibles) for which appropriate payment should have been made by Ireland HQ to the US HQ.

In addition to above, the present case law has observed the following while valuing the consideration towards the CSA including the transfer of the rights:

1. Exclusion of uncertain revenue streams: One of the differences in the valuation of the CSA consideration arrived from the inclusion of the "Other Revenue" to the tune of USD 1.9 Billion by the IRS. This proposition of including the "Other Revenue" suffered from various limitations such as no identification of the costs which would be incurred for earning that revenue, no identification of the market or any products which might contribute to the Other Revenue and accordingly, it was a mere aspiration from the management of the taxpayer to achieve greater financial goals rather than as a prudent revenue number.
2. Aggregation of the related transactions: IRS contended that the transfer of the technology along with the UBMI rights shall be valued as a whole to ensure that the appropriate valuation is considered which can be derived only when all the constituents are seen as an integrated whole, which was also upheld by the US tax court.
3. Appropriate discount rate for computing the NPV: US tax court rejected the IRS's consideration of the Dr. Newlon's (valuation officer of IRS) discount rate on the premises that it contained certain adjustment towards pre-stage IPO and early monetization stage vis-à-vis the taxpayer's business conditions. The adjustments made by Dr. Newlon lacked any empirical evidence and on the contrary, the numbers put forth by Dr. Unni (valuation officer of taxpayer) were derived from the adjustment to the public comparable data to arrive at the private limited companies, which was considered as a standard approach.

Contributed by

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

Important Updates

GST Portal Updates and Advisory

Advisory for reporting of HSN codes and list of documents in GSTR1/1A:

The Goods and Services Tax Network (GSTN), through an advisory dated 1st May 2025, has announced the rollout of Phase-3 implementation of HSN code reporting in Table 12 of GSTR-1/1A, effective from the May 2025 return period. This is in continuation of the requirements prescribed under Notification No. 78/2020 – Central Tax dated 15.10.2020, mandating minimum 4/6-digit HSN disclosure based on Aggregate Annual Turnover.

Under Phase-3:

- Manual entry of HSN codes will be disallowed, taxpayers must select HSN codes from a system-provided dropdown.
- HSN-based descriptions will auto-populate in a new field titled "Description as per HSN Code."
- Table 12 is now split into two tabs – "B2B Supplies" and "B2C Supplies" – requiring separate HSN summary entries.
- A new "Download HSN Codes List" button enables downloading of the latest HSN/SAC codes with descriptions.
- The "Product Name as in My Master" function is now searchable and auto-fills HSN, description, UQC, and quantity (optional feature).
- Additionally, value validations in Table 12 will compare B2B and B2C supply values across relevant GSTR-1 tables. These validations will initially operate in warning mode, allowing return filing even in case of mismatches. However, the B2B tab cannot be left blank if B2B supplies are reported elsewhere in GSTR-1.
- Further, Table 13 (List of documents issued) is now mandatory from the May 2025 return period.

Deferment of invoice-wise reporting functionality in Form GSTR-7:

Earlier vide Notification No. 09/2025 – Central Tax dated 11th February 2025, effective from the April 2025 return period onwards, it was made mandatory to report invoice wise details in Form GSTR 7 (return which is required to be filed by the persons who deduct tax at the time of making/crediting payment to suppliers towards the inward supplies received)

Advisory dated 6th May 2025 has now been issued informing taxpayers that the implementation of this functionality of invoice wise reporting in Form GSTR 7 stands deferred, and taxpayers will be duly notified once it is made live.

Advisory on Appeal withdrawal with respect to Waiver scheme:

GSTN issued an update on 14th May 2025 clarifying the status of appeal withdrawals under the waiver scheme as follows:

- Automatic withdrawal of appeal before final acknowledgment: If the withdrawal application (APL 01W) for an appeal is filed before the issuance of the final acknowledgment (APL 02) by the Appellate Authority, the system automatically processes the withdrawal of the appeal application (APL 01). Consequently, the status of the appeal application changes automatically from

"Appeal submitted" to "Appeal withdrawn."

- Withdrawal of Appeal After Final Acknowledgment Subject to Approval: If the withdrawal application is filed after the issuance of the final acknowledgment, the withdrawal is subject to the approval of the Appellate Authority. Upon approval, the appeal application status changes from "Appeal submitted" to "Appeal withdrawn."

