VISION 360

APRIL 2022

ISSUE 20

A TREASURY OF KEY TAX & REGULATORY DEVELOPMENTS!

TCA TAXCRAFT ADVISORS

GLS GST LEGAL SERVICES

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tiol ONE-STOP DESTINATION FOR TAXMAN AND TAXPAYER

EDITORIAL

Vision 360: Focus on Growth amid multiple Adversaries...

The COVID-19 pandemic, the Taliban's take-over of Afghanistan, the Russian invasion of Ukraine, the political crisis in Pakistan, the state of emergency in Sri Lanka, all in a span of 2 years, has forced the economies to be armoured and ready, no matter come what may! These tough times, one after the another, has proven just how reliant the global trade is on one-another. A crisis in one's country is no more limited to one's citizens. It impacts the global trade in ways we could not know.

Thus, it has now become imperative, more than ever to strategize global trade agreements in such a way, so as to ensure the continuity of smooth functioning of the economy even in the face of crisis. Until now, India had seen limited results of global trade agreements, mostly on account of meagre export benefits extended. However, the latest addition in the India Trade agreements, namely the CEPA, signed with the UAE, promises to be more fruitful than the existing agreements. Given the importance of global trade agreements, we have penned down an article on the same, being a key strategy tool for India.

On the other hand, we have also analyzed the Global ramifications of the Russo-Ukraine conflict on the trade in various sectors and regions of the Globe. With difficult times ahead for the trade, in the aftermath of the war, it is necessary to analyze the implications, one might face and to equip oneself to minimize the damage.

In other International news, the OECD has released third batch of updated TP country profiles which include US, UK, Canada, China etc. and 6 new Inclusive Framework members. Notably, the Oman Tax Authority on its official portal, has announced submission of "Taxpayer Checklist in VAT Return".

Coming back home, the Indian Government is doing everything in its power to meet the goal of Digital India. The CBDT has notified the Faceless Jurisdiction of Income-tax Authorities Scheme, 2022, e-Assessment of Income Escaping Assessment Scheme, 2022 and the Faceless Inquiry or Valuation Scheme, 2022.

Similarly, in the Indirect Tax sphere, the CBIC has notified the Customs (Electronic Cash Ledger) Regulations, 2022. However, ever since the pandemic, the new Foreign Trade Policy and the Handbook of Procedures, keep on deferring to future dates. What was supposed to be notified w.e.f. 01 April 2022, has now been scheduled for October 2022.

Further, in state specific news, the Maharashtra Government has once again issued the Maharashtra Amnesty Scheme, 2022 to do away with the unnecessary Sales Tax litigations burdening both the tax payers and collectors. Further, in light of the increasing GST Scrutiny assessments, the Maharashtra Government has issued an SOP for the Revenue authorities to be followed by scrutinizing the records.

As regards the Judicial developments, the Bombay HC has once again extended the benefit of SC's limitation relief order to refund applications. While this ruling seems to be justifiable in light of the principles of equity, the correctness of it is a different topic altogether, which has to be determined in lines with the Circulars issued during the time of pandemic. Nonetheless, as things stand, such judgements are beneficial to the taxpayers.

Further, in line with what we have seen in the recent advance rulings, the AAR have been consistently ruling in favour of the assessees in relation to employee recovery questions. In March 2022 itself, we witnessed a

couple of such rulings, which is great to see, especially since it had become a norm that all AAR rule are pro-Revenue.

Compiling all such developments, we at **TIOL**, in association with **Taxcraft Advisors LLP, GST Legal Services LLP and VMGG & Associates**, are glad to publish the 20th edition of its exclusive monthly magazine 'VISION 360'. We hope that, as always, you will find it an informative and interesting read. We look forward to receiving your inputs, thoughts and feedback, in order to help us improve and serve you better!

Happy Reading!

P.S.: This document is designed to begin with couple of articles peeking into recent tax/regulatory issues allowed by stimulating perspective of leading industry professionals. It then goes on to bring to you latest key developments, judicial and legislative, in Direct tax, Indirect tax and Regulatory space. Don't forget to check out our international desk and sparkle zone for some global and local trivia.

Table of Contents

Vision 360 | April 22 | Edition 20

Table of Contents

GOODS & SERVICES TAX

Table of Contents

CUSTOMS & FTP

REGULATORY

ARTICLE

Trade Agreements: A Key Strategy Tool for India

'International Trade' has time and again proved itself to be a 'litmus test' for country's economic growth and international relations. World Bank has been vocal of its benefits in faster growth, innovative approach, increased productivity, higher income, and more opportunities for countries actively engaged in international trade. Needless to say, promoting international trade is on every country's growth agenda. This, however, is more complex than it appears to be. International trade is continuously haunted by challenges, especially for developing country such as India. Anticompetitive behaviour by major market players, cartels that stifle innovation, complicated regulatory environments that discourage new investments, lack of financial markets or information technology and the list of these challenges go on.

Trade Agreements have played a vital role to steer through these situations. These Agreements pre-determine the terms and conditions between trading countries and reduce the uncertainties to a great deal. It promotes the businesses that are strong and simultaneously provide a cover for sectors that are still developing. It is certainly a tool in modern era to influence the global partnerships.

India too has increased its focus on developing trade agreement significantly. India currently has 12 Foreign Trade Agreements and India-UAE CEPA is the latest and most significant addition to the list. Until now the Trade Agreements have not yielded any greater results. To name a few, India's FTA with Sri Lanka has resulted in meagre growth in bilateral trade and very little diversification of exports. India's FTA with the ASEAN shows that the percentage of imports of food and beverages, consumer goods, and industrial supplies have increased, like that of fuel, transport equipment, and capital goods have reduced, thus depriving India of any substantial gains from the trade deal. The FTA with South Korea also has seen limited benefits to India. These results were mostly reasoned by India's poor export competitiveness that restrained it from exploiting the full potential of the FTAs. The Confederation of Indian Industry therefore recommended for review of existing trade agreements and a revived approach for further trade negotiations, given that Trade Agreements tend to function a double-edged sword. If not used carefully, they may inflict harm on its user.

Learning from its own prior experience, India was quick and assertive in its decision to opt out of the Regional Comprehensive Economic Partnership (RCEP) of the Asia-Pacific nations in 2020. The move was much criticised but proved to be a right decision. The RCEP is a Free Trade Agreement between the

ten member states of the ASEAN Nations namely Cambodia, Indonesia, Brunei, Laos, Malaysia, Vietnam, the Philippines, Myanmar, Singapore, Thailand and its five partners (China, South Korea, Australia, Japan, and New Zealand). Opening its markets for cheaper goods from countries like China and South Korea has its own challenges. India has a trade deficit with as many as 11 of the RCEP countries and it is the only one among them that isn't negotiating a bilateral or multilateral free trade agreement with China at present. Despite these circumstances, India's participation in RCEP would have turned a nightmare for India.

On the other hand, India recently signed the Comprehensive Economic Partnership Agreement with UAE which also happens to be India's third largest trading partner and second largest export destination. While the agreement opens the market for about 90 % of the goods that are traded between India-UAE, it also contains clauses to protect the interest of the domestic industries. The agreement is expected to induce bilateral trade worth $100 billion in five years.

India-UAE treaty can provide access to middle east markets by leveraging on UAE's transport and logistics infrastructure. This treaty will provide zero duty access to 90% of the exports to UAE and will expand to 95%-97% in coming five years.

The India-UAE CEPA is significant for both countries in more than one aspect. It is India's first treaty in middle east region and is likely to lead several other similar treaties in GCC. This treaty can provide access to middle east markets by leveraging on UAE's transport and logistics infrastructure. This treaty will provide zero duty access to 90% of the exports to UAE and will expand to 95%-97% in coming five years. A significant benefit to Indian exports facing increased competition. With zero duty benefit, the treaty will also create UAE as a warehousing destination for Indian exporters exporting to African countries, reducing the logistics time and increasing the accessibility. Apart from these benefits the treaty also promotes cultural co-operation, Energy partnership, climate action and renewables, co-operation and collaboration on critical technologies, skills co-operation, etc.

The treaty is certainly one that has the potential to change India's International Trade landscapes and pave way to newer and more efficient international trade practices. As we write this India is also set to conclude trade agreements with the UK and Australia in 2022 and is close to signing early harvest or interim agreements with them. The growing list of countries and regional blocs negotiating trade deals with India includes Russia, Canada, the GCC, and the Southern African Customs Union. In multiple public addresses, the Indian commerce and industry minister, Piyush Goyal, asserted that India fully supported free trade within a rules-based multilateral trading environment. However, if India faced unfair treatment, it would reciprocate. If Hon'ble Minister's statement is to be treated as testament of India's International Trade development, India is looking at exciting times ahead.

INDUSTRY PERSPECTIVE

Peeyush Gupta

Chief Financial Officer
Viterra India Private Limited

01 On the export side, MEIS is giving way to RoDTEP, how do you view this development from an Agri-Industry standpoint?

The country is shifting to a new scheme; however, the MEIS as well as RoDTEP is generally not applicable to Agriculture commodities, hence we do not foresee a tangible P&L impact as such on our Industry. In general, we understand that RoDTEP is an outcome of India losing the matter in WTO which lead to withdrawal of MEIS. On one hand, it is appreciated that Government wants Industries to operate on a self-sustainable model; however, on the other hand, there are certain sectors which need incentives or drawbacks to compete with global firms. RoDTEP still poses various uncertainties in terms of overall available budget and its blending with other benefits such as advance license etc.

02 What are the recent developments in tax and regulatory space, which you find to have a significant bearing on business and agriculture?

The Faceless Assessment appears to be good from an industry perceptive. The introduction of such assessment system also seems to be a steppingstone in the right direction, especially during the current pandemic where 'digitalization' is the new normal.

Further, as per Section 194Q, TDS is deductible if the buyer making payment of a sum to the seller for purchase of goods of the value or the aggregate of the value exceeding INR 50 Lakhs.

TDS on purchase side has become a cumbersome setting of the system. Government should take suitable measures to plug the loopholes in particular areas. It seems that Government has shifted its responsibility on corporate to broaden its tax-payer base, whereas it is really burdensome for companies like ours which deals with a score of parties to keep track of their purchase values and PAN validation etc.

Aligning Income tax in India with global taxation by joining G20-OECD inclusive framework is a significant step for attracting global investments as well as supporting Indian business.

Peeyush Gupta
Chief Financial Officer - Viterra India Private Limited

03 Any specific impact of Inverted Duty Structure on your company/industry?

The GST Council's decision to increase the rate of GST on textile products from 5% to 12% which was to be implemented from January 1, 2022 has been deferred. Thus, the inverted duty structure still prevails in the textile sectors as the inputs are procured at GST rate of 12/18%, while the textiles are taxable at 5%. Issues with the Inverted Duty Structure are that the Government is unable to reconcile and identify the data from GSTR. Due to numerous administrative works done manually, the Government is over-burdened with a lot of processes. The tax rate on Input & Output side should be same or should depend on the brand rate.

04 What are your views on Farms Laws introduced by Government and later repealed?

The Farm Laws were introduced by government in September 2020 to deregulate Indian agriculture, lifting government supervision of crop sales and allowing corporations to negotiate directly with farmers. Along with it, government created a national framework for contract farming through an agreement between a farmer and a buyer before the production or rearing of any farm produces. Basically, contract farming can be defined as agricultural production carried out according to an agreement between a buyer and farmers, which establishes conditions for the production and marketing of a farm products. This could have led to a great benefit to farmers because of mechanism where contracts can be allotted directly to the farmers. However, the flip side of that is that farmers will be dependent on multinational companies which may command their commercials and operations in future, therefore the government has to tread cautiously by maintaining the balance. At a macro level, the farm laws would benefit the farmers economically, will increase farm produce and shall strengthen the quality and supplies in the market, though implementation needs to be driven carefully. Nevertheless, as these laws are repealed as of now, we need to wait and watch what government comes up with in future.

05 Do you see any non-tariff barriers being put in by Government to restrict import/export of specific commodities?

We have witnessed such barriers in past which is government's prerogative to manage the sector, however the sector has been facing issues with government policy changes which leads to a significant burden on supply chain as well as P&L. We believe that government shall give sufficient opportunity to sector to attune its business plans to the changed policy.

As far as the agricultural industry is concerned, the Centre for Agriculture and Rural Development ('CARD'), plays a vibrant role in the national efforts of developing India through agriculture led transformation and focuses on farmers training, capacity building and technology exposure. Therefore, the Government policy ought to be decided post consultation with such bodies and industry associations and keeping the overall growth of sector in mind.

Peeyush Gupta
Chief Financial Officer - Viterra India Private Limited

06 Any comments on threshold and scope of PLI schemes in India?

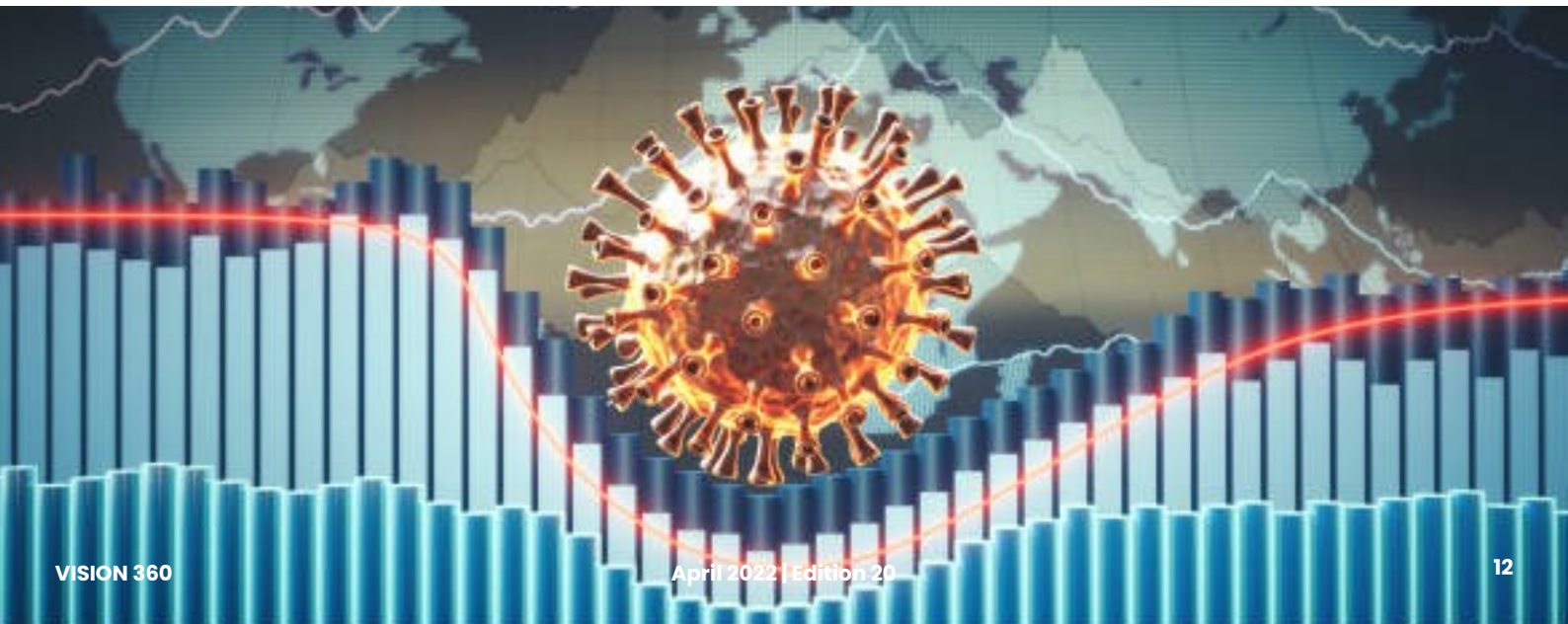
Agriculture sector plays a strategic role in process of economic development of the country. It has a significant contribution to the economic prosperity of advanced countries as it plays a vital role in generating employment but also contributes to national income. It not only acts as a market for industrial products, supply of raw material to agro-based industries, but also influences internal and external trade & commerce, resulting in contribution towards government budget and greater competitive advantage. Therefore, government's plan to introduce PLI schemes for food sector is a welcome step, however it would be more productive if the same is extended to agriculture sector as well to promote backward integration of the sector.

