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A TREASURY OF KEY TAX & REGULATORY DEVELOPMENTS

VISION 360

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EDITORIAL

Vision 360: Festivities all around!

With the festivities all around in the last quarter of the calendar year, the spirits are high among the people! A big gift by the CBIC in this festive season has been the batch of notification/circulars issued based-on recommendations made in the 52nd GST Council Meeting.

In this past month of October 2023, the CBIC had issued a slew of circular clarifying various provision under the CGST Act along with corresponding amendments in the GST Rules. These mainly include taxability of personal and corporate guarantees, place of supply in case of select services, transportation, imitation zari thread, reimbursement of electricity charges, job work etc.

In this edition of our newsletter, we have also curated a diverse range of articles and insights from the industry experts that cover a variety of topics, including recent tax reforms, emerging trends in the industry, and updates from the global tax arena.

On the Direct Tax front, the CBDT has amended PAN-related Rules for foreign companies and non-residents transacting with IFSC banking. In another such relief, the CBDT has extended the due-date for filing newly notified Form 56F for AY 2023-24 to December 31, 2023.

On the Indirect Tax front, as for the judicial developments, the Apex Court has noted that state amendments made to VAT Acts after GST came into effect are invalid due to legislative incompetence, and these changes lacked authority after the GST regime came into effect. In another important judgement, the Kerala HC relying upon its previous judgment has emphasized the ITC cannot be denied to the recipient solely on the ground that ITC not reflected in GSTR-2A.

In the Regulatory news, SEBI relaxes certain provisions of the LODR Regulations for listed entities that have listed their specified or non-convertible securities on stock exchanges. Further, the MCA integrates with NSWS for the Incorporation of Companies and LLPs. In the judicial front, the SC holds orders extending limitation during COVID also apply to condonable delay period.

We have also penned down articles on decoding the conundrum of GST on corporate guarantees. The authors have interpreted it highlighting the recent notification dated October 26, 2023 that has notified the taxable value for corporate guarantees.

International landscape in the field of taxation across the globe witnessed numerous modifications and amendments. UAE Federal Tax Authority in its most recent publication has issued a comprehensive Transfer Pricing Guide which provides valuable insights and practical examples regarding various elements of the UAE Transfer Pricing framework.

We wish you and your loved ones a very happy and affluent Diwali!

In all, we the entire team of **TIOL**, in association with **Taxcraft Advisors LLP**, **GLS Corporate Advisors LLP** and **VMGG & Associates**, are glad to publish the **37th 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!

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ARTICLE

DECODING THE CONUNDRUM OF GST ON CORPORATE GUARANTEES

INTRODUCTION

Corporate Guarantees is generally understood to be a guaranty by one business entity or by one Corporate House or a Holding company for another group company or subsidiary company. Such guarantee is generally given when one entity or subsidiary Company is availing a loan or any type of financial assistance by whatever name called. It is basically a surety or guarantee for the repayment of loan. Thus, one Company stands as a guarantor for another.

These guarantees are mostly given sans consideration. The equivalent transaction in the open market can be compared with Bank Guarantees. However, in the case of Corporate Guarantees, neither any charges are paid by the recipient for these services, nor any security is offered by the recipient to guarantor. Since such supplies generally take place between related persons, the provision for GST valuation on such supplies provides reference to open market value and value of services of like kind and quality.

Now, the Central Government vide Notification No. 52/2023 – Central Tax dated October 26, 2023 has notified Rule 28(2) of the CGST Rules which provides that taxable value for corporate guarantee will be 1 per cent. of the guarantee amount or the commission charged, whichever is higher. Just like many other GST provisions, this too is not free from controversy. In this article, we will analyze the possible issues to arise out of this provision.

SCHEDULE I VS. SCHEDULE III

It would be pertinent to note that Schedule I of the CGST Act lists down the activities which would be considered as supply u/s. 7 of the CGST Act, even if made without consideration. Since corporate guarantees are related party transactions, generally sans consideration, the same prima facie seems to be covered under Entry No. 2 of Schedule I.

In this regard, it may be noted that Schedule III lists down the activities which are not considered as supply irrespective of consideration. Entry No. 6 of the said Schedule provides for actionable claims, other than those specified. While the CGST Act does not define the term 'actionable claim', the Transfer of Property Act defines the same as a claim to any debt, other than a debt secured by mortgage of immoveable property or by hypothecation or pledge of moveable property, or to any beneficial interest in moveable property not in the possession, either actual or constructive, of the claimant, which the Civil Courts recognise as affording grounds for relief, whether such debt or beneficial interest be existent, accuring, conditional or contingent.

In view of the above, any claim of an unsecured debt, contingent on the happening or non-happening of

an event, is an actionable claim. In this regard, it would be pertinent to note that Corporate Guarantee is a claim by the creditor on the guarantor, which is contingent on whether or not the principal debtor discharges the loan amount to the creditor. Thus, it may be argued that Corporate Guarantee, being an actionable claim u/ Sch. III of the CGST Act would not be treated as a supply u/s. 7 of the CGST Act.

APPLICABILITY – WHETHER PROSPECTIVE OR RETROSPECTIVE

The Notification dated October 26, 2023 provides for the newly introduced Rule to be applicable prospectively. As regards the valuation for the period October 26, 2023, it shall be noted that the Circular dated October 27, 2023 does not comment on the same specifically. The said Circular merely provides that w.e.f. October 26, 2023, the benefit of second proviso to Rule 28 of CGST Rules, conferring taxpayers with the right to adopt any value if recipient is entitled to full ITC, will not be admissible post the amendment. Thus, an implied meaning emerges that for the period prior to the amendment, any valuation could be adopted.

However, it may be noted that the treatment in cases where prior to the amendment, where the recipient was not entitled to full ITC, has not been clarified. Moreover, in absence of an express clarification, assuming a provision basis an implied meaning may be tricky.

PERIODICITY OF PAYMENTS

Generally the Corporate Guarantees are issued periodically i.e., for a period of 1 year or so, renewable upon expiration. The Notification as well as the Circular fails to clarify whether GST is applicable on one-time grant of corporate guarantee or at every renewal stage. In case the GST is to be charged at every renewal stage, whether the taxable value is capped at 1% in toto or otherwise, is also a question which requires clarification.

CONCLUSION

It seems that the Central Government has hastily introduced the provision for levy of GST on Corporate Guarantee, missing the possible concerns from the Trade and Industry. Moreover, the Circular issued also fails to address the key issues arising out of the said provision. Accordingly, it would be imperative for the Board to take the concerns of the Trade and Industry and issue a clarification.

INDUSTRY PERSPECTIVE

Mr. Milind Joshi

Chief Financial & Strategy Officer,
Maximus International Limited

01 What are your thoughts on how to understand the GST's enigma concerning corporate guarantees?

Corporate guarantee provided by the holding company for sanction of credit facilities to its subsidiary company or by a person on behalf of another related person, to the bank/ financial institutions, even when made without any consideration qualifies as supply as per Schedule I of CGST Act. However, prior to recent amendment, the taxpayers were free to determine its taxable value as per Rule 28 of CGST Rules wherever it was eligible to avail ITC.

However, Rule 28(2) has been introduced whereby the value of such supply shall be higher of 1% of the amount of Corporate Guarantee or actual consideration. This is likely to create hardship for the Companies as 0.1% to 0.5% is generally accepted value for corporate guarantee for Transfer Pricing adjustments.

Further, as per RBI guidelines no consideration can be paid by the company to the director for providing personal guarantee. Further, when no consideration is received by way of commission, brokerage fees or any other form to the director by the Company, directly or indirectly in lieu of the personal guarantee

provided as per the RBI mandate then there is no question of supply and open market value shall be zero and no tax would be payable.

However, in case of directors who have provided guarantee is no longer with the management, but the continuance of guarantee is essential as new management guarantee is inadequate or in case where the directors/ other managerial personnel of the borrowing concerns are actually paid remuneration / consideration either directly or indirectly, then the value of supply be the remuneration / consideration actually paid and shall be subject to GST.

02 The indirect tax space is fast evolving over the last few years. Do you believe that such changes are aligned with overall long-term growth objectives?

GST has been introduced in July 2017 with the primary objectives of removing the cascading effects of tax and implement a mechanism of seamless flow of credit. While one of the objectives seem to have been fairly fulfilled, the other not so much. The GST law has certainly done away with the cascading effect to a considerable extent; however, the seamless flow of credit largely remains questionable.

The recently introduced e-Invoicing provisions under GST are such that its non-compliance by the suppliers can have severe impacts on the ITC eligibility of the recipient. If a supplier issues e-invoice without IRN, the bona fide recipient would not be able to avail the ITC thereof, as such invoice would not be considered as valid. Once again, the recipient has to bear the consequences for non-compliance by suppliers. Therefore, it can be said that while the GST law has come quite far, it still has a long way to go!