Further, under the waiver scheme prescribed in Section 128A, it is mandatory that no appeal against the relevant demand order remains pending before the Appellate Authority. In both scenarios above, the change of appeal status to "Appeal Withdrawn" satisfies this requirement. Therefore, Taxpayers filing a waiver application are advised to upload a screenshot of the appeal case folder showing the status as "Appeal withdrawn" as proof of compliance.

Advisory on reporting values in Table 3.2 of GSTR-3B:

As per the advisory dated 11th April 2025, it was initially communicated that the auto-populated values in Table 3.2 of Form GSTR-3B would be made non-editable starting from the April 2025 tax period. However, in response to numerous representations and grievances received from taxpayers regarding this change, GSTN issued a subsequent advisory on 16th May 2025. This advisory announced the deferment of the proposed restriction, allowing Table 3.2 to remain editable for the time being to ensure smoother filing of returns and greater taxpayer convenience

Updates in Refund Filing Process for various refund categories:

GSTN has issued an important advisory dated 8th May 2025, announcing significant changes in the refund filing process for the following categories, which have been shifted from 'Tax Period based filing' to 'Invoice based filing':

- Export of Services with payment of tax
- Supplies made to SEZ Unit/SEZ Developer with payment of tax
- Refund claims by Suppliers of Deemed Exports

Accordingly, the requirement to select a specific tax period ('From' and 'To') while filing refund applications under these categories has been removed. Taxpayers can now directly select the relevant refund category and proceed by clicking on "Create Refund Application." However, it is mandatory for taxpayers to ensure that all due returns, including GSTR-1 and GSTR-3B, up to the date of refund application have been duly filed.

Under this invoice-based filing system, taxpayers will upload eligible invoices corresponding to the relevant refund category—Statement 2 for Export of Services, Statement 4 for SEZ Supplies, and Statement 5B for Deemed Exports. Once invoices are uploaded with a refund application, they will be locked for any further amendments or subsequent refund claims. The invoices can only be unlocked if the refund application is withdrawn, or a deficiency memo is issued by the department.

Important Updates

The Hon'ble Supreme Court has upheld the judgment of the Gujarat HC, which permitted the utilisation of ITC available in the ECRL towards the pre-deposit required for filing an appeal under Section 107 of the CGST Act, 2017.

(SLP(C) No. 14841 / 2025 Diary No(s). 17547/2025 - SC)

The taxpayer had filed an appeal under Section 107 of the CGST Act, 2017, and to comply with the pre-deposit requirement under Section 107(6)(b) (i.e., 10% of the disputed tax), the taxpayer utilized the available ITC through Form GST DRC-03, debiting the amount from the Electronic Credit Ledger (ECRL).However, the department objected to this mode of payment, insisting that the pre-deposit be made in cash through the Electronic Cash Ledger (ECL) and demanded proof of such payment. Aggrieved by this, the taxpayer approached the Hon'ble Gujarat High Court.

The Hon'ble Gujarat High Court ruled in favour of the taxpayer, holding that payment of the pre-deposit using the Electronic Credit Ledger is valid and in compliance with the provisions of the CGST Act. The Court directed that the department accept the pre-deposit made via ITC and process the appeal accordingly.

The Revenue filed an SLP before the Hon'ble Supreme Court against the Gujarat High Court's order. The Supreme Court has now dismissed the SLP, thereby upholds the High Court's verdict and grants much-needed relief and clarity to taxpayers across the country

This ruling provides critical clarity that ITC can be used for the purpose of pre-deposit under Section 107 of the CGST Act and that such payment through ECRL is legally valid. This would come as a significant relief to taxpayers, especially in cases where departmental officers insist on pre-deposit in cash, contrary to the law.

It is pertinent to note that CBIC Circular No. 172/04/2022-GST dated 6th July 2022 already clarifies that any amount payable as self-assessed tax in the return or as a consequence of any proceedings under GST laws can be paid using the amount available in the ECRL.