07 How has COVID-19 pandemic affected the world economy overall? Does it have the same implications in comparison to the first wave or is the impact more in the current scenario?

Undoubtedly, the pandemic had hit most of the industries during the first and second wave. However, the food industry faced limited impact in terms of demand as it was covered under essential commodities, though we faced constraints in terms of supply chain due to increasing freight rates which still continues to be higher. Moreover, the second wave was more upsetting due to oxygen shortage and unavailability of hospital beds for people, etc.

Further, the Russia-Ukraine war has also affected the economy, with supply being impacted, and trading also having been restricted. In fact, due to migration of people, wheat sowing in Ukraine has virtually stopped which shall significantly dent the overall wheat production in the world and will contribute to consumer inflation. The consumer demand has picked-up and is closer to previous levels, we could see some disruptions during first wave of Covid when the sowing of crops was affected due to lack of inputs and labour; however, with robust vaccination program and increased awareness of covid protocols, the sector was able to manage activities during wave two and wave three.

Currently, we as a country are having a strong wheat production which is largely able to take care of country's demand so in a way, we are a self-sufficient country despite supply gaps from Ukraine. To add, we are currently looking at export opportunities arising due to export supply disruptions from Ukraine and Russia.



DIRECT TAX
From the Judiciary

HC allows Tata AIG's writ against faceless assessment order, directs de novo consideration with elaborate directions

Tata AIG General Insurance Company Ltd

2022-TIOL-437-HC-MUM-IT

In the instant case, the Assessee preferred a Writ Petition before the Hon'ble HC against the faceless assessment order passed by the Revenue. Before the HC, the Revenue submitted that the grievance of the Assessee wasn't justified. Accordingly, the Hon'ble HC directed the Revenue to strictly comply with Section 144B of the IT Act which deals with faceless assessment and also grant the opportunity of personal hearing.

Further, the Hon'ble HC also made it clear that the notice for personal hearing should be given at least 7 days in advance by the Revenue and if the Revenue required to rely on any judgment passed by any Court or Tribunal, a list thereof should be provided to the Assessee for giving it an opportunity to deal with or distinguish such judgments.

Thus, quashing the faceless assessment order and remanding it for *de novo* consideration, the Hon'ble HC provided the Revenue with a period of 12 weeks from uploading of this order for passing the final assessment order thereby disposing of the writ petition with no costs.

ITAT holds non-appearance pursuant to digital notice in year of transition, not deliberate, deletes penalty under Section 272A(1)(d) of the IT Act

Triumph International Finance India Limited

2022-TIOL-360-ITAT-MUM

The Assessee was subjected to a penalty under Section 272A(1)(d) of the IT Act in the AY 2017-18 for non-compliance of notice issued under Section 142(1) which was upheld by the CIT(A). The notice was issued under Section 142(1) by digital mode in the year 2019 which was the first year of online interface. The Assessee came to know about the notice only when demand of INR 10,000 pursuant to penalty order under Section 272A(1)(d) was raised whereafter the Assessee promptly furnished the information as required by the notice under Section 142(1).

Aggrieved, the Assessee approached the ITAT which in the light of the facts, noted that the Assessee did not wilfully ignore the notice and the non-compliance was for bona fide reasons. However, it was undisputed that no explanation was furnished by the Assessee for non-compliance of the notice. The ITAT considered the fact that the IT Department was gradually moving towards e-assessments and the notices were being served online for the first time in the year 2019. The ITAT also noted that the Assessee was not carrying out any business operations during the relevant period and worked with minimum employees, thus, failed to take note of the notice issued electronically.

Accordingly, finding consistency in Assessee's submission before the CIT(A) and itself, the ITAT observed that it was not the case of absolute non-appearance since the Assessee furnished the requisite details on learning about the assessment proceedings. Thus, allowing Assessee's appeal, the ITAT denied the penalty under Section 272A(1)(d) of the IT Act for non-compliance and set aside the notice issued under Section 142(1) of the IT Act.

ITAT holds JV's factory in India not fixed place PE absent 'control' over premises, rejects supervisory PE plea of Revenue

FCC Co. Ltd

2022-TII-43-ITAT-DEL-INTL

The Assessee, FCC Co. Ltd. was a tax resident of Japan engaged in manufacture of clutch systems & facing for cars & bikes and had entered into a JV agreement with Rico Auto and formed JV named FCC Rico Ltd (FRL).

The Assessee received income from three streams from FRL:

- Royalty income, offered to tax @ 10%,
- FTS, offered to tax @ 10%
- Income from supply of raw material, components and capital goods, which were not offered to tax being in the nature of business profit, not taxable in India in absence of PE.

The Revenue, for AYs 2014-15 and 2015-16, by relying on coordinate bench ruling in **Huawei Technologies [ITA Nos. 5253,5254,5255/Del/2011**] held that Assessee's JV premises in addition to hosting the business activities of FRL, served as a 'branch' and office of the Assessee, thereby constituted fixed place PE.

The Revenue also held that since Assessee's employees helped FRL in setting up a new product line in India, supervisory PE was constituted.

Aggrieved, the Assessee approached the ITAT while analysing the provisions relating to Fixed Place PE in India-Japan DTAA, stated that in order to constitute a Fixed Place PE it was a prerequisite that the alleged premise must be at the disposal of the enterprise. Accordingly, in the present case, the conditions laid down for creation of a Fixed Place PE were not satisfied, ITAT opined that merely providing access to the premises by FRL for the purpose of providing agreed services by the Assessee would not amount to the place being at the disposal of the Asseessee.

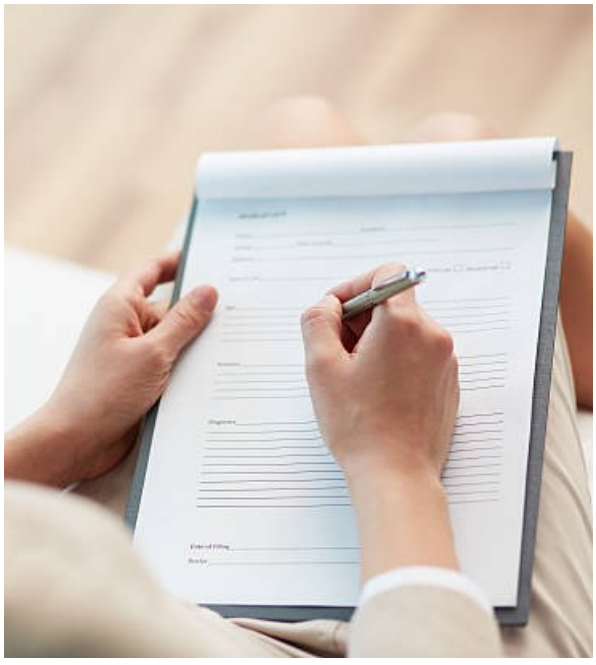
Further, placing reliance on a variety of SC rulings, the ITAT stated that although the Assessee had access to the factory premises of FRL, it was for the limited purposes of rendering agreed services to FRL without any control over the said premises as FRL was an independent legal entity carrying on its business with its

own clients, for which Assessee provided technical assistance from time to time.

In addition to the above, the ITAT rejected Revenue's argument referring to various clauses of the Master Service Agreement that title of goods supplied by the Assessee to FRL passed in India and hence the Assessee was carrying on business in India, stating that references to those clauses were irrelevant for concluding that the Assessee had fixed place PE as the manufacture, sale and receipt of consideration for sale occurred outside India, therefore, the title of goods passed outside India and the Assessee did not carry out any operation in India in relation to supply of raw material/capital goods and thus the Assessee did not have a Fixed Place PE in India.

With regard to the constitution of Supervisory PE, the ITAT perused the documents submitted by the Assessee wherein the details of employees who visited India along with work performed by them in reference to relevant agreement stated that the employees of the Assessee had visited India to assist FRL in relation to supplies made by FRL to its customers, resolving problems relating to production, maintenance, safety status of premises, quality control and IT related services was provided. From the same, it was observed that none of the activities performed by the employees were in the nature of supervisory functions. Supervision being the act of overseeing or watching over someone or something was not reflected in the work done by the engineers in India for FRL. Moreover, no installation or assembly project had taken place at FRL's premises where the Assessee's employees were rendering services, thus the condition for satisfaction of period of 6 months stay as envisaged in Article 5(4) of India-Japan DTAA became academic in nature as the technical services rendered by Assessee's employees were duly offered to tax and thus, there was no Supervisory PE of the Assessee.

Thus, allowing Assessee's appeal, the ITAT held that the premises of Assessee's joint venture entity in India did not constitute a 'fixed place PE' in India for Assessee as per Article 5(1) of India-Japan DTAA and no supervisory PE was constituted through Assessee's employee visiting India.



ITAT holds Assessee eligible for treaty benefits under India-US DTAA, not liable for TDS due to erroneous remittance details in Form 15CA/15CB

Star Rays

2022-TII-44-ITAT-SURAT-INTL

The Assessee was engaged in the export and business of cutting and polishing of diamonds. Further, the Assessee had filed Form No. 15CA /15CB furnishing the details of remittances made to GIA Hong Kong for diamonds testing and certification services. The Revenue held that such remittance for diamond testing certification charges were in the nature of FTS and held that in absence of DTAA between India and Hong Kong, Section 9(1)(vii) of the IT Act would apply. The Revenue concluded that the Assessee was required to deduct tax and having failed in its obligation, Assessee was in default under Section 201 of the IT Act.

Aggrieved, the Assessee approached the CIT(A) who set aside the order under Section 201 of the IT Act and

held that the Assessee was entitled to the benefits of India-USA DTAA as the payment to GIA Inc., USA in its offshore bank account in Hong Kong and not to GIA Hong Kong. GIA Hong Kong Laboratory was erroneously specified as beneficiary while filing Form 15CA/ 15CB. The CIT(A) also noted that the Assessee furnished tax residency certificate and PE certificate showing GIA Inc. as a US resident. Further, the Assessee also submitted the sample invoices raised by GIA Inc., USA along with proof of payment received in offshore bank account in Hong Kong was as per the instructions of GIA Inc. USA which duly substantiated by the certificate issued by HSBC Bank.

Aggrieved, the Revenue approached the ITAT which upholding the CIT(A) order, allowed treaty benefits under India-US DTAA. The ITAT further observed that the grading report did not satisfy 'make available' clause as the Assessee was utilising the services and would not have been able to make use of technical knowledge by itself without recourse to GIA Inc., USA in the future.

Further placing reliance on a plethora of judgments, the ITAT observed that if the technical knowledge or skills could not be applied at a later stage by the utiliser of the service on its own then the services provided could not be said to be made available to qualify as FTS.

Thus, finding no infirmity or illegality in the order passed by the CIT(A), the ITAT upheld CIT(A) order allowing treaty benefits under India-US DTAA on payments made by diamond exporter in Hong Kong Bank Account of GIA Inc., USA, holding that the Assessee was not liable for TDS since payments were not taxable as FTS where make available clause was not satisfied.

DIRECT TAX
From the Legislature

NOTIFICATIONS

CBDT notifies Faceless Jurisdiction of Income-tax Authorities Scheme, 2022

Notification No. 15/2022

March 28, 2022

CBDT notifies Faceless Jurisdiction of Income-tax Authorities Scheme, 2022. The Scheme is notified under Section 130(1)/ (2) of the IT Act and provides for the exercise of powers and performance of functions of income-tax authorities or vesting of jurisdiction with the AO in a faceless manner through automated allocation.

The Scheme covers: (i) Faceless Assessment under Section 144B of the IT Act, (ii) Faceless Appeal Scheme, 2021, (iii) Faceless Penalty Scheme, 2021, (iv) e-Verification Scheme, 2021, (v) e-Settlement Scheme, 2021, and (vi) e-Advance Rulings Scheme, 2021.

CBDT extends time-limit for passing order under Section 26(3) of Benami Act to September 30, 2022

Notification No. 16/2022

March 28, 2022

CBDT notifies extension of time limits for passing the order under Section 26(3) of Prohibition of Benami Property Transaction Act, 1988.

Under Section 3(1) of the TOL Act, the Central Government prescribes that the time limit for completion of any action referred to in Section 3(1)(a) of TOL Act that relates to passing of any order under Section 26(3) of Benami Act shall be extended to September 30, 2022 from March 31, 2022.

CBDT prescribes fee for delayed intimation of Aadhaar, PANs to become inoperative after March 31, 2022 on non-intimation of Aadhaar

Notification No. 17/2022

March 29, 2022

CBDT notifies amendments in Rules 114 and 114AAA of the IT Rules and inserts Rule 114(5A) to the IT Rules to provide that delayed intimation of Aadhaar under Section 139AA (2) of the IT Act shall attract penalty/fine of INR 500, where intimation is made within three months from the date prescribed under Section 139AA (2) of the IT Act and INR 1,000 in all other cases.

Further, CBDT amends Rule 114AAA (1) to make PAN inoperative after March 31, 2022, for non-intimation of Aadhaar and also amends Rule 114AAA (3) to re-operationalise PAN on payment of fee under Rule 114(5A) of the IT Rules.