03 How do you see the faceless move in the current taxation era?

The Faceless Assessment scheme is likely to impact the industry in positive manner. Introduction of such assessment system is a stepping stone in the right direction, especially during the current pandemic where the 'digitalization' or 'faceless' is the new normal. Being a law-abiding company, we surely hope that this change in law would achieve its objective of eliminating corruption. Although there might be challenges during the initial phase of implementation.

In long run, it is likely that the scheme will achieve its potential and help in quick resolution. The challenge of representing complex matters before the authorities will persist. Thus, the taxpayers would be required to prepare their submission in a lucid manner to avoid any ambiguity. Also, this may increase the number of appeals at Tribunal level. Further, the new amendment which allows the taxpayer to demand for physical hearing will also be helpful in these cases.

04 The tax space has fast evolved over the last few years. What has been the impact of such changes on the economy and the service industry? Do you believe that such changes are aligned with overall long-term growth objectives?

The tax space of any country evolves over a period of time. In India, we have witnessed times when there were no transfer pricing provisions and a catena of litigations arose as they were introduced in 1990's. It is likely that equalisation levy on global income of techno-giants may lead to a similar situation.

The most recent tax revolution in India came with the introduction of GST in 2017. While this law was a

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subject matter of great discussion in the Parliaments for more than 10 years, it still seemed to be implemented in haphazard manner. Given the number of issues arising on a daily basis, be it credit availment or e-way bill mechanism or applicability on certain transactions, shows that the law still has a long way to go in becoming efficient. However, many of the issues have been resolved in the past 4-5 years and it its contemplated that the same will become more effective in the coming years.

05 There have been various technology related amendments in tax space. How you think such changes will impact the economy? Do you believe that such changes are aligned with overall long-term growth objectives?

India like most of the progressive economies have shifted to digitalization when it comes to tax compliances. The transparency that these procedures will bring about will ultimately lead to reduced tax evasion and smooth economy. There was a big call for digital technology in almost all industries and job functions during the pandemic.

We see digitisation as a key pillar to improve governance and compliance, by driving greater security, transparency and efficiency in processes – and tax operations are no exception! Government's continuous efforts in digitizing the tax space are a welcome move in the right direction.

Disclaimer : The views/opinions expressed in this section are personal views of the Author and do not necessarily reflect the views/opinions of the Organisation and/or the publisher.

DIRECT TAX
From the Judiciary

HC quashes IDFC's reassessment proceedings as no 'new' or 'tangible' information found

IDFC Limited

W.P. Nos.23284 & 22737 of 2022

The Assessee was a bank that had been subjected to reassessment proceedings for AY 2014-15 and 2017-18, under the old re-assessment scheme. A notice under Section 148 of the IT Act was issued by the AO having reason to believe that income had escaped assessment. The Assessee complied with the notice by filing return of income and preliminary objections, however, aggrieved, the Assessee preferred a writ petition before the HC contending that the procedure under Section 148A of the IT Act, substituted by Finance Act, 2021, had not been properly followed by the AO and therefore, the issue of notice invoking the old provision for reassessment was bad in law. The HC noted that there was no averment in the notice under Section 148 of the IT Act that 'information' had been received indicating escapement of income attributable to the Assessee, accordingly, analysing the original assessment orders, the HC observed that all the documents, evidences and material had been duly submitted by the Assessee during the course of the scrutiny assessment itself and the assessment orders were framed after having conducted thorough scrutiny. Moreover, the reassessment proceedings were initiated based on the financial records already available with the Revenue and the Revenue merely referred to the details filed during the original assessment proceedings, without pointing to any new or tangible information to justify the re-opening of assessment.

The HC further observed that Section 149 of the IT Act provided that the Revenue shall possess books of accounts or other documents or evidence which revealed that income chargeable to tax, represented in the form of an asset, had escaped assessment, to be able to issue the reassessment notice beyond three years from the end of the relevant AY, however, the books of accounts or other documents possessed by the Revenue did not form an asset to conclude that income had escaped assessment, under Section 149 of the IT Act as the Revenue only had books of account and material furnished by the Assessee during the course of assessment and there was no mention anywhere in the impugned proceedings about an 'asset' representing the income that was alleged to have escaped. Thus, finding the initiation of reassessment proceedings, beyond the period of 3 years from the end of relevant AY, as unjustifiable, the HC allowed the Assessee's writ petitions and quashed the re-assessment notice issued under Section 148 of the IT Act.

ITAT holds adjustment under Section 143(1) of the IT Act, inconsequential sans corresponding addition in assessment order, Doctrine of Merger applicable

National Stock Exchange of India Limited

ITA No. 732/Mum/2023

The Assessee had filed its return of income for AY 2020-21 declaring income of INR 2049 Crores which was processed under Section 143(1) of the IT Act. Thereafter, the CPC issued an intimation determining the total income of the Assessee at INR 2084 Crores, which was confirmed by the CIT(A).

Aggrieved, the Assessee preferred an appeal before the ITAT, which noting that the Assessee was also subjected to scrutiny assessment, however, no query on the issues covered by the intimation was ever raised during the assessment proceedings, despite it being a complete scrutiny. Moreover, the Assessee had also filed its objection against the proposed adjustments but received no response from the CPC and thereafter, had subsequently, also filed a rectification application under Section 154 of the IT Act to rectify the mistake apparent from record on the ground that the proposed adjustments did not fall within the purview of Section 143(1) of the IT Act as it pertained to the legal/debatable issue that required a thorough verification, however, no order under Section 154 of the IT Act came to be passed, accordingly observed, that neither the Assessee's response to the proposed adjustment was considered nor the application under Section 154 of the IT Act was disposed off by the CPC while passing the intimation, which was in clear violation of proviso 1 and 2 of the Section 143(1) of the IT Act, and the said violation made the whole action of the CPC null and void.

Therefore, observing that the adjustments made under Section 143(1) of the IT Act did not survive if no corresponding addition was made in the assessment order since the CPC intimation merged into the assessment order and that the case of the Assessee was subject to complete scrutiny and further queries could have been raised during the course of assessment proceedings, however no query on the issue pertaining to adjustment under Section 143(1) of the IT Act was ever raised during the assessment proceedings, the ITAT held that the final order was the assessment order passed under Section 143(3) read with Section 144B of the IT Act and not the intimation passed by CPC under Section 143(1) of the IT Act and allowed the Assessee's appeal.

ITAT holds Assessee discharged onus under Section 68 of the IT Act, on the contrary, Revenue failed to examine primary documents furnished by the Assessee, deletes addition

Divine Multimedia (India) Ltd.

ITA No. 805/Ahd/2016

The Assessee was a company engaged in the business of motion pictures production, trading of goods and software, that had issued a share capital of INR 1.40 Crores with share premium of INR 18.22 Crores. The Assessee had furnished various details to justify the source of the share capital including the consent letters and copies of cheques from the shareholders, however, the AO concluded that the details submitted by the Assessee were insufficient, and therefore, treated the entire share capital as unexplained cash credit under Section 68 of the IT Act, in the absence of necessary supporting documents and made an addition of INR 19.62 Crores. Aggrieved, the Assessee approached the CIT(A) who not only confirmed the addition made by the AO, holding that the Assessee had failed to discharge the onus imposed upon it under Section 68 of the IT Act, but also rejected the Assessee's application for admission of additional evidence.

Aggrieved, the Assessee approached the ITAT which noted that there was no ambiguity to the fact that the primary onus lay upon the Assessee to furnish the necessary details and the Assessee had discharged the onus by furnishing the consent letters of all the share subscribers including the name of the party, signature, PAN, which was supported by the copies of cheque of all the subscribers. Moreover, the proviso to Section 68 of the IT Act which required the explanation of the source was introduced with effect from April 1, 2013, and therefore the same was not applicable to the present case with relevant AY 2011-12 and the Assessee in the present case was a widely held company whereas the proviso brought under the statute was applicable to private limited companies and therefore not applicable to the Assessee.

Thus, observing that the Assessee had discharged the onus imposed under Section 68 of the IT Act by providing details of the share-subscribers such as their name, address, no of share allotted and PAN, bank details and it was the Revenue that had failed to avail itself of the opportunity to make the necessary examination/verification based on the primary document furnished by the Assessee and bring the contrary material on record, the ITAT held the addition under Section 68 of the IT Act to be unsustainable and set aside the order of the CIT(A), directing the AO to delete the addition.