The Hon'ble Supreme Court has dismissed the Revenue's SLP and upheld the ruling of the Delhi High Court, which had quashed the order involving 'negative blocking' of ITC under Rule 86A of the CGST Rules, 2017

(SPECIAL LEAVE PETITION (CIVIL) DIARY NO(S). 21913/2025 SPECIAL LEAVE PETITION (CIVIL)DIARY NO(S). 17849/2025 - SC)

The taxpayers challenged orders issued under Rule 86A of the CGST Rules, 2017, whereby their respective Electronic Credit Ledgers (ECLs) were blocked to the extent of alleged fraudulently availed or ineligible Input Tax Credit (ITC). Crucially, the blocking extended beyond the actual ITC available in the ECL at the time of the order, thereby creating an artificial negative balance. The petitioners argued that Rule 86A permits blocking only to the extent of credit currently available, and that creating a negative balance effectively prevents utilization of future legitimate credit—imposing an undue and unauthorized burden.

The Delhi High Court held that ITC is a valuable statutory right, subject to fulfilment of prescribed conditions. It clarified that Rule 86A is a protective not punitive measure, meant to temporarily restrict usage of credit believed to be fraudulently availed or ineligible, and not a recovery tool. The Court emphasized the plain language of Rule 86A, which refers to "credit of input tax available in the electronic credit

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ledger," thereby limiting the blocking power strictly to the amount actually lying in the ledger at the time of the order. It rejected the Revenue's broader interpretation, stating that such an approach would create unintended hardship, lead to misuse of authority, and transform Rule 86A into an indirect recovery mechanism a purpose not supported by law. Consequently, the Court set aside the impugned orders to the extent they blocked ITC in excess of the available balance.

Subsequently, the Revenue preferred a SLP before the Hon'ble Supreme Court of India, challenging the judgment of the Delhi High Court. The Supreme Court, however, dismissed the SLP, thereby upholds the High Court's interpretation of Rule 86A of the CGST Rules. Through this dismissal, the Supreme Court affirmed that the power to block ITC under Rule 86A must be confined to the credit actually available in the ECL at the time of passing the blocking order. This decision provides finality and authoritative clarity on the scope and application of Rule 86A, ensuring that the provision cannot be invoked to create artificial negative balances or to block credit beyond the available ledger balance.

The Hon'ble Uttarakhand High Court quashed the refund recovery proceedings, holding that the omission of Rule 96(10) without a saving clause renders such proceedings invalid.

(Writ Petition (MB) No. 103 of 2025 – UTTARAKHAND HC)

The taxpayer is engaged in the manufacture and export of gold bars and jewellery. The taxpayer had claimed a refund of ₹1,05,25,755/- under IGST. The State GST Department conducted an audit and issued a Show Cause Notice (SCN) alleging violation of Rule 96(10) of the CGST Rules, 2017, on the ground that the firm had availed the benefit of certain notifications which made them ineligible for IGST refund. After providing a personal hearing and submitting written representations, the department issued an order confirming the recovery of the refund amount. Aggrieved by the said order, the petitioner approached the High Court.

The petitioner challenged the validity of the impugned order on the ground that Rule 96(10) was omitted by Notification No. 20/2024-Central Tax dated 08.10.2024, and such omission was unconditional and not accompanied by any saving clause. It was argued that the rule must be treated as having been erased from the statute book as if it never existed, and hence, any proceedings initiated or continued under it after its omission were non-est in law. s

The Revenue contended that the omission of Rule 96(10) was prospective and did not invalidate proceedings that were already initiated while the rule was still in force. It was argued that since the SCN was issued prior to 08.10.2024, the proceeding continued to be governed by Rule 96(10) as it existed at the time of initiation. The Hon'ble High Court of Uttarakhand examined the issue in light of the Supreme Court ruling in Kolhapur Canesugar and held that the omission of a rule without a saving clause extinguishes all pending actions and proceedings under the omitted provision. The Court observed that omission is distinct from repeal or substitution, and unless a saving clause is expressly provided, the general rule is that the omitted provision must be treated as if it never existed. The Court also took note that Rule 96(10) was not only omitted but not replaced with any alternate provision

Important Rulings

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addressing the same contingency. As such, the authority had no jurisdiction to pass any order after the omission date. Therefore, the order was held to be without authority of law and was quashed.

This judgment reaffirms the legal principle that omission of a statutory rule without a saving clause results in extinguishment of all pending proceedings based on that rule. The ruling aligns with decisions from other High Courts and strengthens the position of taxpayers who have been subjected to recovery proceedings under an omitted provision. It is an important precedent for refund cases where the department relies on the erstwhile Rule 96(10) and confirms that such proceedings cannot be continued post-omissions.