CBDT notifies e-Assessment of Income Escaping Assessment Scheme, 2022

Notification No. 18/2022

March 29, 2022

CBDT notifies e-Assessment of Income Escaping Assessment Scheme, 2022 in exercise of powers under Section 151A (1)/ (2) of the IT Act. The Scheme covers: (i) assessment, reassessment or re-computation under Section 147 and (ii) issuance of notice under Section 148 of the IT Act

The Scheme also provides for automated allocation as per CBDT's risk management strategy for issuance of notice under Section 148 of the IT Act and in a faceless manner, to the extent provided in Section 144B of the IT Act for making assessment or reassessment of total income or loss of assessees.

CBDT notifies Faceless Inquiry or Valuation Scheme, 2022

Notification No. 19/2022

March 30, 2022

CBDT notifies Faceless Inquiry or Valuation Scheme, 2022. The Scheme covers: (i) issuance of notice under Section 142(1) of the IT Act, (ii) making inquiry before assessment under Section 142(2) of the IT Act, (iii) directing the assessee to get his accounts audited under Section 142(2A) of the IT Act and (iv) valuation under Section 142A of the IT Act for estimating the value of any asset, property or investment by a Valuation Officer.

Further, the Scheme also provides that the aforesaid actions shall be in a faceless manner, through automated allocation, in accordance with and to the extent provided in Section 144B of the IT Act.

Circulars

CBDT issues Circular for TDS on Salary for FY 2021-22

Circular No. 4/2022

March 15, 2022

CBDT issues Circular for TDS applicable on income chargeable under the head "Salaries" during FY 2021-22. The Circular explains related provisions and the Rules along with illustrations and various Forms applicable for TDS compliance.

CBDT allows physical filing of Form 3CF

Circular No. 5/2022

March 16, 2022

Taking cognizance of the difficulties being faced by the taxpayers in e-filing of Form No. 3CF, CBDT allows physical filing of Form No. 3CF required under the provisions of Section 35(1)(ii)/(iia)/(iii) of the IT Act read with Rules 5C(1A) and 5F(2)(aa) of the IT Rules till September 30, 2022 unless the form is available for electronic filing prior to that.

CBDT condones delay in filing of Form 10-IC for AY 2020-21, subject to conditions

Circular No. 6/2022

March 17, 2022

Addressing the genuine hardship caused to the taxpayers in exercise of the concession tax regime, CBDT condones the delay in filing of Form No. 10-IC required as per Section 115BAA of the IT Act read with Rule 21AE of the IT Rules for claiming concessional tax-rate of 22% by domestic companies were not filed before the due date of filing of return.

Further, CBDT also specifies the following conditions for condonation of delay:

- ITR is filed on or before the due date under Section 139(1) of the IT Act;
- Assessee opted for taxation under Section 115BAA of the IT Act in "Filing Status" in "Part A -Gen" of ITR-6; and
- Form 10-IC is filed electronically on or before June 30, 2022.

CBDT issues Circular on relaxation of Rule 114AAA (2) on non-intimation of Aadhaar upto March 31, 2023

Circular No. 7/2022

March 30, 2022

CBDT issues Circular on relaxation in applicability of Rule 114AAA (2) of the IT Rules for non-intimation of Aadhaar upto March 31, 2023 and repercussion of non-intimation thereafter.

The Circular provides that in case of failure to intimate the Aadhaar by the last extended date i.e., March 31, 2022, the PAN allotted to the person shall become inoperative. Accordingly, such person will not be able to furnish, intimate or quote his PAN and shall be liable to all the consequences under Rule 114AAA of the IT Rules such as:

- inability to file ITR.
- non-processing of pending ITRs.
- non-issuance of pending ITRs.
- non-completion of pending proceedings.
- TDS at higher rate.
- face difficulty in complying with KYC.

Further, the Circular clarifies that these consequences will not follow for FY 2022-23 as the Rule 114AAA (2) will come into effect on April 1, 2023.

Thus, taxpayers with inoperative PAN shall not be deemed to have not furnished, intimated or quoted PAN and shall not be liable for all the consequences for not furnishing, intimating or quoting PAN only upto March 31, 2023. However, such taxpayer shall be liable to pay fee as per Rule 114(5A) of the IT Rules.

CBDT extends e-application filing date for registration under Section 10(23C), 12A, 80G to September 30, 2022

Circular No. 8/2022

March 31, 2022

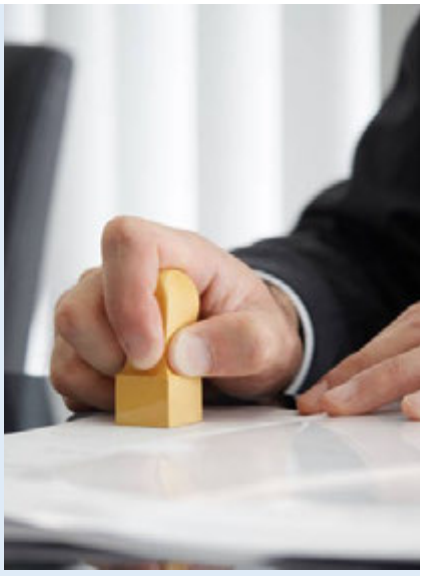
In the light of difficulties arising in electronic filing of Form 10AB, CBDT extends last date for electronically filing of Form No.10AB for seeking registration or approval under Section 10(23C), 12A or 80G to September 30, 2022 where the last date for filing falls on or before September 29, 2022.

TRANSFER PRICING
From the Judiciary

ITAT upholds RPM as 'MAM' for routine distributor functions, highlights TPO's power to obtain comparable information

Toyota Industries Engine India Pvt Ltd

2022-TII-67-ITAT-BANG-TP



The Assessee was an importer of Material Handling Equipment from its Japanese AE for resale to unrelated parties. The Assessee applied RPM as MAM to arrive at ALP. However, during the assessment proceedings, TPO held that RPM could not be used in the instant case, owing to the fact that there was no information in the public domain of the comparables to compare the functionality of the comparables selected by the Assessee. The TPO however considering the very same comparable companies in his search process, made an upward adjustment of INR 225,70,105 using TNMM as MAM.

Aggrieved, the Assessee approached the CIT(A) who confirmed the action of the TPO and sustained the application of TNMM method and rejected RPM Method. Aggrieved, the Assessee approached the ITAT. The ITAT made note of the Assessee submission that it had performed only sales, marketing and distribution function and had not performed any 'value addition' functions, and thus had acted as a normal distributor. Further, the ITAT observed that the Revenue had failed to negate these contentions of the Assessee and therefore, admonished TPO's rejection of RPM as the 'MAM' (and use of TNMM as MAM) on the grounds of non-availability of details relating to gross margin computation of the comparable companies (chosen by the Assessee).

Further, the ITAT also observed that it was well within TPO's powers to obtain the details required to arrive at the gross profit margins of the comparables under RPM method (so adopted by the Assessee). Thereby, placing reliance on the coordinate bench decision in the case of **Element 14 India[IT(TP)A No.351/Bang/2016]**, the ITAT upheld RPM as the MAM and directed the AO to determine the ALP of the transactions accordingly after affording Assessee an opportunity of being heard.

Thus, allowing the Assessee's appeal, the ITAT quashed the TPO's rejection of RPM as the MAM in relation to normal distributor functions performed by the Assessee in absence of any value addition.

HC quashes assessment order passed during pendency of reference before DRP, directs Revenue to pass fresh order after considering observations of the DRP

Hactom Agro Pvt Ltd

2022-TIOL-305-HC-MUM-IT

In the instant case, the Assessee preferred a writ petition to the Hon'ble HC against the final assessment

order dated May 04, 2021 on the grounds that it was passed without taking cognizance of the fact that the Assessee's reference was pending before the DRP which was made on April 28, 2021. Before the Hon'ble HC, the Assessee contended that the Revenue received information about the DRP reference on May 3, 2021 yet passed the final assessment order on May 4, 2021 pursuant to the draft order dated March 31, 2021.

The Hon'ble HC observed that the final assessment order was passed whilst Assessee's reference before the DRP was pending and held that the assessment order was required to be quashed and set aside and accordingly, disposed of the writ petition, directing the Revenue to pass fresh assessment order after considering the observations of the DRP.

ITAT rules on selection of comparables for contract service provider, follows a plethora of judgments

Micro Semi Storage Solutions India Pvt Ltd

2022-TII-81-ITAT-BANG-TP

The Assessee was engaged in the provision of SWD services as well as sales support services to its AEs for which it was compensated on a cost-plus mark-up basis. During the year under consideration, the international transactions that took place between the Assessee and its AEs was the provision of SWD services by the Assessee at a price of INR 63.36 Crores. As the value of the international transactions was more than INR 15 Crores, reference was made to the TPO. On receipt of the reference, the TPO called for economic analysis of the international transaction in form 3CEB.

The TPO observed that the Assessee used TNMM as the MAM to compute its margin at 15.94% by using OP/OC as PLI. The TPO further observed that the Assessee selected 17 comparables with an average margin of 13% and thus, held its transaction to be at ALP. The TPO rejected few comparables selected by the Assessee and finalized only 11 comparables out of the 17 selected by the Assessee and made a TP adjustment.

Aggrieved, the Assessee approached the CIT(A) who partly allowed the appeal as a result of which the TP adjustment made to the price charged for provision of SWD services was liable to be deleted. Aggrieved, the Revenue approached the ITAT which deemed it essential to understand Assessee's FAR before undertaking comparability analysis basis which it characterized the Assessee as a contract service provider (undertaking research and development pertaining to software development services and sales support services) which assumed less than normal risks associated with carrying out such business.

In its cross objections, the Assessee sought exclusion of 2 comparables and inclusion of 1 comparable which the ITAT remitted to the AO/TPO to verify the details, stating that in the event of these comparables satisfied all the filters applied, the same could be included in the final list. Thereby, excluding a total of 5 comparables out of the 11 selected by the TPO by placing reliance on a plethora of judgments, the ITAT dismissed the appeal of the Revenue and allowed the cross objections of the Assessee.

ARTICLE

Crypto Currency- A recognized digital asset or still a gamble.....

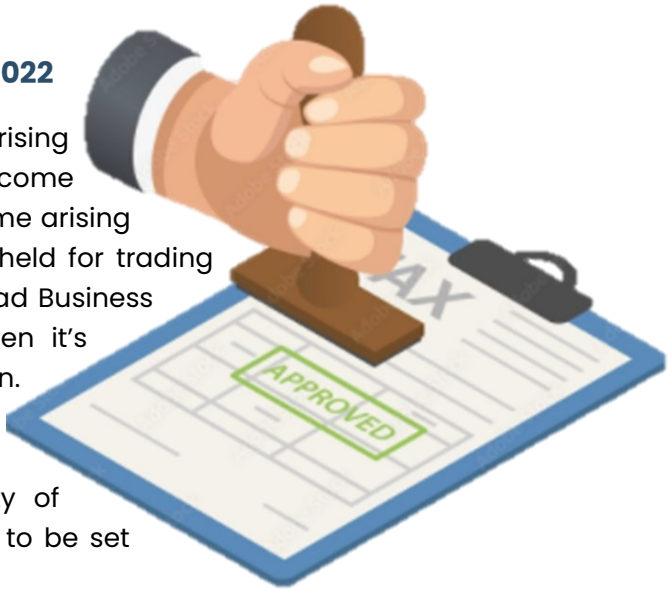
Crypto currency is still a buzz word in India and in a very short span of time it has dominated the Indian market for digital assets. India has seen multifold increase in transactions in crypto currencies since last few years especially in Bitcoins. Country is witnessing daily transaction volumes in the billions of dollars, though still, there is no clarity on its legalization in India till now. Further, Regulators being aware of the revolutionary potentials of blockchains, are reacting to the variety in the crypto industry.

Journey of Crypto Currency till date in India

Price of crypto currencies multiplied many times during 2012 to 2017, for example, the Bitcoin prices shot throuh the roof and increased from $1,000 to $42,000. During this time various crypto currency exchanges such as Unocoin, Zebpay, Coinsecure, Koinex have set up their shop in India. From time to time, RBI and Apex Court has also interfered and expressed their views on legality of Crypto currencies. For instance, in 2013, RBI released a statement that virtual currencies do not have a central bank behind them to back them up and value of virtual currency is speculative because they do not have any underlying asset. To add, by the end of 2017, RBI and Finance Ministry issued a warning that crypto currencies are not legal money or legal tender in India. Interestingly, RBI went on to issue a circular prohibiting various categories of Banks from dealing in activities relating to virtual and crypto currencies.

However a sigh of relief was given to the Crypto Industry by Apex Court when it removed the ban imposed by RBI for not providing banking services to person engaged in dealing of crypto currencies. One of the argument presented by Supreme Court was that historically Indian has been invested in gold and other deposits, but Bitcoin is new Gold.

Taxation of Crypto Currencies in India up to Mar 31,2022



Till now, there are no clarification on taxation of income arising from crypto currency in India. But, in General Practice, Income arising from crypto currencies are taxed at par with income arising from shares and securities. If the crypto currencies are held for trading purpose, then it's income is charged to tax under the head Business and Profession and if held for investment purpose, then it's income is charged to tax under the head Capital Gain. Hence, income arising from crypto currencies is chargeable to tax at the slab rate or 20% and indexation benefit is also available. Losses occurred from activity of crypto currencies will be carried forwarded and allowed to be set

off and there are no provision for deduction of tax at source on income arising from crypto currencies.

Taxation of Crypto Currencies in India from Apr 01,2022

The Government has tried vide Finance Act, 2022 to enlighten the tax implications on sale, purchase transactions in crypto currencies. Government vide Finance Act, 2022 inserted a new Section 115BBH to tax income arising from virtual assets. Sec. 115BBH provides that income arising from crypto currencies will be taxed at flat rate 0f 30% and no deduction in respect of any expenditure shall be allowed while computing Income except the cost of acquisition and loss arising from transactions of crypto will not be carry forwarded and will not be allowed to be set off against any other income.

The principal issue is that government has clarified that losses and gains from different digital assets can't be set off against each other, this would turn out to be a big hole in taxpayers pocket as on one hand, they would be paying taxes on gains and on the other hand, no benefit could be derived from losses incurred on other digital asset.

Further, Government vide Finance Act, 2022 inserted a new Section 194S which provides for deduction of tax at source at the rate of 1% on sales consideration. Deduction is required to be made by the person who is paying sales consideration.