DIRECT TAX
From the Legislature

NOTIFICATION

Notification	Key Updates
Notification No. 88/2023 dated October 10, 2023	**CBDT amends PAN-related Rules for foreign companies and non-residents transacting with IFSC banking units** The CBDT notifies amendments in Rule 114B, 114BA and 114BB of the IT Rules along with a new Form 60. The Notification states that a foreign company or a firm does not require a declaration in Form 60 on not having a PAN to enter into any of the transactions mentioned in the Table provided under Rule 114B of the IT Rules except when it enters into any transaction (referred to at Sl. No. 2 or 12 of the Table in Rule 114B of the IT Rules) with an IFSC banking unit provided that it has no income chargeable to tax in India.
Notification No. 89/2023 dated October 16, 2023	**CBDT notifies Form 15CD for IFSC Units as quarterly statement of foreign remittances** The CBDT amends Rule 37BB of the IT Rules for the remittances made by IFSC Units referred to in Section 80LA(1A) of the IT Act. Further, the CBDT notifies Form 15CD for such units which is to be filed within fifteen days from the end of the quarter with regard to payments made to a non-resident, not being a company, or to a foreign company.
Notification No. 91/2023 dated October 19, 2023	**CBDT notifies Form 56F as CA's report for deduction under Section 10AA of the IT Act, effective from July 2021** CBDT notifies Form No. 56F along with its Annexure and Rule 16D of the IT Rules with respect to deduction under Section 10AA of the IT Act as per which the report of a CA which is required to be furnished by the Assessee under Section 10AA (8) read with Section 10A (5) of the IT Act shall be furnished in Form No. 56F. The Rule 16D of the IT Rules along with its corresponding Form no. 56F shall be deemed to have come into force from July 29, 2021.

Circulars/Guidelines

Circulars/ Guidelines	Key Updates
Circular No. 17/2023 dated October 09, 2023	**CBDT clarifies on disclosure of 'persons making substantial contribution' in Forms 10B & 10BB** Taking cognizance of the difficulties faced in filling details of persons who have made a 'substantial contribution to the trust or institution', that is to say, any person whose total contribution up to the end of the relevant previous year exceeds INR 50,000 (as referred to in Section 13(3)(b) of the IT Act) , the CBDT clarifies that for the purposes of Form 10B (Annexure Row 41) and Form 10BB (Annexure Row 28) for AY 2023-24: • the details of the persons making substantial contribution 'may be given' with respect to those persons whose total contribution during the previous year exceeds INR 50,000, • details of relatives of such persons 'may be provided, if available', and • details of concerns in which such persons have substantial interest 'may be provided, if available'.
CBDT Order dated October 16, 2023	**CBDT extends time for processing validly e-filed ITRs in non-scrutiny cases up to AY 2017-18 to January 31, 2024** To mitigate the genuine hardship being faced by taxpayers in view of the pending taxpayer grievances in relation to the validly e-filed ITRs up to AY 2017-18 with refund claims in non-scrutiny cases, which could not be processed and became time-barred and were subsequently, required to be processed by November 30, 2021, the CBDT extends the time frame for processing the validly e -filed ITRs up to AY 2017-18 with refund claims in non-scrutiny cases from November 30, 2021 to January 31, 2024.
Circular No. 18/2023 dated October 20, 2023	**CBDT extends due-date for filing newly notified Form 56F for AY 2023-24 to December 31, 2023** Due to the genuine hardship caused to the stakeholders due to the notifying of Form 56F on October 19, 2023 that shall be deemed to have come into force with effect from July 29, 2021, the CBDT extends the due-date of filing of CA's report in Form 56F for AY 2023-24 to December 31, 2023 from the date specified under Section 44AB of the IT Act.

Circulars/	Key Updates
Circular No. 19/2023 dated October 23, 2023	**CBDT condones Form 10-IC delay for AY 2021-22 for ITR-compliant domestic companies, with deadline of January 31, 2024** To avoid genuine hardship caused to domestic companies in seeking concession under Section 115BAA of the IT Act pursuant to the requests and representations stating that Form 10-IC could not be filed for AY 2021-22 within the due date or extended date, the CBDT condones delay in filing of Form 10-IC for AY 2021-22 subject to following conditions: • The ITR is filed on or before the due date prescribed under Section 139(1) of the IT Act, • The domestic company opted for item (e) of 'Filing Status' in 'Part A - Gen' of ITR-6, and • Form 10-IC is e-filed on or before January 31, 2024.

TRANSFER PRICING
From the Judiciary

ITAT deletes brand adjustment, remits adjustment qua domestic car sale segment, follows earlier order

Hyundai Motor India Private Limited

IT(TP)A No.51/Chny/2021

The Assessee was engaged in the manufacturing and selling of passenger cars in domestic and export market. The TPO taking the view that there was positive correlation between the Assessee's brand value and market capitalization of its Korean AE, applying the Spearman's Rank Correlation method, computed the incremental brand value and attributed a portion of the same to the Assessee in proportion to its sales thereby making a TP adjustment qua its brand promotion activity and the Assessee's international transactions of import of raw materials related to the domestic car sale segment which were upheld by the DRP.

Aggrieved, the Assessee approached the ITAT which following the Assessee's own case for a previous year, wherein it was held that since there was no formal agreement or arrangement between the Assessee and its AEs for rendering of service with regards to the alleged brand promotion activity, accretion in global brand value of its parent company could not be attributable to the Assessee by adopting some theory, deleted the brand adjustment, remitted the adjustment towards international transactions of import of raw materials related to domestic car sale segment and directed the TPO to follow the earlier orders in Assessee's own case wherein it was held, inter-alia, that if TPO was considering a particular segment on a standalone basis, then it was the TPO's duty to benchmark relevant segment by selecting appropriate comparables, whose FAR were also similar to the FAR analysis of the Assessee's segment.

ITAT upholds comparables' exclusion for BPO service-provider citing amalgamation, functional dissimilarity, etc.

Reservation Data Maintenance India Private Limited

ITA. No. 5351/Del/2017

The Assessee was engaged in the rendering of BPO services, the Revenue had filed an appeal against the order of the CIT(A) wherein the CIT(A) had directed the TPO to exclude Accentia Technologies Ltd., TCS E-Serve Ltd. and TCS E-Serve International Ltd. from the list of comparables.

The ITAT placing reliance on the Assessee's own case for a previous year upheld the CIT(A)'s exclusion of Accentia Technologies Ltd citing extraordinary event of amalgamation, functional dissimilarity, etc. and also upheld CIT(A)'s exclusion of TCS E-Serve Ltd. and TCS E-Serve International Ltd. on the grounds of functional dissimilarity, absence of segmental bifurcation and making contributions towards the Tata Brand, therefore, being economically benefited from the use of Tata brand equity, accordingly, dismissing the Revenue's appeal.

ITAT accepts Sumitomo Corp's TNMM over TPO's CUP for benchmarking indenting commission, follows precedent

Sumitomo Corporation India Private Limited

ITA No. 486/DEL/2022

The Revenue had made a substantive TP adjustment qua commission rate on indenting transactions with AEs by applying the CUP method while rejecting the Assessee's TNMM and considered average rate of commission earned in non-AE segment as ALP and also made a protective adjustment under TNMM applying OP/OPEX PLI by including FOB value of goods transacted under indenting segment in the cost base as well as part of opening revenues of the Assessee.

Aggrieved, the Assessee approached the ITAT which with regards to the substantive adjustment made by the Revenue, placed reliance on the Assessee's own case for previous years, wherein it was held that owing to significant differences between AE and non-AE commission transactions in respect of nature of goods, volume of transactions and geographical locations of markets, average commission rate in non-AE segment could not be adopted as ALP, remanded the issue to the TPO, holding that TNMM be adopted as MAM with 'berry ratio' as PLI.

With regards to the protective adjustment made by the Revenue, the ITAT following the Assessee's own case for previous years, held that the FOB value of goods was the cost and revenue of the buyer and the seller, and not the commission agent, and hence such adjustment could not have been made and accordingly deleted the adjustment.

ARTICLE

TRANSFORMING REGULATORY AFFAIRS: THE AI REVOLUTION AND ITS IMPACT ON COMPLIANCE AND GOVERNANCE

In recent years, the realm of regulatory affairs has undergone a significant transformation, largely owing to the integration of Artificial Intelligence (AI) technologies. The introduction of AI is proving to be a breakthrough in every sector. With the use of process automation, robotics and AI, regulatory processes have been introduced to a new era of efficiency, accuracy, and adaptability in the world of compliance. This article explores the important role of AI in the regulatory world and its profound impact on industries, governments, and global regulatory bodies.