Contributed by

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Regulation of Foreign Trade under Foreign Exchange Management Act (FEMA), 1999 – Draft Regulations and Directions

Press Release dated April 04, 2025

Reserve Bank of India had invited comments/feedback from the public on draft Regulations and draft Directions to the Authorised Dealers on Export and Import of Goods and Services vide Press Release dated July 02, 2024 and based on the feedback received from public and various stakeholders, the draft Regulations and Directions have been further revised.

The draft Regulations for comments have been initiated to consolidate the instructions for Authorised Dealers for handling transactions related to export and import, including the processes to be followed by the Authorised Dealers, which at present are issued separately as Directions.

Due Date for Comments: April 30, 2025

Amendments to Directions - Compounding of Contraventions under FEMA, 1999

RBI/FED/2025-26/29 A.P. (DIR Series) Circular. No 02/2025-26 dated April 22, 2025

The Reserve Bank vide the aforesaid Circular has introduced the following amendments to the Compounding Process:

a) Penalty on Compounding Order – in the Case of Inability to pay the Compounding Penalty within stipulated period:

Erstwhile provisions	Revised Provisions
As per the FEMA provisions, in case the Applicant doesn't make good the penalty payment within the stipulated time period, the said Compounding Application stood null and void. In such a case, if the Applicant again applied for the Compounding process, the penalty leviable under the second application was linked to the penalty imposed under the first Compounding application, which could be increased by up to 50% of the earlier compounding amount.	The Compounding amount payable shall not be linked to the earlier compounding order applicant for such deemed fresh application.

b) Guidelines have been provided to applicants for faster processing of Compounding Applications both in terms of submitting the Compounding Application after making the application fees payment as well as payment of compounding penalty. To avoid processing delays, RBI has instructed applicants to provide additional details when making payment through electronic mode:

- Mobile number of the applicant/ authorised representative.
- Office of the Reserve Bank (i.e., Central Office, Regional Office or FED CO Cell) to which the payment was made.

Important Updates – RBI / FEMA

- Mode of submission of application (through PRAVAAH/ Physical).

Effective date: December 06, 2024 – March 31, 2025

RBI/FED/2025-26/32 A.P. (DIR Series) Circular. No 04/2025-26 dated April 24, 2025

As per the extant FEMA provisions for Compounding of Contraventions, if a person fails to pay the compounding penalty amount within the stipulated time period, the said Compounding would be treated to have not been undertaken at all. What this implies is that the said person shall have to re-apply for Compounding of the said contraventions once again in which case the compounding penalty could be enhanced by upto fifty percent (50%) of the original amount.

For example a Compounding penalty levied by the Regional Director ("RD") of the Reserve Bank of India is INR 1 lac. In case the applicant fails to pay the penalty within the time period specified, he shall have to re-apply for the compounding process in which case, the said penalty by the RD could be as high as INR 1.50 lacs.

However, the said provisions have been reviewed, and RBI has decided to do away with the said provision of increasing the compounding penalty fees by up to 50 percent of the original penalty.

In addition, RBI has decided that subject to satisfaction of the compounding authority and based on the nature of contravention / (s), the compounding penalty levied on non-reporting contraventions will be capped at INR 2 lacs for contravention under each rule / regulation.

Effective date: Immediate effect

Exports through warehouses in 'Bharat Mart' in UAE – relaxations

RBI/2025-26/30 A.P. (DIR Series) Circular No. 03 dated April 23, 2025

Bharat Mart, akin to China's Dragon Mart, is a multimodal logistics network-based marketplace being set up in United Arab Emirates (UAE) which will help the Indian exporters to showcase their products under one roof.

The concept is to facilitate export through warehouses in 'Bharat Mart', so as to provide Indian traders, exporters and manufacturers access to the markets not only in UAE but globally.

RBI has provided certain relaxations in the conditions prescribed in Foreign Exchange Management (Export of Goods & Services) Regulations, 2015 {Notification No. FEMA 23(R)/2015-RB} and Para C.6 and C.13 of Master Direction – Export of Goods & Services for goods sold through Bharat Mart, including:

- AD banks to allow exporters to realise and repatriate full export value of goods exported to 'Bharat Mart' within nine months from the date of sale of the goods from the warehouse.
- AD Bank may permit opening of warehouses in Bharat Mart without any prerequisites or conditions (as prescribed in Master Direction):
    - Opening/hiring of a warehouse in 'Bharat Mart' by an Indian exporter with a valid Importer Exporter Code.
    - Remittances by the Indian exporter for initial as well as recurring expenses for

setup and continuing business operations of its offices.