Though the clarification or amendments brought in by government in finance budget 2022 is a welcome move and it provides recognition to Crypto currencies in a way, however the practical implementation of such provision remain a challenge, pending clarity on various aspect. To take few examples, there is no clarity on Income head under which gain on such assets will be charged. Similarly availability of indexation benefit is a question mark. The principal issue is that government has clarified that losses and gains from different digital assets can't be set off against each other, this would turn out to be a big hole in taxpayers pocket as on one hand, they would be paying taxes on gains and on the other hand, no benefit could be derived from losses incurred on other digital asset.

Below is an illustration on tax computation under erstwhile tax regime and new tax regime [post introduction of new sections in Finance Act 2022], in a given scenario.

Example

Mr. A (35 Years old) purchases and transfers the following cryptocurrency (as an investor) –

PURCHASES

Date	Quantity	Rate (in INR)
Apr 1,2018	50,000 USDT	65

TRANSFER

Date	Quantity	Rate (in INR)	Expenditure on Transfer (in INR)
Mar 15,2022	50,000 USDT	90	4,000

Long Term Capital loss of Rs. 1,24,000 on transfer of a residential House Property on March 31, 2022.

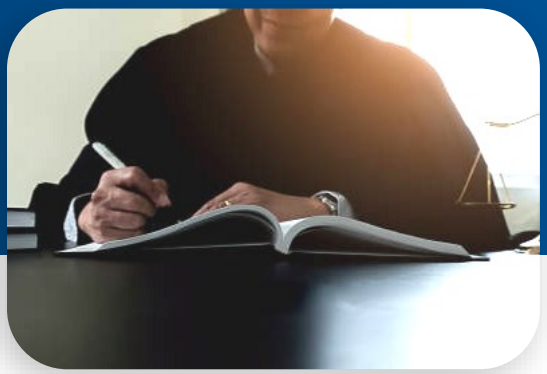
Assuming that same crypto currency is sold in F.Y. 2022-23.

Particulars	Amount (Rs.) Previous Year 2021-22 (Assessment year 2022-23)	Amount (Rs.) Previous Year 2022-23 (Assessment year 2023-24)
Capital Gain on transfer of 50,000 USDT –		
Full Value of Consideration (50,000 USDT * Rs. 90)	45,00,000	45,00,000
Less: Transfer Expenses	4,000	Not Allowed
Less: Cost of acquisition (50,000 USDT * Rs. 65*317/280)	36,79,464	32,50,000
	with indexation	without indexation
Long Term Capital Gain	8,16,536	12,50,000
Long Term Capital loss on transfer of House Property	1,24,000	Not Allowed
Income under the head Capital Gain	**6,92,536**	**12,50,000**
Calculation of Tax Liab		
Tax Rate	20%	30%
Tax Amount	1,38,507	3,75,000
Health & Education Cess	5,540	15,000
Total Tax Payable	**1,44,047**	**3,90,000**

In our view, GoI needs to come up with a legal framework of crypto currency transactions in India. Further, the challenges enumerated in governance on account of provisions as introduced vide Finance Act, 2022 also need to be relooked so that there are no undue hardships on the assessee.

Thus it appears that still there is a lot of ambiguity on legality of Crypto currencies and their taxation. It would be interesting to see while Crypto currencies are gaining lot of traction across the world, for how long India as a country would be able to circumvent its prevalence through local laws.

GOODS & SERVICES TAX
From the Judiciary



HC holds that there is no statutory backing to Rule 86A for blocking ITC

New Nalbandh Traders [2022-TIOL-360-HC-AHM-GST]

The Petitioner had preferred a Writ before the Gujarat HC challenging the blocking of ITC by the Respondent Department without assigning any reasons. The HC observed that unreasoned order blocking credit ledger is invalid and held that reasons for blocking the same is mandatorily required to be disclosed to the taxpayer. Referring to the principles of natural justice, it was held that if not prior hearing, Revenue must provide remedial hearing to taxpayer within two weeks of blocking ECL.

It was further observed that there is no statutory backing of Rule 86A to empower Revenue to block ECL of taxpayer, until the newly inserted Section 43A is notified. The HC also relied upon several rulings of erstwhile law and acknowledged that till the time matching provisions are kept in abeyance and system- based matching is not being carried out, unmatched ITC shall be eligible to recipient on the basis of invoices.

Authors' Notes:

> *The conditions u/s. 16 of the CGST Act restrict the availment of credit, and warrant reversal in cases where credit has been wrongly availed. The right to avail and utilize ITC for discharging tax liability is a legal right arising from the statute, and it is trite in law that this right can be curtailed only with the specific power of the law and not otherwise. The Act provides for the provisional taking of credit on a self-assessment basis, and the blocking of credit goes against the scheme of the Act.*

Mismatch between actual quantity of goods vis-à-vis Tax Invoice and E-way bill

Raghav Metals [2022-TIOL-383-HC-P&H-GST]

The Petitioner had preferred a Writ before the Punjab and Haryana HC challenging the detention of vehicle and seizure of goods by the Revenue authorities u/s. 129 of the CGST Act.

The HC observed that mismatch between actual quantity of consignment and quantity mentioned in Tax Invoice and E-way bill is miniscule as compared to tax which had already been paid. Accordingly, it is an error on part of the Petitioner without any intent to evade tax. In view of the above, the proceedings u/s. 129 of the CGST Act were held to be not maintainable.

Authors' Notes:

> *It shall be noted that Section 129 does not differentiate between bona fide or mala fide intentions where provisions of law are contravened. However, this judgment seems to be in line with Circular No.64/38/2018- GST dated 14 September 2018 wherein CBIC enlisted certain minor errors where proceedings under Section 129 may not be initiated if consignment is accompanied by Tax Invoice as well as E-way bill. Though this nature of error is not listed in the Circular, the rationale of the Circular can be applied.*

Refund of service tax paid under RCM after filing of TRAN-1

Ganges International Private Limited [2022-TIOL-325-HC-MAD-GST]

During the course of audit of accounts conducted by CERA Audit party for the erstwhile regime, it was observed by the Revenue authorities that the petitioner is liable to pay service tax under reverse charge on services rendered at two quarries, for which, royalty had been paid by the petitioner to the Government of Tamil Nadu for mining stones since such royalty payments are liable to service tax consequent to the issuance of Notification No.22/2016 ST dated 13 April 2016. The Petitioner duly paid the ST, however, the same had been paid post the transitional date.

Accordingly, as the Petitioner could not avail the transitional credit of service tax paid, post the transitional date, the same had been claimed as refund. The refund application came to be rejected by the Revenue authorities mainly on the ground that there is no provision in the new regime to allow such refund. Aggrieved, the Petitioner preferred a Writ before the Madras HC.

The HC observed that the Petitioner should be allowed benefit of service tax paid under RCM post implementation of GST. The Court noted that neither refund under Section 142(3) of the CGST Act can be allowed being not eligible under erstwhile laws nor credit under Section 140(1) of the CGST Act can be allowed when time limit to transition such credit has lapsed. The Court invoked 'Doctrine of Necessity' and remanded matter back to department for reconsidering the Petitioner's application for allowing GST credit under Section 142(3).

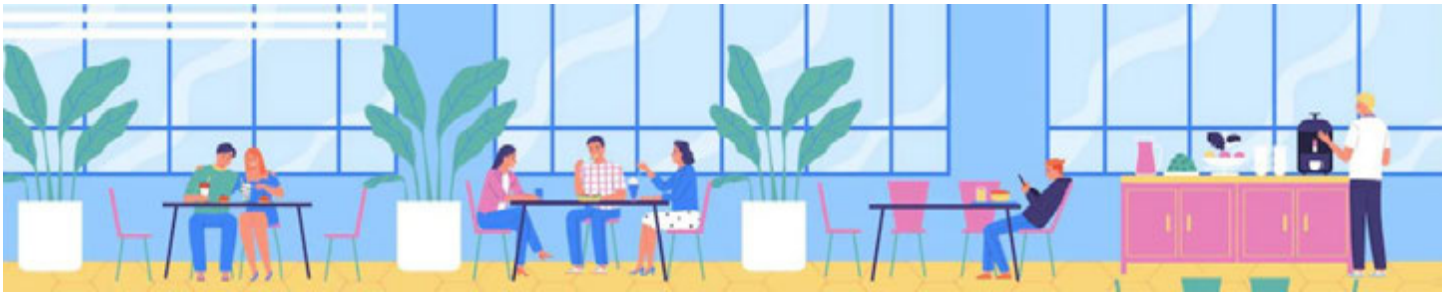
Authors' Notes:

> *The Court exercised its discretionary powers to remand matter back for reconsideration under Section 142(3) for allowing credit. 'Doctrine of Necessity' is however misplaced in this case in the absence of statutory provisions to this effect. In past, the CESTAT has consistently allowed refund under Section 142(3) on similar facts.*

GST not applicable on amount recovered on employees portion of canteen charges

Astral Limited

The Applicant, has more than 250 workers/employees and was required to provide canteen services as per Factories Act. The Applicant had hired a Canteen Service Provider and paid the amount as per the agreement. The Applicant recovered a part of the fees of the canteen service provider by deducting a



nominal amount from the salaries of the employees. The Applicant had sought advance ruling before the Gujarat AAR to inter alia ascertain the applicability of GST on the said activity.

The Gujarat AAR observed that the part of the canteen services provided was borne by the Applicant and does not retain any profit margin. In view of the above observations, the Gujarat AAR held that GST was not leviable at the hands of the Applicant on amount representing employees portion of canteen services collected by the Applicant and paid to CSP.

Authors' Notes:

> *This ruling is in lines with the Maharashtra AAR in RE: Tata Motors Limited **[2021-TIOL-197-AAR-GST]**, wherein it was held that a nominal amount from its employees for providing transportation facilities (the same applies to canteen facility) cannot be said to be a service provided by the employer to employee. It was held that by virtue of Entry No. 1 of Schedule-III to the CGST Act, GST is not applicable to the nominal amount recovered by applicants from their employees.*

Technical glitches cannot deprive to claim rightful ITC

Ezzy Electricals [2022-TIOL-280-HC-AHM-GST]

The Applicant, had availed ITC and was unable to claim the same due to some technical glitches while filing ITC – 01 on the GST portal. The Revenue did not allow the Petitioner to file his ITC-01 subsequently. Accordingly, the Petitioner preferred a Writ before the Gujarat HC.

The HC observed that the, the Applicant was using offline tool with outdated version. Further, observed that the Applicant was entitled to claim ITC u/s. 18. The HC further directed the department to resolve the issues as it was within their capacity and allowed the Applicant on uploading of Form ITC – 01 as technical glitches cannot deprive the Applicant to claim rightful ITC.

Bombay HC quashed rejection of Refund Application, relied upon SC order

Interproductee Virtual Labs Private Limited

The Petitioner had filed a GST refund application, however, the same came to be rejected on the ground of certain deficiencies. Thereafter, another refund application had been filed which was rejected for deficiencies. Therefore, the Petitioner filed the refund application for the third time, which came to be rejected on the ground of time-barred. Aggrieved by the refund rejection, the Petitioner preferred a Writ Petition before the Bombay High Court.

The Bombay HC observed that the Petitioner had placed reliance on the judgement of this court in RE: **Saiher Supply Chain Consulting Private Limited** wherein the facts before this court were identical. The Bombay HC further observed that the time to file the third application by the Petitioner fell within the period considered by the Supreme Court in RE: **Misc. Application No. 665 of 2021**.

In view of the above, the Bombay HC directed the Revenue to consider the third refund application as the Supply Chain Consulting Private Limited (supra) facts were binding to this court. Accordingly, the Revenue order was quashed and set aside.

Author's Notes:

> *It shall be noted that the CBIC vide Circular No. 157/13/2021 – GST dated 20 July 2021 had categorically clarified that proceedings that need to be initiated or compliances that need to be done by the taxpayers would continue to be governed only by the statutory mechanism and time limit provided/ extensions granted under the statute itself. Therefore, the cases of late filing of refund, being a proceeding to be initiated by the taxpayers may not be eligible for the SC's limitation extension order. However, the above judgment has been passed in the favour of the taxpayer which provides a glimmer of hope to the taxpayers in cases where there have been delays due to genuine reasons*

Order passed under Section 75(1) without issuance of SCN under Section 74(1)

V.R.S. Traders [2022-TIOL-322-HC-MAD-GST]

The HC observed that communication of details of tax, interest and penalty ascertained by Officer in DRC-01A is independent of issuance of SCN in DRC-01 under Section 74(1) of the CGST Act. It was held that proper officer is mandatorily required to issue SCN in DRC-01 to initiate assessment proceedings under Section 74(1) before passing order under Section 75(1).

AAAR disallows ITC on demo vehicles

BMW India Private Limited [HAR/AAAR/2019-20/02]

The Applicant had preferred an application before the Haryana AAR to inter alia ascertain whether they are entitled to ITC of IGST and Compensation Cess paid on receipt of cars (on stock transfer basis) for use in relation to specified business activities and thereafter onwards supply to dealers after use by the Applicant unit for a limited period of time. The AAR had held in the negative and therefore the Applicant preferred an Appeal before the AAAR.

The AAAR observed that demo cars lose their character of new vehicle after first run and thereafter, they are sold as second-hand vehicle. The AAAR held that demo cars are not purchased with intent to further supply as such, therefore ITC is not eligible thereon.

Authors' Notes:

> *The AAAR seems to have interpreted Section 17(5) of the CGST Act narrowly. The use of phrase 'such*

vehicles' in Section 17(5)(a)(A) has a wider connotation. ITC should be available to taxpayers irrespective of usage, time period of sales or accounting treatment of vehicles.

HC directs Revenue to allow rectification of Form GSTR-1

Mahle Anand Thermal Systems Private Limited v. UOI, 2022-VIL-158-BOM;

The Petitioner had erred while filing Return in Form GSTR-1. However, due not unavailability of a mechanism to rectify or edit the same, the error could not be done away with. The Revenue also did not allow any such rectification. Accordingly, the Petitioner preferred a Writ before the Bombay HC.

The HC directed the Revenue Department to consider representation of the Petitioner requesting correction of GSTR-1 in the light of Madras High Court judgements in RE: **Sun Dye Chem [2020-TIOL-1858-HC-MAD-GST]** and **Pentacle Plant Machineries Private Limited [2021-TIOL-604-HC-MAD-GST]**.

