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February 2026

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Volatility is not necessarily Risk: Understanding the Paradox for Long-term Investing

Introduction

In capital markets, the terms "volatility" and "risk" are often used interchangeably. Market commentary frequently equates falling indices with "high risk" and rising indices with "low risk." This shorthand may be convenient, but it is analytically imprecise.

In the context of equity markets where structural growth, policy cycles, and liquidity regimes interact dynamically, the distinction between volatility and risk is not semantic but is foundational to capital allocation, portfolio construction, and long-term wealth creation, which materially affects investment outcomes.

Understanding Volatility vs Risk

Volatility is a statistical measure of price dispersion. In finance, it is typically quantified using standard deviation of returns. Higher volatility implies greater short-term price fluctuations.

Risk, in contrast, is the probability of permanent loss of capital or the failure to achieve a desired financial objective. Risk is fundamentally economic, not statistical.

Volatility is observable in price data. Risk is embedded in business fundamentals, balance sheets, governance, and valuation. A stock can be volatile without being risky. A stock can appear stable while being fundamentally risky.

Notably, the Modern Portfolio Theory uses volatility as a proxy for risk. While mathematically elegant, this framework assumes that markets are efficient and price variance captures uncertainty. However, in emerging markets like India, that assumption requires some more diligence.

Capital Market Structure: Why Volatility Is Frequent

Equity markets have characteristics that amplify short-term price movement:

- High retail participation (especially post-2020 Demat surge)
- Significant FII driven liquidity flows
- Policy sensitivity (RBI decisions, Union Budget announcements)
- Sector concentration (financials and technology dominate indices)
- Event driven re-rating cycles

For example:

- The Nifty 50 fell ~38% during the March 2020 COVID panic.
- In 2013, during the "Taper Tantrum," Indian equities saw sharp currency linked selloffs.
- PSU stocks have experienced extreme cyclical volatility despite balance sheet improvements.

These episodes demonstrate high volatility. But were they all periods of high risk? Not necessarily. Investors who owned financially strong businesses with durable earnings capacity and stayed invested through volatility often emerged stronger. **While volatility punishes sentiment, risk punishes weak businesses.**

The Retail Investor Problem

Post-2020, India witnessed a surge in retail participation through direct equities, derivatives, and small-cap funds. Many new investors equate price declines with danger and price stability with safety.

This behavioral bias leads to:

Passive Investing

- Selling quality businesses during market corrections
- Chasing thematic stocks at peak valuations
- Overtrading during short-term market swings

Volatility triggers emotion. Risk destroys capital. Understanding this distinction improves behavioural discipline.

Why the Distinction Matters for Portfolio Construction

A. Asset Allocation

Indian markets are structurally growth oriented but cyclically volatile. An investor with long-term goals (retirement, intergenerational wealth) must tolerate volatility to capture equity risk premium. If volatility is mistaken for risk:

- Equity allocation becomes too conservative.
- Long-term compounding suffers.

B. Valuation Discipline

Risk increases when:

- Valuations detach from earnings reality.
- Leverage rises.
- Corporate governance weakens.

A low volatility, overvalued consumption stock may carry higher risk than a temporarily volatile but reasonably valued industrial leader.

C. Time Horizon Alignment

Short-term volatility matters to traders. Long-term risk matters to investors. In Indian markets, where policy cycles, elections, and global macro shocks create frequent noise, a long horizon filters volatility.

Measuring Risk Beyond Volatility

Investors should ideally assess:

- Earnings durability
- Debt-to-equity and interest coverage
- Free cash flow generation
- Promoter integrity and governance track record
- Sector cyclicality
- Regulatory exposure

Volatility is backward looking. Risk analysis is forward looking. For example, during RBI led monetary policy tightening, NBFCs may exhibit sharp volatility. But risk depends on asset-liability management, capital adequacy, liquidity buffers and not just the price movement.

Institutional Perspective vs Retail Perception

Institutional investors distinguish clearly:

- Traders hedge volatility.
- Long-only funds assess business risk.
- Private equity evaluates downside protection and cash flow visibility.

Indian equity markets increasingly reflect institutional discipline. However, retail flows often amplify volatility without altering the underlying business risk.

The Compounding Argument

Equity wealth in India has historically been created through:

- Owning high-quality franchises
- Staying invested through drawdowns
- Reinvesting cash flows
- Avoiding permanent impairment

Volatility is the price paid for long-term compounding. Risk is what prevents compounding.

Passive Investing

Conclusion

In stock markets, volatility is frequent, visible, and emotionally uncomfortable. However, risk is subtle, structural, and often invisible until realised. **Volatility is a statistical property of price. Risk is an economic property of business.**

The distinction matters because:

- It shapes asset allocation decisions
- It determines behavioural resilience
- It influences valuation discipline
- It ultimately affects wealth creation

For serious investors, the objective is not to avoid volatility but to avoid permanent capital impairment. Volatility is not a flaw but a feature of an emerging, dynamic economy. The informed investor learns to separate noise from threat, which is where long-term returns are preserved and compounded.

Disclaimer: This article is meant for educative purposes only and should not be considered as investment recommendation.

Sources of Information: News articles, publicly available research reports, AI based tools.

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Important Rulings

Section 56(2)(x) cannot be used to tax natural accretion in value during conversion of shares

Fairbridge Capital (Mauritius) Limited, IT(IT)A No.1626/Mum/2025, ITAT Mumbai

The taxpayer, Fairbridge Capital (Mauritius) Limited, held Optionally Convertible Cumulative Redeemable Preference Shares (OCCRPS) in Thomas Cook (India) Limited. These instruments carried an option to convert into equity shares at a predetermined price of INR 47.30 per share, exercisable at the option of the issuer.. Upon exercise of this conversion option, the Revenue noted that the Fair Market Value (FMV) of the underlying equity shares had increased to Rs. 66.15 per share i.e. significantly above the pre-determined conversion price.. Treating this conversion as a fresh "receipt" of property for inadequate consideration, the Assessing Officer (AO) invoked Section 56(2)(x) of the ITA to tax the value difference (i.e. Rs. 66.15/share - Rs. 47.30/share) as "Income from Other Sources." This addition was based on the premise that the taxpayer had acquired equity shares at a deep discount relative to their prevailing market value on the date of conversion.

The Revenue argued that Section 56(2)(x) is a charging provision that applies whenever a person receives property, including shares, for a consideration that is less than the FMV determined as per rule 11UA. They contended that since the market price of the equity shares on the date of conversion was far higher than the price actually paid (via the conversion of the preference shares), the difference constituted a taxable benefit. The Department maintained that the historical price fixed at the time of the OCCRPS issuance was irrelevant for the purposes of Section 56(2)(x), which looks at the adequacy of consideration on the date of the "receipt" of the new asset.

The taxpayer contended that the conversion of preference shares into equity shares is a tax-neutral event under Section 47(xb) and does not constitute a "transfer" or a fresh "receipt" from another person. They argued that Section 56(2)(x) is an anti-abuse provision intended to curb "gratuitous enrichment" or "sham transactions," not to tax the natural growth in value of a capital asset. Furthermore, the taxpayer highlighted that under Section 49(2AE), the cost of the equity shares is deemed to be the cost of the original preference shares. Taxing the appreciation at the time of conversion would lead to double taxation, as the same appreciation would be taxed again as capital gains when the equity shares are eventually sold without any step-up in cost.

The Mumbai ITAT ruled in favor of the taxpayer, holding that Section 56(2)(x) is an anti-abuse shield and not a tool to tax legitimate capital appreciation. The Tribunal observed that conversion is a "metamorphosis" of an existing investment where one bundle of rights is replaced by another, rather than a "receipt" of property from a third party. It noted that the legislative intent of Sections 47(xb) and 49(2AE) is to ensure tax neutrality during such conversions. The ITAT emphasized that what the Revenue sought to tax was not a "disguised gift" but a "natural accretion" in value. Applying Section 56(2)(x) in such cases would create an economic absurdity by taxing unrealized gains that are already earmarked for taxation under the capital gains head at the time of ultimate disposal.

ITAT rightly pointed out the difference between 'consideration' and 'cost of acquisition'. ITAT held that Section 56(2)(x) is designed on the concept of consideration while predetermined conversion price is a regulatory construct embedded at the time of issuance of the OCCRPS, fixed in compliance with the SEBI ICDR Regulations, governing the conversion ratio and forming, by virtue of section 49(2AE), the basis for determining the cost of acquisition of the equity shares for the purposes of computing capital gains at the time of transfer

of such equity shares. To equate "consideration" with such predetermined conversion price is, in effect, to substitute the concept of cost of acquisition for that of consideration, thereby conflating two expressions which the ITA employs in distinct contexts and for distinct purposes, a conflation which is impermissible in law. Accordingly, provisions of section 56(2)(x) cannot be invoked to tax natural appreciation in value which is designed to be taxed as capital gain.

It is interesting to note that clause (IX) of proviso to section 56(2)(x) excludes certain transaction as specified therein which is not regarded as transfer under section 47 of the Act. List of such transaction does not include the present transaction covered under section 47(xb) of the Act. In spite of such fact, the ITAT has taken a view that since appreciation in value of equity shares shall be taxable at the time of sale thereof under the head capital gain by taking into consideration the original cost of preference shares, natural appreciation in value at the time of conversion is not required to be taxed under section 56(2)(x) of the Act. It would be interesting to see how this position can be applied for other transaction covered under section 47 of the Act which is not directly covered under clause (IX) of the Act to exclude the same from the purview of gift taxation.

