K C Mehta & Co LLP
Chartered Accountants

kcm Insight

June 2025

Dear Reader,

We are happy to present ***kcm**Insight* , 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.

Coverage

Detailed Analysis

Abbreviations

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

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Coverage | Detailed Analysis

Transfer Pricing

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Time in the Market or Timing the Market? – Think Again!

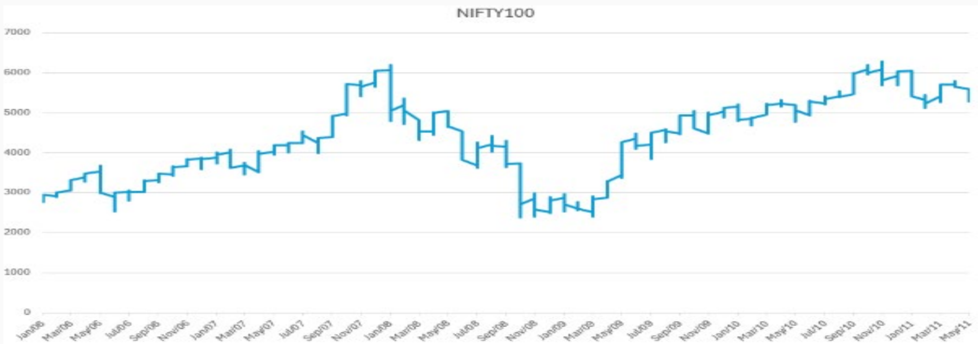
Introduction

Investors have long debated a fundamental question while investment in stock markets – Should you stay invested through all market conditions, or is it wiser to time your entries and exits? The popular mantra, "time in the market beats timing the market," champions long-term investing and the power of compounding. The reasoning is clear – timing the market is difficult, and missing just few of the best-performing days can dramatically reduce long-term returns, as studies on historical returns of Indian as well as global markets have shown.

But is that the whole story? While patience and compounding do reward disciplined investors, timing does matter – at least in the short term, particularly in sectors which are cyclical, sentiment-driven, and macro-sensitive. Entering during euphoric highs or exiting during panic can lead to subpar outcomes – even over the long term.

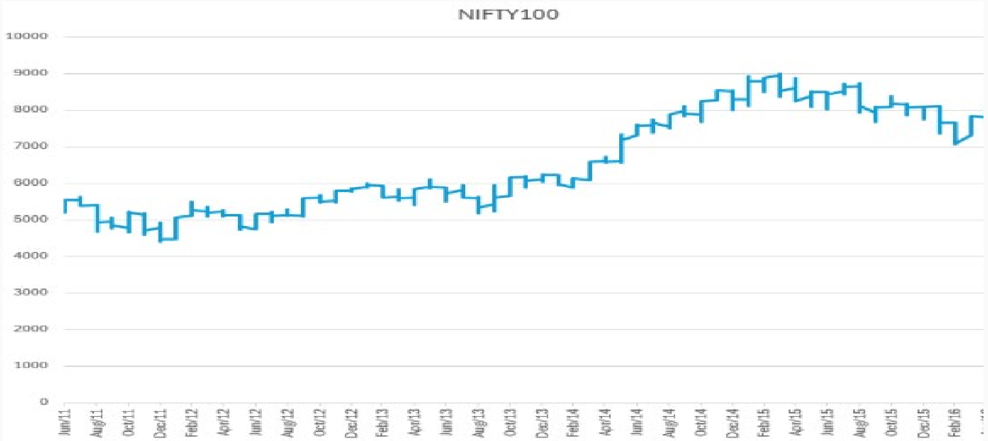
As such, the debate should not be time vs timing – but rather, how the right timing can amplify returns over time. While long-term investing offers stability and compounding benefits, strategic timing based on fundamentals can significantly enhance returns.

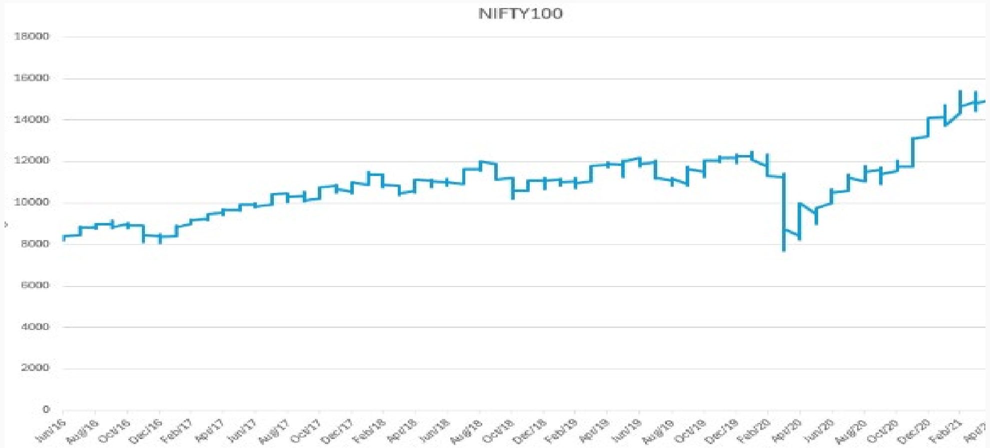
Time in the Market



1. Long-Term SIPs are Resilient

Even though short-term IRRs can be volatile (e.g., -24.64% from May 2020–21), all 10-year, 15-year, and 20-year SIP periods have delivered positive returns, proving the resilience of long-term investing.





Time in the Market or Timing the Market? – Think Again!

2. Volatility Reduces Over Time

While 1-year IRRs fluctuate wildly – from +82.65% to -54.64% – longer-term IRRs are far more stable:

- 10-Year SIP IRR: 9.67% to 13.79%
- 15-Year SIP IRR: 12.80%
- 20-Year SIP IRR: 12.06%

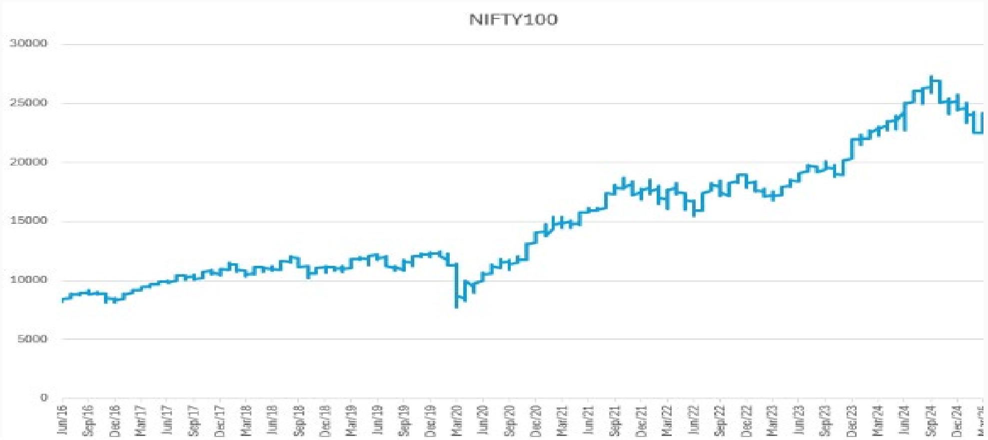
This highlights how a longer time-period reduces the timing risk.

3. Compounding Rewards Patience

A 20-year SIP in the Nifty 100 (2006–2025) delivered a 12.06% IRR, outperforming PPF (7–8%) and most mutual funds (post-fees), underscoring the power of consistency over trying to outsmart the market.

4. Crises are Opportunities

Even SIPs started just before market crashes (e.g., Jun-08 or Jun-11) yielded strong 5-year and 10-year IRRs, for e.g., 14.79% from 2020 to 2025 – demonstrating that riding out downturns pays. In fact, investing more during crises can amplify returns.



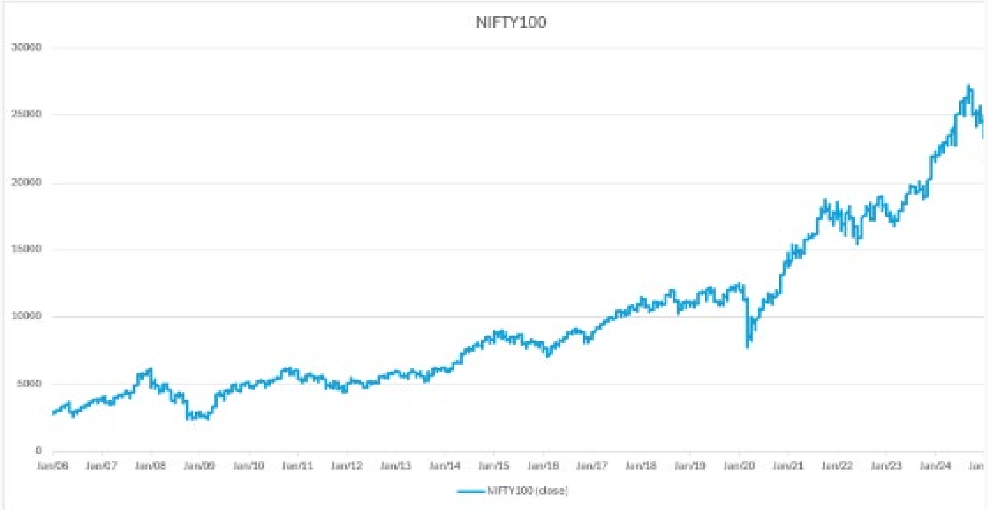
Time in the Market or Timing the Market? – Think Again!

5. Staying Invested vs Timing Extremes

Investing at the lowest point in a year (assuming you are always lucky!) would yield a 20-year IRR of 13.68%, while investing at the highest point in a year (assuming you are the unluckiest!) would still return a 20-year IRR of 10.90%. A monthly SIP over the same 20-year period returned 12.06%, proving the benefit of steady investing regardless of timing. Essentially, long-term SIPs delivered higher risk adjusted return without relying on your luck or losing your peace of mind.

6. SIPs Shield Against Poor Timing

Short-term SIPs can suffer (e.g., 0% IRR from Jun-09 to May-12) but extending the horizon (10+ years) results in positive returns, thanks to rupee-cost averaging.

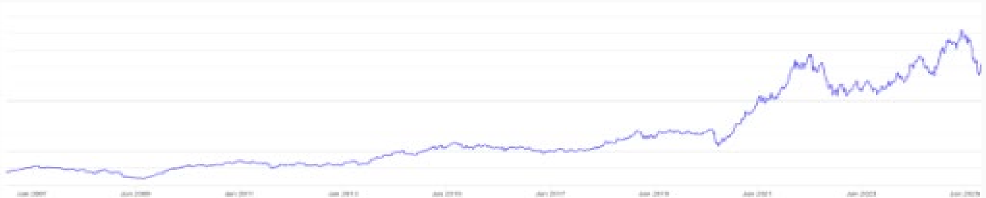


Time in the Market or Timing the Market? – Think Again!

Timing the Market

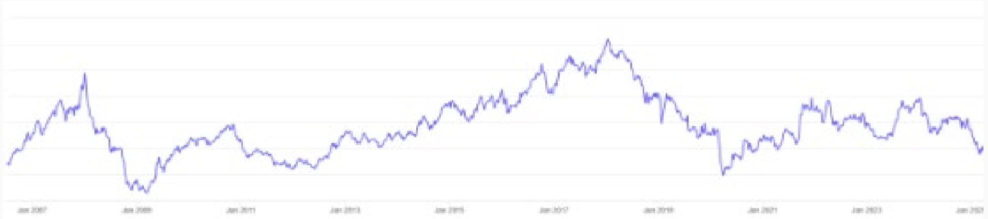
Nifty IT: High returns during digital booms; poor returns post-rallies

- Jun-12 to May-15 SIP: 25.03% IRR (early in IT upcycle: rupee depreciation, global recovery)
- Jun-20 to May-23 SIP: 43.45% IRR (COVID-driven digital transformation)
- Jun-16 to May-21 SIP: 28.30% IRR (recovery post-underperformance)
- Jun-06 to May-09 SIP: 0.00% (global financial crises impact); 10-year IRR: 13.60%
- Jun-21 to May-25: Deeply negative 1-year IRRs (e.g., -23.29%, -12.34%), highlighting risks post-rally.