Authors' Notes:

In line with the principle of equity, the HCs have allowed rectification of GSTR-1 even after expiry of time limit on account of delay in availability of matching facility at recipient's end. However, this is contrary to Supreme Court ruling in the case of ***Bharti Airtel Limited [2022-TIOL-307-HC-MAD-CUS]*** *wherein the Apex Court disallowed rectification of GSTR-3B on the ground that non-functioning of GSTR-2A does not absolve a taxpayer from its obligation of self-assessment and filing of correct returns.*

HC Quashes and sets aside rejection of refund without any reasons

Colgate Global Business Services Private Limited [2022-TIOL-152-HC-MUM-GST]

The Petitioner had filed a Writ before the Bombay HC challenging Revenue's order rejecting GST refund on export of services to the Petitioner in Form GST RFD-06, without giving any reasons. The Petitioner had filed a refund claim to accumulate balance of ITC being unutilized as the output services are exported. However, the refund was rejected. The Bombay HC observed that the impugned order rejecting refund was passed without giving any reasons or findings whatsoever as to why the refund application of the Petitioner was rejected.

Basis the above findings, the Bombay HC directed the Revenue to pass a reasoned order after giving an opportunity of being heard to the Petitioner. The Bombay HC also directed Revenue to decide the refund application in a time bound manner. The Bombay HC thus quashed and set aside the impugned order in Form GST RFD-06.

Authors' Notes:

It shall be noted that the principles of natural justice are to be followed even when the Law does not specifically provide so. The Hon'ble SC in RE: Sahara India (Firm) [2008] 169 Taxmann 328 (SC), held that unless a statutory provision either specifically or by necessary implication excludes the application of principles of natural justice, because in that event the Court would not ignore the legislative mandate, the requirement of giving reasonable opportunity of being heard before an

order is made, is generally read into the provisions of a statute, particularly when the order has adverse civil consequences for the party affected.

Availment of ITC paid on cost of hired bus transportation for employees

Malabar Cement

The Applicant, engaged in the business of manufacturing cement had hired service provider for bus transportation facilities to their employees in non-conditioned buses having seating capacity of more than 13 persons charged GST for the services rendered. The Applicant had sought an advance ruling before the Kerala AAR to ascertain whether ITC admissible on GST charged by service provider.

The AAR observed that in terms of Section 16 to 18 of the CGST Act and particularly u/s. 17(5), the Applicant would not be eligible to avail ITC. Further observed that as the Applicant recovers a part of the cost incurred for transportation from the employees, the Applicant would be eligible to avail ITC to the extent of the cost of transportation borne by himself.

Authors' Notes:

*It would be pertinent to note that the Maharashtra AAR in RE: **Tata Motors Limited [2020 (41) GSTL 35],** had held that hiring of bus / motor vehicle for the transportation of employees to and from work place is clearly in furtherance of business. Further, in view of amendment in Section 17(5) of the CGST Act, ITC available to applicant if bus hired for transportation of persons is having approved seating capacity of more than thirteen persons including driver.*

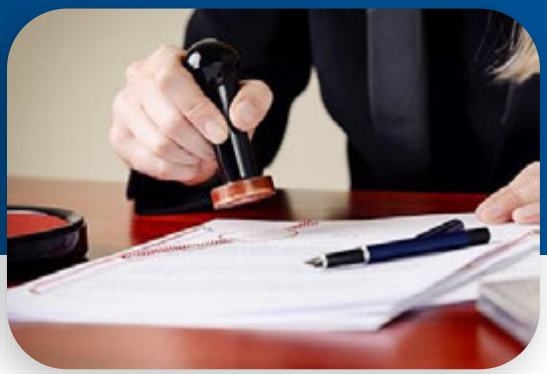
GOODS & SERVICES TAX
From the Legislature

Sr No	Notification/ Circular	Summary
1	Internal Circular No. 02A of 2022 dated 25 February 2022	**Relaxation in scrutiny by GST Department** Maharashtra GST department has released internal guidelines, allowing following relaxations during scrutiny of returns in case of bona fide errors and mismatches in GST returns for financial years 2017-18 and 2018-19. Further these, being clarificatory in nature, to be applied on facts and circumstances of the case. A summary of such guidelines is provided below: **Excess turnover reported in GSTR-1 vis-à-vis GSTR-3B** • For B2B transactions, undertaking from recipient that it has not availed excess ITC would suffice; • For exports, the turnover to be verified with the turnover reported in refund application **Mismatch in ITC as per GSTR-2A and GSTR- 3B** For mismatch per supplier, where value is less than Rupees Two Lakhs and Fifty Thousand, taxpayer should produce self- attested ledger confirmation of concerned supplier. In other cases, taxpayer should produce Chartered Accountant Certificate from the concerned supplier confirming payment of GST. **Credit to be claimed within the extended time limit of Section 16(4)** The condition of GSTR-1 should have been filed by the supplier till the due date of filing of GSTR-1 of March 2019 is only applicable to taxpayers who have claimed ITC during the extended period i.e. after due date of September, 2018 return till due date of March, 2019 return **Forward charge supplies mistakenly reported as supplies liable to reverse charge in GSTR-1** Verification that due tax is paid on such supplies in GSTR-3B, will suffice. **ITC pertaining to previous tax period reversed in GSTR-3B of subsequent tax period** Comparison of total ITC available in subsequent month with that actually claimed owing to reversals from previous month, should be made.

Sr No	Notification/ Circular	Summary
2	Instruction No. 02/2022-GST dated March 22, 2022	**Standard Operating Procedure for scrutiny of returns for F.Y. 2017-18 and 2018-19** The CBIC has issued an Instruction laying down Standard Operating Procedure for selection of returns, timelines and methodology to be followed by revenue and other related procedures for scrutiny of returns under Section 61 of the CGST Act. Key elements of SOP are as under: Proper officer needs to inform discrepancies to taxpayer in ASMT-10. Discrepancies need to be specific in nature; • Taxpayer may accept discrepancies and pay amount referred in ASMT-10 through DRC-03 or furnish explanation in ASMT-11; • Proper officer may drop proceedings if it is satisfied with explanations of taxpayer. Else proper officer may proceed to determine tax and other dues under Section 73 or 74 of the CGST Act; • Where there is need for further investigation, proper officer may refer matter to the Principal Commissioner / Commissioner for the decision of further referring matter to Audit Commissionerate or Anti Evasion Wing. • Indicative matters for scrutiny of returns as discussed in Instruction are as under: **In case of outward supplies** ◊ Matching of Outward tax liability in GSTR-3B with GSTR-1; ◊ Matching of Outward taxable supplies (other than zero rated) in GSTR-3B with net amount liable for TDS and TCS in GSTR-2A; ◊ Matching of Tax Outward tax liability in GSTR- 3B with that declared in E -way bills **In case of inward supplies** ◊ Matching of RCM liability in GSTR-3B with RCM ITC availed in GSTR-3B, RCM ITC reflecting in GSTR-2A and tax paid in cash in GSTR-3B; ◊ Matching of ITC availed on ISD invoices in GSTR- 3B with that available in GSTR-2A; ◊ Matching of all other ITC availed in GSTR-3B with that available in GSTR -2A; ◊ Matching of ITC availed on import of goods in GSTR-3B with that available in GSTR-2A or at ICEGATE portal

Sr No	Notification/ Circular	Summary
3	Maharashtra Settlement of Arrears of Tax, Interest, Penalty or Late Fee Act, 2022	**Maharashtra Amnesty Scheme, 2022** • Duration of this scheme is from April 1, 2022 to September 30, 2022 and covers various taxes levied by Sales Tax department before introduction of GST; • This scheme provides complete waiver of arrears for dealers having arrears upto Rs. 10,000 per year; • For dealers having arrears upto Rs. 10 lacs as on April 1, 2022 can pay only 20% of lump-sum amount.
4	Notification No. 02/2022-Central Tax dated 11 March 2022 Circular No. 169/01/2022- GST dated 12 March 2022	**Power to adjudicate SCNs issued by DGGI** • CBIC has empowered Additional Commissioners and Joint Commissioners of some specified Central Tax Commissionerates to adjudicate notices issued by DGGI; • For cases where principal place of business of Noticees fall under jurisdiction of multiple Central Tax Commissionerates, Principal Commissioners / Commissioners of Central Tax Commissionerate will allocate adjudication to one of the AC / JC as empowered under this Notification; • For adjudication of notices issued by Audit Commissionerates where principal place of business of Noticees fall in multiple jurisdictions, proposal for appointment of common adjudicating authority may be sent to CBIC; • For adjudication of notices issued by DGGI prior to release of this Notification and which are yet to be adjudicated, this will be taken by AC / JC having all India jurisdiction under this Notification.

CUSTOMS & FTP
From the Judiciary



Small mismatch in case of large variety of goods cannot be treated as deliberate

Rubal International [Customs Appeal No. 51149 of 2020 (SM)]

The Appellant had filed a bill of entry, the duty of which was paid partly in cash and partly through a license. It is the case of the Department that the goods were initially examined by the officers of Import Shed and found that some undeclared items which require 'No Objection Certificate' from the Assistant Drug Controller. The matter was subsequently referred to SIIB and goods were examined 100%. Thereafter, a market survey had been conducted by the Revenue to ascertain the actual value of the unbranded goods.

Post the survey, it had been alleged that the Appellant had short-declared the value of the goods and accordingly, the declared value had been rejected. Aggrieved, the Appellant preferred appeal before the Commissioner (Appeals) inter alia on the grounds that the Adjudicating Authority erred in observing that the Appellant had intention to evade customs duty under the mis-declared goods. Subsequently, the matter was appealed before the CESTAT.

The Tribunal observed that only few goods were found to be mismatch with the invoice and packing list. It was further observed that the shipper had also offered to take back the undeclared goods as per the shipping documents. Thus, there was no case of any deliberate mis-declaration on the part of the Appellant who had filed the Bill of Entry declaring the goods under import as per the invoice and packing list. Accordingly, the order of mis-declaration had been set aside.

No unjust enrichment if Appellant borne the incidence of SAD and not passed the same to customers

Marina Enterprises [Customs Appeal No. 50651 of 2021-SM]

The Appellant had imported goods for resale. Further, being entitled to refund of SAD, which was deposited at the time of import in lieu of sales tax, the same was refundable when the importer subsequently sells the goods in India and thereafter deposits sales tax with the Sales Tax Department.

The Revenue Department in the course of subsequent enquiry by DRI, alleged that the Chartered accountant who had issued the CA Certificate had disowned the said certificate had not been issued by him and the same appears to be fake, bogus and fictitious. Accordingly, notice was issued requiring the appellant to show cause as to why the refund amount granted should not be recovered under Section 28(4) of the Customs Act along with interest and further penalty.

The CESTAT observed that admittedly, the Appellant had sold the goods in India after importing and had paid sales tax on the said goods. Admittedly, they were registered with the Sales Tax Department having TIN number and had charged sales tax in their sales bill. Further, from the sample copy of sales bill produced, it is evident that appellant had not given break-up of additional duty or SAD in their sale bill.

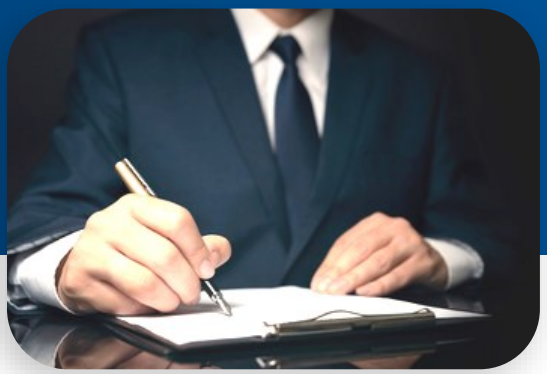
Further, the appellant had mentioned on the body of sale invoice that - no benefit of additional custom duty levied under subsection (5) of Section 3 of the Customs Tariff Act shall be admissible. In view of the above, the Tribunal held that the Commissioner (Appeals) had erred in passing the order and accordingly, set aside the same.

CUSTOMS & FTP
From the Legislature

Sr No	Notification/ Circular	Summary
1	Notification No. 64/2015-2020 dated 31 March 2022	**FTP 2015-2020 extended till 30 September 2022** The DGFT has extended the existing FTP 2015-2020 till 30 September 2022
2	Public Notice No. 53/2015-2020 dated 31 March 2022	**HBP 2015-2020 extended till 30 September 2022** The DGFT has extended the existing HBP 2015-2020 till 30 September 2022
3	Notification No. 20/2022-Customs (N.T.) dated 30 March 2022	**CBIC Notifies Customs (Electronic Cash Ledger) Regulations, 2022** The CBIC vide Notification No. 20/2022-Customs (N.T.) dated 30 March 2022 has notified the Customs (Electronic Cash Ledger) Regulations, 2022. Following are the key highlights of the said Regulations: **Manner of maintaining the Electronic Cash Ledger ('ECL')** ECL will be maintained in FORM ECL-1 on the common portal for each person in regard to every deposit made towards duty, interest, penalty, fee or any other sum payable by the person. Any deposit into the ECL will be made by a person by generating a deposit challan in FORM-ECL-2 which will be valid for a period of 15 days. **Manner of making payment from ECL** A person may use the amount available in the electronic cash ledger for making payment duty, interest, penalty, fee, or any other sum payable through challan in FORM ECL-3. The successful debit will be visible on ECL and the credit will be shown in the Electronic Duty Payment Ledger (Cash) maintained in FORM ECL-4. **Refund** The balance in the ECL, after payment of duty, interest, penalty, fee or any other amount payable, may be applied for refund by the person on the common portal in FORM ECL-5. The balance will not be available and the refund will be decided in 30 days. **Intimation of discrepancy in electronic cash ledger** Upon noticing any discrepancy in his electronic cash ledger, the registered person shall communicate the same on the common portal.

Sr No	Notification/ Circular	Summary
4	Notification No. 58/2015-2020 dated 7 March 2022	**Removal of capping for MEIS claim and extension in last date of filing claims** • Budget cap of Rs. 5,000 crores on MEIS claims for September to December 2020 has been removed; • Last date of filing MEIS claims for the period April to December 2020 has been extended to 30 April 2022.

REGULATORY
From the Judiciary



NCLT holds Director removal a crucial right given to shareholders, upholds EGM decision, absent oppression

Thaniyulla Parambath Jahafar vs. Relax Zone Tourism Private Ltd. & Ors.

CP/24/KOB/2021

The Petitioner was the erstwhile Director of the company who sought to declare the EGM that removed the Petitioner from directorship as being prejudicial and oppressive to him under Sections 241 & 242 of the Companies Act for which he filed a company petition before the NCLT. The NCLT noted that one of the crucial rights which Companies Act gave to the shareholders was the right to remove the Directors of the company, if they were not acting in consonance with the AOA of the company, but only utilizing their powers for their benefits, Accordingly, the NCLT observed that the said removal of the Petitioner from the Directorship was not an illegal act done against the Petitioner and the Petitioner failed to prove any continuing oppressive acts on the part of the Company or its management.