Effective date: Immediate effect

Processing of Regulatory Authorisations/ Licenses/ Approvals through PRAVAAH

RBI/2025-26 / 34 DIT. CO. No. S – 106 / 07.71.039 / 2025-26 dated April 28, 2025

Reserve Bank of India ("RBI") has made it mandatory for financial institutions, including Commercial Banks, Coop Banks, RRBs, NBFCs, HFCs, Primary Dealers, Non-Bank Payment System Operators, Credit Information Companies and other applicants (including body corporates and individuals) to use the PRAVAAH (Platform for Regulatory Application, Validation And AutHorisation) online portal of RBI for submitting applications and other forms for faster processing.

In addition to making application filing mandatory for Regulatory Entities (as stated above), any entity or individual wishing to seek authorisation, license or regulatory approval on any reference made by it to the Reserve Bank has also been mandated to submit their applications through the PRAVAAH portal which includes not only FEMA related applications (for ECB, FDI, ODI and LO/BO/PO) but also for NBFC certificate of registration, CIC registration, shareholding changes in Banking Company amongst 108 other such applications. For example, Compounding Application which was filed with the Regional Office / Central Office of the RBI in physical format by the applicant (entity / individual) will now have to be filed online (post scanning of all documents) on the PRAVAAH portal.

Effective date: Effective from May 1, 2025

Investments by Foreign Portfolio Investors in Corporate Debt Securities through the General Route – Relaxations

RBI/2025-26 FMRD.FMD. No.01 / 14.01.006 / 2025-26 dated May 08, 2025

Investments by Foreign Portfolio Investors ("FPIs") in corporate debt securities through the General Route were subject to (a) short-term investment limit and (b) concentration limit which have both been withdrawn with a view to provide greater ease of investment to FPIs.

As a comparison for reference, the following were the prescribed limits for FPIs prior to the aforesaid notification:

Sr. No.	Description	Limits (prior to notification)	Limits (post notification)
1.	Short term investment limit	Investments by an FPI in corporate debt securities with residual maturity up to one year shall **not exceed 30 per cent of the total investment of the FPI in corporate debt securities**	No limits
2.	Concentrati on limit	Investment in corporate debt securities by an FPI (including its related FPIs) shall not exceed **15 per cent of prevailing investment limit for these securities in case of long-term FPIs** and **10 per cent of prevailing investment limit for other FPIs**	No limits

Effective date: Immediate effect

Important Updates - SEBI

Faster Rights Issue with a flexibility of allotment to specific investor

SEBI/HO/CFD/CFD-PoD-1/P/CIR/2025/31 dated March 11, 2025

The new framework for Rights Issue process has been introduced vide notification of SEBI (Issue of Capital and Disclosure Requirements) (Amendment) Regulations, 2025 to streamline and expedite the Rights Issue process for listed entities. As a part of new framework, following changes have been made:

1. Rights Issues must be completed within 23 working days from Board approval.
2. Offer for Rights shall be open for a minimum of 7 days and a maximum of 30 days
3. Stock Exchanges and Depositories will be required to develop system for automatic validation of applications within 6 months of the applicability of this circular i.e. April 07, 2025.
4. In light of the new framework, partial modifications have also been made in the Master Circular to align with the new framework, including:
   i. In the letter of offer the issuer shall disclose the process of credit of Rights Entitlements ("REs") in the demat account and renunciation thereof.
   ii. Applicants may use application form available on the website of registrar to the issue or printed forms sourced from the issuer or registrars to the issue.
   iii. Correction of bid data as collated by the Self-Certified Syndicate Banks ("SCSBs") after issue closing shall be completed on the issue closure date itself.
   iv. For rights issues the issuer has to file the letter of offer with SEBI through email at cfddil@sebi.gov.in and the payment of filing fees shall be made online through payment link provided on SEBI website under the fees category "Filing Fees".
5. Stock Exchanges and Depositories have been instructed to inform the stakeholders, put in place the necessary systems and infrastructure for implementation of this circular and make changes in their rules, regulations and bidding portal.