Nifty Media: Strong short-term gains but long-term underperformance due to structural shifts

- Jun-06 to May-07 1-year IRR: 98.75% (irrational optimism: FDI, digitization hype)
- Jun-13 to May-14 SIP: 32.81% (election-driven rally)
- Long-Term SIP (Jan-06 to Jun-25): 0.00% IRR
- 15-year (Jul-10 to Jun-25): 0.00%; 10-year: 0.90%
- Media has witnessed structural shifts: declining print, poor digital monetization, weak earnings.
- SIPs in 2009, 2018, 2021: IRRs at or below 0% - even post-COVID rebound did not revive the sector.



Nifty Pharma: COVID-driven spikes followed by weak returns.

- Jun-20 to May-21 1-year IRR: 60.24% (COVID optimism: vaccines, exports)
- Jun-12 to May-15 SIP: 38.73% (breakout after correction)
- Jun-21 to May-24: 0.26% IRR; Jun-24 to May-25: -1.90%
- Time periods after strong rallies without earnings support led to underperformance.

Time in the Market or Timing the Market? – Think Again!

Nifty Realty: Cyclical booms and busts; timing entry and exit crucial for gains.

- 2006–07 & 2008–09 1-year IRRs: ~118% (boom periods)
- Dec-18 to Dec-21 SIP: 44.57%; Dec-21 to Dec-24: 45.74%
- Jun-22 to May-25: 32.06% 3-year IRR (momentum still strong)
- 5-year SIPs from Dec-16 & Jul-20: 25.49% and 31.69%
- Poor Timing: SIPs from Dec-06 to Dec-12 → 0.00% IRR; 10-year SIP (2006–16): 0.00%
- Long underperformance due to global financial crises, NBFC crisis, RERA, liquidity crunch

Conclusion: Time vs Timing – Not One or the Other

Time in the market rewards patient investors and helps weather volatility through stability, compounding, and rupee-cost averaging. Timing the market (based on fundamentals, not emotions), such as intrinsic valuation, macro trends, or sector cycles, can significantly enhance returns.

The key is not to chase recent performance but to combine long-term discipline with tactical allocation based on fundamentals, not emotions. The best strategy is a blend of long-term discipline and tactical allocation. To conclude – time is your edge, while timing is your amplifier.

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The curious case of IndusInd Bank

Facts in public domain

IndusInd Bank faced a significant crisis due to accounting discrepancies in its derivative transactions, particularly related to interest rate swaps and foreign exchange derivatives. These discrepancies, involving internal hedging practices, led to a 2.35% reduction in net worth and a substantial drop in the bank's stock price. The issue came to light following new RBI regulations mandating a review of internal trades, revealing mismatches in financial reporting and internal controls.

IndusInd Bank was borrowing money in foreign currency and hedging the risk of currency fluctuations using derivative contracts. However, instead of hedging with external market participants, the bank traded between its own internal accounts.

This internal hedging led to accounting mismatches because of internal trades were valued using models rather than actual market rates, and currency fluctuations were not accurately reflected in financial statements. The discrepancy accumulated over time, leading to a Rs 1,600 crore correction.

On a whistleblower complaint, the IAD was asked by the Audit Committee of the Board to review transactions recorded in "other assets" and "other liabilities". The IAD submitted its report on May 8, 2025, that there were unsubstantiated balances aggregating to ₹595 crores in 'other assets' accounts of the Bank.

RBI issued a press note on March 15, 2025, which said “there is no need for depositors to react to the speculative reports at this juncture. The bank’s financial health remains stable and is being monitored closely by Reserve Bank”.

Post adopting the 2024-25 Annual accounts, the board decided, in a case of extreme exception, that Chairman of the Board will address the analysts call. Chairman described the Board approach.

a. The problems identified according to the Chairman are:
   i. Inadequate emphasis on accounting analysis rigour
   ii. Lapses in Governance norms
   iii. Inadequate Internal control
   iv. Lapses in Disclosure
   v. Inadequate mechanism for reporting to board
   vi. Board was not informed of these discrepancies till March 2025, including at the time of approval of financial results in respective periods
b. The action plan is
   i. Increase transparency
   ii. Internal reviews
   iii. External auditors
   iv. Substantive checks with wider sample size.
   v. Address the root cause for each lapse. This will be done under board oversight.
   vi. Institutionalising robust ethical best practices.
   vii. Staff accountability

Sources: Business World, ET, RBI press releases, chairman’s address to analysts

The Questions that arise are many. Banking is highly regulated. There are frequent and periodical meetings conducted by RBI with Management and auditors separately. In those meetings RBI comes with lot of data and information as also their own. Then this happens. The 3 major deficiencies that we notice.

The curious case of IndusInd Bank

Derivative Hedging

- Operation of hedging transaction is even more shocking. Bank was hedging its liabilities by opening internal accounts. The fundamental of hedging is that it is to be undertaken with external party to shift the risk.
- The hedging entries were done at nominal rate or rate determined by a model rather the actual rate prevailing. Thus, when the actual date of squaring the transaction came, the rate in the books was nowhere near the actual rate. This led to increased liability.
- The entire structure of this transaction escaped all the oversight and supervision.

Accounting Mishandling

- Interest income was wrongly inflated
- Entries were routed through Other Assets and Other Liabilities for misclassification of Non- Performing Advances

  Other assets and other liabilities are already under added scrutiny of RBI. RBI has been very much on this aspect including internal office accounts and suspense accounts like sundry deposits. These are accounts where all items which do not have any specific identification in Trial Balance will be accounted through this account.

Governance

Chairman explicitly mentioned in the call with analysts that there was no reporting of this methods to the board for all the periods in which the financial results were published.

There is no place for opinion in this matter. It is for us to understand from the writing and speeches about what is unsaid and unwritten.

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

Important Rulings

Coverage

Conversion of company into LLP is construed as transfer for chargeability of tax under capital Gain unless all the prescribed conditions of Section 47(xiiib) are fulfilled

ISC Specialty Chemicals LLP [ITA No. 457/Mum/2025, ITAT, Mumbai]

The Taxpayer is a Limited Liability Partnership ('LLP") incorporated upon conversion from a private limited company ("the erstwhile company") under the Limited Liability Partnership Act, 2008 ("the LLP Act"). Upon conversion of erstwhile company into LLP, all movable, immovable, intangible assets, interest, right, privileges, liabilities and obligations and in effect the whole undertaking was transferred to and vested in the Taxpayer. All the assets and liabilities were recorded at book value by the Taxpayer upon conversion.

The return of income for the year was filed with Nil income and did not claim any exemption u/s 47(xiiib) of the Act upon conversion into LLP. The case of a Taxpayer was selected for scrutiny and order u/s 143(3) of the Act was passed making addition to the total income by considering the value of assets vested upon conversion into LLP as transfer and thereby charged to tax as capital gain u/s 45 of the Act.

Aggrieved by the order of AO, the Taxpayer filed an appeal before CIT(A), wherein the Taxpayer contended that it had never claimed benefit u/s 47(xiiib) and therefore, section 47A(4) had no application in the present facts of the case. The Taxpayer also argued before CIT(A) even if it is considered as transfer, the assets was transferred on a going concern basis of the company at book value and therefore, there is no capital gain in the hands of the Taxpayer. However, the CIT(A) rejected the contention of the Taxpayer and upheld the order of AO. The Taxpayer then filed an appeal to ITAT against the decision of CIT(A).

Before ITAT, the Taxpayer contended that all the assets and liabilities of the erstwhile company got vested to LLP at book value and the company ceased to exit and in lieu of shares of the shareholders, the interest in the capital account of Taxpayer were given in the same proportion of their shareholding in the erstwhile company, the conversion of company into LLP would not amount to transfer within the meaning of section 2(47) and thereby the same should not be subjected to capital gain tax. Further, the Taxpayer relied on the decision of co-ordinate bench Hon'ble Mumbai, Tribunal in the case of ACIT vs. Celeritypower LLP [2018] 100 Taxmann.com 129 (Mumbai-Trib) considering the various judicial precedents under the LLP Act, wherein the conversion of company into LLP was not considered as transfer under the LLP Act. Whereas the Revenue argued that since the total value of assets in the books of erstwhile company exceeds the limit of Rs. 5 Crore, the conditions prescribed u/s 47(xiiib) is violated and consequently, the conversion from erstwhile company into LLP constitutes transfer and subject to capital gain tax. The Revenue further contended the provisions of section 47A(4) is triggered upon violation of conditions of section 47(xiiib) if even if the tax exemption was not claimed by the Taxpayer.

The Tribunal examined the provisions of section 47(xiiib) of the ITA and referred the Memorandum to the Finance Bill, 2010 and held that section 47(xiiib) was introduced to treat the conversion of company as tax neutral upon fulfillment of the stipulated conditions. The Tribunal observed that the legislative intention has always been to consider such conversion as a transfer in absence of fulfilment of conditions to charge the same as capital gain tax. The Tribunal held while considering the capital gain tax implication, the conversion of a company into LLP should be analyzed under the ITA and not under the LLP Act.

As regards to the chargeability of capital gain u/s 45 of ITA, the Tribunal referred to the decision of ACIT vs. Celeritypower LLP [2018] 100 Taxmann.com 129 (Mumbai-Trib) and held that as the difference between the transfer value and the cost of acquisition was Nil, there does not arise any capital gain as a result of conversion and therefore, while computing the capital gains the machinery provision was rendered as unworkable in the present case.

The above ruling emphasis that even if the conversion of company into LLP is considered as transfer, the computation mechanism under the Income Tax Act provides the Taxpayer to deduct the cost of acquisition of such assets transferred while computing the capital gain.

Waiver of deferred sales tax liability constitutes benefit arising out of business to taxable u/s 28(iv)

Oricon Enterprises Ltd. [ITA No. 2810 & 2811/Mum/2024 (Mum)]

In the present case, the Taxpayer has collected and kept the sales tax liability of Rs. 1,83,60,000 for 10 years and decided to repay at its Net Present Value ("NPV") of Rs. 93,57,509 arrived at scientifically by the State Government. The differential amount of Rs. 90,22,491 credit to profit and loss account, which was claimed as exempt by the Taxpayer in the return of income filed for the year. However, the AO invoked the section 2(24)(xviii) of ITA and held that differential value between the amount of sales tax retained by Taxpayer and the amount paid to Statement Government in this year as income for the year as per the amended provisions since there is a gain on extinguishment of deferred sales tax liability which is arising out of Package Scheme of Incentive 1958 and Bombay Sales Tax 1959.

Aggrieved by the order of the AO, the Taxpayer filed an appeal before CIT(A), wherein the Taxpayer argued that even if the grant is valuable one it cannot be translated into precise numbers and therefore, it is difficult to ascertain to come under assistance and ICDS-7 notified u/s 145(2) also excludes the "assistance" whose value cannot be ascertained. However, the CIT(A) has relied on the decision of Serum Institute of India (P) Ltd. [2023] 157 Taxmann.com 107 (Bom) and thereby upheld the order of AO by considering it as income as per amended provisions of section 2(24)(xviii) of ITA. The Taxpayer then filed an appeal to ITAT against the decision of CIT(A).

Before ITAT, the Taxpayer argued that no benefit was accrued to the Taxpayer at the time of prepayment of deferred sales tax liability at its NPV as the Taxpayer is paying exactly the same amount which is required to be paid in future. Further, the Taxpayer contended that the amount retained by them does not come within the ambit of income and argued on the basis of provisions of ICDS.

The Tribunal examined the provisions of section 2(24)(xviii) of ITA and held that the intention of the Government is to tax all the types of subsidies, grant, cash incentives, duty drawback, waivers, concessions or reimbursement by whatever name called by the Central or State Government. The Tribunal further observed that the Taxpayer was given a benefit or incentive by State Government to keep this money for setting up an industry in backward area, otherwise the Taxpayer had to pay entire sales tax collected from customers to the

Important Rulings

Government immediately as per the due dates mentioned under Maharashtra Sales Tax Act. The Tribunal further examined that even before the amendment in Finance Act, 2015, the subsidy/assistance should be treated as revenue receipt since the incentive in the form of reduced NPV given to the Taxpayer is to run its business set up in backward area in a more profitable way and not to acquire any asset.

The Tribunal by relying on the decision of Hon'ble Supreme Court in the case of Dooars Tea Company Ltd. vs. CIT 1962 SCR(3) 157, held that the income u/s 2(24) of ITA is defined as an inclusive way and not exhaustive, which means that unless the receipt is excluded or classified as exempt, the same has to be treated as income, which is liable to tax. Further, the Tribunal on examining the dictionary meaning of assistance reproduced by the Taxpayer held that it shows that the Taxpayer got assistance of Government and concession by way of reduced payment, which falls within the ambit of section 2(24)(xviii) of amended Act.