Traditional regulatory compliance processes often come with extensive paperwork, redundant tasks, and lengthy approval cycles. AI is revolutionizing this landscape by automating routine tasks and enabling real -time monitoring. AI-powered tools can analyse vast datasets, identify non-compliance issues, and flag them for human intervention. This not only reduces human error but also expedites the process, allowing organizations and authorities to respond to regulatory changes swiftly. There are various scenarios is which AI is being used extensively today. Tax authorities are employing AI algorithms to automatically process tax returns, identify discrepancies, and detect potential fraud, expediting the compliance process for taxpayers. The Income Tax Department of India is using AI to a great effect in this area. They are using AI to process the return filed by taxpayers. This results in swift and accurate return processing. AI is using the data collected through PAN and then navigates through the AADHAR connected data. This way all the income offered by the taxpayers in his return of income can be verified and additional undisclosed income, if any, can be tracked.

Banks and financial institutions are using AI-based solutions to monitor transactions in real-time, ensuring compliance with AML and know your customer regulations. Frauds and AML is one of the greatest threats to any banking system. AI is helping banks in overcoming this problem. Through a systematic use of AI, banks can detect a pattern in transactions as undertaken by the customer and then further processing can be done on the same. Securities and Market Regulation authorities are being benefitted around the globe with introduction of AI in their systems. AI is helping them flag the transactions which seem fraudulent and helping them in identifying insider trading as well. Securities and Exchange Board of India is looking to integrate an AI in its system to help detect mis-selling by mutual funds.

Further currently this tech is being used in AI-driven sensors and satellite data, which helps environmental agencies monitor pollution levels, track deforestation, and enforce environmental regulations more effectively. AI based tools are being used in strengthening the Cyber Security as well. These tools can analyse network traffic patterns to detect an anomaly in them and can detect and address the vulnerabilities of the system. These are just a few examples of the use of AI. Apart from these use cases, currently AI is being used extensively across multiple sectors like Health, Consumer Protection etc. AI's ability to process vast quantities of data at remarkable speeds is one of its most prominent advantages in the regulatory domain. With AI, regulatory agencies can scrutinize market trends, customer behaviours, and industry developments more effectively. This analytical prowess provides a data-driven foundation for crafting regulations and adapting them to evolving business landscapes.

Additionally, AI systems can predict potential compliance issues by analysing historical data and patterns.

By leveraging machine learning algorithms, regulators can anticipate regulatory violations and address them proactively. Predictive analytics empowers authorities to focus their resources on high-risk areas, thereby improving overall regulatory enforcement. Artificial intelligence is transforming the way regulators monitor compliance. Real-time data feeds from IoT devices and other sources enable continuous surveillance of regulated industries. This capability reduces the likelihood of non-compliance going unnoticed and minimizes the need for periodic, time-consuming audits.

AI-assisted risk assessment is pivotal in the regulatory landscape. Regulators and organizations alike are using AI to evaluate risks associated with various business activities, investments, and operational processes. By quantifying these risks accurately, informed decisions can be made to mitigate them effectively. Artificial Intelligence has ushered in a new era of efficiency and effectiveness in the regulatory world. As industries evolve and regulations become increasingly complex, AI will continue to play a pivotal role in ensuring compliance, managing risks, and maintaining the integrity of the regulatory ecosystem. AI will help regulatory bodies to implement checks on each step, which in turn will result in better compliance by the organizations. Despite its plethora of advantages, AI in the regulatory world presents several challenges. Data privacy and security, algorithmic bias, and the potential for overreliance on AI are critical concerns that must be addressed. A proper and strict data control policy needs to be the base on which the AI system should be laid on. Regulatory agencies must also adapt their processes to leverage AI effectively, which often requires significant investment in technology and training. It is essential to strike a balance between embracing AI and addressing its challenges to harness its full potential for the benefit of society, businesses, and governments alike. With this, we can conclude that embracing AI in the regulatory domain is essential for our future, but it must be done thoughtfully, with a keen focus on responsible and ethical implementation.

GOODS & SERVICES TAX
From the Judiciary

Supreme Court: State amendments made to VAT Acts after GST came into effect are invalid

M/s Tirumala Construction

Civil Appeal No(S). 1628 of 2023

A batch of appeals arising from judgments of Telangana, Gujarat and Bombay High Court with respect to the validity of VAT Amendment Act in their respective state, had been heard together by the Apex Court. While the Telangana Government had extended the period of limitation for issuance of notices, the Gujarat Government had retrospectively amendment the GVAT Act for excluding the time limit for revision, and the Maharashtra Government had prescribed a mandatory pre-deposit.

The Supreme Court held that Section 19 of the Constitution (101st Amendment) Act, played a crucial role in the context of the GST transition. This transitional provision, classified under constituent power, allowed both central and state legislatures the flexibility to amend or repeal existing tax laws during the GST implementation period. The SC held that Section 19 had no inherent limitations, ensuring the adaptability and continuity of existing legal frameworks during the GST transition.

The SC further held that the validity of these amendments was affected by the introduction of the GST. Amendments made after the GST regime came into effect were void due to legislative incompetence, and these changes lacked authority after the GST regime came into effect.

AAAR: CSR expenditure cannot be treated as in course of or furtherance of business

Adama India Private Limited

TS-491-AAAR(GUJ)-2023-GST

The Applicant had sought an advance ruling to ascertain whether ITC is admissible on the expenditure spent for the CSR activities. The **Gujarat AAR [2021-TIOL-228-AAR-GST]** had ruled that CSR activities are not eligible for ITC as they cannot be considered as in course of or furtherance of business. Aggrieved, the Applicant filed an appeal before the Gujarat AAAR.

The AAAR observed that CSR activities are excluded from the normal course of business of the company, and therefore, they are not eligible for ITC as per Section 16(1) of the CGST Act. The AAR further observed that CSR activities are not subject to GST, and the Income Tax Act also does not consider CSR expenses as business expenditure. It was further held that ITC on inward supplies is only available when outward supplies are taxable. Since CSR activities are conducted free of cost and with the motive of fulfilling commitments to society and the environment, the expenses incurred cannot be considered in the course or furtherance of business. The AAAR also referred to the amendments in Section 17 of the CGST Act, introduced through the Finance Act, 2023, effective from October 1, 2023 which clarified the legislative intent to disallow ITC on goods or services used for CSR activities. Consequently, the AAAR upheld the AAR ruling and rejected the appeal.

Author's Notes:

Admissibility of ITC on CSR expenditure has always been a contentious issue. It may be noted that before the insertion of Section 17(5)(fa) of the CGST Act, ITC on CSR had been made eligible. Like in the case of ***RE: Dwarikesh Sugar Industries Limited [2021 (53) G.S.T.L. 482 (A.A.R. - GST - U.P.)],*** *the UP AAR had held that a company is mandatorily required to undertake CSR activities and thus, forms a core part of its business process. Hence, the CSR activities are to be treated as incurred in the course of business and therefore, the ITC would be admissible.*

However, the insertion of clause (fa) in Section 17(5) has been made prospectively but yet the Department seems to be treating it in the retrospectively manner. This could be seen as a possible challenge to the industry as the availability prior to October 2023 seems to be under scrutiny. The industry will need to closely monitor how this issue unfolds and whether any legal actions are taken to clarify the retrospective or prospective nature of the provision.

ITC cannot be denied to the recipient solely on the ground that ITC not reflected in GSTR-2A

M/s Galaxy Traders

WP(C) NO. 30538 OF 2023

The Petitioner had claimed ITC, which had been rejected on the ground that there was a discrepancy between the ITC claimed in GSTR 3B vis-à-vis Form GSTR-2A, as the supplier did not report these relevant supplies in Form GSTR-1. Aggrieved, the Petitioner preferred a writ before the Kerala HC.

The Court placing reliance on its recent judgment in the case of M/s. Diya Agencies [2023-TIOL-1199-HC-KERALA-GST] held that a mere mismatch between the ITC claimed and Form GSTR-2A should not be the sole reason for denying the ITC claim. The assessing authority is required to independently examine the evidence submitted by the taxpayer regarding the ITC claim. The Court further emphasized that if the assessing officer finds the claim to be genuine and bona fide based on the submitted evidence, the taxpayer should be granted the ITC. Accordingly, the impugned order was set aside.

AAAR: ITC not available on Works Contract Services for construction of Immovable Property

The Varachha Co Op Bank Limited

Advance Ruling (Appeal) No. GUJ/GAAAR/APPEAL/2023/05

The Appellant undertook the construction of its administrative office. The Appellant sought ruling on whether they were eligible for ITC for several items and services, including Central Air-conditioning Plant, Lift, Electrical fittings (not for civil construction), Solar Plant, Fire Safety Extinguishers, Architect Service Fees, and Interior Designing Fees. The **Gujarat AAR [Advance Ruling No. GUJ/GAAR/R/37/2021 dated July 30, 2021],** had observed the ITC for Central Air Conditioning Plant, Lift, Electrical Fittings, Fire Safety Extinguishers and Roof Solar Plant would be blocked since they are immovable properties as per Section 17 (5)(c) CGST Act and in the case of Architect Service and Interior Decorator fees, ITC will not be available under Section 17(5)(d) of the CGST Act. Aggrieved the Appellant preferred an Appeal before the Gujarat AAAR.