Salary credited in NRE account for services rendered outside India not taxable in India

Kaushal Ganpatbhai Patel, ITA 434/Ahd/2025, ITAT Ahmedabad

In the case of Kaushal Ganpatbhai Patel, the taxpayer, a non-resident individual, earned salary income amounting to Rs. 44,24,000 from employment with a foreign entity, VJP Company, Seychelles, for services rendered entirely outside India. This salary was credited directly into the taxpayer's Non-Resident External (NRE) account maintained with HSBC Bank in Mumbai. The taxpayer did not offer this income to tax in India, contending that since the employment was exercised abroad, the mere credit in an Indian bank account did not make it taxable in India. However, the Assessing Officer and the Dispute Resolution Panel (DRP) treated the salary as income "received in India" under Section 5(2)(a) of the ITA, thereby making it subject to Indian taxation.

The taxpayer contended that the character of the income must be determined by the place where the services were rendered and where the right to receive the salary accrued. Relying on the precedent set by the Agra ITAT in the case of *Arvind Singh Chauhan vs. ITO,* wherein hon'ble Agra Tribunal distinguished between the receipt of "*salary amount*" and "*salary income*", it was argued that the salary income accrued outside India and must be treated as received outside India. The taxpayer further maintained that the credit to the NRE account in India was a mere remittance for the purpose of convenience and constituted an "application" of income that had already been received outside India, rather than a fresh receipt of income in India. Accordingly, it was contended that only salary amount was received in India, but salary income was received outside India.

The Revenue authorities rested their case on the literal interpretation of the term "received in India" as provided under the provisions of the ITA. It was contended that since the salary was credited directly to a bank account located within the geographical territory of India, the "first point of receipt" occurred in India. Consequently, the department maintained that the location of the bank account should be the deciding factor for taxability, and the salary should be taxed in India regardless of where the services were performed or where the income accrued. Revenue tried to distinguish the judgement of Agra tribunal in case of Arvind Singh (supra) on the ground that it was rendered in the facts of the assessee being a sea farer and the CBDT had clarified such assesses to be not liable

to tax in India on salary received in their NRE accounts in India.

The Ahmedabad ITAT struck down the revenue's argument of distinguishment of facts in case of Arvind Singh Chauhan (supra) considering that Hon'ble Agra Tribunal in the case of Arvind Singh Chauhan (supra) did not rely on the CBDT circular while giving relief to the assessee, but on the contrary interpreted the provision of law in this regard. Ahmedabad Tribunal, accordingly, allowed the taxpayer's appeal, relying on the precedent set by the Agra ITAT in the case of *Arvind Singh Chauhan vs. ITO*. The Tribunal clarified that "receipt" of income refers to the first occasion when the taxpayer acquires control over the money, whether such control is real or constructive. It held that since the services were performed outside India, taxpayer was in lawful right to receive this money, as an employee, at the place of employment. ITAT observed that these monies were at the disposal of the taxpayer outside India and it was in exercise of his right to dispose to the money that the money was transferred to India. Accordingly, the constructive receipt of the salary took place at the venue of employment abroad. The ITAT concluded that the deposit in the Indian NRE account was only an application of salary already received outside India and therefore did not trigger taxability under Section 5(2)(a) of the ITA.

In essence, this ruling clarifies that for a non-resident, the mere fact of receiving foreign-earned salary into an Indian bank account does not make it taxable in India. The law focuses on the "first point of receipt" and where the control over the income is first established, rather than the technicality of the banking channel used. If the income has already accrued and been constructively received outside India due to the performance of services abroad, its subsequent entry into the Indian banking system is treated as a post-receipt remittance or application of funds which is receipt of salary amount not salary income. By reinforcing the "source" and "control" principles, the ITAT has provided significant relief to non-residents, ensuring they are not taxed in India solely based on the use of NRE accounts for their overseas earnings.

It is also to be noted that as per section 15 of the Act, salary is taxable on accrual basis unless the same is received in advance or being arrears salary if not taxable on due basis earlier. This also support the contention that salary can never be taxable merely on receipt basis. Since salary in the present case first accrued outside India, it can further be argued that the receipt thereof in India cannot be subject to tax under section 15 of the Act.

Non-consideration of binding judicial precedent constitutes mistake apparent from record

Tigre SAS liquors India Pvt. Ltd., ITA Nos.7968 & 7969/Del/2018, ITAT Delhi

In the case of Tigre SAS Liquors India Pvt. Ltd., the taxpayer filed a miscellaneous application under Section 254(2) of the ITA, seeking the rectification of a previous order passed by the Delhi ITAT. In the original proceedings, the taxpayer had challenged the ad-hoc disallowance of legal and professional expenses totalling ₹35,52,173 for trademark registration and ₹4,77,794 for label registration charges. The ITAT had initially dismissed the taxpayer's appeal, confirming the findings of the lower authorities that these expenditures should be treated as capital in nature rather than revenue expenses.

The Revenue's position, which the Tribunal had initially accepted, was based on a strict interpretation of Section 32(1)(ii) of the ITA. It was argued that expenditures incurred for trademarks, copyrights, licenses, and franchises are specifically listed as intangible assets under the statute and must therefore be capitalized. Consequently, the

department maintained that such costs provide an enduring benefit to the business and do not qualify for a full revenue deduction in the year they are incurred, effectively requiring the taxpayer to claim depreciation instead.

The taxpayer contended that the ITAT's initial decision contained a "mistake apparent from the record" because it was passed in ignorance of a binding judicial precedent from the Hon'ble Supreme Court. The taxpayer specifically relied on the landmark ruling in case of *CIT vs. Finlay Mills Ltd.*, where the Apex Court held that legal and registration fees paid for the registration of a trademark are revenue expenditure.

The Delhi ITAT allowed the miscellaneous application, acknowledging that the order had been passed without taking into consideration the relevant and binding Supreme Court precedent though not cited at the time of hearing. Relying on the Apex Court's decision in *ACIT vs. Saurashtra Kutch Stock Exchange Ltd.*, the Tribunal held that the non-consideration of a binding decision of the Jurisdictional High Court or the Supreme Court constitutes a mistake apparent from record, rectifiable under Section 254(2). Accordingly, the ITAT recalled its earlier order to the limited extent of conducting a fresh adjudication on the specific grounds regarding the treatment of trademark and label registration expenses.

This ruling serves as a vital reminder that the revenue authorities are duty-bound to follow the precedents set by the Supreme Court and Jurisdictional High Courts even if not cited by the taxpayers, as these decisions are binding in nature. However, in view of the above, whether non-consideration of every related Apex and Jurisdictional High Court's decision can be regarded as a mistake apparent from record? This has been answered by the Apex court in case of *ACIT vs. Saurashtra Kutch Stock Exchange Ltd. wherein Hon'ble Apex Court held that,*

"a patent, manifest and self-evident error, which does not require elaborate discussion of evidence or argument to establish it, can be said to be an error apparent on the face of the record and can be corrected while exercising certiorari jurisdiction. An error cannot be said to be apparent on the face of the record if one has to travel beyond the record to see whether the judgment is correct or not. An error apparent on the face of the record means an error which strikes the eye on merely looking at it and does not need long-drawn-out process of reasoning on points where there may conceivably be two opinions. Such an error should not require any extraneous matter to show its incorrectness. To put it differently, it should be so manifest and clear that no Court would permit it to remain on record. If the view accepted by the Court in the original judgment is one of the possible views, the case cannot be said to be covered by an error apparent on the face of the record."

Accordingly, before filing the rectification or miscellaneous application on account of non-consideration of a binding judicial precedent, it is important to analyse whether such non-consideration of a ruling actually constitutes mistake apparent from record.

Timely investment in residential house outweighs procedural lapse of not depositing in Capital Gains Account Scheme

Satishchandra Jagdishchandra Gugale, ITA No.1821/PUN/2025, ITAT Pune

The Taxpayer, Satishchandra Jagdishchandra Gugale, sold a piece of land for a total consideration of Rs. 3.21 Crores on 18.03.2014 and subsequently purchased a residential flat for Rs. 4 Crores on 25.02.2015, thereby investing the entire sale proceeds into a new asset within one year of the sale. Based on this, he claimed a deduction under Section 54F of the Income-tax Act. However,

during the assessment proceeding, the Revenue observed that a portion of the sale consideration, amounting to Rs. 91.45 Lacs had neither been utilized for the purchase nor deposited into the Capital Gains Account Scheme (CGAS) before the due date for filing the return of income under Section 139(1) of the ITA. On this technical ground, the Assessing Officer disallowed the deduction to the extent of the non-deposited amount, a decision that was later confirmed by the CIT(A).

The Revenue's primary contention was based on a strict interpretation of Section 54F(4), which outlines the procedure for claiming the exemption when the sale proceeds are not fully utilized before the return filing deadline. They argued that the statute mandates that any unutilized amount "shall" be deposited in a designated CGAS account to remain eligible for the deduction. The Department maintained that since the taxpayer failed to park the funds in this specific account before the Section 139(1) deadline, he failed to meet a mandatory statutory condition. According to the Revenue, the subsequent investment, although made within the overall time limit for purchase, could not cure the initial failure to comply with the deposit requirement.

The taxpayer argued that Section 54F is a beneficial provision intended to promote investment in the housing sector and should therefore be interpreted liberally to fulfill its legislative objective. It was emphasized that the taxpayer had, in fact, utilized the entire sale consideration for the purchase of a new residential house well within the one-year period permitted under the Act. The taxpayer contended that the core requirement of the law is the actual application of funds toward a residential property, and the CGAS is merely a procedural bridge to ensure that funds are not diverted. Since the primary condition of investment was satisfied, the taxpayer argued that a technical lapse in the mode of holding the funds temporarily should not lead to the forfeiture of a substantive tax benefit.