While concluding, Tribunal held that the waiver of deferred sales tax liability is a benefit accrued to the Taxpayer arising out of its business and therefore it is income as per the amended provisions of section 2(24)(xviii) with effect from April 1, 2015.

The above ruling emphasis that waiver of sales tax benefit is a concession provided to the Taxpayer by way of reduced payment, which is accrued to the Taxpayer out of its business and treated the same as taxable u/s 28(iv) of ITA.

Deciphering the term "Similar Computation" for setting off losses

iShares ESG Aware MSCI ETF (ITA No. 2040, 2072 and 2073 of 2025, ITAT Mumbai)

Section 70 of ITA allows set off of intra-head losses i.e. loss incurred from one source of income can be set off against income from another source taxable under the same head. The exception to such set off is provided in relation to income arising under the head "Capital Gains". The ITA restricts set off of short-term capital loss against short term capital gain and similarly loss from long term capital asset can be set off against long term capital gain only.

The Taxpayer is a corporate entity incorporated in foreign country and also registered with Securities and Exchange Board of India as a Foreign Portfolio Investor. During the year, the Taxpayer earned income from sale of short-term capital asset being shares and securities chargeable to tax at the rate of 15% as well as at higher rate of 30%. The taxpayer also incurred short term capital loss liable to tax at 15%. As the nature of asset sold was categorized as short term, the taxpayer set off such loss against short term capital gain from sale of other securities liable to tax at the rate of 30%.

Though short term capital loss was set off against short term capital gain, the department disallowed the same as loss chargeable to tax at lower rates was set off against income chargeable to tax at higher rates. The department emphasized on the term "similar computation" for the purpose of restricting the set off of losses. It was the contention of the department that losses shall be set off against income liable to tax at similar rates. As in the given case, the taxpayer was off-setting loss chargeable to tax at lower rates with income chargeable to tax at higher rates, same was not allowable. The order of lower authority was confirmed by DRP against which the Taxpayer preferred appeal before ITAT.

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The Tribunal observed that section 70 of ITA does not provide any classification for set off of loss if the primary condition of short term against short term and long term against long term is satisfied. It further held that loss shall be allowed to be set off if it is computed in the similar manner as provided u/s 48 to 55 of ITA irrespective of tax rate at which such gain would be subsequently charged to tax. The Tribunal relied on the judgement of Calcutta High Court in case of Rungamatee Trexim in TA No. 812 of 2008 where loss on sale of shares with STT which is chargeable to tax at lower rates was allowed to be set off against loss on sale of shares without STT chargeable to tax at higher rates.

Similarly, Kolkata Tribunal in case of Diamond Co Ltd in TA No. 326 of 2014 held that the term "similar computation" under section 70(2) of ITA connotes that income should have been computed within relevant chapter i.e. section 45 to 55A. Also, the Mumbai Tribunal in case of Fidelity Investment Trust Fidelity Overseas Fund in TA No. 6055 of 2008 allowed set off of short-term capital loss with short term capital gain irrespective of the rate at which such gain would be charged to tax. The Tribunal observed that provisions of section 70 emphasis on computation of capital gain and not on taxation of capital gain and since manner of computation of income is anterior to application of rate of tax, once income is computed then only the rate at which such income would be charged to tax comes into the picture.

Validity of Reopening the Assessment beyond three years

Ankita Ashok Wairkar [ITA No. 895 of 2025, ITAT Mumbai]

Revised and new provisions for reopening of the assessment were enacted by the Finance Act, 2021 whereby conditions as well the time limits for reopening had undergone tremendous changes. Under the amended provisions of ITA, time limit for issue of notice is three years from the end of relevant assessment year and it extends to ten years if income chargeable to tax escaping assessment exceeds Rupees fifty lakhs.

The Taxpayer is an individual and during the year, purchased an immovable property along with her husband. The total consideration of the property exceeded Rupees fifty lakhs and as she had not filed her return of income, the case was reopened for assessment beyond three years. Though total consideration of property exceeded prescribed monetary limit, undisclosed income assessed by the AO in the hands of the Taxpayer was below Rupees fifty lakhs. The Taxpayer put forth its argument that since total income escaping assessment do not exceed Rupees fifty lakhs, the reassessment proceedings cannot be initiated after completion of three years. In the given facts, alleged escaped income pertained to AY 2016-17 and therefore time limit for reopening the assessment under amended provisions expired on 30.06.2021 (including time limit as extended by TOLA). The Taxpayer relied on the decision of the Madras High Court in case of Sanath Kumar Murali in WP No. 7647 of 2023 wherein the Court observed that income chargeable to tax cannot be gross receipts / sale consideration and it is escaped income chargeable to tax after deducting allowable expenditure which should be considered for issuing notice u/s 148 of ITA.

The Revenue contended that total consideration of the immovable property was above the prescribed monetary limit of Rupees fifty lakhs

Important Rulings

and accordingly for the purpose of reopening the assessment, time limit of ten years would apply.

The Tribunal appreciating the provisions of ITA and the findings of the Madras High Court, held that time limit of ten years shall apply if income escaping assessment exceeds Rupees fifty lakhs and not the total sale consideration.

Jharkhand High Court in case of Sevensea Vincom (P) Ltd in WP (T) No. 2815 of 2023 and Madhya Pradesh High Court in case of Nitin Nema in WP No. 8311 of 2023 appreciating the amended provisions of 149 of ITA held that income as taxable under five heads after allowing various deductions as provided under ITA shall be considered for applying extended time limit of ten years.

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

Important Rulings

Indian Ruling

Records at foreigner regional registration office (FRRO) held reliable for determining period of stay and residential status

M. Mahadevan [ITA Nos.1824 to 1826 (CHNY) of 2024 – Order dated May 30, 2025]

The taxpayer had filed his return of income as 'non-resident' and contended to be a tax resident of UAE for which he had also produced a TRC from UAE Tax authorities. The taxpayer had relied upon entry / exit passport stamps for computation of period of stay in India and contended that his stay in India did not exceed 181 days in a year. Taxpayer also claimed that he had business interests outside India and visited Singapore and Malaysia for the purpose of business outside India and hence was not a tax resident of India as per the provisions of Section 6(1)(a) as well as Section 6(1)(c) read with Explanation to Section 6(1)(c) of the ITA.

The tax authorities carried out search procedures and also obtained information from FRRO. Tax authorities contended that the Taxpayer's stay in India as per FRRO's records exceeded 181 days in a year. And that the Taxpayer travelled to Singapore, Malaysia, etc. on a multiple entry visitor visa for social visits and not for business purpose. Tax authorities thus argued that the Taxpayer was a resident in India and was taxable on his worldwide income in India. Further, as the taxpayer operated his business from Chennai, based on the provisions of Section 6(4) of the ITA, business incomes arising from business controlled and management from India were also liable to be taxed in India.

The Hon'ble bench of Chennai ITAT dismissed CIT(A)'s order in favour of the taxpayer and upheld the additions proposed by the AO. The Hon'ble bench of Chennai ITAT held that FRRO is a Central Government agency responsible for and authorised to keep track of movement of foreigners and citizens entering / exiting the country on a real time basis and that its data cannot be questioned or doubted. Based on the FRRO's data the Taxpayer's stay in India exceeded 181 days and hence the Taxpayer was considered as a resident of India and his global income was held taxable in India. The Hon'ble bench of Chennai ITAT also upheld denial of DTAA benefits and AO's contention that the treaty relief based on TRC by CIT(A) was based on wrong appreciation of facts and that DTAA is to avoid double taxation and not for double non-taxation in both jurisdictions.

The ITAT's order lays a clear emphasis on reliance on data from FRRO for determination of period of stay in India by an individual and also holds that in absence of an employment VISA or a Business VISA, it is difficult to hold that the individual was carrying out business outside India or all his visits were business visits. However, the order does not detail or speak out the reasons for denial of DTAA benefits despite of a TRC issued by UAE authorities.

Rights entitlement not same as 'Shares'; STCG exempt under India-Ireland DTAA by virtue of Article 13(6)

Vanguard Emerging Markets Stock Index Fund a Series of VISPLC [ITA *Nos. 1277 to 1283 (Mum.) of 2025 – Order dated May 23, 2025]*

The taxpayer, incorporated in Ireland, is registered with SEBI as a FPI in India. During the relevant assessment year, the taxpayer earned a STCG from sale of rights entitlement (RE) in shares of an Indian Company. The taxpayer claimed the same as exempt under Article 13(6) of India-Ireland DTAA, which applies to gains from alienation of property not covered under

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Article 13(1) to 13(5) of the DTAA. Additionally, the taxpayer incurred STCL on sale of STT-paid shares and sought to set them off against STCG earned from sale of non-STT paid shares.

The AO rejected the taxpayer's treaty claim by treating the sale of RE as equivalent to the sale of shares taxable under Article 13(5) of the India-Ireland DTAA. The AO also denied the set-off of STCL against STCG from non-STT paid shares, contending that Section 70 of the ITA permits set-off only between gains and losses computed under similar mechanisms. The DRP upheld AO's position, arguing that RE is akin to shares due to their tradability, linking it to underlying equity and their nature as rights to subscribe to discounted shares.

On Appeal, the Hon'ble bench of Mumbai ITAT examined the nature of RE considering SEBI regulations, the Companies Act, and judicial precedents. The Hon'ble bench of Mumbai ITAT observed that RE are credited independently to investor's demat accounts and are assigned a separate ISIN which constitute distinct capital assets separate from equity shares. It further noted that while Article 13(4) of the India-Ireland DTAA had been amended through the MLI to include "comparable interests," no such modification was made to Article 13(5) of India-Ireland DTAA. Therefore, RE could not be treated as shares under Article 13(5) of India-Ireland DTAA, and the gains were rightly exempt under Article 13(6).

The Hon'ble bench of Mumbai ITAT also noted that co-ordinate bench in taxpayer's own case for a prior year, held that gains from the sale of RE were not taxable in India, consistently, applying the same position, the Hon'ble bench of Mumbai ITAT ruled in favour of the taxpayer.

On the second issue, regarding set-off of STCL from STT-paid shares against STCG from non-STT paid shares, the Hon'ble bench of Mumbai ITAT noted that co-ordinate Bench, in the case of taxpayer's group company, had considered the similar issue and held that there is no prohibition under the ITA regarding the hierarchy of set off of STCL arising from STT paid shares against the STCG from non-STT paid shares. The Hon'ble bench of Mumbai ITAT applied the same ratio and rejected AO's disallowance of set off benefit claimed by the taxpayer.

This ruling reinforces the principle that tax treaty provisions must be interpreted strictly and not expanded by analogy. It provides welcome clarity for FPIs engaged in rights trading and affirms their eligibility for treaty protection. Further, the ITAT's guidance on capital loss set-off hierarchy under domestic tax law ensures that taxpayers retain flexibility to adopt the most tax-efficient order of set-off, in absence of statutory prescription.

Receipts from Data Transmission Services via Space Segment capacity on Satellites not classified as Royalty

New Skies Satellites BV. [ITA No. 983 (Del) of 2025 - Order dated May 23, 2025]

The taxpayer is a company incorporated in the Netherlands and is a tax resident of the Netherlands as per Article 4 of India-Netherlands DTAA. During the relevant year, it provided transmission services of voice, data and programmes by provision of space segment capacity on satellites to customers under various contracts around the world. The AO proposed adjustments to the company's income earned from India, classifying the payments it received as either "Royalty" or "FTS¬" under Section 9(1) of the ITA. The AO relied on explanations inserted in the year 2012 which broadened the definition of royalty to include certain service fees, thereby including the taxpayer's income under royalty for taxation.

Aggrieved by the additions made by the AO, the taxpayer filed an appeal before the higher appellate authorities. The key issues raised in the case were: (1) Whether the receipts in question could be classified as 'Royalty' under the ITA, and (2) If so, whether the taxpayer would still be entitled to relief under the applicable provisions of the India-Netherlands DTAA. The taxpayer asserted that under the India-Netherlands DTAA, the "use of a secret process" is a necessary condition for a payment to be treated as 'Royalty'.

After examining the facts of the case, the High Court held that India's subsequent shift in stance reflected in the OECD commentary cannot influence the interpretation of the terms in the DTAA, unless such changes are expressly incorporated into the treaty itself. Amendments to domestic law made to correct a previously misinterpreted provision cannot automatically alter the treatment of income under an international agreement. Accordingly, the amendment to Section 9(1) does not impact the taxability of the income under the DTAA. As a result, the court set aside the disputed addition to the taxpayer's income and ruled in favour of the taxpayer.