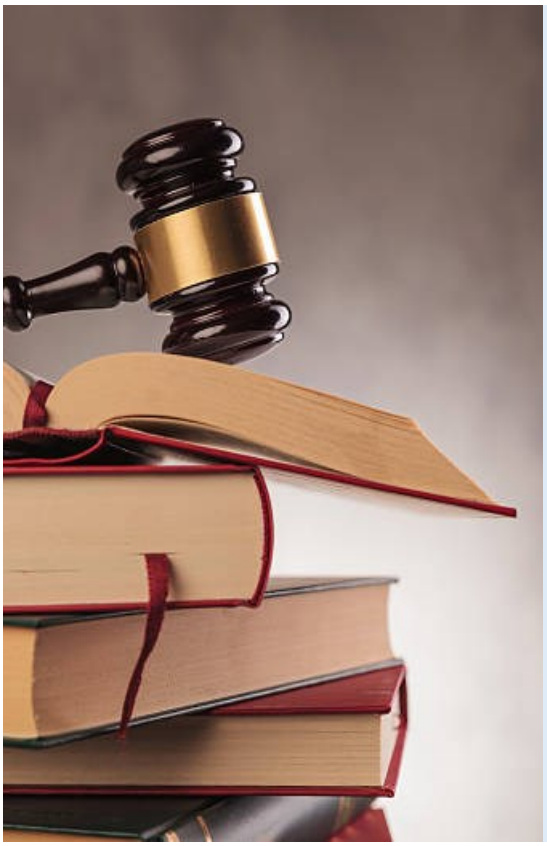
The NCLT further noting that that the management of business affairs in a company was not the sole duty of a Director as the results of company's performance were a team work of Board of Directors, observed that the statement of the Respondents regarding the loss of company even though the Audited Financial Statements had been signed by the Petitioner himself, showed the behaviour and nature of the Petitioner, to escape from the responsibilities of a Director and his fiduciary duties as a Director.

Thereby placing reliance on the SC ruling in **TATA Consultancy Services Ltd [Civil Appeal Nos. 440-441 of 2020]**, the NCLT observed that even in cases where the NCLT found that the removal of a Director was not in accordance with law or was not justified on facts, the Tribunal could not grant a relief under Section 242 unless the removal was oppressive or prejudicial.

Thus, observing that the removal of the Petitioner was not an oppressive act, in view of the dictum laid down in the **TATA Consultancy Services Ltd. [Civil Appeal Nos. 440-441 of 2020]**, the NCLT dismissed the application.

Authors' Note:

> *It would be interesting to note that in Tata Consultancy Services Ltd. **[Civil Appeal Nos. 440-441 of 2020]**, the SC inter alia held that the validity of and justification for the removal of a person can never be the primary focus of a Tribunal under Section 242 of the Companies Act unless the same was in furtherance of a conduct oppressive or prejudicial to some of the members.*



NCLAT holds amended IBC threshold applicable on date of application, not when debt became due

Metals & Metal Electric Pvt. Ltd. vs. Goms Electricals Pvt. Ltd.

Company Appeal (AT)(CH)(INS) No.243 of 2021

The Appellant was an operational creditor who had preferred a company appeal before the NCLAT against the order passed by the NCLT stating that the NCLT had no jurisdiction to entertain the Petition and was constrained to dismiss the same for 'lack of pecuniary jurisdiction', but proceeded to observe that this would not detract the right of the Petitioner to proceed before the 'Appropriate Forum' as may be advised in relation to the claim. Before the NCLAT, the Appellant submitted that it had sold and supplied the goods in question to the Respondent who was also the Corporate Debtor and that the Respondent had received, accepted and used those goods for its own purpose and never raised any 'Dispute' as to the quality or quantity of the material.

The Appellant further submitted that the Respondent had not raised any 'Dispute' even after issuing the 'Demand Notice' and that the Respondent in its reply letter had prayed for 5-6 months' time to pay the dues of INR 12,54,232 as they were in a very bad financial position due to pandemic. The Appellant further submitted that it had filed the application/petition under Section 9 of the I&B Code because of the fact that the Respondent had not made payment even after the Demand Notice and that the amount was in default from December, 2018, which was well within limitation to prefer the petition. Further, the Tribunal had dismissed the petition by virtue of the Notification No. S/01 2015E dated March 24, 2020 issued by the Central Government through Ministry of Corporate Affairs stating that the Default sum fell below the limit of INR 1 Crore as per the Notification.

The grievance of the Appellant was that the amount in default was INR 17,91,112 and the correct interpretation of the Notification dated March 24, 2020 was that in case of 'Default' that took place on or after March 24, 2020, the threshold limit would be INR 1 Crore. As the 'Default' had been committed by the Respondent before the issuance of the Notification i.e. prior to March 24, 2020, then, for the purpose of initiation of CIRP under Section 9 of the IBC, the threshold limit was INR 1 lakh. Noting that the Demand Notice was issued to the Corporate Debtor after the date of amendment to Section 4 of IBC (increase in default threshold from INR 1 Lakh to INR 1 Crore), NCLAT emphasized that a litigant had no vested right to choose a particular 'Forum', although he had an 'actionable right' and that it could not be gainsaid that a change in law was a 'procedural one' and a litigant was to adhere to the letter and spirit of the law, without any deviation.

Further, noting the fact that the sum claimed by the Appellant in the application was below the sum of INR 1 Crore and the present application was filed before the Adjudicating Authority after the Notification dated March 24, 2020 whereby the threshold limit was increased from INR 1 Lakh to INR 1 Crore, the NCLAT observed that the application filed by the Appellant was not per se maintainable because of the lack of pecuniary jurisdiction to the NCLT. Accordingly, the conclusion arrived at by NCLT in not entertaining the insolvency application and dismissing the same as a logical corollary were free from legal infirmities.

Authors' Note:.

> *Thus, holding that the date of default was not to come into 'operative play' and the same ought not to be taken into account for anything but computing the period of limitation, The NCLAT observed that a mere running of the eye of the ingredients of Section 9 of the IBC made it lucidly clear that the date of initiation of CIRP was the date on which an application was made.*

SC holds issue of insufficient stamp-duty on arbitration agreement could be decided after arbitrator's appointment

Intercontinental Hotels Group (India) Pvt. Ltd. & Anr. vs. Waterline Hotels Pvt. Ltd.

Arbitration Petition (Civil) No. 12 of 2019

The Petitioners were subsidiaries of the parent company (IHG Group) which was a British multinational hotel based out of the UK. The Respondent was an Indian company engaged in the hospitality sector. The Respondent had agreed to run and operate a hotel by name Holiday Inn & Suites Bengaluru, Whitefield for which it had entered into a Hotel Management Agreement ('HMA') with the Petitioners.

The HMA elaborated on the rights and obligations of parties for initial ten years and further renewals were also provided there under. The Petitioners alleged that under the HMA, the Petitioners were required to make significant investments for setting up the hotel in accordance with the brand standards. These investments were to be recovered gradually from the profits made by the hotel in due course. Due to various operational dispute between the parties the Respondent sent an email on October 12, 2018 terminating the HMA. In the aforesaid email, the Respondent stated that the hotel was rebranded as Miraya Hotels, and all guests checking into the hotel after noon on October 12, 2018, were informed that the management of the hotel had been handed over to Miraya.

On the same day, the Petitioners replied to the aforesaid termination letter contending that unilateral termination of the HMA was not valid as there was no legal basis for the same. As the settlement talks between the parties failed, and the Respondent remained in persistent breach of the HMA, the Petitioners were left with no option other than to invoke Arbitration under the HMA. Accordingly, the Petitioners communicated their intention to invoke arbitration to the Singapore International Arbitration Centre (SIAC). Interestingly, the Respondent replied to the notice sent by the SIAC stating that the notice was defective and was not curable.

Aggrieved by the Respondent's denial to appoint a suitable Arbitrator, the Petitioners preferred a petition to the SC before which the Respondent submitted that the HMA which contained the arbitration agreement was an unstamped document, and relied on this Court's ruling in **Garware Wall Ropes Ltd. [(2019) 9 SCC 209]** wherein it was held that that an agreement which was not duly

stamped could not be relied on or acted upon unless the unstamped document was impounded, and the applicable stamp duty and penalty was assessed and paid. The SC placing reliance on its ruling in **N.N. Global Mercantile Pvt. Ltd**. **[(2021) 4 SCC 379],** observed that any concerns of non-stamping or under stamping would not affect the validity of the arbitration agreement, yet, it would be appropriate to refer the issue for authoritative settlement by a Constitution Bench in light of the ruling in **Garware Wall Ropes [(2019) 9 SCC 209].**

However, acknowledging the time-sensitivity when dealing with arbitration issues which were still at a pre-appointment stage, the SC stated that the said issues could not be left hanging until the larger Bench settled it, and therefore until the larger Bench decided on the issue, that arbitrations should be carried on, unless the issue before the Court patently indicates existence of deadwood. Accordingly, on finding that the issue involved in the present case was not deadwood, the SC observed that the issues whether the respondent was estopped from raising the contention of unenforceability of the HMA or the issue whether the HMA was insufficiently or incorrectly stamped, could be finally decided at a later stage.

Further remarking that if it was a question of complete non stamping, then this court, might have had an occasion to examine the concern raised in **N.N. Global Mercantile Pvt. Ltd**. **[(2021) 4 SCC 379].** However, as this case, was not one such scenario, the SC allowed the petition thereby appointing a sole arbitrator to decide the dispute between the parties, on observing that the stamp duty had been paid on the HMA.

Authors' Note:

> *It would be interesting to note that in the SC ruling in **Garware Wall Ropes [(2019) 9 SCC 209]**, the SC had set aside Bombay HC order appointing an arbitrator by allowing Respondent's petition under the Arbitration Act and ruled that the arbitration clause that was contained in the sub-contract would not "exist" as a matter of law until the sub-contract was duly stamped whereas in its ruling in **N.N. Global Mercantile Pvt. Ltd. [(2021) 4 SCC 379]**, a 3-Judge bench referred the issue as to whether non -payment of stamp duty on a commercial contract would also render the arbitration agreement contained in such contract, which was not chargeable to payment of stamp duty, non-existent, unenforceable, or invalid, pending payment of stamp duty on the substantive contract, to a Constitution bench of 5 judges.*

HC holds LLP being "body corporate" doesn't automatically imply NCLT jurisdiction over dispute between partners

Aanchal Mittal & Ors. vs. Ankur Shukla

CM(M) 1086/2021 & CM No.42689/2021(for stay)

The Petitioner and the Respondent had entered into an LLP Agreement by virtue of which the LLP carried out business in Delhi and sold its products regularly in Delhi by means of online sales as well as through physical stores in Delhi.

The grievance of the Respondent was that he had been denied access to certain business accounts of

the Petitioner of which he was a partner which caused the Respondent to file a plaint before the district judge who ruled in favor of the Respondent and also stated that the courts in Delhi had territorial jurisdiction. Aggrieved by which the Petitioner preferred a petition before the HC under Article 227 of the Constitution.

Before the HC, the Petitioner submitted that the definition of "body corporate" under Section 2(1)(d) of the LLP Act, includes an LLP and Section 2(1)(u) of the LLP Act defines "Tribunal" to be the NCLT. Therefore, in respect of disputes between partners of the LLP, the jurisdiction would be that of the NCLT and not civil courts. To which the Respondent submitted that the dispute raised in the present suit was not in the nature of the compromise or arrangement between the partners and therefore, did not fall under provisions of Sections 60, 61, 62 and 63 of the LLP Act. Hence, the parties could not invoke the jurisdiction of the NCLT.

The HC noting that Section 9 of the CPC stated that Courts shall have the jurisdiction to try all suits of a civil nature, excepting suits of which their cognizance is either expressly or impliedly barred, observed that merely because the definition of the "body corporate" under Section 2(1)(d) of the LLP Act includes an LLP, it was not automatically implied that the NCLT would be the competent forum for deciding all disputes inter se the partners of an LLP. Moreover, unlike Section 430 of the Companies Act, there was no bar on the jurisdiction of the Civil Courts under the provisions of the LLP Act. Therefore, in terms of Section 9 of the CPC, the suit was maintainable in a Civil Court.

Further taking into account the nature of disputes raised in the plaint being inter-se disputes of partners, the HC observed that the fact that business of the LLP was being carried out in Delhi would also not vest the Courts of Delhi with jurisdiction to try and entertain the present suit.

Thus, remarking that an LLP or any other business entity can carry out business in different parts of the country but that would not mean that a suit, with respect to disputes between the partners, could be filed in any place where the business of the firm/LLP was carried out, the HC observed that the Petitioners had made out a case fit for interference by this Court under Article 227 of the Constitution as the Commercial Court had failed to appreciate that on a reading of the plaint, the Courts in Delhi lacked the territorial jurisdiction to try and entertain the present suit.

Authors' Note:

> *It would be interesting to note that in the instant case, the HC also observed that as the registered office of the LLP was in Hyderabad, it would have to be taken that the books of accounts of the LLP were kept at its registered office in Hyderabad and the jurisdiction to entertain the present suit would vest with the Courts in Hyderabad.*

HC holds applicability of stamp-duty on Arbitration Agreement to be decided basis place of 'execution'

Religare Finvest Ltd. vs. Asian Satellite Broadcast Pvt. Ltd. & Ors.

Arb. A. (Comm.) 6/2021 & I.A. 2614/2021

In March 2014, seven companies forming part of the Zee Group of Companies approached the Appellant to avail loan facilities for investment and consolidation of promoters' interest in their group companies and separate loan agreements were entered into by the Appellant with the Zee Group of Companies.

The Zee Group of Companies failed to repay their debt on time causing the Appellant to issue notice to them invoking the arbitration clause contained in the loan agreements. Consequently, a sole arbitrator was appointed and four separate arbitration proceedings ensued. The Zee Group of Companies filed

applications in each of the proceedings, challenging the scope of proceedings and jurisdiction of the Arbitrator under Section 16 of the Arbitration Act. It was inter-alia contended that, as the Loan Agreements were first executed in Mumbai, they should have been stamped in accordance with Section 24 read with Entry 5(h)(A)(iv)(b) of Schedule I of the Maharashtra Stamp Act (MSA) at the rate of 0.2%, and since the Loan Agreements were insufficiently stamped, they were unenforceable.

The Appellant contested the application raising several jurisdictional objections and on merits contended that the Loan Agreements were duly stamped as per Article 5(c) of Schedule I-A of the Indian Stamp Act (ISA). On October 22, 2020, the Arbitrator passed the impugned Orders, accepting the plea of the Zee Companies. However, instead of terminating the proceedings, they were adjourned sine die, observing that if the Appellant wished to continue with its claim, it should take the original Loan Agreement to the Collector of Stamp, Maharashtra – who would, within three months, determine the Stamp Duty payable on the same, including penalty, if any, in terms of the MSA. Further, both parties were given liberty to approach the Tribunal after the requisite Stamp Duty on the Loan Agreements was paid.