The Pune ITAT ruled in favor of the taxpayer, holding that the "real intention" of the legislature is to ensure that the sale consideration is invested in a residential house rather than simply being deposited in a bank account. The Tribunal clarified that the procedural requirement of Section 54F(4) should not be used to "snatch away" a benefit when the substantive condition of timely investment is met. Relying on the precedent set by the Karnataka High Court in *K. Ramchandra Rao*, the ITAT observed that if the entire consideration is invested within the prescribed period for purchase, the deduction cannot be denied solely because the money was not routed through the CGAS. Consequently, the Tribunal directed the Assessing Officer to allow the full deduction.

This ruling serves as a vital reminder that for beneficial provisions like Section 54F, the ultimate utilization of funds for the prescribed purpose is the paramount factor. It is important to note, however, that this is a fact-specific decision where the taxpayer's bona fide intention was clear, as the entire investment was completed shortly after the return filing. While the Tribunal prioritized the legislative intent over procedural rigidity, this should not be viewed as a blanket license to bypass the Capital Gains Account Scheme. Practitioners should continue to advise clients to adhere to the CGAS timelines to avoid unnecessary litigation, as this ruling is an equitable relief for genuine cases rather than a broad exemption from statutory procedures. The case highlights that while a timely investment can save a claim, the safest course remains the strict alignment of fund deposits within return filing deadlines.

Amending trust deed retrospectively to restrict scope of beneficiaries solely to relative of settlor valid to exclude trust from application of section 56(2)(x)

Important Rulings

VS Trust, ITA No. 2633/Chny/2025, ITAT Chennai

Section 56(2)(x) of the ITA taxes receipt of property without consideration where the value exceeds ₹50,000. However, the provision carves out certain exceptions, one of which applies where property is received from an individual by a trust created solely for the benefit of relatives of an individual.

In a present ruling, the Chennai ITAT examined whether the receipt of shares by a private family trust from its settlor could be taxed under Section 56(2)(x), particularly where the original trust deed permitted addition of entities as beneficiaries.

Taxpayer, VS Trust, was settled on 1 September 2021 by an individual for the benefit of his family members. During the relevant assessment year, the settlor contributed shares of various companies to the trust having an aggregate value of approximately Rs. 15.78 crore. The trust treated the receipt as exempt under clause (X) of the proviso to Section 56(2)(x) on the ground that the trust was created solely for the benefit of the relatives of the settlor.

During the course of assessment proceedings, the AO observed that the original trust deed allowed trustees to add entities as beneficiaries if such entities **were majority owned or controlled by the settlor's relatives**. According to the Assessing Officer, such a provision could result in indirect benefit to non-relatives through minority ownership, thereby violating the condition that the trust must be exclusively for the benefit of relatives. On this basis, the Assessing Officer held that the trust was not created solely for the benefit of relatives and consequently added ₹15.78 crore to the income of the trust under Section 56(2)(x) as income from other sources.

Before the Commissioner of Income Tax (Appeals), the taxpayer submitted that the original clause permitting addition of entities as beneficiaries had already been substituted through a supplemental trust deed, which was stated to be effective from the date of inception of the trust. Under the amended clause, trustees were only empowered to remove beneficiaries, and no provision existed for adding any entity or person who was not already specified as a beneficiary.

However, the CIT(A) held that such amendment was not legally valid, on the ground that the trust deed restricted amendments that could alter the objects or the power over trust property. Accordingly, the CIT(A) upheld the addition made by the AO.

Aggrieved, the taxpayer appeal before the Hon'ble Chennai ITAT. The taxpayer contended that:

- The supplemental trust deed validly substituted the clause allowing addition of beneficiaries, substitution being effective from the date of inception of the trust, thereby eliminating any possibility of non-relatives benefiting from the trust.
- The amendment did not violate the trust deed because it did not alter the objects of the trust or restore any control over the trust property to the settlor.
- The beneficiaries of the trust were exclusively the settlor and his lineal descendants, all of whom qualified as "relatives" within the meaning of Section 56.
- Tax authorities had relied on a hypothetical possibility of benefit accruing to non-relatives, even though no such beneficiary existed in reality.

While, revenue, on the other hand, argued that original clause allowed inclusion of entities majorly controlled by relatives, which could indirectly allow benefits to minority persons who were not relatives of the settlor.

Important Rulings

The Chennai ITAT ruled in favour of the taxpayer and deleted the addition. The Tribunal observed that the supplemental trust deed had validly substituted the original clause from the date of inception itself, and the amendment did not violate the restrictions contained in the trust deed. After the amendment, the trust deed contained no provision enabling addition of entities or non-relatives as beneficiaries. The Tribunal further noted that the actual beneficiaries of the trust were exclusively relatives of the settlor, including his children and their descendants. There is no clause in the trust deed by virtue of which any minority benefit could possibly accrue to any non-relatives of the settlor.

Accordingly, the Tribunal held that the case squarely fell within the exception provided in clause (X) of the proviso to Section 56(2)(x) and the receipt of shares by the trust could not be taxed.

The ruling underscores the critical importance of careful drafting while preparing trust deeds, particularly in the context of tax provisions such as Section 56(2)(x). Even where the intent of the settlor is to create a trust solely for the benefit of family members, a loosely worded clause or an overly broad power granted to trustees may give rise to an interpretation that the trust could potentially benefit non-relatives. Such interpretational possibilities, even if hypothetical, can expose the trust to adverse tax consequences. The decision therefore serves as a reminder that precision in drafting beneficiary clauses and trustee powers is essential, as even a minor deviation or ambiguity in wording may unintentionally alter the tax position of the trust.

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Indian Rulings

'Place of effective management' vs. 'Power of Attorney'- Factor for determination of residential status

SDFC Ireland Ltd. [W.P.(C) No. 16354 of 2025 - Order dated January 14, 2026 (Delhi HC)]

The taxpayer was incorporated in Ireland and a tax resident of Ireland as per Article 4 of India-Ireland DTAA having business of customer relationship management offering standardised applications and platforms suited to requirements of the customers located in India. The taxpayer contended that it did not have any place of business, presence of employees and PE in India as per Article 5 of India-Ireland DTAA. For the FY 2023-24 and FY 2024-25 the taxpayer applied for "Nil" withholding tax certificates before the AO u/s 197 of the ITA against which the AO issued certificates at the rate of 10% and 2% respectively for both the years without any justification as to the determination of the tax rates. However, tax rates determined were ultimately struck down by the Delhi HC by issuing order and enabling the taxpayer to get the certificate at "Nil" tax rate.

For the 'FY 2025-26', the AO has resorted to the same practice of issuing the certificate at 10% as earlier, despite of the fact that there was no change in facts. The AO adopted a view contrary to the judgment of the Hon'ble Delhi HC which have been rendered in prior years and did so without any corroborative evidence on record. In arriving at the conclusion, the AO didn't undertake any substantive verification in ascertainment of the taxability of the payment received from Indian customers by the taxpayer and thereby granted certificate at a higher rate as against the "Nil" tax rate. The taxpayer consequently filed an appeal before the Delhi HC contending their eligibility for 'NIL" tax deduction certificate in relation to payments received from Indian customers.

The taxpayer issued Power of Attorney to a person resident in India with the intent of completing all the required formalities in India associated with the taxpayer such as filing the legitimate claim forms and filing the petitions on its behalf by the designated person. In this regard, it is pertinent to examine the provisions of the section governing the concept of 'residential status' in relation to a company, after considering the facts of the case in their entirety. As per section 6(3) of the ITA a company is said to be a resident in India in any previous year if it is an "*Indian company* or its *place of effective management*" in that year is in India. POEM means a place where key management and commercial decisions for the conduct of business of the entity are made. Considering the meaning of residential status as provided u/s Section 6(3) of the ITA, there were no strategic management decisions which were executed within India. The AO did not record any findings indicating that the taxpayer company was a resident in India or that it maintained a PE in India. The Delhi HC had observed that the approach of the AO in deciding the tax rate as per the certificate released was arbitrary and without any basis. The order and certificate determining the tax rate was set aside. The appeal filed by the taxpayer before Delhi HC was allowed and thereby 'NIL" tax rate as per the withholding tax certificates was accepted.

The objective evaluation should have been made of the activities performed by the person who was delegated with certain authority through Power of Attorney. In other words, PE is said to have formed if the person has been granted with sufficient authority or the power to negotiate and conclude contracts through a fixed place of business on behalf of the non-

resident company. In that case, the taxability gets triggered based on establishing the permanent establishment. Based on independent assessment of the factual and contextual considerations and in the absence of any major decisions taken in India impacting the whole organisations, the foreign company cannot be said to be 'resident in India'.

Day of arrival to be excluded for determination of residential status in India

Sanjay Bhaskar [ITA Nos. 1650, 1653 to 1655 (DEL) of 2024 – Order dated December 30, 2025 (Delhi ITAT)]

The taxpayer, a resident of the UK since 1998, claimed non-resident status in India. He furnished details of his stay before the AO, emphasizing that residential status is pivotal in determining taxability of receipts. In computing his stay for FYs 2016-17, 2017-18, and 2018-19, the taxpayer excluded the dates of arrival in India, thereby concluding his status as non-resident. The AO, however, included both arrival and departure dates, which resulted in the taxpayer's stay exceeding 181 days and consequently treated him as resident under clause (b) of Explanation 1 to Section 6(1) of the ITA.

Relying on judicial precedents, including DIT (International Taxation), Bangalore v. Manoj Kumar Reddy [2011] 12 taxmann.com 326 (Karnataka) and Pradip Kumar Joshi v. ITO [2021] 133 taxmann.com 283 (Ahmedabad ITAT), the Hon'ble bench of Delhi ITAT held that the date of arrival should be excluded while computing the period of stay. Accordingly, the taxpayer's stay did not exceed the statutory threshold of 181 days, and he was regarded as non-resident in India for the relevant financial years.