Business losses of PE can be set off against ECB interest income

Abu Dhabi Commercial Bank PJSC Wework India Management (P.) Ltd. [ITA No. 3404 (Mum) of 2023 - Order dated June 11, 2025]

The taxpayer is a non-resident banking company a tax resident of the UAE. During the relevant year, as a part of its international operations, it extended ECB directly to Indian customers, without involving its Indian branches, which constituted its PE in India and earned interest income from these Indian clients. It claimed that such income was taxable under Article 11(2) of the India-UAE DTAA at a concessional rate of 5% on a gross basis, since it was the beneficial owner of the interest income.

Further, the taxpayer's PE in India had incurred business losses therefore while filing its return of income, the taxpayer set off the PE's losses against the interest income and applied the rate of 5% on the balance interest income. The AO disagreed to this, arguing that under Article 11(2) of the DTAA, the interest income should be taxed on a gross basis without allowing any deductions, including the set-off of business losses. The DRP also upheld the view of AO, stating that since the interest income was classified as business income under domestic law, section 115A would not apply and even if it did, the income would fall under section 115A(1)(a)(ii) and attract a higher tax rate of 20% and not 5% under section 115A(1)(a)(iiaa). Based on the DRP's directions, the AO finalized the assessment by taxing the full amount of interest income at the rate of 20% without permitting any set-off for the PE's losses.

The Taxpayer has filed an appeal before the Hon'ble bench of Mumbai ITAT wherein it was examined that whether the taxpayer could set off business losses incurred by its PE in India against the interest income earned from ECB. The taxpayer had declared the interest income under the head "IFOS" and sought to apply a concessional tax rate of 5% under both Section 115A(1)(a)(iiaa) of the ITA and Article 11(2) of the India-UAE DTAA. The Hon'ble bench of Mumbai ITAT observed that, although the DRP initially classified the interest as business income under domestic law, it ultimately agreed

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that it should be treated as interest income under Article 11(2) of the DTAA.

The Hon'ble bench of Mumbai ITAT further held that Article 11(2) of the DTAA should be read alongside domestic tax laws, including provisions for computing and setting off income, such as Section 71 of the Indian ITA, which allows inter-head set-off of current year losses (excluding capital gains). Accordingly, the taxpayer was allowed to offset business losses of its PE against interest income. The ITAT further clarified that the term "gross" in Article 11(2) refers only to the interest amount before deducting expenses, without precluding permissible set-off under domestic law. Additionally, the ITAT upheld the taxpayer's alternative claim under Section 115A(1)(a)(iiaa), noting that the requirement for Central Government approval for ECB loans had been waived as per the CBDT's press release issued in 2012, provided the loans complied with RBI regulations - which the department did not dispute. Consequently, the ITAT ruled that the interest was eligible for the 5% concessional tax rate, thereby upholding the taxpayer's claim.

This ruling strengthens the principle that treaty benefits must be read in harmony with domestic law, especially when the latter offers more favourable outcomes. It also sets a precedent for similar cases involving cross-border interest income and loss adjustments, promoting consistency and fairness in international taxation.

Foreign Ruling

Fiscally transparent US LLC 'not liable to tax', denied group relief under Irish laws read with DTAA

Susquehanna International Securities Limited [Appeal Number: 2024/276 – Order dated May 27, 2025]

The taxpayer, an Irish company, claimed group relief (loss allocations) from its US Parent Company under Section 411 of the Irish Tax Consolidation Act. The taxpayer contended that such group relief are available in case of Irish Parent or European Union ('EU') / European Economic Area ('EEA') resident Parent and denial of similar group relief in case of US Parent Company was discriminative in nature and not in line with non-discrimination clause under Ireland–USA DTAA. The taxpayer relied on a decision of Court of Appeal in England, where a UK subsidiary of US parent company was granted such relief in light of the non-discrimination clause under UK-USA DTAA.

The Court, however, denied DTAA benefits to the USA LLC on the grounds that the USA LLC was a tax transparent entity or a disregarded entity for the USA tax purposes and hence was not 'liable to tax' in the USA and could not qualify as resident for the purpose of claiming benefits under USA-Ireland DTAA.

Delhi Tribunal in the case of General Motors Company USA has recently held that the ability of the LLC to elect its tax classification under the USA federal income tax law supports the position that the LLC is being liable to tax. Further, the ITAT has held that even a disregarded LLC is essentially 'liable to tax' but the income is attributed to its tax owners and such tax liability is discharged by the owners. The contrary views of the Irish holding that a disregarded LLC is not eligible to tax treaty benefits could have far reaching implications.

Foreign Corporations subject to full tax liability under domestic law, not Ipso facto qualify as residents under treaty

GE Financial Investments

The taxpayer, a company incorporated in UK, held 99% interest as a limited partner in a US based limited partnership, while GEFI Inc, the general partner, held the remaining 1%. Following its incorporation, GEFI Inc implemented a mirror restriction similar to the taxpayer's Memorandum and Articles of Association, effectively 'stapling' the shares of both entities.

On account of stapling of shares, the taxpayer was treated as a domestic corporation for the US federal income tax and thus liable for tax on its worldwide income in the USA. The USA imposed this tax irrespective of its entitlement under the DTAA, a situation often referred to as a "treaty override." The taxpayer accordingly paid income tax in the USA and claimed credit for the taxes paid in the US while filing its corporate tax returns in the UK for the relevant period. However, the tax authorities denied the tax credit claim made by the taxpayer because no tax was payable in the USA as per the DTAA.

Aggrieved by the decision, the taxpayer appealed before the First-tier Tribunal ('FTT'). However, despite of the fact that the taxpayer was liable to tax in the USA, FTT held that the taxpayer is not a resident of the USA for treaty purposes. The taxpayer further challenged the said decision, however, surprisingly, Upper Tribunal ('UT') passed the judgement in favour of the taxpayer and now His Majesty's Revenue & Customs ('HMRC') preferred an appeal before the Court of Appeal, UK. Ideally, the matter primarily revolves around whether the taxpayer qualifies as resident of the US considering Article 4 of the UK-USA DTAA due to share staple between the taxpayer and GEFI Inc.? and if the answer to the same is no, whether the taxpayer carried on business in the USA through a PE as per UK-USA DTAA?

Article 4(1) of UK-USA DTAA defines a resident of a contracting state being any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, citizenship, place of management, place of incorporation, or any other criterion of a similar nature. Accordingly, prima facie, the taxpayer will be considered a resident of the UK on account of its place of incorporation. Simultaneously, section 269B of the USA tax law provides that on account of stapling of shares foreign corporation shall be treated as domestic corporation. The court preferred HMRC's interpretation and held that taxpayer's status as a stapled entity under section 269B does not amount to "any other criterion of a similar nature" and accordingly, as per DTAA, the taxpayer was considered as resident of the UK and not of the USA.

Further, with respect to whether taxpayer's PE carried on business in the USA, the Court held that taxpayer merely acted as a passive holding vehicle for some loan receivables. Their size makes no difference. The test is a qualitative one and it was concluded that it cannot be said that taxpayer's PE carried on business in the USA.

This ruling dispels the notion that tax liability in a country automatically confers residency irrespective of the provisions of DTAA, offering a significant clarification that will be well-received by income tax authorities worldwide.

Foreign Updates

New Zealand proposes thin capitalisation reforms to attract infrastructure investment

New Zealand (NZ) Inland Revenue has released an issues paper for public consultation on potential reforms to the country's thin capitalisation rules, aimed at encouraging foreign investment in infrastructure. The following two reform options are under consideration:

1. **Targeted Rule for Infrastructure** – Focusing on infrastructure projects, this rule would allow full interest deductibility on third-party debt used to fund eligible infrastructure projects in NZ subject to certain specified conditions such as the project must create long term asset, the debt must be from unrelated third party, the projects interest, assets, and income must arise in NZ etc. The rule would be elective, applicable per project or for qualifying project portfolios, and would primarily apply to foreign-controlled entities, certain partnerships, and outbound taxpayers.
2. **General Third-Party Debt rule** – Modelled on Australia's new approach which will apply based on debt characteristics rather than sector. This broader test would allow full interest deductibility for NZ resident borrowers where the lender is unrelated, recourse is limited to NZ assets and funds are used solely for NZ business activities. This test would be optional, applied at the NZ group level, and would exclude related-party debt, foreign-asset-backed debt and debt used for offshore activities. Groups may switch annually between this test, the existing 60% safe harbour, or the 110% worldwide group ratio.

Inland Revenue has indicated a preference for the targeted infrastructure rule but is inviting feedback on both approaches from public.

Pakistan introduces Digital Presence Tax in federal budget

Pakistan's MOF presented the Federal Budget for FY 2025-2026 on June 10, 2025, introducing several tax reforms, including introduction of Digital Presence Proceeds Tax Act, 2025. This act imposes a 5% tax on the revenue earned by foreign e-commerce providers. Under the proposed framework, financial institutions including banks, licensed exchange companies,

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and other payment service providers will be responsible for withholding 5% tax when processing payments to foreign entities for goods or services. Additionally, e-commerce platforms must collect and remit 18% sales tax on such transactions.

Some of the other key tax measures in the budget also include:

- Change in rates of income tax brackets for salaried individuals from 5%, 15% and 25% to 1%, 11% and 23% respectively.
- Reduction in surcharge of 10% on individual taxable income exceeding PKR 10 million to 9%.
- Increase in tax rate on interest income from 15% to 20%
- Reduction in withholding tax rates for construction sector from 2% to 1.5% for tax filers, 3.5% to 2.5% for non-filers, and from 4% to 3% for other categories.

UAE Corporate tax exemption extended to Certain foreign entities

The UAE, through its Cabinet Decision no. 55 of 2025 dated May 14, 2025, has extended the scope of the corporate tax exemption to include juridical persons incorporated outside UAE, provided they are wholly owned and controlled by an 'exempt person'. This exemption is available subject to meeting the prescribed conditions under section 4(1)(h) of the corporate tax law, requiring the foreign juridical person to:

- Undertake part or all the activity of the exempt owner; or
- Exclusively hold assets or invest funds for the benefit of the exempt owner; or
- Carry out activities that support the activities of the exempt owner.

The cabinet decision, effective retrospectively from June 01, 2023, affects foreign juridical persons having their place of effective management and control in the UAE. Entities previously excluded from exemption solely due to incorporation outside the UAE can now reassess their exemption eligibility and revisit any corporate tax registrations and filing obligations. This development offers relief and ensures equal tax treatment for juridical persons, whether incorporated in or outside the UAE, if owned by an exempt person.

Oman issues law on special economic zones and free zones

Oman published Royal Decree 38/2025 enacting SEZ and Free Zones (FZ) Law, effective from April 14, 2025, along with an Explanatory Memorandum. The new Law establishes a comprehensive framework to streamline business operations in SEZs and FZs, offering incentives such as a 10-year tax exemption to qualifying enterprises, extendable by additional two periods for activities of a special nature.

The law also includes provisions related to customs that will benefit enterprise operating within SEZs and FZs, and a one-stop-shop service for approvals, permits and licensing related to economic activities within the zones, making it easier to conduct business in Oman. Executive Regulations and supporting decisions will follow within a year to enable implementation of the Law.

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Arm's length returns proportional to the Return over Value Added Cost | Return over Value Added Cost = Return on Total Costs where all the costs are incurred towards the occurrence of the international transaction

Inventec (Czech), s. r. o. Vs. Appeal Financial Directorate [1 Afs 2/2025 – 59]

The taxpayer located in Czech Republic, was a subsidiary of a Taiwanese company, was engaged in manufacturing and supplying of server cabinets to Hewlett Packard. The said manufacturing activity was carried out after procuring the material from the Taiwanese company, formally taking the ownership of the material in the hands of the taxpayer and subjecting it certain processes at taxpayer's end. The taxpayer categorised itself as a toll manufacturer (explained in Reader's Focus section) even though it took over the ownership of the material from the parent company under formal arrangements.

The taxpayer's case was subject to scrutiny by the Czech tax authorities, which applied the Transactional Net Margin Method and chose the Return over Total costs as the appropriate profit level indicator ('PLI'). The tax authorities made a TP adjustment to the profits of the taxpayer by contending that the taxpayer's use of Return over Value Added Cost is not sufficient to compensate for the additional inventory risk borne (i.e., the taxpayer should have been classified as a contract manufacturer instead of a toll manufacturer) by the taxpayer by taking the ownership of the material supplied by the parent company. Therefore, the tax authorities contended for a markup over and above the material cost as well.