The AAAR held that the Central Air Conditioning Plant, Lift, Electrical Fittings, Fire Safety Extinguishers, as

part of a works contract service, transformed it into an immovable property and thus cannot be considered as plant and machinery. Consequently, ITC on the same is blocked under Section 17(5)(c) of the CGST Act.

The roof solar plant, is attached to the foundation with nuts and bolts and with flexibility at various angles, is deemed a plant and machinery. Since it is not permanently fastened to the building and qualifies as a plant and machinery, it is not subject to blocked credit under Section 17(5)(d) of the CGST Act, and thus, the Appellant can claim ITC for the same. Further the AAAR noted that the Appellant was not entitled to ITC on GST paid for Architect Service Fees and Interior Designing Fees, as per the provisions of Section 17(5)(d) of the CGST Act. Accordingly, the appeal was partial allowed.

Authors' Notes:

*The instant ruling is in line with the view taken by the GST advance ruling authorities till now. The Maharashtra **AAAR in RE: Las Palmas Co-operative Housing Society Limited [2020-TIOL-53-AAAR-GST]** had also disallowed ITC on lifts. It would be interesting to note that under the pre-GST regime as well, in RE: Triveni Engineering, the SC had clearly laid down that after assembling, on completion of process of erection, the item becomes a part of the building or the immovable property.*

Allahabad HC does not interfere with Order passed without granting hearing opportunity

Modern Steel vs. Additional Commissioner and Another

WRIT TAX No. 1192 of 2023

The Petitioner had filed an Appeal against an order passed against him, demanding interest and imposing penalty. The said Appeal was dismissed on the ground of delay. Aggrieved, the Petitioner preferred a Writ before the Allahabad High Court, arguing that no opportunity of personal hearing, as mandated u/s. 75(4) of the CGST Act, was given before final order was passed. The Petitioner further contended the rejection of the appeal on the ground of delay by relying on the amnesty scheme introduced through the 52nd Meeting of the GST Council, which allows filing of Appeals till January 31, 2023 in case where orders have been passed on or before March 31, 2023.

The HC held that Section 75(4) of the CGST Act only provides for an opportunity of hearing where a request is received in writing from the Assessee. In the instant case, the Petitioner had not neither replied to the SCN nor attended the hearing, accordingly, provisions of Section 75(4) of the CGST Act would not be attracted.

As regards the limitation period, the HC held that since the period of limitation for filing appeal against the order has been extended, the matter is remanded back to the Appellate Authority to examine the question of limitation and to pass afresh order in view of amnesty scheme of the GST Council. However, the Hon'ble HC did not interfere in the notice as well as consequential order passed by the Assessing Authority.

Authors' Notes:

The HC has correctly has correctly upheld the Revenue's decision in as much as the Petitioner had neither furnished a reply to the notice nor prayed for a hearing opportunity. However, it is interesting to note that while filing the reply on the GSTN portal, the default option for hearing is kept as 'No.' Thus, in case the assessee has not prayed for a hearing opportunity in writing and does not deselect the 'No' option on the GSTN portal, the order could be passed without hearing opportunity.

Penalty not imposable in absence of intention to evade taxes

Vacmet India Limited vs. Additional Commissioner Grade -2 (Appeal) and Another

WRIT TAX No. 687 of 2019

The Department had detained the Petitioner's vehicle along with the Goods on the sole ground that Part B of the E-way Bill was not filled up. The Petitioner had been served with an SCN proposing imposition of tax along with the penalty, which was confirmed by an order, and upheld by the Commissioner (Appeals). Aggrieved, the petitioner preferred a Writ before Allahabad HC.

The Petitioner argued that the goods in question were raw materials, which were transported from manufacturing unit to another unit as stock transfer. The Petitioner further added that there was no element of any evasion of tax as there is no liability of tax. The HC observed that the said goods were accompanying with stock transfer challan, the consignment note, in which no discrepancy was pointed out by the authority. The HC further held that since the goods in transit were not liable for payment of tax, no evasion of tax could be attributed. Accordingly, in absence of intention to evade payment of tax, the entire proceedings initiated against the petitioner was unsustainable.

Authors' Notes:

Under the previous indirect tax laws, it was a settled principle that mens rea i.e., guilty mind, is necessary for imposition of penalty. However, with the advent of GST, this settled principle of law has been disturbed. It would be pertinent to note that Section 135 of the CGST Act presumes mens rea on part of the assessees for the imposition of penalties and the onus is on the assessee to prove otherwise. This is a controversial provision which is likely to be challenged in the future.

Delhi HC: Amendment to Rule 89(4)(C) of the CGST Rules is not retrospective

Indian Herbal Store Private Limited vs. Union of India & Ors.

W.P.(C) 9908/2021 and CM No. 34717/2021 And W.P.(C) 9912/2021 and CM No. 34752/2021

The Petitioner's claim for refund of accumulated unutilized ITC on export of goods for the period 2018-19 was rejected inter alia on the ground that the computation of the eligible export turnover was not in compliance with Rule 89(4)(C) of the CGST Rules. Aggrieved, the Petitioner preferred a Writ before Delhi HC challenging the constitutional vires of Rule 89(4)(c).

The HC while dealing with the Constitutional validity of the said rule, held that the amendment of Rule 89(4)(C) of the CGST Rules has already been struck down by the Karnataka High Court in **Tonbo Imaging India Pvt. Ltd. v. Union of India and Ors [WRIT PETITION NO. 13185 OF 2020 (T-RES)]** case. Thus, as on date, the amended provisions are non-existent. It was further held that it is well settled that if a statute or a statutory position is struck down as ultra vires, it relates back to the date on which it was promulgated.

Telangana AAR rules that ITC upon distribution of gifts under Promotion Schemes is available

Orient Cement Limited

TSAAR Order No. 20/2023

The Applicant in its regular course of business incurs various marketing and distribution expenses for brand promotion to enhance its sales. In respect thereto, the Applicant had sought an advance ruling to inter alia ascertain the eligibility of ITC on gold coins and white goods distributed to the dealers under various promotional schemes.

The AAR observed that the consideration is the monitory value of the act of attaining a level of business indicted in the incentive scheme by the Applicant. Since, the Applicant is inducing his dealers / stockiest to attain a particular level of business as a consideration for the goods to be supplied by him, the said transaction is considered as supply and therefore taxable. Further, the value of the goods supply is determined u/s. 15 of the GST Act r/w Rule 30 of the CGST Rules. The AAR further ruled that since, the transaction is taxable as supply of goods therefore the same is eligible for ITC.

GOODS & SERVICES TAX
From the Legislature

Sr. No	Notification/ Circular	Summary
1.	**Notification No. 52/2023 – Central Tax dated October 26, 2023**	**CBIC amends Rule 28(2) of CGST Rule pertaining to valuation of Corporate Guarantee provided to related persons** CBIC has amended Rule 28 of CGST Rules by introducing the Rule 28(2). The new rule specifically addresses the valuation of services provided in the form of corporate guarantee to a related person. As per the said Rule, the value of such services is considered to be 1% of the guarantee amount or the actual consideration, which is higher.
2.	**Advisory No. 606 dated October 06, 2023**	**GSTN Advisory on New Compliance Procedure for Handling ITC Mismatches in GSTR-2B and GSTR-3B** The GSTN has issued advisory in respect of the introduction of Compliance Pertaining to DRC-01C (Difference in Input Tax Credit (ITC) available in GSTR-2B & ITC claimed in the GSTR-3B). The recently implemented Rule 88D, following Notification No. 38/2023 dated August 04, 2023 , is now operational on the GST portal. The system now compares the ITC available as per GSTR-2B/2BQ with the ITC claimed as per GSTR-3B/3BQ for each return period. If the claimed ITC exceeds the ITC available as per GSTR-2B by predefined limits, as directed by competent authority, the taxpayer shall receive an intimation in the form of Form DRC-01C. Taxpayers must respond using Form DRC-01C Part B, providing payment details through Form DRC-03 or explaining the difference using options in the form, or a combination of both. In case, no response is filed the taxpayers will not be able to file their subsequent period GSTR-1/IFF.
3.	**Circular No. 204/16/2023-GST dated October 27, 2023**	**Clarification pertaining to the taxability of personal guarantee and corporate guarantee** The CBIC has issued a clarification that providing corporate or personal guarantees by directors to banks or financial institutions to secure credit facilities for their companies is considered a supply of service, even if done without any consideration. The taxable value for this service will be the open market value, and it will be determined according to Rule 28(2) of the Central Goods and Services Tax Rules, 2017. This means that the value for GST purposes will be based on market rates rather than being treated as a zero-value supply.