This case underscores the importance of correctly interpreting the rules of residential status under Indian tax law. Even boarder line differences in how days of arrival and departure are counted can significantly alter a taxpayer's classification as resident or non-resident. The Delhi ITAT's ruling provides clarity by reaffirming that arrival dates should be excluded, ensuring consistency with judicial precedents. For individuals with cross-border mobility, careful tracking of days of stay is essential to avoid unintended tax consequences. Ultimately, the decision reinforces the principle that tax residency must be determined strictly in line with statutory provisions and established jurisprudence.

In contrary to the above, interestingly, in certain judgement both the days of arrival and departure have been considered for the period of stay in India. Further, it was discussed that actual number of hours should be calculated for computation of threshold limit considering the relevant dates of entry and exit from India. There are other nuances also involved in cases where the person arrives in India at 11:59 PM, whether the said day will be counted or not.

Legitimate FTC cannot be denied for procedural reporting errors

Udayan Bhaskaran Nair [Writ Petition No. 1363 of 2025 – Order dated January 13, 2026 (Bombay HC)]

The taxpayer, a salaried individual, was employed in the UK for six months and in India for the remaining six months during FY 2010–11. His Indian employer issued Form 16 reflecting total TDS which includes tax deducted in the UK (disclosed by way of a footnote). While filing the return of income, the taxpayer claimed credit for the entire TDS amount but did not separately claime FTC under Section 90 / Section 91 of the ITA.

Indian Rulings

Subsequently, the revenue sought to adjust the refund due for AY 2017-18 against an alleged outstanding demand of AY 2010–11, citing a mismatch with Form 26AS. The taxpayer filed a rectification application contending that he had neither received any intimation u/s 143(1) of the ITA nor any notice of demand u/s 156 of the ITA, and that a notice u/s 245 of the ITA proposing such adjustment was issued without prior communication.

As no response was received against the rectification application, the taxpayer preferred an appeal before the CIT(A) and the ITAT. Both authorities dismissed the appeals holding that an intimation is not an appealable order under Section 245 of the ITA. Aggrieved thereby, the taxpayer filed an appeal before the Hon'ble Bombay HC wherein following matters were subject matter of appeal

- Whether the claim of FTC is legitimate or not; and
- Whether an adjustment of refund against the demand raised vide Intimation Order is justified, particularly when the taxpayer has not received the said intimation or demand notice.

On the first issue, the Hon'ble Bombay HC held that the taxpayer cannot be denied legitimate FTC merely because the same was reported under incorrect column in the return of income. The HC noted that the foreign taxes were fully and bona fide disclosed based on Form 16 issued by the Indian employer, and that the error was merely a reporting difference, not a case of suppression or misrepresentation. Accordingly, the Bombay HC directed that the FTC be allowed as reflected in Form 16 and the consequential demand is required to be deleted.

On the second issue, the Bombay HC held that a valid notice of demand must be duly served before recovery can be initiated u/s 156(1) of the ITA. In cases of intimation under section 143(1) of the ITA, the intimation itself is deemed to be a notice of demand. However, since the Income-tax Department failed to communicate the intimation processed u/s 143(1) of the ITA to the taxpayer, the High Court held that the notice of demand was not validly served. Accordingly, the demand was held to be non-existent and unenforceable, and the HC directed deletion of the impugned demand, grant of FTC and issuance of the consequential refund.

This ruling reinforces the principle that a taxpayer cannot be denied legitimate claims on account of mere procedural lapses or technical errors.

No taxation of royalty sans availability of know how

Jeppesen GmbH [ITA No. 1337 (Mum) of 2025 – Order dated December 29, 2025 (Mumbai ITAT)]

The taxpayer, a company incorporated in Germany and a tax resident of Germany, is engaged in providing flight and navigational information solutions and other related services. During the relevant year, it earned revenue from Indian customers towards supply of aeronautical data, restricted licences of electronic flight bag and ground tools software, for sale of printed charts and other related items.

At the time of filing of Income tax return in India, the taxpayer claimed that the receipts constituted business income not taxable in India in the absence of a PE in India. The AO and the DRP rejected the taxpayer's claim, pursuant to which the taxpayer has filed an appeal before the Hon'ble bench of Mumbai ITAT. The core issue

was whether the receipts would qualify as "royalty" under India-Germany DTAA or not.

During the course of the appellant proceedings, the Revenue contended that the income earned by the taxpayer arose from the supply of information concerning industrial, commercial, or scientific experience, and was based on the expertise and experience possessed by the taxpayer would qualify as royalty.

Upon hearing both the parties, the Hon'ble Bench of Mumbai ITAT held that, to qualify as "royalty" for information concerning industrial, commercial or scientific experience under the India-Germany DTAA, the payment must be for transfer of proprietary and typically undivulged know-how derived from prior experience. Such know-how must enable the recipient to apply it independently, without further involvement of the provider. Where the taxpayer merely applies its expertise to render services or deliver a product, while retaining the underlying know-how, and the recipient is not enabled to replicate the process independently, the payment cannot be characterised as royalty. Instead, it constitutes business profits under Article 7 of the DTAA and, in the absence of a PE in India, the same is not taxable in India.

The Hon'ble Bench of Mumbai ITAT further explained by stating that the same principle also applies in case of software license where the taxpayer retains all rights, title and interest in the software, the customer is granted only a restricted licence to use the software for its operations and the contractual terms prohibit modification, merging, translation, decoding, decompilation, disassembly or reverse engineering. These restrictions do not amount to a transfer of know-how, as the customer is expressly prohibited from accessing, extracting, or replicating the underlying technology. In treaty interpretation, one must be vigilant against expanding the concept of "royalty" beyond its intended bounds, otherwise, every specialised product or service would become royalty merely because it is delivered by an enterprise possessing expertise an outcome neither contemplated by Article 12 nor supported by the jurisprudence.

This ITAT ruling makes it clear that payments for restricted software licences, aeronautical data, or printed charts do not amount to "royalty" under the India-Germany tax treaty unless there is a transfer of proprietary know-how enabling independent use by the recipient. Since the taxpayer retained all rights and customers were only given limited usage rights without access to the underlying technology, the receipts were treated as business income. In the absence of a PE in India, such income was held to be non-taxable, reinforcing that mere expertise or specialised products cannot be stretched into the definition of royalty. The Mumbai ITAT has also followed the same principles which are being followed in cases of transfer of copyrighted article of software or transfer of right to use copyright to classify that a particular transaction is considered as royalty or not.

Further, one aspect that remained unaddressed was whether the payments made for obtaining flight and navigational information solutions and other related services could be characterized as FTS. In the present case, the taxpayer merely provided limited usage rights to the information and solutions, without granting access to the underlying technology or proprietary systems. Moreover, the services were delivered through an automated platform without human intervention, and no professional, managerial, or technical services were rendered to the user. In such circumstances, it would be difficult to categorize the aforesaid payments as FTS. Nevertheless, it would have been interesting to

examine the arguments that the Revenue might have advanced had it sought to characterize the payments as FTS rather than Royalty.

Reference to FT&TR for Pre-Treaty Taxable Events is Improper and Impermissible under the India-Hong Kong DTAA

Sanjay Jain [ITA Nos. 38, 41, 43, 34, 36 and 37 of 2026 – Order dated January 22, 2026 (Delhi HC)]

A search was conducted at the premises of AMQ Group and based on the material found during search process, proceedings were initiated against the taxpayer. Since the case related to a search, the limitation period for passing the assessment order was December 31, 2018. however, before that date, the AO referred the matter to the Foreign Tax and Tax Research Division (FT&TR). It is undisputed that the Hong Kong authorities never provided the requested information to the AO. Following the reference to FT&TR, the limitation for passing the assessment order was extended to December 31, 2019 under clause (ix) of the Explanation to Section 153B of the ITA.

Aggrieved by the order passed by the AO, the taxpayer filed an appeal before the CIT(A), who upheld the AO's order. On further appeal, Hon'ble bench of Delhi ITAT relied on Delhi HC's judgment dated passed in case of Smt. Sneh Lata Sawhney [2025] 174 taxmann.com 593 (Delhi) and allowed the taxpayer's appeal in the said case.

The taxpayer filed an appeal before the Hon'ble Delhi HC, contending that the ITAT erred in relying on Sneh Lata Sawhney (supra), which concerned the India-Swiss treaty and transactions prior to the amendment of the protocol. The taxpayer submitted that Article 14(3) of the India-Hong Kong protocol permits either contracting state to request information, while Article 26(5) of the India-Hong Kong DTAA restricts such requests for pre-treaty periods to fiscal years or taxable events occurring after the treaty's entry into force. Since the India-Hong Kong DTAA became effective on November 30, 2018, information could only be sought for taxable events arising thereafter. The ITAT overlooked this distinction and incorrectly applied Sneh Lata Sawhney. Notably, the India-Swiss DTAA applies only to fiscal years commencing after April 01, 2011, whereas the India-Hong Kong DTAA allows requests solely for fiscal years or taxable events after November 30, 2018, subject to confidentiality and relevance. Under the ITA, the taxable event arises on the first day of the AY, therefore the AO was not legally empowered to seek information for AY 2017–18.

The Hon'ble Delhi HC held that the AO's reference to the FT&TR division under the India-Hong Kong DTAA was legally impermissible for AY 2017-18. Since the DTAA came into effect on November 30, 2018 wherein any information requested must relate to taxable events or fiscal years occurring after this date. Consequently, the AO could not invoke the one-year extension of the limitation period under Section 153B(ix) of the ITA. The Delhi HC clarified that while the precedent of Sneh Lata Sawhney is relevant, it applies only to the limited principle concerning invalid prior-period information under a different DTAA. As a result, the taxpayer's appeals were upheld, the AO's actions were invalidated, and it was held that the department cannot rely on FT&TR references to extend the assessment limitation for periods prior to the enforcement of the DTAA.