Aggrieved by the tax authorities' action, the taxpayer appealed before the Administrative Court which allowed partial relief to the taxpayer stating that the entire amount of material costs should not be included in the cost base of the taxpayer while determining the markup. It was noted, based on the empirical values as furnished by the taxpayer and included in the functional analysis as documented, around 24% of the material value could be said to be under the ownership of the taxpayer and accordingly, to that extent the material cost is entitled to be included in the cost base eligible for a recharge.

Aggrieved by the Regional Administrative Court's ruling, the taxpayer appealed before the Supreme Administrative Court, which upheld the apportionment of 24% of the material costs in the cost base of the taxpayer.

Reader's focus:

The aforesaid case is one of best examples of the accurate delineation of the functions performed and risks assumed by the taxpayer. Generally, the risks are captured in the cost base of the taxpayers. For example, a full-fledged manufacturer would be having operating expenses in the form of fuel expenses, power expenses, spare consumption vis-à-vis a trader whose spectrum of the operating expenses would be dominated by selling and general administrative expenses, warehousing expenses, etc.

In the aforesaid case, the taxpayer contended that there was no control over the risk in case of material being rendered defective or any adverse condition thereby leading to bearing the costs of the said material in the hands of the taxpayer. The taxpayer was of the view that it did not had the liquidity to bear the costs of the material. In this regard, the tax authorities stated that the control over risk of material costs would have been captured / considered if the taxpayer

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had accounted for the margin over and above the portion of the material over which the taxpayer administered control (i.e., the 24% portion of the material).

Generally, in cases of toll manufacturers, the responsibility and the ownership over the material remains with the principal and not with the entity carrying out the manufacturing or processing activities. On the contrary, in case of contract manufacturers, the manufacturing entities are provided with the relevant technical know-how to produce the finished product, and the material is the responsibility of the manufacturing entity itself.

In the present case, the taxpayer contended that it was only a formal arrangement to take the ownership of the material and the taxpayer did not bear the cost in case of any adverse situations of material cost being rendered useless or unfruitful. As a result, the taxpayer used the Return over Value Added cost after excluding the material cost. The use of Return over Value added costs vis-à-vis Return on Total Costs is an exercise of great caution which is supported by the functions being performed and the risks undertaken. The aforesaid can be best explained by the below example:

In case of an agent, acting on behalf of a principal, which is not responsible for the delivery of the goods, and neither is responsible for the after-market services to the customers may be entitled to a commission simplicitor. Whereas a full-fledged distributor which deals with the customers on its own accounts, including entering into contracts, appraising customer requirements, providing after sales services, etc., would be entitled to a greater number of profits as well as losses, thus indicating a more complex function when compared to an agent.

Return on Value Added Expenses can be regarded as Return on Total Costs where all the costs reflecting in the profit & loss statement are incurred towards supply of the goods or rendition of the services. Therefore, it can be said that Return on Value Added Expenses is kind of a spin off which finds its way from the Return on Total Costs PLI.

Expenses not attributable to the realization of the revenue to be treated as non-operating in nature

HSI Automotive Private Limited [TS-359-ITAT-2025(CHNY)-TP]

The taxpayer was engaged in the manufacturing of various automotive parts such as low-pressure hoses, power steering parts, fuel hose, water hose, etc. The taxpayer had imported material, consumables and capital goods from its AEs and benchmarked the international transactions using the Transactional Net Margin method on a net profit basis.

Upon scrutiny by the TPO, it made an upward adjustment to the taxable income by altering the PLI of the taxpayer. In this regard, while computing the PLI, the taxpayer had disregarded the product development expenses which the TPO regarded as operating in nature and as a result, added back the said expenses to the cost base for the purpose of computation of the PLI. Aggrieved by the TPO's actions, the taxpayer appealed before the DRP which upheld the action of the TPO.

Aggrieved by the DRP's direction, the taxpayer appealed before the Chennai Tribunal which held that the expenses in the form of product development expenses were indeed non-operating in nature and therefore, should be excluded from the cost base while determining the net profitability of the controlled transactions.

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Reader's Focus:

Generally, in case of application of the TNMM, a PLI of the controlled transactions is computed and compared with similar uncontrolled transactions. In this regard, it becomes significant to compute the correct PLI in order to ascertain whether there is any erosion of profits or not. The net profit PLI is computed by comparing the net profits realised from the controlled activity against a suitable base i.e., either operating costs or operating revenue.

In case of a controlled revenue transaction, it is but evident that the operating costs would be taken as the denominator for computing the PLI. In determining the correct cost base, only those expenses are taken into account which have contributed to the commercial activity under consideration. Therefore, contingent expenses such as product development charges which are incurred for the purpose of development of new models or products which may or may not be fruitful in the future and which cannot be attributed to the existing revenue which has been derived by the tested party should not form part of the cost base.

Another suitable example of non-operating expenditure are the expenses incurred during the time of the Covid period, wherein certain additional expenses were incurred in the form of vaccine charges, internet charges, covid kit charges, etc. which did not directly resulted into the realisation of revenue should have been excluded from the cost base while determining the operating profit.

Sale of shareholding by director held in associated enterprise ('AE') cannot be classified as business restructuring | Transactions to be reported for the limited period of existence of the AE relationship

Inlogic Technologies Pvt. Ltd [TS-339-ITAT-2025(CHNY)-TP]

The taxpayer was engaged in the provision of software development services to its AE. The relationship with the AE was covered by clause (j) of sub-section (2) of section 92A of the Income-tax Act, 1961 ('the Act') i.e., the directors held shares in both the taxpayer as well as the other enterprise (i.e., AE). The taxpayer's case was selected for scrutiny for the Financial Year ended March 2021 i.e., FY 2020-21.

In regard to the AE relationship, the taxpayer initially reported the total value of the international transactions for all the 12 months as per the Form 3CEB for FY 2020-21. But subsequently, the taxpayer stated that on June 01, 2020, the director which held common ownership in both the taxpayer and the AE sold its shareholding in the AE. Therefore, it filed a revised addendum to consider the value of international transactions only to the extent covered by the initial 2 months i.e., April and May 2020. In respect of the benchmarking, the taxpayer conducted an external benchmarking, the taxpayer compared the rate charged for those 2 months with the rate charged for the remaining 10 months as part of the application of the comparable uncontrolled price ('CUP') method since the relationship had ceased to exist from June 2020 onwards.

The TPO made an adjustment by considering the value as per the initial disclosure of aggregate 12 months amount and further, rejected the addendum submitted by the taxpayer. The TPO also contended that the taxpayer also did not provide any disclosure w.r.t the fact that there has been a change in the directorship which should have been disclosed under clause 18 of the Form 3CEB i.e., as part of business restructuring. Aggrieved by the TPO's stand, the taxpayer appealed before the DRP which upheld the action of the TPO.

Aggrieved by the TPO's and DRP's directions, the taxpayer appealed before the Chennai Tribunal. The Chennai Tribunal remitted the matter back to TPO's consideration but while remitting it back noted the following:

1. Filing of the audit report i.e., Form 3CEB is only a procedural aspect and accordingly, such lacunas should not lead to substantial justice being denied to the taxpayer. Therefore, filing of the revised Form 3CEB can happen at a later stage even though the addendum sufficiently addresses the changes which the taxpayer wanted to convey.
2. Mere change of directorship in the shareholding of the AE cannot be categorised as business restructuring of the taxpayer. Sale of the shareholding merely points out to the AE relationship ceasing to exist from that point onwards.

Reader's focus:

Business Restructuring: The term has not been defined under the Indian income tax act and accordingly, one can refer the OECD Transfer Pricing Guidelines 2022 ('OECD TPG 2022'). OECD TPG 2022 provides that business restructuring shall be attracted where there has been a transfer of profit potential due to transfer of intangibles, or functions or risks undertaken by the entity under consideration. Accordingly, in the present case since there was merely a change in the ownership and that too in the AE's jurisdiction, the same could not be categorised as business restructuring.

Business restructuring examples would generally include the following:

a. Conversion of full-fledged distributors into limited risk distributors, or marketers, or sales agents, or commissionaires
b. Transfer of intellectual property rights or intangibles to another entity within the same group
c. Centralisation or decentralisation of the various functions from one group entity to another group entity

CUP method vis-à-vis changes in shareholding:

In the present case, the taxpayer continues to charge the same rate for the post AE period (i.e., AE relationship ceases to exist) which it used to charge for the period when the AE relationship was existing between the taxpayer and its AE. In this regard, it is important to note that whether any significant changes in the commercial terms have occurred since the change in the AE relationship i.e., changes in mode of service delivery, change in costs if any, etc. Further, on a conservative basis, the taxpayer may choose to provide for a new agreement even though there are no changes in the functional profile so as to convey the intent that the pricing policy along with the other terms and conditions of service delivery have remained same.

AE relationship – Whether to be seen for part of the year or for entire year?

While the current case law is silent on the part of whether AE relationship would be considered for only 2 months or entire year, it is very important to minutely read Section 92A(2), which says that two enterprises shall be deemed to be associated enterprises if, at any time during the previous year the conditions of

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associated enterprises of clause (a) to (m) are fulfilled.

The interpretations of this language can be as follows:

1) The phrase "at any time during the previous year" as in section 92A(2) cannot be interpreted to mean that the assessee is to be subjected to transfer pricing provisions even at times during which it was not an AE. All it posits is that the AE relationship may happen anytime during the year depending on facts and circumstances and it is only for that time period the international transactions between AE's are subject to TP – As argued by the learned AR in the given case
2) In case of Hon'ble Bangalore ITAT ruling of Palmer Investment Group Ltd [TS-117-ITAT-2023(Bang)-TP], it was held that even if the AE relationship was formed in the middle of the year, since the language of Section 92A(2) mentions the phrase "at any time during the previous year", all the transactions with said AE during the entire year (even before the AE relationship was formed) would be considered for the purpose of transfer pricing test.

In view of the above, it would be interesting to see the ultimate outcome of the ruling if and when the case comes for second level of appeals in Hon'ble ITAT.

Functional Attribute is a primary factor for comparison under RPM

Troy Chemicals India Pvt. Ltd [TS-298-ITAT-2025(Mum)-TP]

The taxpayer in the present case was in the business of trading of speciality chemicals used in paint, wood preservation, coatings and other allied industries. The taxpayer also undertakes functions of storage, promotion and sale of such products in India. The taxpayer benchmarked the transaction of purchase of such goods from its AE and certain purchase return under Resale Price method ('RPM'). The TPO questioned the comparable companies selected by the taxpayer and held that companies involved in trading of bulk chemicals should not be included for benchmarking purposes.

Before the Hon'ble Mumbai ITAT, the learned departmental representative argued that while the taxpayer is in the business of speciality chemicals and comparable companies are in the business of bulk chemicals, they serve different purpose and characteristics and hence such companies are not comparable. The said argument was also upheld by the Hon'ble DRP in the same assessment year.

The Hon'ble Mumbai ITAT held that as per Rule 10B(1)(b), RPM can be applied with respect to the comparable uncontrolled transaction of purchase and resale of the "same or similar" property or from obtaining and providing the "same or similar" services. Thus strict product comparability is not required under RPM. The same was also upheld in various other judicial precedents.

Thus, Hon'ble ITAT held that under RPM, the focus is more on same or similar nature of properties or services rather than the similarity of products, and therefore, the functional attribute is a primary factor while undertaking the comparability analysis under the RPM.

Reader Focus:

While conducting benchmarking for certain unique products or businesses, taxpayer's often face the dilemma of not getting data of comparable companies having business in the same products. However, it is very important to understand the very logic of each of the transfer

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pricing method and how to apply the same. While in certain methods like CUP – the exact product comparison would be important, in methods like RPM, CPM and TNMM, more focus should be on the functional comparability in similar industry rather than product comparability because these methods focus more on benchmarking the return from the specific function performed by the taxpayer, which has been also upheld by Hon'ble Mumbai ITAT.

In view of the upcoming transfer pricing compliances, this understanding can prove to be very useful while conducting benchmarking of various transactions.

CCD cannot be recharacterized as equity until conversion and hence Interest on CCD allowable

UCWEB Mobile Pvt. Ltd [TS-310-ITAT-2025(DEL)-TP

The taxpayer issued Compulsorily Convertible Debentures ('CCD') to its AE and paid interest to its AE on such CCD. The TPO disallowed the interest on such CCD by arguing that CCD is an equity instrument in nature.