Sr. No	Notification/ Circular	Summary
4.	**Notification No. 05/2023 – Integrated Tax dated October 26, 2023**	**CBIC Issues Notification to Allow Supplies Made to SEZ Units/ Developers on Payment of IGST** The CBIC has issued a notification allowing suppliers to supply the goods and services to SEZ units and developers with an option to supply with payment of IGST. Now, all goods and services can be supplied to SEZ units and developers with or without payment of IGST , except for specified items like tobacco and similar items, where an option to supply with payment of IGST and claim the refund of the same has been withdrawn.
5.	**Circular No. 202/14/2023-GST dated October 27, 2023**	**Clarification regarding admissibility of export remittances received in Special INR Vostro account** The CBIC has provided clarification regarding the payment of export proceeds to Indian exporters for export of services. When exporters receive payments in INR from Special Rupee Vostro Accounts held by correspondent banks of partner trading countries and opened by AD banks, it will be considered as meeting the conditions specified in sub-clause (iv) of clause (6) of section 2 of the IGST Act. This clarification is subject to compliance with the conditions and restrictions outlined in the Foreign Trade Policy, 2023, and the relevant RBI Circulars. It is important to note that this clarification does not affect any other permissions or approvals required by other applicable laws.
6.	**Circular No. 203/15/2023-GST dated October 27, 2023**	**Clarification Regarding Determination of POS for Services of Transportation of Goods** The CBIC has issued a clarification regarding the determination of the place of supply for place of supply in case of service of transportation of goods, including through mail and courier, in cases where location of supplier of services or location of recipient of services is outside India. The clarification specifies that the default rule under section 13(2) of the IGST Act will be used to determine the place of supply, rather than the performance-based services rule under section 13(3). In cases where the location of the service recipient is known, the place of supply will be the location of the service recipient. However, if the location of the service recipient is not available in the ordinary course of business, the place of supply will be the location of the service provider. The place of supply of service provided by way of sale of space on hoarding/ structure for advertising or for grant of rights to use the hoarding/ structure for advertising in this case would be the location where such hoarding/ structure is located.

CESTAT holds that absence of Dumping finding precludes imposition of ADD

Century Plyboards Limited

Customs Appeal No. 11051 of 2015-DB

The Department had denied the Appellant's refund claim for ADD paid on clearances made during April 2010 to February 2012. The Department had issued findings recommending the imposition of ADD on phenol originating from Korea, Taiwan, or the USA. However, later findings by the Department suggested lower dumping margins and no injury for phenol imported from Taiwan or the USA during the period of investigation from January 2010, to December 2010.

The CESTAT held that Department's order was solely based on the interpretation of the notification phrase and denied the refund claim on this basis. It was held that such an interpretation contradicted the scheme of ADD laws, where ADD should only be imposed when there is a positive finding on dumping that causes injury to the local market. It was further held that preserving the authority to levy duty in cases where there was an omission to impose duty went against the scheme of anti-dumping laws and violated constitutional provisions.

Mens Rea required for imposition of penalty u/s. 112(a) of the Customs Act

Rajeev Khatri

2023-TIOL-769-HC-DEL-CUS

It had been alleged that the goods imported by the Appellant were prohibited goods and were illegally imported. It was further alleged that the Appellant was 'aware of the things which led to irregular filing of the Bill of Entry for the illegal imports made' and therefore, was subjected to a penalty equivalent to 25% of the maximum penalty leviable under Section 112 of the Customs Act.

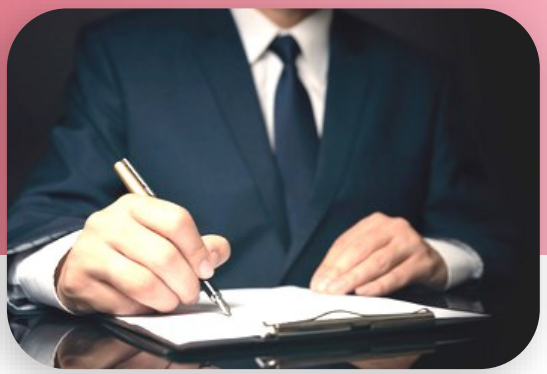
The Delhi HC observed that the Revenue did not contest the finding of the Tribunal that no case of connivance had been made out against the appellant and that he had no knowledge that the goods sought to be imported were prohibited and their import was illegal. Accordingly, the principle question to be addressed was whether a person, who has no knowledge that the goods imported are liable for confiscation, can be mulcted with penalty under Section 112(a) of the Customs Act for abetting such an offence –

The HC held that the use of the expression 'abet' in Section 112(a) of the Customs Act, makes it implicit that the person charged, who is alleged to have abetted the acts of omission or commission, has knowledge and is aware of the said acts. Accordingly, in the context of Section 112(a) of the Customs Act, by definition, the expression 'abet' means instigating, conspiring, intentionally aiding the acts of commission or omission that render the goods liable for confiscation. Therefore, it is apparent that the knowledge of a wrongful act of omission or commission, which rendered the goods liable for confiscation under Section 111 of the Customs Act, is a necessary element for the offence of abetting the doing of such an act.

CUSTOMS & FTP
From the Legislature

Sr. No	Notification /Circular	Summary
1.	**Trade Notice No. 29/2023-24 dated October 13, 2023**	**DGFT announces Two-Week Export Obligation Discharge Certificates Camp for Pending Applications** The DGFT vide Trade Notice dated 13.10.2023 has announced a two-week Export Obligation Discharge Certificates (EODC) camp for pending applications. The camp will be held from November 13, 2023 to November 24, 2023. The purpose of the camp is to expedite the processing of pending applications for EODCs for Advance Authorisations and EPCG. Exporters with pending EODC applications are advised to participate in the camp and ensure the disposal of un-redeemed licenses. In accordance with Trade Notice 28/2021-22 dated December 31, 2021, and Trade Notice 01/2023-24 dated April 06, 2023, the following points are reiterated for due compliance: • For applications which were previously submitted by physical files, the Regional Authority (RA) should generate EODC letters online by navigating to License Room, selecting the relevant License number, and clicking the "EODC Status Update" button. • In cases where the authorisation was redeemed earlier but not updated by the RA online, specific steps should be followed to ensure that the authorisation status is correctly updated in the online systems. • Alternatively, AA/EPCG Authorisation holders can submit an EODC status update application by navigating to DGFT website → Services → AA / EPCG → EODC Status update. • Both the RA and the exporter are responsible for ensuring that the status of all redeemed AA/EPCG authorisations is accurately updated in the DGFT online systems. • EODCs issued online are transmitted electronically to the Customs ICEGATE System in near real-time to facilitate the discharge of Customs bonds and other related activities at the Customs port. • No EODC should be issued manually or through legacy IT systems. All MIS reports should be generated by the RA based on updated online data.

REGULATORY
From the Judiciary



SC holds RP should maintain neutral stand, rejects appeals filed by Corporate Debtor's RP

Regen Powertech Pvt. Ltd. vs. Giriraj Enterprises & Anr.

Civil Appeal No(s). 5985-6001 of 2023

In the instant case the RP of the Corporate Debtor filed an appeal before the SC challenging an order passed by the NCLAT. The SC held that the RP should not have filed the appeal and should have maintained a neutral stand and it was for the aggrieved parties, including the CoC of the Corporate Debtor to take appropriate proceedings or file an appeal before this court, accordingly, dismissing the appeal as 'not entertained', and further holding that if required and necessary, the court could take assistance and ascertain the facts from the RP, in case an appeal(s) was preferred by the CoC or a third party, the SC disposed of the matter.

HC dismisses Corporate Debtor's ex-Director's plea seeking protection as 'victim' under PMLA

Naresh Sundarlal Jain vs. Udaipur Entertainment World Pvt.Ltd.

Writ Petition No. 11982 of 2023

The Petitioner was the ex-director of the Corporate Debtor (Respondent) who had filed a writ petition before the HC praying for confirmation of the attachment order vacated by NCLT under PMLA which had attained finality, so that his interest under PMLA as a 'victim' would be protected. Before the HC, the Petitioner submitted that his interest was jeopardized as he had invested a huge sum of money by lending it to the Corporate Debtor in the project at Udaipur and since the order attaching property under PMLA had been vacated by the NCLT, there was no protection granted to the Petitioner despite the fact that he stood in the same category as the home buyers. Further, the Petitioner averred that he was not a party before the NCLT proceedings approving the resolution plan of the Corporate Debtor and the statutory remedy of appeal provided under Section 61 of the IBC had been rendered illusory.