Applicability: Effective from April 07, 2025

Harnessing DigiLocker as a Digital Public Infrastructure for reducing Unclaimed Assets in the Indian Securities Market

SEBI/HO/OIAE/OIAE_IAD-3/P/CIR/2025/32 dated March 19, 2025

With an objective to reduce unidentified and unclaimed assets[1], Securities and Exchange Board of India ("SEBI") has introduced inclusion of Mutual Fund and Demat holding

statements within DigiLocker (digital document wallet of the Government of India (GoI), facilitating citizens in obtaining and storing documents like Aadhaar, PAN, Driving Licence, Death Certificate, etc.)

[1] UA (Unclaimed Asset): Conventionally, a folio / account is identified as unclaimed when the dividend / interest payment is unsuccessful or the letter / cheque returns undelivered. Such criteria are ineffective if these payments get credited into the bank account of a deceased investor. The family member would not apply for transmission of the folio / account as they may not be aware of the investment in the first place. In such instance, the folio / account is not only unclaimed, but is also not identified as unclaimed resulting to unidentified unclaimed assets. This circular is aimed at preventing the creation of unidentified unclaimed assets in mutual funds and demat accounts.

Important Updates - SEBI

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Asset Management Companies ("AMCs") and their Registrar and Transfer Agents ("RTAs") and the Depositories are directed to register with DigiLocker as "Issuers".

Investors will have the option to fetch mutual fund and demat account statements directly into DigiLocker:

- holding statement, as of the date immediately preceding the date of fetching, or
- transaction statements for the last 30 days.

Users / investors will have the option of fetching / generating the latest or last available Consolidated Account Statement ("CAS") in the previous 12 months of their request from their DigiLocker. Furthermore, DigiLocker will also provide the option to automatically generate CAS on 1st of January of each year.

DigiLocker users can assign nominees who will be notified upon the user's demise. Nominees can access the deceased user's financial documents in DigiLocker after identity verification. This information will aid nominees / legal heirs in initiating the asset transmission process.

DigiLocker will update user demise status through Register General of India's Death register or information shared by KYC Registration Agencies ("KRAs"). KRAs must electronically share investor demise details with DigiLocker.

All intermediaries (AMCs, RTAs, Depositories, KRAs) must implement the necessary changes and report the implementation status to SEBI.

Applicability: Effective from April 01, 2025

Measures to facilitate ease of doing business with respect to framework for assurance or assessment, ESG disclosures for value chain, and introduction of voluntary disclosure on green credits.

SEBI/HO/CFD/CFD-PoD-1/P/CIR/2025/42 dated March 28, 2025

The circular amends provisions relating to ESG (Environmental, Social, and Governance) disclosures, particularly those involving value chain partners, the BRSR Core framework, and voluntary disclosures on green credits.

A significant update includes the incorporation of a new leadership indicator under Principle 6 of the *Business Responsibility and Sustainability Report* ("BRSR"). This indicator mandates disclosures of green credits generated or procured, not only by the listed entity but also by its top ten value chain partners in terms of purchase and sales value. This requirement is applicable starting from the financial year 2024–25.

In terms of value chain ESG disclosures, SEBI has deferred the implementation timeline to give businesses and their partners more time to establish appropriate measurement and reporting mechanisms. Now, disclosures will apply only to partners who individually account for 2% or more of the entity's purchase and sales value. However, entities may limit the scope to cover up to 75% of total purchases and sales by value. These disclosures will be voluntary from FY 2025–26, while assessment or assurance of such disclosures will be voluntary from FY 2026–27. Additionally, during the first year of reporting, the submission of prior year data will be optional.

Applicability: Effective from March 28, 2025

Important Updates - SEBI

Intraday Monitoring of Position Limits for Index Derivatives

SEBI/HO/MRD/TPD-1/P/CIR/2025/41 dated March 28, 2025

Stock exchanges have now been mandated to monitor intraday position limits for Index Derivatives, which is in addition to existing End-of-Day ("EOD") monitoring introduced in SEBI Master Circular dated December 30, 2024, for Stock Exchanges and Clearing Corporations.

For the purpose of monitoring the intra-day positions, the following structure has been put in place, namely:

- At least 4 intraday snapshots will be taken randomly within predefined time windows by the exchanges.
- Existing penalty framework for end-of-day limit breaches will apply to intraday breaches as well.