The Hon'ble Delhi ITAT held that till the time of conversion of CCD to equity, CCD is a debt instrument. The characteristics of equity instrument and debt instrument is different like participation in management, voting power etc. Further, there are various judicial precedents who has held that CCD are debt till conversion

Hence, Hon'ble Delhi ITAT deleted the adjustment made by the TPO.

Reader's Focus:

CCD as an instrument has been a contentious issue for the tax department wherein the various regions tax department have taken a stand that CCD are equity instrument and consequently disallowed the interest paid on such CCD. However, all the Appellate tribunals have generally held this issue in the favour of the taxpayer.

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Important Rulings

GST Portal Updates and Advisory

Advisory on non-editable auto-populated liability in GSTR-3b with effective July 2025

The GSTIN, through its advisory dated June 7, 2025, has announced a significant change effective from the July 2025 tax period (returns to be filed in August 2025). As per the new framework, the auto-populated tax liability in GSTR-3B, which is derived from the outward supplies declared in GSTR-1/IFF, will become non-editable.

At present, taxpayers have the flexibility to edit these auto-populated figures directly in GSTR-3B. However, from the July 2025 period onwards, any corrections to the declared outward supplies must be carried out through Form GSTR-1A, which allows for amendments within the same return period. Such amendments must be completed prior to filing GSTR-3B for the respective month.

Therefore, the taxpayers are advised to take note of this change and ensure that any necessary corrections are routed through GSTR-1A in a timely manner.

Advisory on for filing pending returns before expiry of three years

As per the Finance Act, 2023 (effective from 1st October 2023 made via Notification No. 28/2023 – Central Tax), filing of GST returns under Sections 37, 39, 44, and 52 of the CGST Act will not be allowed after three years from the due date. This applies to returns such as GSTR-1, 1A, 3B, 4, 5, 5A, 6, 7, 8, 9, and 9C.

The GSTN issued an advisory regard the same that this restriction will be implemented from the July 2025 tax period. Therefore, it is advised to the taxpayers to file their return before the expire of time period, failing which filing will be permanently barred.

Advisory on handling of inadvertently rejected records on IMS

The Invoice Management System (IMS) plays a crucial role in the matching of invoices between suppliers and recipients for the purpose of Input Tax Credit (ITC). However, there may be instances where invoices, debit notes, or credit notes are wrongly rejected by the recipient despite the corresponding GSTR-3B return having already been filed. To address such scenarios and facilitate accurate ITC reflection and liability adjustment, the GSTN has issued a clarification on the appropriate corrective mechanism to be followed through IMS, GSTR-1A, and amendment tables. The key questions and their responses are summarized below:

Q1 How can a recipient avail ITC on invoices/debit notes/ECO-documents wrongly rejected on IMS, if the corresponding GSTR-3B has already been filed?

The recipient may request the supplier to re-furnish the same document (without any changes) in:

- GSTR-1A of the same tax period, or
- Amendment table of a subsequent GSTR-1/IFF.

Upon accepting the record on IMS and recomputing GSTR-2B, the ITC will be made available for the full amended value, as the original was previously rejected.

Q2 What is the impact on the supplier's tax liability when the same document is re-reported in GSTR-1A or amendment table?

There will be no increase in the supplier's liability, as the amendment tables in GSTR-1/IFF function on a delta (difference) basis.

Since the re-reported value is the same as the original, the net change in liability is zero.

Q3 How can the recipient reverse ITC on a credit note wrongly rejected in IMS, if GSTR-3B is already filed?

The recipient should request the supplier to re-report the same credit note in:

- GSTR-1A of the original tax period, or
- Amendment table of a future GSTR-1/IFF.
- Upon accepting the record on IMS and recomputing GSTR-2B, the ITC will be reversed to the extent of the full credit note value, as the original was fully rejected.

Q4 What is the effect on the supplier's liability when the credit note is wrongly rejected by the recipient?

Initially, the supplier's liability increases in the open GSTR-3B due to the rejection. Further, when the credit note is re-reported and accepted, the liability is reduced by the same amount. Hence, there is no net impact on the supplier's final tax liability, assuming the correction is done within the prescribed time limit.

Circulars

Clarification on DIN requirement for GST Communications Issued via the Common Portal.

[Circular no. 249/06/2025-GST – Central Tax - dated 9th June 2025]

The CBIC, vide Circular No. 249/06/2025-GST, has clarified that communications such as Show Cause Notice summaries (Form DRC-01), adjudication orders (Form DRC-07), and other documents generated and issued through the GST common portal need not bear a Document Identification Number (DIN). This is because such documents are already assigned a unique, electronically verifiable Reference Number (RFN). The RFN provides full traceability, including details of the issuing office, date of issuance, and type of communication. The clarification has been issued in view of the practical concerns arising from duplication of identifiers, as both DIN and RFN serve the same purpose of ensuring authenticity and transparency.

Accordingly, CBIC has stated that DIN is not required for any GST communication issued via the common portal that already contains an RFN. Such documents are considered valid in law, as they comply with Section 169(1)(d) of the CGST Act, which permits service through the common portal. This clarification also aligns with Instruction No. 4/2023-GST, which mandates electronic service of key notices and orders. To this extent, the earlier circulars (No. 122/41/2019-GST and No. 128/47/2019-GST) requiring DIN on all communications now stand partially modified.

Clarification on review, revision & appeal for orders passed by common adjudicating authorities (CAA) in DGGI SCN cases)

[Circular no. 250/07/2025-GST– Central Tax - dated 24th June 2025]

The CBIC has issued a clarification regarding the post-adjudication procedures applicable to Orders-in-Original (OIOs) passed by Common Adjudicating Authorities (CAAs) in response to

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Show Cause Notices (SCNs) issued by the DGGI. While the appointment and territorial jurisdiction of CAAs were notified earlier, these circular addresses the mechanism for review, revision, and appeals as below:

Sr. No.	Authority / Function	Clarification Provided
1	Reviewing Authority (Section 107, CGST Act)	Principal Commissioner / Commissioner of Central Tax under whom the CAA (Joint/Additional Commissioner) is posted shall act as the reviewing authority for such OIOs.
2	Revisional Authority (Section 108, CGST Act)	The same Commissioner shall also act as the revisional authority for the orders passed by the CAA.
3	Appellate Authority (Section 107, CGST Act)	Appeals against OIOs passed by the CAA shall lie before the Commissioner (Appeals) having territorial jurisdiction over the Principal Commissioner/Commissioner under whom CAA is posted.
4	Departmental Representation in Appeals	The jurisdictional Principal Commissioner/Commissioner shall represent the department in appeals and may appoint a subordinate officer to file the departmental appeal.
5	DGGI's Role in Review/Revision	Reviewing/Revisional Authority may seek comments from the concerned DGGI formation before deciding upon the OIO passed by the CAA.

Instructions

Grievance redressal mechanism for processing of application for GST registration

[Instruction no. 04/2025-GST dated 2nd May 2025]

The CBIC, through Instruction No. 04/2025-GST dated 2nd May 2025, has introduced a grievance redressal mechanism for GST registration applicants, particularly those whose applications fall under Central jurisdiction and face issues such as unjustified queries or rejection. Principal Chief Commissioners/Chief Commissioners of CGST Zones are instructed to publicize a dedicated email ID for receiving such grievances.

Applicants can raise grievances by providing their ARN, jurisdiction (Centre/State), and a brief description of the issue. In cases where the grievance pertains to a state jurisdiction, the same should be forwarded to the respective State authority with a copy endorsed to the GST Council Secretariat.

The concerned Chief Commissioners must ensure timely resolution of grievances and communicate the outcome to the applicants. If the queries

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The concerned Chief Commissioners must ensure timely resolution of grievances and communicate the outcome to the applicants. If the queries raised by officers are found to be proper, suitable advice should be given to the applicant. Additionally, monthly reports on grievance disposal are to be submitted to the Directorate General of GST (DGGST), which will compile the same for the Board's review.

Judicial updates

ITC cannot be denied to genuine buyer for supplier's default in GST deposit

(Writ Tax No. 1330 of 2022, decided on 30-5-2025)

The petitioner, a registered dealer using mobile recharge services from Bharti Airtel, had claimed ITC amounting to ₹28.52 lakhs for FY 2017-18 based on seven tax invoices. The entire consideration, including GST, had been paid through RTGS. However, ITC was disallowed under Section 16(2)(c) of the CGST Act on the ground that the supplier failed to deposit the GST collected.

The petitioner contended that it had fulfilled all obligations by paying tax-inclusive amounts through banking channels and submitting valid tax invoices, and hence, could not be penalized for the supplier's default. The department, however, insisted that ITC could not be allowed unless the supplier actually deposited the tax with the government. The department also initiated proceedings under Section 73 and imposed additional penalty and interest.

The Court observed that the purchaser had no control over the filing of returns or tax payment by the supplier. It emphasized that the purchasing dealer, having discharged its duties diligently, should not be penalized for the default of the selling dealer. Referring to the Supreme Court's ruling in Suncraft Energy Pvt. Ltd. and Madras High Court's decision in D.Y. Beathel Enterprises, the Court concluded that parallel action should be initiated against the seller and the benefit of ITC should not be denied to the bona fide purchaser. The matter was remanded for fresh adjudication with a direction to pass a reasoned and speaking order within two months.

This judgment strengthens the position of genuine buyers who comply with statutory requirements and transact transparently. It highlights the principle that ITC denial should not operate mechanically when the buyer has no role in the seller's default. Authorities are required to initiate action against the defaulting supplier rather than penalizing an innocent purchaser. Practitioners may rely on this precedent where ITC is denied solely due to the supplier's non-compliance, especially when payments are made through verifiable banking channels.

ITC cannot be denied for supplier's default when buyer fulfils all statutory conditions

(Writ Tax No. 1279 of 2024, decided on 04-09-2024)

The petitioner purchased goods from a registered supplier, during June–July 2018. The purchases were supported by complete documentation, such as valid tax invoices, e-way bills, and transport details. The entire transaction value, inclusive of GST, was paid through banking channels. However, the Department issued an assessment order under Section 74 of the GST Act, denying the assessee Input Tax Credit (ITC) on the grounds that the

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supplier had allegedly not deposited the GST and was later deregistered.

The petitioner contended that it had fulfilled all conditions prescribed under Section 16 of the CGST/UPGST Act. At the time of transaction, the supplier was duly registered. The petitioner submitted that the default by the supplier in depositing GST, particularly when the transaction occurred four levels down the supply chain, cannot be a ground to deny ITC. They relied on documentary evidence including GSTR-2A, valid tax invoices, transport details, and payment records through banking channels. The absence of a toll receipt was also explained, citing the availability of alternate toll-free routes in 2018.

The department's rejection of ITC was premised solely on the post-facto finding that the supplier had failed to deposit GST and was later found non-existent during a departmental search conducted over a year after the transaction

The Hon'ble Allahabad High Court held that a prima facie case existed in favour of the assessee. It ruled that mere non-deposit of tax by the supplier or subsequent deregistration does not, by itself, invoke Section 16(2)(c) to deny ITC, where the buyer has complied with all substantive conditions. Accordingly, the Court admitted the writ petition and granted an interim stay on the assessment order, subject to deposit of 30% of the assessed tax, after adjusting taxes already paid

This ruling reinforces the judicial position that genuine purchasers should not be penalized for supplier defaults when transactions are adequately documented. It serves as a vital precedent against the mechanical invocation of Section 74 and Section 16(2)(c) and will likely influence the resolution of several similar disputes currently under litigation

TR-6 challan not a valid document for availing IGST credit on imports

(TN/20/ARA/2025 – TN AAR)

The applicant approached the Authority for Advance Ruling (AAR) seeking clarification on whether Input Tax Credit (ITC) could be availed on IGST paid through TR-6 Challans, particularly in cases where Customs authorities—such as Air Cargo Customs and FTWZ (J Matadee)—had directed payment of differential duty through TR-6 instead of re-assessment of Bills of Entry. In contrast, Chennai Sea Customs had permitted re-assessment of the Bills of Entry for similar payments. The applicant argued that TR-6 Challans, being official customs receipts containing details of the importer, purpose of payment, and the assessing authority, were historically accepted for credit in the pre-GST regime and should likewise be eligible for ITC under GST.

The department contended that Rule 36(1)(d) of the CGST Rules restricts ITC eligibility only to Bills of Entry or similar documents prescribed under the Customs Act, 1962. TR-6 Challans, although valid for payment, are not recognized as assessment documents under the Customs Act. Moreover, CBIC Circular No. 16/2023-Customs specifically clarified that IGST payments made through TR-6 Challans are not valid for the purpose of ITC availment. Therefore, the department maintained that such payments do not satisfy the documentary requirement under GST law for ITC entitlement.