On the other hand, Before the HC, the Respondent argued that if passing of the NCLT order was within the knowledge of the Petitioner, the right of statutory appeal could not be rendered illusory, since the Petitioner was not a person who could have said to have remained in the dark all throughout about passing of the order by the NCLT, when one of the other ex-directors of the Corporate Debtor had belatedly filed an appeal under Section 61 of the IBC before NCLAT. Noting that the Petitioner was no more than a lender to the Corporate Debtor and that there was no allotment/agreement in favor of the Petitioner unlike the home buyers who had a security interest defined under Section 2(31) of the IBC by allotments made for sale of flats, the HC observed that mere lending of money without any security created for repayment of loan, would not create any security interest, therefore, the Petitioner could only be treated as an unsecured creditor.

Further, the NCLT order which had attained finality could not be interfered with and in the name of invocation of extraordinary jurisdiction under Article 226 of the Constitution, the court could not permit a party to achieve something indirectly which he could not secure through direct means, and which could

not be done even otherwise by the SC under its plenary powers of Article 142 of the Constitution. Accordingly, finding no merit in the writ petition filed by the Petitioner, the HC dismissed the same.

SC holds no vicarious liability on firm's ex-partner when cheque issued much after retirement

Siby Thomas vs. Somany Ceramics Ltd.

SLP (Crl.) 12 of 2020

The Appellant was an ex-partner of Somany Ceramics Ltd. (Respondent), a partnership firm, who had filed an appeal before the SC against an HC order refusing to quash the complaint under Section 138 read with Section 141 of the NI Act filed by the Respondent on the ground that he was a partner of the firm which issued the cheque. Noting that the Appellant retired from the partnership firm much prior to the issuance of the cheque, so the question, therefore, was whether the averments referred to, were sufficient to prosecute the Appellant under Section 138 of the NI Act, the SC observed that it was not averred anywhere in the complaint that the Appellant was in charge of the conduct of the company business at the time of the commission of offence, since the complaint did not disclose any clear and specific role of the Appellant. Moreover, merely because somebody is managing the affairs of the company, per se, he would not become in charge of the conduct of company business.

Further, the SC observed that it was evident that a vicarious liability would be attracted only when the ingredients of Section 141(1) of the NI Act were satisfied and it was the primary responsibility of the complainant to make specific averments in the complaint, so as to make the accused vicariously liable and only that person who, at the time the offence was committed, was in charge of and was responsible to the company for the conduct of the business of the company, as well as the company alone could be deemed to be guilty of the offence and be liable to be proceeded against and punished. However, since the averments in the complaint were insufficient to attract the provisions under Section 141(1) of the NI Act, to create vicarious liability upon the Appellant, he was entitled to succeed in this appeal. Thus, finding that the Appellant had made out a case for quashing of the complaint, the SC set aside the order of the HC and allowed the appeal.

SC holds orders extending limitation during COVID also apply to condonable delay period

Aditya Khaitan & Ors. vs. IL&FS Financial Services Ltd.

Civil Appeal No(s). 6411-6418 of 2023

The Appellant had filed an appeal against the order of the HC which in the year 2021 refused to take on record the written submissions of the Appellant in a civil suit for recovery of money, filed in the year 2020 by the Respondent on the ground, that the time for filing the response had expired in March 2020 ie. 30 days from the issue of summons. Before the SC, the Respondent contended that the legal maxim "Vigilantibus non dormientibus jura subveniunt" which stated that the law assisted only those who were vigilant and not those who slept over their rights, would apply in the present case and placing reliance on the SC ruling in Safguna Ahmed[(2021) 2 SCC 317] contended that the orders of the SC under Article 142 of the Constitution of India extended only "the period of limitation" and not the period up to which delay could be condoned and therefore, the applications for taking on record the written statements could not be entertained.

The SC observed that the legal maxim "Vigilantibus non dormientibus jura subveniunt", could not be

applied, given that the whole world was in the grip of a devastating pandemic when the delay occurred. Moreover, the subsequent suo motu order passed by it in September 2021 nullified the ruling in Sagufa Ahmed[supra] and effectively extended both the period of limitation as well as the condonable delay period, therefore, the time within which the Appellants could file their written submissions which could be condoned, was also extended. Thus, directing the written statements filed to be taken on record, the SC set aside the order of the HC and allowed the appeal.

SC holds homebuyers with RERA decrees cannot be treated differently from other allottees, financial-creditors

Vishal Chelani & Ors. vs. Debashis Nanda

Civil Appeal No. 3806 of 2023

The Appellants were homebuyers that had filed an appeal before the SC challenging the NCLAT order which held that as a beneficiary of a decree by the UP RERA, the order of the RP (Respondent) proposing to treat the Appellants differently from other homebuyer allottees, did not call for interference. Before the SC, the Appellants submitted that having regard to the definition of financial debt under Section 5(8)(f) of the IBC, after which allottees in real estate projects also fell within the broad description of 'financial creditors', a distinction could not be made between one set of such homebuyer allottees and another. On the other hand, the Respondent submitted that having approached the UP RERA, they fell into a different sub-class of home buyers, who were entitled to specified amounts and, therefore, were unsecured creditors, as compared with allottees who had not invoked RERA remedies as they had relinquished their rights under Section 18 of the RERA Act.

The SC observed that an allottee in a real estate project, who subsequently became a decree-holder under the RERA Act, continued to be a creditor in the class of home-buyers and rejected the RP's view that once an allottee sought remedies under RERA, and opted for return of money in terms of the order made in his favor, it was not open for him to be treated in the class of homebuyers, holding the distinction made by the RP to be artificial and amounting to "hyper- classification" and falling afoul of Article 14 of the Constitution which could not be admitted. Moreover, to treat a particular segment of homebuyers differently, on the ground that one or some of them had elected to take back the deposits, would be highly inequitable. Thus, holding that the Appellants were declared as financial creditors within the meaning of Section 5(8)(f) of the IBC and entitled to be treated as such along with other homebuyers/financial creditors for the purposes of the resolution plan, the SC setting aside the order of the NCLAT, allowed the appeal.

NFRA penalises CA for failure to exercise due-diligence in auditing provisioning of "potentially doubtful" land-advances

In the matter of CA Supreet Sachdev

Order No. 58 of 2023

The NFRA initiated action under Section 132(4) of the Companies Act on a CA, who was also the EP for the statutory audit of one Sobha Ltd. (Company) for FYs 2017-18 and 2018-19, pursuant to information received from SEBI. During the investigation, the NFRA found that the EP did not comply with various provisions of the Standard on Auditing as he failed to report on the uncertainty about recovery of unsecured land advances amounting to INR 1843.13 Crores with no marketable title to the land and some of which also being under litigation even after identifying the weakness in the internal controls over the advances for which no

ageing schedule was maintained, no monitoring was carried out and no confirmations were obtained by the Company. The EP had also not reported non-provisioning against the amounts due from certain individuals and the security deposits given to certain other individuals and did not obtain sufficient appropriate audit evidence in respect of these transactions, even though the EP was aware that the transactions were being enquired into by SEBI. Further, the EP did not comment, in its Independent Auditor's Report for FY 2018-19, on the issues raised by SEBI either through qualification or through Emphasis of Matter.

Therefore, based on the investigation conducted by NFRA and the related proceedings under Section 132 (4) of the Companies Act and after giving the EP adequate opportunity to present his case, the NFRA imposed a monetary penalty of INR 5 Lakhs on the EP on account of professional misconduct.

HC rejects cessation of directorship plea given non-acceptance of resignation by Board of Directors

Naveen Bhatnagar vs. Sudarshan Consolidated Ltd.

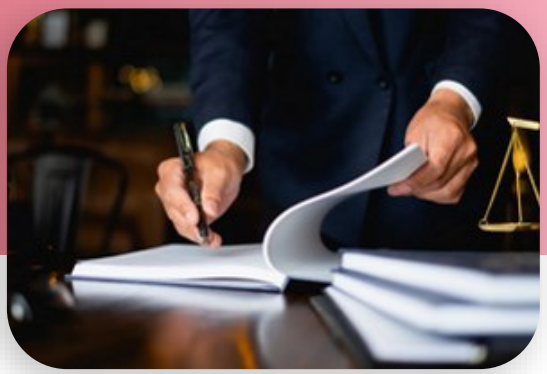
CP No. 3 of 2013

The Appellant was the ex-director of the Respondent that had sought directions by the CLB upon the Respondent to submit his Form-32 with the RoC, which was declined by the CLB and instead it was held that the Appellant had automatically ceased to be a director in terms of Section 283(1)(g) of Companies Act, 1956 with effect from a later date than the one on which the resignation letter tendered by the Appellant was approved by one of the other directors, on the ground that he had not attended the Board meetings. Aggrieved, the Appellant filed an appeal before the HC against the CLB order contending that the CLB had failed to take note of his resignation letter and that once the Respondent admitted the receipt of resignation letter from the Appellant and conveyed to him its acceptance, there was no reason for the Respondent not to submit Form 32 in due course of time as the moment resignation was tendered by him, the same would take effect.