Given the concerns from industry associations (ANMI, BBF, CPAI) about system readiness and upcoming regulatory changes at the end of stockbrokers and their clients to monitor intraday positions, the following has been decided for intraday monitoring of existing position limits for index derivatives (in the interim period till final proposals are accepted):

i. From April 01, 2025, exchanges shall monitor position limits for index derivatives intraday, but no penalties will apply for intraday breaches of current position limits.
ii. Such breaches will not be considered as violations till further directions.
iii. Exchanges will have to create and share a Standard Operating Procedure (SOP) to guide participants and inform them of any breaches for internal risk monitoring.

Applicability: Effective from April 01, 2025

Measure for Ease of Doing Business – Facilitation to SEBI registered Stockbrokers to undertake securities market related activities in Gujarat International Finance Tech-city – International Financial Services Centre (GIFT-IFSC) under a Separate Business Unit (SBU)

SEBI/HO/MIRSD/MIRSD-PoD/P/CIR/2025/61 dated May 02, 2025

The circular aims to streamline access to GIFT-IFSC for stockbrokers, promote international financial services, and ensure proper regulatory demarcation between domestic and IFSC activities.

SEBI has now removed the requirement for stockbrokers to obtain specific SEBI approval to operate in GIFT-IFSC. Brokers can now operate in GIFT-IFSC through a Separate Business Unit ("SBU") of the same entity or continue using existing subsidiaries or joint ventures. This flexibility will enable stockbrokers to choose their preferred operational structure based on business needs.

To ensure regulatory clarity and separation between domestic and IFSC operations, SEBI has mandated that SBUs will maintain an arm's-length relationship from Indian market operations. This includes segregated accounts, separate net worth calculations, and compliance solely with the regulations of the International Financial Services Centres Authority (IFSCA). Brokers who have already set up a subsidiary or JV for GIFT-IFSC operations may now opt to dismantle it and transition to an SBU model if desired.

Important Updates - SEBI

SEBI's investor grievance redress mechanisms, including SCORES and the Investor Protection Fund (IPF), will not apply to SBUs.

Applicability: Effective from May 02, 2025

Rating of Municipal Bonds on the Expected Loss (EL) based Rating Scale

SEBI/HO/DDHS/DDHS-PoD-2/P/CIR/2025/ 70 dated May 15, 2025

The Securities and Exchange Board of India (SEBI) has permitted Credit Rating Agencies ("CRAs") to use the Expected Loss ("EL") based rating scale, alongside the standardized rating scale, for municipal bonds issued to fund infrastructure projects.

This decision follows discussions with stakeholders and aims to enhance the reflection of recovery prospects in ratings. The circular seeks to safeguard investor interests and support market development.

Applicability: Effective from May 15, 2025

Companies (Indian Accounting Standards) Amendment Rules, 2025

Notification dated May 7, 2025

Ministry of Corporate Affairs notified Companies (Indian Accounting Standards) Amendment Rules, 2025 to amend the Companies (Indian Accounting Standards) Rules, 2015.

MCA has introduced the concept of exchangeable currency in the existing accounting standards namely *Indian Accounting Standard (Ind AS) 21,* implying conversion of functional currency to foreign currency and the provisions to account in lack of exchangeability into foreign currency.

The definition of exchangeable currency concept is as follows:

"*A currency is exchangeable into another currency when an entity is able to obtain the other currency within a time frame that allows for a normal administrative delay and through a market or exchange mechanism in which an exchange transaction would create enforceable rights and obligations.*"

The amendments to IND AS 21 clarify the exchangeability between currencies requiring assessment at the measurement date for a specific purpose. If the exchangeability is lacking, entities must estimate the spot exchange rate and disclose its impact.

These changes effective from 1st April 2025 includes new guidance and disclosure requirements but do not require restatement of comparatives. Appendix A in the notification provides application guidance to aid assessment and estimation. The detailed notification can be referred from this link:

https://www.mca.gov.in/bin/dms/getdocument?mds=vBFzI3EzmTiUyL7B7SDwAw%253D%253D&type=open

Effective date: Date of publication in official gazette

Companies (Accounts) Amendment Rules, 2025

Notification dated May 19, 2025

Ministry of Corporate Affairs vide this notification extended the due date of filing of **Form CSR-2** [Corporate Social Responsibility activities] for the Financial Year 2023-24 from **March 31, 2025, to June 30, 2025.**

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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
COO	Certificate of Origin

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)
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
DRP	Dispute Resolution Panel
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
FDI	Foreign Direct Investment
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

X

Abbreviations

Back

Abbreviation	Meaning
IBC	Insolvency and Bankruptcy Code, 2016
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