The Authority concurred with the department's view, emphasizing that TR-6 Challans do not constitute "prescribed documents" under Rule

Important Rulings

36(1)(d) of the CGST Rules. As such, ITC cannot be claimed on the basis of a TR-6 Challan, even if it is accompanied by SVB orders or letters from the Customs department. However, the AAR acknowledged that IGST paid through properly re-assessed Bills of Entry would remain eligible for ITC.

This ruling reinforces the strict interpretation adopted under GST law concerning document-based eligibility of ITC. While the applicant's reliance on past customs practices is understandable, GST introduces more structured and limited documentation requirements. Unless the law or CBIC circulars are amended to include TR-6 Challans as valid documents for ITC, such claims are likely to be disallowed. Assessees should ensure that any differential IGST is paid via reassessed Bills of Entry to safeguard their ITC entitlements and avoid future litigation.

Ineffective service of notice via GST portal violates principles of natural justice

(WP No. 20470 of 2025 AND WMP Nos. 23103 & 23100 of 2025 of Madras High Court)

The petitioner approached the Hon'ble Madras High Court challenging the assessment order passed under the GST Act. The core grievance was the non-receipt of show cause notice and consequential denial of the opportunity for a personal hearing. The petitioner contended that the notice was neither served physically nor was there any intimation via other prescribed modes; it was merely uploaded on the GST Portal under the "View Additional Notices and Orders" tab, which they remained unaware of.

The Court observed that although uploading on the portal is a statutorily permitted mode under Section 169(1)(d) of the CGST Act, such service is not deemed effective unless the assessee accesses the portal. The repeated inaction from the petitioner, despite reminders, should have prompted the proper officer to adopt alternate modes of service, such as Registered Post Acknowledgment Due (RPAD), email, or other means listed under Section 169(1). The Court emphasized that mere formal compliance without ensuring effective communication defeats the very object of service and offends the principles of natural justice.

The respondent argued that uploading on the portal constituted valid service and that the petitioner's silence could not be construed as a denial of opportunity. However, the Court disagreed and held that absence of proof of actual receipt of notice, coupled with the lack of a personal hearing, amounted to a denial of reasonable opportunity. Therefore, the impugned assessment order was set aside, and the matter was remitted for fresh consideration after giving the petitioner a proper opportunity.

This decision reinforces that procedural fairness is not a mere technical formality but an essential component of tax administration. While the GST Portal provides for electronic communication, its limitations in ensuring real-time notice to taxpayers cannot be overlooked. Officers must apply their mind and ensure that notice reaches the taxpayer effectively, especially when there is no response. The ruling serves as a reminder to both authorities and taxpayers on the critical importance of diligent communication and adherence to principles of natural justice in adjudication.

Important Rulings

Refund of ITC permissible on closure of business, no bar under section 49(6) or section 54(3) of CGST Act, 2017

(WP(C) No.54 of 2023 – Sikkim HC)

The petitioner discontinued its operations in the State of Sikkim and sought a refund of the accumulated Input Tax Credit (ITC) under Section 49(6) of the CGST Act, 2017, on the ground that the ITC remained unutilised due to the closure of business. The refund application was rejected by the GST department on the premise that such a refund is not covered under the specific scenarios listed in Section 54(3) of the CGST Act.

The Hon'ble Sikkim High Court considered the provisions of Sections 49(6) and 54(3) of the CGST Act. It observed that while Section 54(3) allows refund of unutilised ITC only in two specific cases—(i) zero-rated supplies without payment of tax, and (ii) inverted duty structure—there is no explicit prohibition against refund of ITC in cases of closure of business. The Court emphasized that retention of tax by the State without the backing of a statutory provision would be contrary to Article 265 of the Constitution. Reliance was placed on similar rulings of the Hon'ble Karnataka High Court.

The Court held that the absence of an express prohibition under the law cannot justify denial of refund in genuine cases such as business closure. Consequently, the impugned appellate order rejecting the refund was quashed, and the writ petition was allowed.

This judgment reinforces the principle that tax laws must be interpreted in a manner that prevents unjust enrichment of the State. The Hon'ble Court's reliance on constitutional safeguards, particularly Article 265, rightly underscores that tax cannot be retained without the authority of law. While the ruling favours refund of unutilised ITC on closure of business, it is noteworthy that the Hon'ble Supreme Court in the case of Union of India v. VKC Footsteps India Pvt. Ltd. (2021) has categorically held that refund of unutilised ITC is permissible only in the two situations enumerated in Section 54(3), namely zero-rated supplies and inverted duty structure. Given this authoritative interpretation by the apex court, the present judgment—though beneficial to the taxpayer—may be susceptible to challenge by the department on the ground of judicial inconsistency. Taxpayers may therefore need to proceed with caution and be prepared for further litigation.

Foreign Trade Policies

Restoration of RoDTEP Scheme Benefits for AAs, SEZs, and EOUs Effective from 01.06.2025

The DGFT), vide Notification No. 11/2025-26 dated 26.05.2025, has announced the restoration of benefits under the RoDTEP (Remission of Duties and Taxes on Exported Products) scheme for exporters operating under Advance Authorisations (AAs), Special Economic Zones (SEZs), and Export-Oriented Units (EOUs), effective from 01.06.2025. The applicable rates, along with the updated Harmonised System (HS) codes in line with the Finance Act, 2025, are available in Appendix 4RE and can be accessed through the DGFT portal under the 'Regulations > RoDTEP' section. Exporters covered under these categories are advised to review the updated schedule and ensure proper alignment of documentation and declarations in order to avail the benefits under the scheme from the

Important Updates

effective date. This is a welcome and timely move that reinstates crucial export incentives to key sectors. It brings operational clarity and financial support to exporters under AAs, SEZs, and EOUs, and stakeholders must now gear up to implement this change in their compliance and export processes.

Value Added Tax

Haryana's One-Time Settlement Scheme, 2025 for Recovery of Outstanding Dues

The Haryana Government has notified a comprehensive One-Time Settlement Scheme, 2025 (OTSS) for the recovery of outstanding dues under various enactments such as the Haryana VAT Act, Central Sales Tax Act, Haryana Local Area Development Tax Act, and others. The scheme applies to tax dues that were payable up to June 30, 2017, and offers significant waivers on interest, penalty, and composition fees, depending on the quantum of principal tax dues and the stage of proceedings. The scheme came into effect from the date of notification and will remain operational for a period specified by the State Government.

The scheme allows any eligible person, whether registered or not, to apply using a prescribed Form OTS-1 and make payments in prescribed tranches. Applicants must also submit a declaration of truthfulness and completeness of information. The benefits include 100% waiver interest and penalty subjected to payment of taxes as below:

Tax Dues Slab (Quantified)	Waiver on Tax	Payment Mode	Remarks
Up to ₹1 lakh (Subjected to cumulative tax is due is less than ₹10 Lakh)	100% waiver	No payment required	Full waiver granted
Above ₹1 lakh to ₹10 lakh	60% waiver	One-time payment of 40% tax dues	Balance 40% tax to be paid in one go
Above ₹10 lakh to ₹10 crore	50% waiver	Two tranches: 50% in two equal instalments	First instalment at time of application (OTS-1) & Second within 60 days of final order (OTS-4)
Above₹10 crore	No waiver on tax		

No further appeal or revision is allowed against orders passed under this scheme. The scheme bars relief in cases where prosecution has already been initiated or where false or misleading information is submitted. Importantly, any payments made under the scheme are non-refundable, and settlement once done shall not be reopened.

This is a progressive and practical step by the Haryana Government aimed at facilitating voluntary compliance and closing old tax disputes. Taxpayers and professionals must carefully evaluate the applicable laws, years involved, and the quantum of dues to assess eligibility. Timely application and accurate disclosure are crucial, as the scheme operates strictly within specified timelines and formats.

Important Updates

Circular

Mandatory Virtual Mode for Personal Hearings under Delhi GST – New Guidelines Issued

(No. F.3(640)/GST/P&R/2025/348-55 Dated June 13, 2025)

The Department of Trade and Taxes, GNCT of Delhi, vide Circular dated 13.06.2025, has introduced guidelines mandating the conduct of all personal hearings under the Delhi GST Act, 2017 through virtual mode. This move aims to enhance transparency, efficiency, and taxpayer convenience, aligning with the objective of a faceless and technology-driven GST ecosystem. The circular draws authority from the statutory mandate under Sections 75(4), 126(3), and 107(8) of the Delhi GST Act, which emphasize the need for personal hearings before issuing any adverse order.

The guidelines stipulate that all personal hearings will be exclusively conducted via platforms like WebEx or Google Meet, and taxpayers or their authorised representatives must ensure necessary software, internet readiness, and decorum. The Authority will issue meeting links via email, also designating support staff for facilitation. Representation requires submission of authorisation documents and photo-ID in advance. Virtual hearings are to be conducted from the officer's office, and proceedings must be properly recorded on the official GST portal, with copies shared electronically with the taxpayer.

Additional instructions include the submission of scanned self-attested documents via email and, where needed, physical submissions post-attestation. The proceedings and related documents will be treated as valid records under the GST and IT Act. While virtual mode is mandatory, exceptions due to valid constraints may be granted upon approval by the Zonal In-charge, with reasons recorded.

This circular is a commendable step towards institutionalising e-governance in tax administration. The mandatory virtual hearing framework enhances procedural fairness while reducing logistical burdens on taxpayers. Professionals should ensure timely compliance with document submissions and technical readiness. Taxpayers must also maintain formality and preparedness as required in physical hearings, given that records are formally maintained. However, the provision for discretionary exception ensures flexibility in genuine hardship scenarios, balancing accessibility with procedural inflexibility.

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Important Updates – RBI / FEMA

Reporting on FIRMS portal – Issuance of Partly Paid Units by Investment Vehicles

RBI/2025-26/40 A.P. (DIR Series) Circular No. dated 06 May 23, 2025

Reporting of foreign investment in India is governed by the Foreign Exchange Management (Non-debt Instruments) Rules, 2019 (hereinafter referred as 'Rules'), notified by the Central Government on October 17, 2019 read along with the Foreign Exchange Management (Mode of Payment and Reporting of Non-Debt Instruments) Regulations, 2019 and A.P. (DIR Series) Circular No. 7 dated May 21, 2024, issued by the Reserve Bank.

Any investment vehicle which has issued units to a Person Resident outside India (as per Schedule VIII of the Rules) shall file Form InVI within 30 days from the date of issue of units.

As a relaxation to the extant reporting timelines, Investment vehicles who have issued partly paid units prior to the date of this circular may report such issuance in Form InVI within a period of 180 days from the date of this circular for which no Late Submission Fees will be levied.

Issuances of partly paid units by investment vehicles on or after the date of this circular will have to comply with the reporting compliance within 30 days of such issuances.

Effective date: Immediate effect

Inoperative Accounts / Unclaimed Deposits in Banks - Revised Instructions (Amendment) 2025

RBI / 2025-26 / 52 DOR.SOG(LEG).REC / 32 / 09.08.024 / 2025-26 dated June 12, 2025

Reserve Bank of India ("RBI") has issued directions with respect to the position of Inoperative Accounts /Unclaimed Deposits in Banks on January 1, 2024. As the instructions, credit balance in any deposit account maintained with banks, which has not been operated upon for ten years or more, or any amount remaining unclaimed for ten years or more, has to be transferred by the Banks to Depositor Education and Awareness ("DEA") Fund maintained by the Reserve Bank of India under the "Depositor Education and Awareness" Fund Scheme, 2014.

With the intent to ease the difficulty in normalizing such accounts, RBI has instructed Banks to make available the facility of updation of KYC for activation of inoperative accounts and unclaimed deposits at all branches (including non-home branches). In addition Banks should also provide the facility of updation of KYC in such accounts and deposits through Video-Customer Identification Process (V-CIP), as guided by the RBI.

Effective date: Immediate effect

Reserve Bank of India (Know Your Customer (KYC)) (Amendment) Directions, 2025

RBI / 2025-26 / 51 DOR.AML.REC.30 / 14.01.001 / 2025-26 dated June 12, 2025

Reserve Bank had issued Reserve Bank of India (Know Your Customer (KYC)) Directions, 2016 in compliance of the provisions of the Prevention of Money Laundering Act, 2002 ("PMLA") and the Rules made thereunder so as to ensure customer safety and protection while giving seamless service by the Banking and Financial Institutions.