The case highlights that limitation period cannot be extended u/s 153B(ix) by seeking information from foreign authorities if the relevant treaty does not cover the assessment year or

taxable event in question. Taxpayers are protected from references for periods before a treaty's enforcement and precedents from other treaties apply only narrowly.

Pre-2017 LTCG not taxable in India under India-Mauritius DTAA, brought forward loss can be carried forward without set off

GS Strategic Investments Ltd. [ITA No. 5644 (Mum) of 2025 – Order dated December 30, 2025 (Mumbai ITAT)]

The taxpayer, a tax resident of Mauritius with a valid TRC, primarily invests in Asian countries, including India, through the FDI route. During the relevant AY, the taxpayer earned LTCG from sale of shares of NSE Limited and also received dividend income. While tax was duly paid on the dividend income, the taxpayer claimed exemption on the LTCG under Article 13(4) of the India-Mauritius DTAA, which provides that gains arising from shares acquired before April 01, 2017 are not taxable in India and are instead taxable in the country of residence, i.e., Mauritius. Additionally, the taxpayer had brought-forward LTCL, which were carried forward to the subsequent year, as such losses could not be set off against treaty-exempt LTCG, being treated as non-assessable income.

The case was selected for scrutiny, and the AO proposed to adjust the brought-forward losses against the LTCG, notwithstanding the taxpayer's claim that such gains were exempt under the applicable DTAA. The taxpayer raised objections before the Hon'ble DRP. Although the DRP acknowledged that the ITAT had previously decided the issue in favour of the taxpayer, it upheld the AO's proposed adjustment "to keep the issue alive," citing the need to safeguard the interests of the Revenue. Pursuant to the DRP's directions, the AO passed the final assessment order after setting off the LTCG against the brought-forward losses and permitting only the remaining balance of losses to be carried forward.

The taxpayer filed an appeal before the Hon'ble bench of Mumbai ITAT, arguing that Section 74 of ITA allows set-off only against taxable capital gains, and treaty-protected gains do not qualify as assessable income. The taxpayer also relied on Section 90(2) of ITA which permits a year-wise option to choose the more beneficial provisions of the ITA or the DTAA, without being bound by past choices, citing Goldman Sachs Investments (Mauritius) Ltd. v. Dy. CIT [2020] 120 taxmann.com 23 (Mumbai ITAT). The Revenue, on the other hand, argued that total income must first be computed under the ITA, including losses, before applying treaty relief, and that Section 74 requires prior set-off of losses against gains.

The Hon'ble bench of Mumbai ITAT stated that the matter should be decided based on basic principles. It noted that chargeability and the allocation of taxing rights must follow the treaty, which takes priority over domestic law under Section 90(2). The Hon'ble bench of Mumbai ITAT further observed that the carry forward and set off of losses under Section 74 of ITA should be applied consistently with both domestic law and the treaty, ensuring the taxpayer's rights are properly protected. After reviewing the provisions of ITA and principles of DTAA, the ITAT held that the DTAA has primacy under Section 90(2) of ITA and that LTCG from shares acquired before April 01, 2017 are taxable only in Mauritius. Since, these gains are not assessable in India, Section 74 set-off cannot apply and prior-year losses remain fully eligible for carry forward.

Indian Rulings

The Tribunal also rejected the Revenue's claim of inconsistent positions and held that the DRP's approach of "keeping the issue alive" was legally unsustainable. Consequently, the taxpayer LTCG from NSE shares is not taxable in India, entire brought forward LTCL can be carried forward to future year without set-off.

This case highlights the significance of DTAA provisions, particularly the principle under section 90(2) of the ITA that treaties take precedence over domestic law. It illustrates that directions such as "keeping the issue alive" cannot override statutory provisions, and that the set-off under section 74 applies only where taxable income exists, not in situations where gains are exempt under a treaty. The matter underscores how assessments should be guided by fundamental legal principles rather than a mechanical application of rules. For taxpayers, it demonstrates the practical benefit of DTAA relief such as the exemption under Article 13(4) for the sale of shares acquired before April 1, 2017 and the flexibility provided by section 90(2) of the ITA to choose, on a year-by-year basis, whichever provisions (domestic law or treaty) are more favourable.

India Update

India and France sign the protocol amending India-France DTAA

During the recent visit of the President of France to India, the GOI and France signed a Protocol amending the India-France DTAA, originally concluded on September 29, 1992. Below are the key highlights of the amending protocol.

- Full taxing rights on capital gains from the sale of shares are now assigned to the jurisdiction where the company is a resident.
- The "Most-Favoured-Nation" clause has been deleted, resolving all related issues.
- The taxation of dividend income has been revised from a single 10% rate to a split rate: 5% for shareholders holding at least 10% of capital, and 15% for other cases.
- The definition of FTS has been aligned with the India-USA DTAA and the scope of PE has been expanded to include Service PE.
- Provisions have been updated to strengthen information sharing
- A new article has been introduced to facilitate seamless tax cooperation in line with international standards.
- Relevant provisions of the BEPS MLI, already applicable after ratification by both countries, have been integrated into the DTAA

The amending Protocol will be effective on completion of internal procedures under the laws of both the countries and subject to such terms as agreed between the two countries. The amending Protocol modernizes the India-France DTAA in line with international standards, balancing the interests of both countries. It is expected to enhance tax certainty for taxpayers, encourage investment, technology transfer, and movement of personnel, and further strengthen the economic relationship between India and France.

Foreign Updates

Establishment of Tribunal by Mauritius to hear Taxpayer's appeals from January 05, 2026

The Mauritius Revenue Authority (MRA) has issued a communique announcing that the Revenue Tribunal (RT) has been established and has become operational with effect from January 05, 2026, in replacement of the Assessment Review Committee (ARC) to handle the taxpayer's appeals. The MRA further informed that the RTA was proclaimed on December 22, 2025 and came into force on January 05, 2026. The RT constituted under the RTA has accordingly taken over the functions previously exercised by the ARC established under the Mauritius Revenue Authority Act.

Any person aggrieved by a determination of the Director-General under any enactment listed in the Schedule to the Revenue Tribunal Act (RTA) may now lodge an appeal before the Tribunal by filing the appeal with the Secretary to the Tribunal.

Vietnam enacts New Law on Tax Administration introducing key reforms effective from July 2026

Vietnam has enacted the Law on Tax Administration No. 108/2025/QH15 approved by the National Assembly of Vietnam in December 2025, replacing the Law No. 38/2019/QH14 as amended by Law No. 56/2024/QH15. The principal changes are summarised as below which will be effective from July 01, 2026.

- Broadened definition of taxpayers - The scope now expressly covers foreign individuals and entities conducting business activities in Vietnam, including those operating via e-commerce and digital platforms. This aligns the tax administration framework with recent amendments to personal and corporate income tax regulations.
- Shortened deadline for supplementary tax filings – The time limit for submitting amended tax returns to correct errors has been reduced from 10 years to 5 years from the original filing deadline.
- Revised rules on taxation of Capital transfers – Updated provisions apply to both direct and indirect capital transfers by foreign investors, subject to a flat tax rate of 2%. Specifically
  - (i) Where both the transferor and transferee are foreign parties, the Vietnamese investee entity is responsible for declaring and remitting the tax on behalf of the transferor
  - (ii) Where the transferee is a Vietnamese entity or resident individual, the transferee must declare and pay the tax on behalf of the transferor
- Advance Pricing Agreement (APA) Procedures – APA applications will now be assessed based on information provided by taxpayers together with data available in the tax authorities databases for related-party transactions. Reliance on verified commercial databases for legal validity is no longer a requirement.

Sweden plans to introduce withholding tax exemption on dividends paid to 'Foreign States'

The Swedish MOF has issued a proposal to grant a withholding tax exemption on dividends paid to foreign states and foreign entities equivalent to a Swedish region, municipality or municipal association.

Foreign Updates

The initiative follows a finding that Sweden's existing rules breach the EU free movement of capital principle as dividends paid to Swedish public pension funds are exempt from withholding tax, whereas dividends paid to comparable non-resident public pension funds are subject to withholding tax (EU Court of Justice Decision C-39/23, Keva). Although the infringement identified by the Court concerned the public pension funds, the proposed exemption would apply more broadly to foreign pension funds, foreign states, and equivalent governmental subdivisions. This would include entities resident in The European Economic Area (EEA) States as well as in non-EEA states that have concluded an exchange of information agreement with Sweden.

The exemption would cover dividends distributed by Swedish limited liability companies, European companies registered in Sweden and Swedish investment funds and special funds. Subject to approval, the new rules are expected to take effect from 01 July 2026.

OECD releases revised edition of the Manual on Effective MAP 2026 (MEMAP)

The OECD has announced the release **of the MEMAP 2026 edition**, updated under the Inclusive Framework on BEPS. The revised manual is designed to enhance tax certainty by helping tax administrations and taxpayers resolve cross-border tax treaty disputes in a more efficient, effective, and timely manner.

The 2026 MEMAP provides a practical roadmap for navigating the MAP. It offers structured guidance, templates, and best practices to support consistent and effective international tax dispute resolution. While building on the 2007 edition, the updated version adopts a new structure informed by the real-world experience of competent authorities. It sets out 59 aspirational best practices, incorporating feedback from tax administrations and businesses, as well as insights gained from over a decade of BEPS Action 14 peer reviews and MAP case discussions.