Aggrieved, the Appellant approached the HC which taking note of Appellant's contention that an "instrument" which was in the nature of a loan agreement, comes into existence only when the borrower and lender both sign it, and thus, the Loan Agreements became an instrument only when the Appellant signed it in Delhi and the duty was payable under the provisions of the ISA observed that the signatures of only Zee Companies on their respective Loan Agreements did not give such documents any legality or validity under the law, until they were also signed by the Appellant's representatives.

The HC further observed that under Section 19 of MSA, an instrument would be chargeable to duty in Maharashtra only when it was received in the State and not otherwise. The documents with signatures of only Zee Companies were not 'instruments' to attract the said provision. Accordingly, the Loan Agreements were executed in Delhi, and were hence, not chargeable under the MSA, and were instead amenable to

Stamp Duty under Article 5(c) of Schedule I-A of the ISA as applicable to Delhi.

Thus, remanding the matter to the Arbitral Tribunal for issuing fresh directions in light of the aforesaid findings, the HC directed the Arbitrator to examine if the instruments were sufficiently stamped as per the ISA as applicable to Delhi, and issue appropriate directions.

HC quashes Lookout Circular, absent tangible material to prove 'flight risk'

Rahul Surana vs. SFIO & Ors.

W.P. No.2477 of 2020

The Petitioner's father, one Dinesh Chand Surana was the Managing Director of Surana Industries Limited (SIL). The Petitioner states that he had no connection whatsoever with the day-to-day affairs, management or administration of SIL nor was he a shareholder of the Company. He was caught unawares by virtue of a restriction placed on his travel when he went to the Chennai Airport with his wife and children to travel abroad for medical treatment of his wife. The reason given was that a Lookout Circular (LOC) had been issued by Respondent that had been registered against the Promoters and Directors of SIL for alleged offences under the Indian Penal Code (IPC) and the Prevention of Corruption Act, 1988.

Aggrieved, the Petitioner preferred a writ petition the HC which on finding that the Immigration Bureau had not been in a position to establish that the settled parameters justifying the issue of an LOC were satisfied, stated that no material was placed before the Court in support of the bald assertion that the Petitioner was a flight risk and as a consequence there was no tangible material available, admittedly, to deny the Petitioner of his Fundamental Right. Moreover, there have been no instances when the Petitioner had evaded summons/notices calling for his attendance/appearance and that CBI had confirmed that there were no investigations that were ongoing in Petitioner's case, though reserving their right to initiate appropriate action at an appropriate juncture in future.

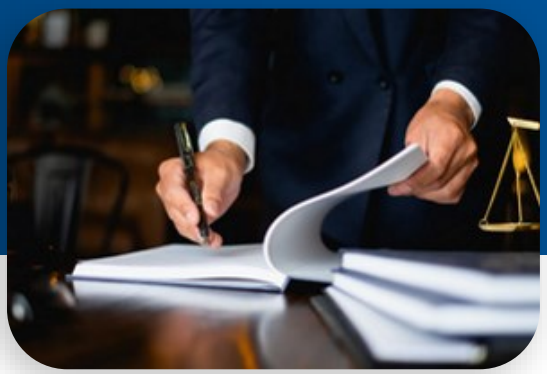
The HC further noting that the investigation, even after the elapse of 3 years, revealed only prima facie materials and no concrete evidences had been found to implicate the Petitioner or frame charges, observed that there were no proceedings against the Petitioner so as to implicate him before the Criminal Court or in any other fora to justify the restrictions under which he had been placed.

Thus, allowing the Petitioner's writ petition, the HC observed that the Petitioner's challenge to the LOC was liable to be accepted.

Authors' Note:

> *It would be interesting to note that in the instant case, the HC placed reliance on its ruling in **Karthi P. Chidambaram vs. Bureau of Immigration (W.P.Nos.21305 and 20798 of 2017)** wherein it was held by the HC that LOCs were coercive measures to make a person surrender to the Investigating agency or the Court of law. The legality and/or validity of a LOC had to be adjudged having regard to the circumstances prevailing on the date on which the request for issuance of the LOC had been made. Such LOCs could not be issued as a matter of course, but when reasons existed, where an accused deliberately evaded arrest or did not appear in the trial court. Seeing that there was no plausible reason to arrest the Petitioner yet he did not evade arrest or summons/notices calling for his attendance, the LOC deserved to be quashed.*

REGULATORY
From the Legislature



SEBI increased limit for investment in public issue via UPI mechanism to Rs. 5 lakh

SEBI vides circular no. SEBI/HO/DDHS/P/CIR/2022/0028 dated March 08, 2022 has notified changes in the provided procedures pertaining to issue and listing of Non-convertible Securities, Securitized Debt Instruments, Security Receipts, Municipal Debt Securities and Commercial Paper. The provided procedures have been amended to enhance the per transaction limit in UPI from Rs. 2 Lakh to Rs. 5 Lakh for UPI based Application Supported by Blocked Amount (ASBA) for Initial Public Offer(IPO). The same would be applicable for all public issue open on or after 1st May, 2022.

Authors' Note:

> *This enhancement was very expected as National Payments Corporation of India (NPCI) vide circular no. NPCI/UPI/OC No. 127/ 2021-22 dated December 09, 2021, has already enhanced such limits for UPI based Application Supported by Blocked Amount (ASBA) for investment into IPO. The introduction of this circular will further enhance the interest and participation of small investors in IPOs.*

Introduction of Options on Commodity Indices

Securities and Exchange Board of India (SEBI) vides circular no. SEBI/HO/ CDMRD/DNP/CIR/P/2022/34 dated March 24, 2022 has permitted recognized Stock Exchanges having a Commodity Derivative segment, to introduce options on commodity indices. For the same, Product Design and Risk Management Framework has been introduced along with guidelines.

Salient features of introduced Framework are as follows:

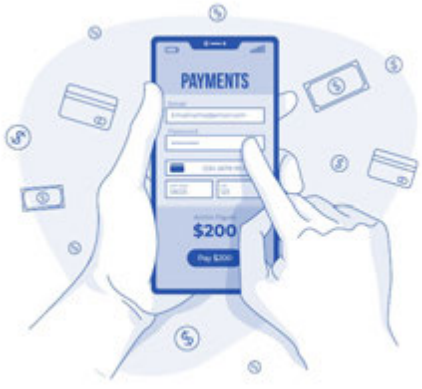
Product Design and Risk Management Framework	
Eligible Indices	Those indices on which futures contracts are available
Settlement Mechanism	On exercise, options contract shall be settled in cash
Exercise style and Minimum Strikes	It would be European style options, in which each option expiry shall have minimum three strikes available viz., one each for In the Money (ITM), Out of the Money (OTM) and At the Money (ATM)
Exercise Mechanism	On expiry, • All In the money (ITM) option contracts shall be exercised automatically, unless 'contrary instruction' has been given. • All Out of the money (OTM) option contracts shall expire worthless. • All exercised contracts within an option series shall be assigned to short

Product Design and Risk Management Framework	
Trading Hours	The trading hours will be in line with the trading hours for constituent futures of underlying index. However, on the day of its expiry, Index options contract shall expire at 5:00 pm.
Size and Tenor of contract	Size would be at least INR 5 lakh at the time of introduction in the market. And maximum tenor of contracts shall be 12 months.
Final Settlement Price	The Final Settlement Price shall be the underlying index price arrived at based on Volume Weightage Average Price of the constituents of the underlying index between 4:00 pm and 5:00 pm on the expiry day of the Index options contract.

Authors' Note:

In an endeavour to have more products in the Commodity Derivatives Market, SEBI has permitted the options on commodity indices. With this it is much expected from Stock exchanges to introduce such options very soon especially NSE and BSE. This would not only attract the interest of all types of investors and would open up numerous opportunities for commodity traders but also would enhance the market investments.

Introduction of Framework for Geo-tagging of Payment System Touch Points



RBI vides notification no. RBI/2021-22/187 dated March 25, 2022 has introduced the Framework for Geo-tagging of Payment System Touch Points under the Payment and Settlement Systems Act, 2007 thru official gazette. Geo-tagging refers to capturing the geographical coordinates (latitude and longitude) of payment touch points deployed by merchants to receive payments from their customers. As Digital payment transactions carried out through two categories of physical infrastructure i.e. Banking Infrastructure and Payment Acceptance Infrastructure, these two categories cover almost all type of digital payment methods including ATMs, QRs, etc.

This framework would mandate banks and non-bank payment terminal companies to capture and maintain the geographical coordinates for all payment touch points.

Authors' Note:

This framework was much awaited because the Monetary Policy Statement 2020-21 had already announced that a framework for geo-tagging of physical payment acceptance infrastructure would be introduced soon. This would facilitate the RBI to maintain and review the all payment points and their respective operations.

Separate posts of Chairperson and the Managing Director or the Chief Executive Officer

SEBI vide notification no. SEBI/ LAD-NRO/GN/2022/76 dated March 22, 2022 has introduced the Securities And Exchange Board Of India (Listing Obligations And Disclosure Requirements) (Second Amendment) Regulations, 2022 which is to amend the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015. Such amendment give effect as to listed entity shall appoint separate persons to the post of the Chairperson and the Managing Director or the Chief Executive Officer. Such chairperson shall be a non-executive director and not be related to the Managing Director or the Chief Executive Officer.

Authors' Note:

> *Although such change was already effective from April 01, 2022 under such regulations to top 500 listed companies, but with such notification this change would be applicable to all listed companies with immediate effect. This would bring more flexibility for shareholders of such companies to appoint such top persons for better management, independence and delegation of duties.*

Ahead of IPO, Govt clears 20% FDI in LIC under automatic route

RBI vide press note no. 1 (2022 series) has informed that the Government of India has reviewed the extant FDI policy for permitting foreign investment in LIC and accordingly has amended the FDI Policy Circular of 2020. With such amendment, GOI has allowed foreign investment to the extent of 20% of equity of LIC under automatic entry route.

This amendment has further increased the limit of foreign investment in Indian insurance companies from 49% to 74%. This further states that in such Indian Insurance companies a majority of its directors, Key Management Persons; and at least one among the Chairperson of its Board, its Managing Director and its Chief Executive Officer shall be Resident Indian Citizens.

Authors' Note:

> *Ahead of IPO of LIC, this step has been taken by Govt of India to attract foreign investors to participate in upcoming listing of LIC. This could definitely bring better market value for the stake of LIC.*

Further Extension of Date of Implementation of Audit Trail Software and CSR-2

MCA vide extraordinary notification dated March 31, 2022 has further amended the Companies (Accounts) Rules, 2014 to extend the date of applicability of usage of accounting software having feature of recording audit trail from April 1, 2022 to April 1, 2023

Further the due date for filling of Form CSR-2 that contains full report on company's CSR efforts, for the Financial Year 2020-21 has extended from March 31, 2022 to May 31, 2022.

Authors' Note:

> *Such extension would definitely help in the better disclosure of CSR initiatives in Form CSR- 2 as well as better implementation of Audit Trail Software.*

INTERNATIONAL DESK

OECD releases third batch of updated TP country profiles which include US, UK, Canada, China etc. & 6 new Inclusive Framework members

The OECD has published the third batch of updated TP country profiles reflecting the current transfer pricing legislation and practices of 28 jurisdictions including Brazil, Canada, China, the United Kingdom, the United States and including six new country profiles from Inclusive Framework members (Honduras, Iceland, Jamaica, Papua New Guinea, Senegal and Ukraine), bringing the total number of countries covered to 91.

The TP profiles have been presented in the form of a questionnaire consisting of 33 questions, soliciting individual country's response and providing a comparative snapshot of the respective country's transfer pricing legislation on various key transfer pricing principles, with focus on countries' domestic legislation regarding key TP aspects, including methods, comparability analysis, cost contribution agreements, transfer pricing documentation and administrative approaches to prevent and resolve disputes.

The updated profiles intend to reflect the current state of countries' legislation and to indicate to what extent the domestic TP rules follow the OECD TP Guidelines.

The OECD had released the first and second batches of updated transfer pricing country profiles in August and December 2021 respectively.

OECD seeks public comments for Crypto-Asset Reporting Framework & amendments to Common Reporting Standard

The OECD has released public consultation document on a new global tax transparency framework to provide for the reporting and exchange of information with respect to crypto-assets i.e. Crypto-Asset Reporting Framework (CARF) and on amendments proposed to the Common Reporting Standard (CRS) for the automatic exchange of financial account information seeking public comments on the proposals by April 29, 2022.

The new framework provides for the collection and exchange of tax-relevant information between tax administrations, with respect to persons engaging in certain transactions in crypto-assets and covers crypto-assets that can be held and transferred in a decentralised manner, without the intervention of traditional financial intermediaries, as well as asset classes relying on similar technology that may emerge in the future.

The purpose of the consultation is to inform policy makers decisions on the possible

adoption of any such framework and its related design components.

Public comments are sought on proposals developed as part of the first comprehensive review of the CRS, with the aim of further improving the operation of the CRS, based on the experience gained by governments and business over the past seven years since its adoption.

The proposal extends the scope of the CRS to cover electronic money products and Central Bank Digital Currencies and also includes changes to cover indirect investments in crypto-assets through Investment Entities and derivatives and contains new provisions to ensure an efficient interaction between the CRS and CARF, in particular to limit instances of duplicative reporting.

Finally, the amended CRS seeks to improve the due diligence procedures and reporting outcomes, with a aim to increase the usability of CRS information for tax administrations and limiting burdens on Financial Institutions, where possible.

The public consultation meeting is scheduled at the end of May 2022.

Oman Tax Authority on its official portal, issues Announcement on submission of "Taxpayer Checklist in VAT Return"

The Oman Tax Authority ('OTA') has made an announcement on their official tax portal in relation to submission of "Taxpayer Checklist in VAT Return". It is to be noted that VAT return starting from Q1 of 2022, taxpayers are required to complete and submit the 'Taxpayer Checklist' excel sheet along with regular VAT returns regardless of whether the net VAT is payable or refundable.

جهاز الضرائب
Tax Authority

SPARKLE ZONE

The War, the Trade, the Tragedy!

"It was a bright cold day in April and the Clocks were striking thirteen!" This opening paraphrase of the George Orwell's 1984 showed us just how bizarre a totalitarian Government could look like! Moving back in time, Moscow seems to be on its way to re-unite the Soviet Union and form a totalitarian Government, to relive its past glory. In the midst, it has invaded Ukraine to refrain it from joining hands with the NATO.