With a view to enhance security and in public interest the KYC norms have been continually updated. In the series of such updations, the RBI

Important Updates – RBI / FEMA

has made certain changes / introduced new processes for KYC compliance including:

Updation of KYC for the category of "low risk" individual customers within one year of its falling due for KYC or upto June 30, 2026, whichever is later.

Self-declaration from the customer in case of no change in KYC information or change only in the address details may be obtained through an authorized Business Correspondent ("BC") of the bank.

Advance intimation by Regulated Entities ("REs") to customers to update their KYC details, including at least three advance intimations, plus at least one intimation by letter, at appropriate intervals.

Effective date: January 01, 2026

Important Updates – SEBI

Accessibility and Inclusiveness of Digital KYC to Persons with Disabilities

SEBI/HO/MIRSD/SECFATF/P/CIR/2025/74 dated May 23, 2025

SEBI, following a Supreme Court order, has directed all registered intermediaries to make their digital KYC process accessible for persons with disabilities, including those with visual impairments. Updated FAQs on account opening for such individuals are available on SEBI's website (Microsoft Word - FAQ (sebi.gov.in). All intermediaries must ensure their services are inclusive and follow these guidelines. The FAQs include clarifications on various concerns of customers with disabilities including:

- Who can open and account and process where such person is unable to sign himself / herself.
- Whether online / digital facility is available, including process of verifying "liveliness" (i.e.) confirming living status of such individual.
- What are the forms and process for establishing account-based relationship for KYC compliance.

Applicability: Effective from May 23, 2025

Final Settlement Day (Expiry Day) for Equity Derivatives Contracts

SEBI/HO/MRD/MRD-TPD-1/P/CIR/2025/76 dated May 26, 2025

The circular outlines a regulatory update regarding the final settlement or expiry day for equity derivatives contracts. Based on the consultation paper issued by SEBI on March 27, 2025 SEBI has issued certain guidelines / norms with regard to final settlement day / expiry day for equity derivatives contracts.

The objective behind the revised guidelines is to reduce concentration risk while at the same time provide an opportunity to stock exchanges to offer product differentiation to market participants. The key changes recommended by the SEBI to the Stock Exchanges with respect to settlement of equity derivative contracts are:

- All equity derivative contracts on a stock exchange must have their expiry limited to either Tuesday or Thursday;
- Every exchange will continue to be allowed one weekly benchmark index options contract on their chosen day (Tuesday or Thursday).
- All equity derivatives will be offered with a minimum tenor of 1 month, and the expiry will be in the last week of every month on their chosen day (that is last Tuesday or last Thursday of the month) .
- Any modifications to the settlement day will require prior SEBI approval.

Stock Exchanges have been given June 15, 2025, to comply with the provisions by submitting their proposals to SEBI and to update their systems, bye-laws including rules for smooth implementation.

Applicability: Effective from May 26, 2025

Measures for Enhancing Trading Convenience and Strengthening Risk Monitoring in Equity Derivatives

SEBI / HO / MRD / TPD-1 / P / CIR / 2025 / 79 dated May 29, 2025

Derivatives market is a financial marketplace where derivatives / financial instruments like futures and options ("F&O") are traded and used for hedging purposes or for speculation by both individual as well as institutional investors. Derivatives market thus enables efficient price

Important Updates - SEBI

discovery, improved market liquidity and permits investors to manage risk.

Stock Exchanges and Clearing Corporations (CCs) while providing the platform and products for trading in derivatives market have to ensure real time risk management, proper surveillance and smooth settlement of trades for a healthy development of the market and price discovery.

With the evolving market dynamics in derivatives segment and the exponential increase in retail participation over the recent years, SEBI has felt the need for enhanced regulations for protection of investors and healthy growth and development of the stock markets. In line with this objective, SEBI over the past has introduced various measures to regulate the securities market and this Circular is in continuation of such measures, the key highlights of which are:

- Formulation of process for determination of Open Interest ("OI") of the participants in derivatives at a portfolio level based on net Delta.
- Recalibration of Market Wide Position Limit ("MWPL") based on the new formulation of Open Interest measurement as stated in point above.
- Revision in position limits for Index futures and options so as to ensure balance between market stability and ability to take meaningful exposure / positions by market participants.

In fulfilling the above objectives, certain actionable items have already been implemented, and balance items will be implemented in a phased manner by December 2025.

Applicability: Under Process to be fully implemented by December 06, 2025

Adoption of Standardised, Validated and Exclusive UPI IDs for Payment Collection by SEBI Registered Intermediaries from Investors

SEBI / HO / DEPA-II / DEPA-II_SRG / P / CIR / 2025 / 86 dated June 11, 2025

Significant advancements have taken place in the payments system and SEBI has decided to put in place a structured Unified Payment Interface ('UPI') address mechanism for SEBI-registered investor-facing intermediaries ('intermediaries') to collect funds from their investors. The objective is to ensure easy accessibility as well as safety in securities markets for the investors which will be operationalized in consultation with the National Payments Corporation of India ("NPCI").

The Circular provides a detailed explanation on the process flow, the names of Banks eligible to issue UPI IDs as well as Frequently Asked Questions (FAQs) for Intermediaries, Investors as well as

Investors to be made aware of New payment handles via SMS, e-mail communications, social media posts and audio-visual messages. The standardised, validated and exclusive UPI IDs shall be available for investors for making payments to intermediaries w.e.f. **October 01, 2025**

Applicability: Effective from June 11, 2025

Important Updates - MCA

MCA21 V3 Portal Final Phase Launch: 38 Company Forms to be shifted to Version 3 Portal on July 14, 2025

Ministry of Corporate Affairs (MCA) has announced a significant update with the scheduled rollout of 38 final company forms on the MCA21 Version 3 (V3) portal. This rollout will be effective from 12:00 A.M. on July 14, 2025, to digitise and streamline regulatory filings for businesses across the country. With this final release, MCA aims to enhance user experience, improve data accuracy, and enforce more intelligent validation protocols.

MCA21 V3 initiative is a part of the government's broader aim for ease of doing business and increased transparency in corporate governance. The final implementation set, referred to as Lot-3 includes 38 crucial forms covering:

- Annual filings
- Audit and cost audit reports
- Miscellaneous company filings
- Forms under the Companies Act, 1956

The list of all 38 e-Forms can be found from this link: https://www.mca.gov.in/content/dam/mca/pdf/List-of-38-forms.pdf

Companies (Registration Offices and Fees) Amendment Rules, 2025

Notification dated May 30, 2025

Ministry of Corporate Affairs has issued the Companies (Registration Offices and Fees) Amendment Rules, 2025 and revised the Form GNL-1. The updated form GNL-1 streamlines the process for various application purposes, including compounding of offences, seeking extensions for annual general meetings, and applications related to schemes of arrangement or amalgamation.

Applicability: July 14, 2025

Companies (Audit and Auditors) Amendment Rules, 2025

Notification dated May 30, 2025

Ministry of Corporate Affairs vide this notification introduced the Companies (Audit and Auditors) Amendment Rules, 2025. The key change is the substitution of clause (d) in sub-rule (2) of rule 13, now mandating that audit reports be filed electronically in Form ADT-4. The notification also specifies new formats for Forms ADT-1, ADT-2, ADT-3, and ADT-4.

These revisions are enacted under the powers conferred by various sections of the Companies Act, 2013, aiming to update and streamline audit and auditor-related compliances.

Applicability: July 14, 2025

Companies (Accounts) Second Amendment Rules, 2025

Notification dated May 30, 2025

Ministry of Corporate Affairs has initiated a significant update to corporate financial reporting and transparency through this notification. There are substantial changes to the Board's Report disclosures and the process of filing financial statements.

These amendments are aimed at enhancing corporate governance, moving towards a more structured, data-driven reporting system. The key highlights of the Amendments includes:

1. **Enhanced Disclosures in the Board's Report:**

   Companies are mandated to include:

   - Detailed Reporting on Sexual Harassment Complaints: Under the section pertaining to the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, companies are now required to provide specific data, including:

Important Updates - MCA

a) The number of sexual harassment complaints received during the year.

b) The number of such complaints disposed of during the year.

c) The number of cases pending for a period exceeding ninety days.

- Statement on Maternity Benefit Compliance: A new clause has been added requiring companies to include a formal statement confirming their compliance with the provisions of the Maternity Benefit Act, 1961.

2. Introduction of New E-Forms:

In a major move towards digitalization and structured data filing, MCA has introduced a new procedural requirement for all companies filing their financial statements (via Forms AOC-4, AOC-4 CFS, AOC-4 XBRL, etc.). The Companies must now separately file the following new e-Forms:

- Extract of Board Report
- Extract of Auditor's Report (Standalone)
- Extract of Auditor's Report (Consolidated).

This change implies that crucial data from these reports can now be captured in a machine-readable format, allowing for more efficient analysis by the Regulators. Also, the proviso states that the Companies need to attach a copy of signed financial statements duly authenticated as per section 134 of the Act (including Board's report, auditor's report and other documents) in portable document format shall also be attached with XBRL Forms.

Applicability: July 14, 2025

Companies (Audit and Auditors) Amendment Rules, 2025

Notification dated May 30, 2025

MCA introduced the Companies (Management and Administration) Amendment Rules, 2025, and revised Form MGT-7, Form MGT-7A and MGT-15.

The key changes in MGT-7/MGT-7A includes:

1) Tab for selecting type of filing whether original or revised form is being filed.
2) SRN of MGT-7 filed earlier for same financial years
3) Table asking for details of name, registered office latitude and longitude as on filing date and year end date.
4) Photograph of registered office of Company showing external building & name prominently visible.
5) Detailed summary of indebtedness for Debentures issued by the Company.
6) Gender and body type bifurcation of category of promoters and other than promoters.
7) Addition of disclosure w.r.t FII's (Foreign Institutional Investor) holding shares of the Company.

Companies (Filing of Documents and Forms in Extensible Business Reporting Language) Amendment Rules, 2025

Notification dated June 06, 2025

MCA vide this notification now mandates that companies which have filed their financial statements are now also required to attach a copy of signed financial statements duly authenticated as specified in Section 134 of the Act (including Board's report, auditors' report and other documents) in PDF format in e-Form AOC-4 XBRL.

Applicability: July 14, 2025

Separate Filing of e-Form CSR-2 post the period of transition from MCA 21 V2 to V3 portal

General Circular No. 02/2025 dated June 16, 2025

Important Updates - MCA

Ministry of Corporate Affairs issued this circular regarding the transition of the MCA 21 portal from Version 2 (V2) to Version 3 (V3). As per the Companies (Accounts) Amendment Rules, 2025, notified on May 19, 2025, stakeholders can now independently file the e-Form CSR-2, as amended in the 4th proviso to Rule 12(1B) of the Companies (Accounts) Rules, 2014.

Following the transition, stakeholders intending to file CSR-2 as an independent form using the V2 SRN of Form AOC-4, AOC-4(XBRL), or AOC-4(NBFC) can file the same on the V3 portal during a designated period, from July 14, 2025, to August 15, 2025.

Relaxation of Additional Fees for filing of 13 e-Forms during the period of transition from MCA21 V2 to V3 Portal

General Circular No. 01/2025 dated June 16, 2025

MCA has announced a transition of MCA 21 Portal from Version 2 to Version 3 Portal, necessitating a system migration phase (as stated in paras above). To ensure smooth transitioning, MCA has given the relaxation of additional fees for filing of 13 eForms during the period of transition from MCA 21 Version 2 to Version 3 Portal.

During this period, certain e-Forms (as listed below) will be unavailable for filing from June 18, 2025, to July 13, 2025 (both dates inclusive). To ease the transition and ensure a smooth filing

experience, MCA has decided that for e-Forms with due date or resubmission date falling between June 18, 2025, and July 31, 2025, filings of such e-Forms will be permitted without any additional fees until August 15, 2025.

List of e-Forms eligible for fee relaxation:

Sr. No.	Form ID	Description
1	AOC-4	Form for filing financial statement and other documents with the Registrar
2	AOC-4	For NBFCs filing financial statements
3	AOC-4 CFS	Consolidated financial statements
4	AOC-4 CFS	Consolidated financial statements for NBFCs
5	AOC-4 XBRL	Financial statement in XBRL format
6	MGT-7/MGT-7A	Annual Return
7	MGT-15	Report on Annual General Meeting
8	GNL-1	Application for extension of AGM
9	LEAP-1	Submission of Prospectus with the Registrar
10	ADT-1	Appointment of Auditor
11	ADT-3	Resignation by Auditor
12	CRA-2	Appointment of Cost Auditor
13	CRA-4	Cost Audit Report

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Abbreviations

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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

Abbreviations

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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