The manual delivers comprehensive guidance across the entire M AP lifecycle, structured around four core areas:

- **Dispute prevention and competent authority organisation** including pre-MAP consultations and early-stage measures to prevent disputes;
- **Access to MAP and unilateral relief** covering eligibility criteria, the format and content of MAP requests and situations where unilateral relief may resolve issues without bilateral negotiations;
- **Bilateral discussions and MAP arbitration** providing guidance on preparing position papers, conducting meetings and for the first time, detailed best practices on MAP arbitration; and
- **Capacity building and templates** offering support for lower-capacity jurisdictions and practical tools such as templates for MAP requests and position papers.

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Important Rulings

GST Advisories

GSTN issued advisory enabling online withdrawal facility from Rule 14A through Form GST REG-32

GSTN has issued an advisory dated February 21, 2026, enabling an online facility for eligible taxpayers to opt out of registration under Rule 14A of the CGST Rules, 2017 by filing Form GST REG-32 on the GST portal. The facility is available only to active taxpayers registered under Rule 14A, and the application link becomes visible upon login under: Services → Registration → Application for Withdrawal from Rule 14A. Aadhaar authentication of the Primary Authorised Signatory (mandatory) and at least one Promoter/Partner is required before ARN generation.

The advisory prescribes specific pre-conditions for filing REG-32 that the taxpayers must have furnished (i) returns for a minimum of three months if the application is filed before April 1, 2026, or (ii) returns for at least one tax period if filed on or after April 1, 2026, along with all returns due from the effective date of registration till the date of application.

During pendency of REG-32, taxpayers are restricted from filing core amendments, non-core amendments, or self-cancellation applications.

Upon approval through Form GST REG-33, the taxpayer will be permitted to furnish outward supply details exceeding the Rule 14A threshold (Rs. 2.5 lakh output liability) from the first day of the succeeding month of order issuance.

This advisory operationalizes the exit mechanism from the simplified registration framework under Rule 14A. The structured pre-conditions and Aadhaar validation ensure regulatory safeguards while providing flexibility to growing businesses.

Customs Notification

DGFT rationalises RoDTEP rates to 50% with exclusion of ITC HS Chapters 01–24 from reduction

(Notification No. 60/2025–26 dated February 23, 2026, read with Corrigendum dated February 24, 2026)

The Directorate General of Foreign Trade (DGFT), vide Notification No. 60/2025–26 dated February 23, 2026, has rationalised the benefits under the Remission of Duties and Taxes on Exported Products (RoDTEP) Scheme by restricting the applicable rates to 50% of the existing notified rates and, where applicable, 50% of the prescribed value caps for all HS lines listed in Appendix 4R and 4RE. The amendment has been issued under Section 5 of the Foreign Trade (Development and Regulation) Act, 1992 read with Para 1.02 of the Foreign Trade Policy 2023 and is effective immediately.

Subsequently, vide Corrigendum dated February 24, 2026, DGFT has clarified that the reduced rates and value caps notified under Notification No. 60/2025–26 shall not apply to export products falling under ITC HS Chapters 01 to 24. Accordingly, exports of agricultural, animal, and food products covered under these Chapters will continue to be eligible for RoDTEP benefits at the pre-existing notified rates and caps. All other provisions of the original notification remain unchanged.

The notification represents a significant fiscal rationalisation measure impacting the majority of HS lines under RoDTEP by halving the remission benefits. However, the immediate corrigendum provides targeted relief to exporters dealing in primary and food sector commodities

(Chapters 01–24), thereby protecting agri-based exports from reduction. Exporters should promptly reassess their export pricing, benefit calculations, and working capital planning in light of the revised remission structure and ensure correct classification under ITC HS to avoid benefit disputes.

Circulars

CBIC issues circular extending deferred payment period and operationalising Eligible Manufacturer Importer (EMI) scheme

(Circular No. 03/2026–Customs dated February 1, 2026 read with Circular No. 08/2026–Customs dated February 28, 2026)

The CBIC has issued Circular No. 03/2026–Customs and Circular No. 08/2026–Customs to streamline and expand the facility of deferred payment of Customs import duty under the Deferred Payment of Import Duty Rules, 2016. Vide Notification No. 13/2026–Customs (N.T.) dated February 1, 2026, the deferred payment period has been extended from 15 days to 30 days, whereby duty for Bills of Entry returned for payment during any month (other than March) shall be payable by the 1st day of the following month, and for March consignments, by 31st March. The revised timelines are applicable from March 1, 2026.

Simultaneously, CBIC has introduced a new category of importers titled "Eligible Manufacturer Importer (EMI)", notified under Notification No. 12/2026–Customs (N.T.), enabling approved manufacturers to avail deferred payment benefits up to March 31, 2028. Circular No. 08/2026–Customs prescribes detailed eligibility conditions, including minimum EXIM transaction threshold (25 documents; 10 for MSMEs), annual aggregate turnover exceeding Rs. 5 crore, mandatory GST compliance (including filing of pending GSTR-3B), absence of prosecution or statutory default, and certification of financial solvency and positive net worth by a Chartered Accountant for the preceding two financial years.

The approval process is entirely electronic through the AEO India portal, with validation by the Directorate of International Customs (DIC), CBIC. Upon approval, the EMI must authenticate deferred payment through ICEGATE login using OTP verification at the time of filing the Bill of Entry. The facility is subject to monitoring by jurisdictional Commissioners, and approvals may be suspended or revoked in case of non-compliance.

These circulars together represent a significant facilitation reform for compliant manufacturing importers. The extended payment cycle enhances working capital efficiency, while the EMI framework introduces a structured, compliance-driven eligibility regime aligned with risk management principles. Manufacturers meeting the prescribed financial and GST compliance criteria should evaluate early application under the EMI scheme to leverage both liquidity advantages and expedited customs clearance benefits, while ensuring sustained statutory discipline to avoid suspension of approval.

CBIC issues master circular for uniform implementation of Baggage Rules, 2026 and electronic declaration framework

(Circular No. 04/2026–Customs, dated February 1, 2026)

The CBIC has issued Circular No. 04/2026–Customs to provide consolidated guidelines for implementation of the newly notified Baggage Rules, 2026 and the Customs Baggage (Declaration and Processing) Regulations, 2026. The

circular supersedes earlier baggage-related instructions and consolidates operational clarifications to ensure uniformity in customs procedures across all ports of entry. It clarifies that the circular is explanatory in nature and does not amend or expand the scope of the Customs Act, 1962 or the notified Rules and Regulations.

The framework emphasizes electronic declaration of baggage through the "Atithi" web and mobile application, permitting advance filing prior to arrival. Passengers carrying dutiable or restricted goods are required to declare electronically before using the Green Channel, while those not liable to duty may exit directly. The circular provides structured guidance on treatment of personal effects, jewellery and valuables, temporary export and import certificates, detention and re-export procedures, unaccompanied baggage handling, mishandled baggage clearance, and treatment at land borders. Risk-based verification is mandated to avoid routine or indiscriminate examination of bona fide baggage.

Revised duty-free allowances have also been prescribed. Residents, tourists of Indian origin, and foreigners holding valid visas (other than tourist visas) arriving by air or sea are entitled to duty-free clearance up to Rs. 75,000, while tourists of foreign origin are entitled to Rs. 25,000, and crew members to Rs. 2,500. Transfer of residence benefits extend up to Rs. 7,50,000 based on duration of stay abroad or in India. The circular further reiterates strict compliance for import of gold and silver and clarifies that goods in commercial quantity are not eligible for clearance as bona fide baggage.

This Master Circular significantly modernizes baggage administration by consolidating legacy instructions and introducing a structured electronic declaration ecosystem. The emphasis on risk-based assessment, defined valuation norms, and digitized processing will enhance passenger facilitation while safeguarding revenue.

CBIC introduces automation of goods registration, out-of-charge and let export order in import and export processes

(Circular No. 06/2026–Customs dated February 1, 2026)

The CBIC has issued Circular No. 06/2026–Customs to further strengthen automation and contactless processing in Customs clearance. In line with the Government's policy of trade facilitation, transparency, and risk-based assessment, the circular introduces system-driven measures to minimise physical interface and ensure uniformity in import and export procedures.

For imports, the circular provides for auto goods registration upon arrival of goods for AEO T2 and T3 entities, Eligible Manufacturer Importers, importers with long-standing supply chains, and those availing Direct Port Delivery (DPD). Additionally, Auto Out of Charge (OOC) will be extended to all importers, subject to payment of duty and compliance requirements, thereby reducing manual intervention. For exports, online goods registration has been enabled for all exporters, with a pilot rollout of e-seal-based auto registration at Nhava Sheva (INNSA1). Further, Auto Let Export Order (LEO) will be granted on a risk-based evaluation for facilitated Shipping Bills not selected for examination, not requiring PGA NOC, and where duty/cess is paid, if applicable.

The circular clarifies that both Auto OOC and Auto LEO are subject to risk management controls, and officers retain the authority to invoke a system "HOLD" based on intelligence inputs.

Important Rulings

Zonal Heads are directed to ensure strict implementation, integration of e-seal readers with Customs systems, and issuance of trade notices for stakeholder awareness.

This circular marks a significant step towards end-to-end automation in Customs clearance. By institutionalising auto-registration, auto-OOC, and auto-LEO mechanisms, CBIC has expanded the scope of faceless, risk-based processing beyond AEO entities to a broader importer-exporter base. Trade participants should ensure accurate and complete electronic filings, as system-based clearance will operate strictly on data integrity and compliance parameters, with minimal scope for post-arrival rectification.