A brief history

Ever since the collapse of the Soviet Union in 1991, Ukraine's policy was dominated by aspirations to ensure its sovereignty and independence, followed by a foreign policy that balanced cooperation with the EU, Russia, and other powerful polities. Thus, Ukraine maintained ties with Russia, however, never had good relations. Following the annexation of Ukraine's Crimean Peninsula by Russia in 2014, the tension between the two Countries arose, which has now led to a full-fledged invasion.

In February 2022, the Russian forces invaded Ukraine, which has prompted various countries to impose an extraordinary set of coordinated economic sanctions against Russia. The measures aim to limit customary trade and financial relations with Russia, penalize Russian oligarchs for supporting President Vladimir Putin and potentially cripple Russia's economy, all in hopes of first deterring Putin from engaging in and then continuing acts of war. But the breadth and severity of these actions vary greatly, and their full effects on the Russian economy are still unfolding, as are the related implications for economic activity in other countries.

Global Trade Impact

Beyond the suffering and humanitarian crisis from Russia's invasion of Ukraine, the entire global economy will feel the effects of slower growth and faster inflation. Russia and Ukraine are energy and minerals producers, and disruptions have caused global prices to soar, especially for oil and natural gas. Food costs have jumped, with wheat, for which Ukraine and Russia make up 30 percent of global exports. Here's a sector-wise look at how the ongoing conflict has / will impact the global trade in the coming days:

Gas and Energy

Many European countries are heavily dependent on Russian energy, particularly gas through several vital pipelines. Even if the conflict comes to an end, there is a possibility that the harsh economic sanctions on Russia would make it very difficult for European countries to meet their energy requirements.

Further, the oil prices have already surged as supply disruptions mounted following sanctions on Russian banks. Brent crude futures rose by more than USD 8, touching a peak of USD 113.02 a barrel, the highest

since June 2014. Similarly, the US West Texas Intermediate crude futures also jumped more than $8 a barrel, hitting the highest since August 2013 before losing some steam to trade currency at USD 109.80 a barrel.

Edible Oil

Ukraine alone makes up almost half of exports of sunflower oil. If harvesting and processing is hindered in a war-torn Ukraine, or exports are blocked, importers will struggle to replace supplies. In India, with the severe threat of supply disruptions, companies are left with not many options but to consider hiking prices of daily-consumed edible oils within weeks.

India in particular, being one of the largest consumers of edible oils, will face a steep hike in prices. Over the past few years, the Indian Government has been trying to increase the production of domestic edible oil but has not managed to keep up with the demand. That in turn has pushed up prices which have nearly doubled since 2017.

Food Supplies

Ukraine and Russia account for 30 per cent of the world's exports of wheat, 19 per cent of corn and 80 per cent of sunflower oil, which is used in food processing. Much of the Russian and Ukrainian bounty goes to poor, unstable countries like Yemen and Libya.

The threat to farms in eastern Ukraine and a cut-off of exports through Black Sea ports could reduce food supplies just when prices are at their highest levels since 2011 and some countries are suffering from food shortages.

Automobile Sector

The ongoing conflict has caused logistical and supply chain problems as well as parts shortages of critical vehicle components. Most notably, many automakers source wire harnesses, which are used in vehicles for electrical power and communication between parts, from Ukraine. The problems add to an already strained supply chain due to the COVID-19 pandemic and an ongoing shortage of semiconductor chips.

The European auto production is expected to experience the most disruption. The Firms recently reduced 1.7 million units from their forecast production which is attributed primarily to lost demand from Russia and Ukraine and parts (chips and wiring harness) supply shortages due to war.

However, the damage is not limited to above-mentioned sectors. The war will cripple the global economy, especially that of Europe. Economists have forecast a deep recession of 7.5% for the Russian economy in 2022 and downgraded Russia's risk assessment. Economists have further forecast at least 1.5% of additional inflation in 2022, while GDP growth could be lowered by 1%.

Here's a look at the ramifications of the on-going war region-wise:

Europe

Being heavily dependent on Russia for oil and natural gas, Europe appears to be the region most exposed to the consequences of this conflict. Replacing all Russian natural gas supply to Europe is impossible in the

short to medium run and current price levels will have a significant effect on inflation. While Germany, Italy or some countries in the Central and Eastern European region are more dependent on Russian natural gas, the trade interdependence of Eurozone countries suggests a general slowdown.

On top of that, it is estimated that a complete cut of Russian natural gas flows to Europe would raise the cost to 4% in 2022, which would be bring annual GDP growth close to zero, more probably in negative territory depending on demand destruction management.

Asia and the Pacific

The biggest effects on current accounts will be in the petroleum importers of ASEAN economies, India, and frontier economies including some Pacific Islands. This could be amplified by declining tourism for nations reliant on Russian visits. The higher energy prices will raise India's inflation, already at the top of the central bank's target range.

Asia's food-price pressures should be eased by local production and more reliance on rice than wheat. Costly food and energy imports will boost consumer prices, though subsidies and price caps for fuel, food and fertilizer may ease the immediate impact but with fiscal costs.

North, South and Latin America

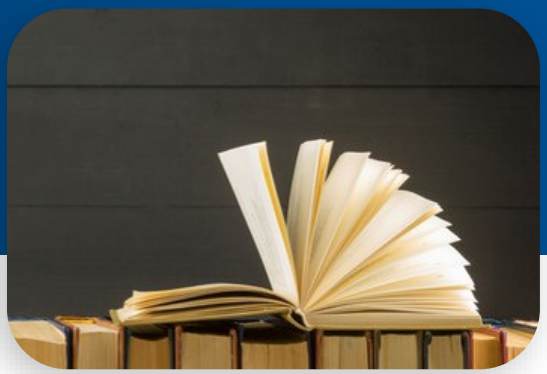
Food and energy prices are the main channel for the impact, which will be substantial in some cases. High commodity prices are likely to significantly quicken inflation for Latin America and the Caribbean, which already faces an 8% average annual rate across five of the largest economies: Brazil, Mexico, Chile, Colombia, and Peru. Central banks may have to further defend inflation-fighting credibility.

Financial conditions are expected to remain relatively favorable, but intensifying conflict may cause global financial distress that, with tighter domestic monetary policy, which will weigh on the growth.

The Aftermath

While Europe has already begun facing the trade implications of the war, the rest of the world is about to. No one is spared from its impact, irrespective of their degree in involvement, ties with the two countries or the geographical distance between the countries. However, in this dream to becoming a superpower, Russia has exposed itself in not being as advanced as it shows. The Ukrainian resistance has proven to be tougher than what Putin thought. Thus, years after the cold war, the Russian seems to be stray farther and farther in being the sole Global superpower, while indirectly, helping the US and China.

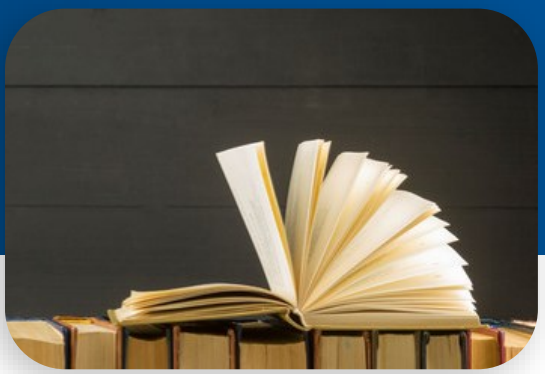
GLOSSARY



Abbreviation	Meaning
AA	Adjudicating Authority
AAAR	Appellate Authority for Advance Ruling
AAR	Authority for Advance Ruling
ADD	Anti-Dumping Duty
AE	Associated Enterprise
AGM	Annual General Meeting
AICD	Agriculture Infrastructure and Development Cess
AIF	Alternative investment Fund
AIFs	Alternative Investment Funds
ALP	Arm's length price
AMT	Alternate Minimum Tax
AO	Assessing Officer
AOP	Association of Persons
APA	Advanced Pricing Agreement
ARE	Alternate Reporting Entity
AU	Assessment Unit
AY	Assessment Year
B2B	Business to Business
B2C	Business to Customer
BBT	Buy-Back Tax
BCD	Basic Customs Duty
BED	Basic Excise Duty
BEPS	Base Erosion and Profit Shift
BOI	Body of Individuals
CAG	Comptroller and Auditor General of India
CAT	Common Aptitude Test
CBCR	Country By Country Reporting
CBDT	Central Board of Direct Taxes
CBI	Central Board of Indirect Tax
CBIC	The Central Board of Indirect Taxes and Customs
CG	Central Government
CGST Act	Central Goods and Services Act, 2017
CIT	Commissioners of Income Tax
Cus	Customs Act, 1962
CVD	Countervailing Duty
DDT	Dividend Distribution Tax
DRC	Dispute Resolution Committee
DRI	Directorate of Revenue Intelligence
DTAA	Double Taxation Avoidance Agreement
FDI	Foreign Direct Investment
Fin	Finance Bill Finance Bill, 2022
FM	Finance Minister
FMV	Fair Market Value
FPI	Foreign Portfolio Investors
FTP	Foreign Trade Policy
G2B	Government to Business
GST	Goods and Services Tax
H&EC	Health and Education Cess
HFC	Housing Finance Company
HNI	High Net Worth Individual
HUF	Hindu Undivided Family
IBC	Insolvency and Bankruptcy Code
IFSC	International Financial System Code
IFSCA	International Financial Services Centres Authority Act, 2019

Abbreviation	Meaning
IGST	Integrated Goods and Services Tax
IIM	Indian Institute of Management
IMC	Indian Medical Council Act, 1956
Ind AS	Indian Accounting Standards
InvITs	Infrastructure Investment Trusts
IT Act	The Income-tax Act, 1961
ITAT	Income Tax Appellate Tribunal
ITC	Input Tax Credit
ITO	Income-tax Officer
KYC	Know Your Customers
LIC	Life Insurance Corporation
LLP	Limited Liability Partnership
LTC	Long-Term Capital Gains
MAT	Minimum Alternate Tax
MoF	Ministry of Finance
MSME	Micro Small and Medium Enterprises
NaFAC	National Faceless Assessment Centre
NBFC	Non-Banking Finance Company
NCCD	National Calamity Contingent Duty
NCLT	National Company Law Tribunal
NFT	Non-Fuungible Tokens
NELP	New Exploration Licensing Policy
NHB	National Housing Bank
NPA	Non-Performing Assets
NPS	National Pension System
OBU	Offshore Banking Unit
OEC	Organization for Economic Co-operation and Development
OPC	One Person Company
PAN	Permanent Account Number
PBPT	Prohibition of Benami Property Act, 1988
PCIT	Principal Commissioners of Income Tax
PIV	Pooled Investment Vehicle
PMLA	Prevention of Money Laundering Act, 2002
PSU	Public Sector Undertaking
PY	Previous Year
RBI	Reserve Bank of India
REITs	Real Estate Investment Trusts
RIC	Road and Infrastructure Cess
RTGS	Real Time Gross Settlement
RU	Review Unit
SAD	Special Additional Duty
SAED	Special Additional Excise Duty

GLOSSARY



Abbreviation	Meaning
SCGT	State Goods and Services Tax
SCN	Show Cause Notice
SCRA	Securities Contracts (Regulation) Act, 1956
SEBI	Securities and Exchange Board of India
SFT	Statement of Financial Transaction
SIAC	Singapore International Arbitration Centre
SPF	Specific Pathogen Free
SWS	Social Welfare Surcharge
TAN	Tax Deduction Account Number
TCS	Tax Collected at Source
TDS	Taxes Deducted at Source
TPO	Transfer Pricing Officer

Abbreviation	Meaning
TOL Act	Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020
UCB	Urban Co-operative Bank
UK	United Kingdom
USA	United States of America
UTGST	Union Territory Goods and Services Tax
VsV	Vivad se Vishwas
VU	Verification Unit
WTO	World trade Organization
HC	High Court
SC	Supreme Court
FY	Financial Year
NFT	Non-Fuungible Tokens

FIRM INTRODUCTION

Taxcraft Advisors LLP ('TCA') is a multidisciplinary advisory, tax and litigation firm having multi-jurisdictional presence. TCA team comprises of professionals with diverse expertise, including chartered accountants, lawyers and company secretaries. TCA offers wide-ranging services across the entire spectrum of transaction and business advisory, litigation, compliance and regulatory requirements in the domain of taxation, corporate & allied laws and financial reporting.

TCA's tax practice offers comprehensive services across both direct taxes (including transfer pricing and international tax) and indirect taxes (including GST, Customs, Trade Laws, Foreign Trade Policy and Central/States Incentive Schemes) covering the whole gamut of transactional, advisory and litigation work. TCA actively works in trade space entailing matters ranging from SCOMET advisory, BIS certifications, FSSAI regulations and the like. TCA (through its Partners) has also successfully represented umpteen industry associations/trade bodies before the Ministry of Finance, Ministry of Commerce and other Governmental bodies on numerous tax and trade policy matters affecting business operations, across sectors.

TCA & **VMGG & Associates ('VMGG')** are group firms providing consulting and audit services. While TCA is a multidisciplinary advisory, tax and litigation firm, VMGG is a firm registered with the Institute of Chartered Accountants of India. VMGG is therefore primarily into audit and attestation services (including risk advisory and financial reporting).

With a team of experienced and seasoned professionals and multiple offices across India, TCA & VMGG as a combination offer a committed, trusted and long cherished professional relationship through cutting-edge ideas and solutions to its clients, across sectors.

Website: **www.taxcraftadvisors.com**

GST Legal Services LLP ('GLS') is a consortium of professionals offering services with seamless cross practice areas and top of the line expertise to its clients/business partners. Instituted in 2011 by eminent professionals from diverse elds, GLS has constantly evolved and adapted itself to the changing dynamics of business and clients requirements to offer comprehensive services across the entire spectrum of advisory, litigation, compliance and government advocacy (representation) requirements in the field of Goods and Service Tax, Customs Act, Foreign Trade, Income Tax, Transfer Pricing and Assurance Services.

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GLS has worked with a range of companies and have provided services in the field of business advisory such as corporate structuring, contract negotiation and setting up of special purpose vehicles to achieve business objectives. GLS is uniquely positioned to provide end to end solutions to start-ups companies where we offer a blend of services which includes compliances, planning as well as leadership support.

With a team of dedicated professionals and multiple offices across India, it aspires to develop and nurture long term professional relationship with its clients/business partners by providing the most optimal solutions in practical, qualitative and cost-efficient manner. With extensive client base of national and multinational corporates in diverse sectors, GLS has fortified its place as unique tax and regulatory advisory rm with in-depth domain expertise, immediate availability, transparent approach and geographical reach across India.

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VISION 360

April 2022 | Edition 20