Judicial Updates

GSTAT remands GSTR-1 vs GSTR-3B mismatch demand for fresh adjudication under Section 73; appellate authority cannot itself convert Section 74 proceedings

[APL/1/PB/2026; GST Appellate Tribunal (Principal Bench); Order dated February 11, 2026]

The Petitioners, engaged in EPC services, was subjected to demand proceedings for FY 2018–19 on the ground that tax liability declared in GSTR-1 (Rs.31,36,18,763/-) exceeded that declared in GSTR-3B (Rs.31,09,12,131/-), resulting in an alleged short payment of Rs.27,06,634/-. The Proper Officer invoked Section 74 and confirmed tax, interest and equivalent penalty. In first appeal, the Appellate Authority held that there was no fraud or suppression, converted the proceedings to Section 73, reduced the penalty to 10% under Section 73(9), but confirmed tax and interest. Aggrieved, the assessee preferred second appeal before GSTAT, contending that the mismatch was purely reconciliatory, arising from credit notes, advances and timing differences duly reflected in books of account.

The Petitioners submitted that the difference arose due to credit notes and advance adjustments which could not be amended in GSTR-1 owing to system constraints during the initial GST phase. All transactions were recorded in books and reflected in GSTR-3B. It was contended that once absence of intent to evade was recorded, the entire proceedings under Section 74 ought to have been dropped. Further, the First Appellate Authority could not have itself converted the case to Section 73 without remanding the matter to the Proper Officer in terms of Section 75(2).

The Department argued that statutory returns are self-assessed declarations and mismatch between GSTR-1 and GSTR-3B must be properly reconciled within the statutory framework. It was submitted that credit notes were issued beyond timelines prescribed under Section 34(2) and reversal of ITC by recipients was not established. Revenue further contended that the Tribunal ought not to re-appreciate facts at the second appellate stage and relied upon judicial precedents on strict interpretation of taxation statutes.

The GST Appellate Tribunal held that its jurisdiction under Section 112 is not confined to substantial questions of law, unlike Section 100 CPC, and it is competent to examine factual issues. On merits, the Tribunal noted that the First Appellate Authority had categorically held absence of fraud or suppression, thereby negating invocation of Section 74. In such circumstances, Section 75(2) mandates that the Proper Officer shall re-determine tax as if notice were issued under Section 73. The Appellate Authority could not itself finalize liability under Section 73.

Accordingly, the Tribunal set aside the orders to the extent they treated the matter under Section 73 and remanded the case to the Proper Officer for fresh adjudication under Section 73. The Appellant was granted liberty to file amendment applications within one month, and the Proper Officer was directed to re-examine genuineness of credit/debit notes and reconciliation after granting reasonable opportunity of hearing.

This order is significant on two counts. First, it clarifies the procedural mandate of Section 75(2): once fraud is ruled out, conversion from Section 74 to Section 73 must be effectuated by the Proper Officer, not by the appellate authority. Second, the Tribunal adopted a pragmatic approach in cases of return mismatch during the formative GST years, emphasizing substantive verification over technical rigidity. Taxpayers facing GSTR-1 vs GSTR-3B disputes, particularly involving credit notes and timing differences, may rely on this precedent to seek remand for proper reconciliation rather than mechanical confirmation of demand.

Service tax not leviable on individual advocate providing legal services in view of Notifications 25/2012-ST and 30/2012-ST

[Writ Petition (L) No. 1684 of 2026; Bombay High Court; Order dated February 5, 2026]

The Petitioner, an advocate registered with the Bar Council of Maharashtra and Goa, was issued a show cause notice alleging mismatch between Income Tax data and Service Tax returns for FY 2016–17. The notice was dispatched to an old address and was not received by the Petitioner. Subsequently, an Order-in-Original dated 15.03.2023 confirmed service tax demand of Rs.26,81,250/- along with interest and penalty. Recovery proceedings were initiated under Section 87 of the Finance Act, 1994 and bank accounts were frozen without prior notice. The Petitioner challenged the levy on the ground that services rendered by an advocate to a partnership firm of advocates were exempt from service tax in view of Notification No.25/2012-ST and were otherwise covered under reverse charge mechanism under Notification No.30/2012-ST.

The Petitioner contended that legal services provided by an individual advocate were exempt from service tax under Notification No.25/2012-ST issued under Section 93 of the Finance Act, 1994. Alternatively, even if taxable, the liability was fastened on the recipient under reverse charge mechanism as per Notification No.30/2012-ST issued under Section 68(2). It was also argued that the impugned order was passed in breach of principles of natural justice as neither the show cause notice nor hearing notices were served.

The Department relied upon mismatch in third-party income data and asserted non-discharge of service tax liability. However, during hearing, it was accepted that the issue was covered by earlier decision of the Bombay High Court in Advocate Pooja Patil v. Deputy Commissioner, CGST & CX Division VI, wherein similar proceedings were quashed.

The Bombay High Court held that the issue stood squarely covered by its earlier judgment in Advocate Pooja Patil. The Court reiterated that Notification No.25/2012-ST clearly exempts legal services provided by an individual advocate or partnership firm of advocates. Further, Notification No.30/2012-ST provides that in respect of legal services rendered by an individual advocate, the service tax payable by the provider is "Nil", and liability, if any, falls on the recipient under reverse charge.

Important Rulings

The Court observed that the Designated Officer acted without jurisdiction in confirming the demand contrary to binding exemption notifications. Accordingly, the Order-in-Original and consequential recovery proceedings were quashed

This decision reaffirms that exemption and reverse charge notifications issued under the Finance Act, 1994 are binding on departmental authorities. Legal services provided by individual advocates during the service tax regime were either exempt or taxable under reverse charge mechanism, and personal demand against the advocate is unsustainable. The ruling is particularly relevant for legacy service tax disputes where demands were raised based solely on income-tax turnover mismatch without examining statutory exemption notifications.

Personal penalty under Section 122(1A) cannot be imposed on company employees in absence of taxable person status and retention of benefit.

[Writ Petition No. 5001 of 2025; Bombay High Court; Judgment dated February 25, 2026])

The Petitioners were the Chief Financial Officer, Chief Executive Officer and Joint Managing Director of Private limited company. Pursuant to investigation into alleged wrongful availment and passing of Input Tax Credit (ITC) by the Company for FY 2017–18 to 2021–22, separate show cause notices were issued not only to the Company but also to the Petitioners proposing personal penalty under Section 122(1A) of the CGST Act. By Order-in-Original dated 01.02.2025, penalties of Rs.1,33,60,60,889/- each were imposed on the Petitioners, equivalent to the alleged inadmissible ITC availed and passed on by the Company. The Petitioners challenged the order on the ground of lack of jurisdiction and unconstitutional retrospective application of the penal provision.

The Petitioners submitted that they were merely employees and not "taxable persons" within the meaning of Section 2(107) of the CGST Act. Section 122(1A), read with Section 122(1), applies only where a taxable person retains the benefit of specified transactions and at whose instance such transactions are conducted. There was no finding that the Petitioners retained any personal benefit. It was further contended that Section 122(1A), introduced with effect from 01.01.2021, could not be retrospectively applied for the period July 2017 to December 2020, in view of Article 20(1) of the Constitution. Reliance was placed on the Bombay High Court judgment in Shantanu Sanjay Hundekari, affirmed by the Supreme Court.

The Department argued that Section 122(1A) applies to "any person" and is not restricted to registered persons. It was contended that the Petitioners, being key managerial personnel, were actively involved in alleged fake transactions and thus liable to penalty equivalent to the ITC availed/passed on. The Department further submitted that the impugned order was appealable and writ jurisdiction ought not to be exercised.

The Bombay High Court allowed the writ petition and quashed the impugned order insofar as it related to the Petitioners. The Court held that Section 122(1A) must be read harmoniously with Section 122(1), which applies to a "taxable person." The expression "any person" in subsection (1A) cannot be interpreted in isolation but must be confined to a person who is a taxable person and who retains the benefit of the

specified transactions. In absence of findings that the Petitioners retained any benefit of the alleged transactions, invocation of Section 122(1A) was without jurisdiction.

The Court further held that Section 122(1A), introduced with effect from 01.01.2021, could not be applied retrospectively for earlier periods, in view of Article 20(1) of the Constitution which prohibits imposition of penalty under a law not in force at the time of commission of the alleged offence. Accordingly, the show cause notices and the consequential Order-in-Original against the Petitioners were held to be illegal and without jurisdiction

This judgment reaffirms two critical principles in GST jurisprudence. First, personal penalties under Section 122(1A) cannot be mechanically imposed on directors or officers merely by virtue of their designation; the statutory preconditions—taxable person status and retention of benefit—must be clearly established. Second, penal provisions in fiscal statutes cannot operate retrospectively. The ruling provides significant protection to company officials against disproportionate personal penalties and reinforces the need for strict construction of penal provisions under the GST framework.

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RBI

Lending to Micro, Small & Medium Enterprises (MSME) Sector (Amendment) Directions, 2026

RBI/2025-26/206 FIDD.MSME & NFS.BC.No.12/06.02.31/2025-26 dated February 09, 2026

Central Government via the Reserve Bank of India has been following a continuing strategy of promoting the small and medium enterprises. The objective is to ensure that working capital and capex requirements of the small borrowers are met with least possible hassles as they form the backbone of Indian manufacturing sector.

In line with the easing of business for small and medium enterprises, the Reserve Bank of India has made amendments in the Banking Regulation Act, 1949 in terms of Collateral Security for loans up to a specified amount. The details are as follows:

Collateral free loans upto	Beneficiaries
20 Lacs	Medium and Small Enterprises ("MSE")
	All units financed under the Prime Minister Employment Generation Programme ("PMEGP") administered by KVIC.
25 lacs	Medium and Small Enterprises (MSE) with good track record and financial position [based on Bank's internal policy]

Effective date: from April 01, 2026

Reserve Bank – Integrated Ombudsman Scheme, 2026

Reserve Bank of India has released the new "RESERVE BANK – INTEGRATED OMBUDSMAN SCHEME, 2026" for resolving customer grievances related to entities in the financial services sector, including banks, NBFCs, online fintech apps, prepaid payment instruments issuers etc.

The important highlights of this Ombudsman Scheme are:

- There is no limit on the amount in a dispute that can be brought before the RBI Ombudsman for which the RBI Ombudsman/ RBI Deputy Ombudsman can facilitate a settlement or pass an Award by the Complainant.
- RBI Ombudsman has the power to grant compensation up to INR 30 lakh for any consequential loss suffered by the Complainant.
- RBI Ombudsman also has the power to provide compensation up to INR 3 lakh for the loss of the Complainant's time, expenses incurred, harassment/mental anguish suffered, etc., if any.
- RBI has prescribed the standard format in which the Complainant has to file their compliant with the RBI and the process for resolution thereof.
- RBI has also specified the conditions in which the award against a complaint may be challenged by the aggrieved Regulated Entity (i.e.) the financial institution to the Appellate Authority.
- RBI also has a right to reject the complaint at any stage based on their analysis of the facts and information on hand.

Effective date: July 01, 2026

RBI

Reserve Bank of India (Commercial Banks – Credit Facilities) Amendment Directions, 2026

RBI/2025-26/211 DOR.CRE.REC.402/07-01-001/2025-26 dated February 13, 2026

Reserve Bank of India is nudging banks to extend loans for acquisition financing and bridge finance for short duration financing for legitimate business purposes vide notification of the Amendment Directions 2026. The objective seems to be to ensure that adequate financing options are available to the private sector to leverage bank finance for strategic acquisitions and consolidation of business.

Certain definitions have been amended such as "collateral" and "collateral security" and a few definitions such as "Acquisition Finance", "Bridge Finance", "Capital Market Intermediaries ("CMIs"), "Eligible Securities" have been added in the Amendment Directions 2026.

Banks are now permitted to extend credit facilities against the collateral of eligible securities, including loans against own securities, loans against partly paid shares, loans against securities under lock-in requirements, loans against commercial paper and non convertible debentures etc., as per their bank approved policy.

Eligible entities and conditions for acquisition finance, the financial standing in terms of networth of the acquiring entity / profitability / credit rating conditions are as follows:

- Minimum net worth of INR 500 crores and net profit in the previous consecutive three financial years – for listed entities;
- Additional condition (over and above the two conditions specified above) of credit rating of BBB- or above in case of unlisted entities.

Other conditions such as acquiring control in the acquirer entity and the threshold thereof have also been prescribed for availing such facility.

Loans to individuals including Hindu Undivided Families (HUFs) which are not commercial entities, against eligible securities have also been tabulated in terms limits in the form of Loan to Value ("LTV");

Eligible Securities	LTV Ceiling
Government Securities (including T-Bills)	As per bank's policy
Sovereign Gold Bonds (SGBs)	As applicable in case of loans against Gold and Silver Collateral
Listed shares and listed convertible debt securities	60 per cent
Mutual Funds (excluding Debt MFs), Units of ETF and Units of REITs/InvITs	75 per cent
Debt Mutual Funds	85 per cent
Listed Debt Securities with rating:	
AAA	85 per cent
AA – BBB	75 per cent

Effective date: April 01, 2026, or an earlier date when adopted by a bank in entirety

RBI

Foreign Exchange Management (Borrowing and Lending) (First Amendment) Regulations, 2026

Reporting under Foreign Exchange Management Act, 1999 – Returns pertaining to External Commercial Borrowing (ECB)

Notification No. FEMA 3(R)(5)/2026-RB dated February 09, 2026

RBI/2025-26/221 A.P. (DIR Series) Circular No. 22 dated February 16, 2026

RBI/2025-26/223 A.P. (DIR Series) Circular No. 23 dated February 18, 2026

Reserve Bank of India (Foreign Exchange Department) vide Notification No. FEMA 3(R)(5)/2026-RB February 09, 2026 published in the Official Gazette dated February 16, 2026 has brought about a slew of amendments to the extant borrowing and lending provisions. The major changes have been brought about in the External Commercial Borrowings ("ECB") provisions which have seen a complete overhaul to the way the ECBs are availed to the manner in which they are reported to the Reserve Bank of India.

The overhaul in the ECB provisions include the changes made to the threshold limits upto which a borrower may avail an ECB loan to the eligible lenders. In addition to these changes, the cost of borrowing (earlier known as all in cost) have seen a 180 degree change from being a ceiling based cost to being now linked to prevailing market conditions, including the addition of arms length principle for interest rate in case ECB availed from a related party.

The reporting compliances too have undergone a complete overall with the new forms being EXCEL based to be filed online to the RBI. Furthermore the ECB 2 Returns which were monthly will now be required to be filed only when a particular corporate action takes place for the ECB such as drawdown, repayment, utilization etc.

A detailed analysis of the Amendment Regulations 2026 is being released in form of KCM Guide which will delve in far greater detail of the amendments brought in by the RBI.

Effective date: February 16, 2026

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SEBI

Ease of Doing Investment – Special Window for Transfer and Dematerialisation of Physical Securities

HO/38/13/11(2)2026-MIRSD-POD/I/3750/2026 dated January 30, 2026

Securities and Exchange Board of India ("SEBI") vide circular dated January 30, 2026, has opened a one-year special window from February 5, 2026, to February 4, 2027, for the transfer and dematerialization of physical securities sold or purchased before April 1, 2019.

The salient features of this window are mentioned below:

- This window was opened to facilitate the investors to get to get rightful access to their securities.
- This special window is also available for previously rejected, returned, or unattended transfer requests due to documentation deficiencies.
- Transferred securities will be credited solely to the transferee's demat account and locked in for one year, prohibiting any transfer, lien, or pledge during this period.
- Transferees have to submit comprehensive documentation, including proof of purchase, KYC, recent client master list, and a notarized undertaking-cum-indemnity bond.
- Legal heirs of deceased transferees can claim via standard transmission procedures.
- Transfer documents will have to be processed within 70 days of complete documentation.
- The window up to February 4, 2027 will have to be publicised via media sources, at least once every two months during the one-year period for greater awareness of public at large.

Effective Date: February 05, 2026

Creation/Invocation of pledge of securities through depository system

HO/47/14/12(1)2026-MRD-POD2/I/4229/2026 dated February 05, 2026

SEBI has amended the framework governing creation and invocation of pledge of securities through the depository system. The changes align the existing depository mechanism with Sections 176 and 177 of the Indian Contract Act, 1872, particularly with respect to the requirement of providing reasonable notice before sale of pledged securities.

Depositories are now required to incorporate specific undertakings in the standardized Pledge Request Form, whereby the pledgee confirms compliance with statutory notice requirements and both parties agree to abide by applicable laws, regulations, and byelaws. Additionally, upon invocation of pledge, depositories must notify both pledger and pledgee and record the pledgee as beneficial owner in accordance with the Depositories and Participants Regulations.

Depositories must amend their byelaws, implement necessary system changes, and disseminate the circular to participants. This circular has been issued to safeguard investor interests and strengthen regulatory compliance within the securities market framework.

Effective Date: On or before April 06, 2026

Reporting of value of units of Alternative Investment Funds (AIFs) to Depositories

SEBI

HO/19/34/11(8)2025-AFD-POD1/I/4335/2026 dated February 06, 2026

SEBI has introduced a reporting framework requiring Alternative Investment Funds ("AIFs") to upload the value of their units to the depository system. The move builds on the dematerialisation mandate for AIF units and aims to enhance transparency, data standardisation, and operational efficiency across the AIF ecosystem.

AIFs through their Registrars and Transfer Agents (RTAs) have to upload the latest Net Asset Value ("NAV") corresponding to each ISIN in the depository system by May 1, 2026, or within 30 days from the valuation date, whichever is later. The valuation date will be considered as the date of the valuation report where the same has been undertaken by an independent valuer or the date of documentation in internal records in case it is conducted internally.

The manager of the AIF will be responsible for reporting while the Trustees / Sponsors will have to ensure compliance with the provisions and ensure that the same are captured in the AIF Compliance Test Report.

Effective Date: Immediate

Categorization and Rationalization of Mutual Fund Schemes

HO/24/13/15(2)2026-IMD-RAC4/I/5764/2026 dated February 26, 2026

SEBI vide circular dated February 26, 2026, has revised the mutual fund categorisation and rationalisation framework to align with the evolving investment landscape and to enhance investor clarity.

The revised circular supersedes Clause 2.6 of Master Circular for Mutual Funds dated June 27, 2024.

The key amendments are as follows:

- Mutual fund schemes will now be classified into five broad categories with uniform scheme characteristics and descriptions, namely:
    a. Equity
    b. Debt
    c. Hybrid
    d. Life Cycle Funds and
    e. Other Schemes i.e. Fund of Funds and Passive Fund
- A new category of Life Cycle Funds has been introduced, featuring glide-path based asset allocation aligned with target maturity timelines.
- The solution-oriented schemes category has been discontinued and existing schemes are required to stop fresh subscriptions and merge with similar schemes.
- Tighter norms have been introduced for scheme naming and "true-to-label" requirements thereby ensuring that the scheme name reflect actual investment strategies.
- Mutual funds have to now disclose category-wise portfolio overlaps on a monthly basis with limits prescribed for sectoral / thematic schemes to minimize duplication.
- Existing schemes must realign attributes such as investment objective, benchmark, and nomenclature within six months to bring it in line with the categories of schemes listed above, without being treated as fundamental attribute changes.

Effective Date: Immediate

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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
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
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