On the other hand, the Respondent submitted that it had been its consistent stand that the resignation letter was never considered by the Board of Directors and therefore, there was no question of its acceptance by the CLB. Noting that the scope of interference by the HC in an appeal under Section 10F of the Companies Act, 1956, was limited to examining substantial questions of law, the HC observed that the only question of law that arose for determination was as to when resignation tendered by a director would take effect and clauses 95 & 96 of the Articles of Association clearly stated that the office of a director would become vacant on resignation by notice in writing and its acceptance by the Board of Directors, however, as the letter of resignation was never placed before the Board of the Respondent nor was it accepted by the CLB, the Appellant's contention that the moment resignation was tendered by him, the same would take effect, was not tenable and therefore the CLB was right in holding that the resignation of the Appellant would take effect only if his letter of resignation was considered and accepted by the Board of Directors, which in the instant case, had not been done.

Thus, finding no grounds to interfere with the well-reasoned and lucid order passed by the CLB, the HC held the appeal to lack merit and dismissed the same accordingly.

REGULATORY
From the Legislature



SEBI relaxes certain provisions of the LODR Regulations for listed entities that have listed their specified or non-convertible securities on stock exchanges

Circular No. SEBI/HO/DDHS/P/CIR/2023/0164 dated October 06, 2023 & Circular No. SEBI/HO/CFD/CFD-PoD-2/P/CIR/2023/167 dated October 07, 2023

SEBI issues circulars providing relaxation to listed entities that have listed their specified or non-convertible securities on stock exchanges from certain provisions of the LODR Regulations. Some of the key relaxations mentioned in the circulars are as follows: -

- **Relaxations applicable to listed entities that have listed their specified securities on the stock exchanges**: As per Regulation 36(1)(b) of the LODR Regulations, listed entities must dispatch a hard copy of the statement containing the salient features of all the documents as prescribed under Section 136 of the Companies Act or the Rules made thereunder to shareholders who have not registered their email address with the listed entity or depository. In this regard, these listed entities have been provided relaxation from the aforesaid provisions until September 30, 2024. Moreover, the listed entities also need not send proxy forms as required under Regulation 44(4) of the LODR Regulations regarding general meetings held electronically until September 30, 2024. However, the listed entities must send a hard copy of their full annual reports to shareholders who have requested the same.

- **Relaxations applicable to listed entities that have listed their non-convertible securities on the stock exchanges**: As per Regulation 58(1)(b) of the LODR Regulations, entities that have listed their non-convertible securities on the stock exchanges must send a hard copy of the statement containing the salient features of all the documents as specified in Section 136 of the Companies Act and the Rules made thereunder to the holders of non-convertible securities who have not registered their email address with the listed entity or depository. In this regard also, SEBI has provided relaxations to the listed entities from the aforesaid provisions until September 30, 2024.

These relaxations have been granted by SEBI to address the issues and hassles pertaining to printing and physical dispatch of annual reports and other statutory documents to the security holders and also reduce the compliance costs for listed entities.

SEBI amends LODR Regulations requiring top 250 listed companies to promptly address media rumors on specific material events with effect from the date specified by SEBI

Notification No. SEBI/LAD-NRO/GN/2023/155 dated October 09, 2023

SEBI notifies an amendment in the proviso to Regulation 30(11) of LODR Regulations. As per the amendment, the top 100 listed entities starting from October 1, 2023 and subsequently the top 250 listed companies must confirm, deny or clarify any market rumors with effect from the date specified by SEBI.

Before the amendment, the listed company had the discretion to either confirm or deny any market rumor concerning it. Earlier, market rumours in the Indian market were dealt with in two ways – either the entities under the Indian market could proactively confirm or deny any event or information to the stock exchange based on their discretion, or the stock exchange could assert its role by requesting the entities to provide clarifications on the reported event or information.

SEBI revises the fund-raising framework for issuance of debt securities by large corporates

Circular No. SEBI/HO/DDHS/DDHS-RACPOD1/P/CIR/2023/172 dated October 19, 2023

With a view to ease the doing business and development of the corporate bond markets, SEBI releases a circular for the revision of the framework for fund raising by issuance of debt securities by large corporates, or LCs. The large corporates include all listed entities (barring the scheduled commercial banks) which have their specified securities or debt securities, or non-convertible redeemable preference shares listed on a stock exchange and have outstanding long-term borrowings of INR 1,000 Crores or above.

Regulation 50B of the NCS Regulations read with Chapter XII of the NCS Master Circular dated August 10, 2021, on 'Fund raising by issuance of debt securities by large corporates' mandates large corporates to raise a minimum of 25% of their incremental borrowings in a FY through issuance of debt securities that are to be met over a contiguous block of three years from FY 2022 onwards. The large corporates will endeavor to comply with the requirement of raising 25% of their incremental borrowings done during FY 2022, FY 2023, FY 2024 respectively by way of issuance of debt securities till March 31, 2024, failing which such large corporates will provide a one-time explanation in their annual report for FY 2024.

At the end of three years, if there is a surplus in the requisite borrowings, there will be reduction in the annual listing fees of the financial year pertaining to debt securities or non-convertible securities and if there is a shortfall in the requisite borrowings, a dis-incentive in the form of additional contribution to the core securities guarantee fund will apply.

The new framework regulations will come into effect from April 1, 2024, onwards for the large corporates that follow the April-March cycle as their FY and it will apply from January 1, 2024, for the large corporates which follow the January-December cycle as their FY.

SEBI has further clarified that the circular will come into effect with immediate effect and will replace the present chapter XII of the NCS Master Circular dated August 10, 2021, with effect from FY 2025.

RBI amends Master Direction on KYC requiring banks to adopt risk-based approach for KYC

Notification No. RBI/2023-24/69 dated October 17, 2023

The RBI tightens the customer due diligence norms by asking banks and regulated entities to adopt a risk-based approach for periodic updation of KYC by amending the Master Direction on KYC which require the regulated entities to undertake customer due diligence as per the process for their customers.

The amendment to the Master Direction on KYC follows the latest government instructions related to the PML Rules, UAPA, and WMD Act. The RBI has also updated certain instructions in accordance with the FATF recommendations. Some of the key changes brought about by the amendment to the Master Direction on KYC are as follows:

- The regulated entities are now required to adopt a risk-based approach for periodic updation of KYC ensuring that the information or data collected under customer due diligence is kept up-to-date and relevant, particularly where there is high-risk.
- Strict compliance of the instructions on opening accounts and monitoring of transactions is now mandatory in order to minimize the operations of "Money Mules", which are used to launder the proceeds of fraud schemes (like, phishing and identity theft) by criminals, who gain illegal access to deposit accounts.
- Banks are now required to undertake diligence measures and meticulous monitoring to identify accounts, which are operated as Money Mules and take appropriate action, including reporting of suspicious transactions to Financial Intelligence Unit – India.

The amendment to the Master Direction on KYC also widens the definition and scope of customer due diligence and come into force with immediate effect.

MCA integrates with NSWS for the Incorporation of Companies and LLPs

MCA Notification dated October 23, 2023

The MCA notifies its integration with the NSWS for the incorporation of companies and LLPs. The NSWS allows securing government approvals without having to go to individual ministries or to states. This portal hosts applications for approvals from 31 Central Government Departments and 22 State Governments. Accordingly, the incorporation service can now be availed from both the NSWS portal and the MCA21 portal.

This portal is aimed at providing guidance to entrepreneurs with respect to the central and state government approvals required by businesses they are proposing to start and they are proposing to allow entrepreneurs to apply for the same through the NSWS portal.

Finance Ministry notifies PML (Maintenance of Records) Third Amendment Rules, 2023.

Notification No. G.S.R. 745(E) dated October 17, 2023

In a bid to combat money laundering and terrorism financing, the Finance Ministry notifies the PML (Maintenance of Records) Third Amendment Rules, 2023 to amend the PML (Maintenance of Records) Rules, 2005. The key highlights have been encapsulated below: -

- The reporting entities are now required to verify the identity of their clients and beneficial owners by "using reliable and independent sources of identification at the time of commencement of an account-based relationship or while carrying out transactions of an amount equal to or exceeding INR 50,000, whether conducted as a single transaction or several transactions that appear to be connected, or any international money transfer operations and also take "reasonable steps" to determine the nature of the customer's business.
- If the reporting entity relies on a third party for client verification under Rule 9(1)(a) of the PML (Maintenance of Records) Rules, 2005, the reporting entity is obligated to "immediately" obtain the record or information of such due diligence (carried out by the concerned third party) from the third party itself or the Central KYC Records Registry. Before the amendment, the reporting entities had to

acquire the said information within 2 days.

- The client due diligence programme framed by the reporting entities under the PML (Maintenance of Records) Rules, 2005 should have regard to money laundering, terrorist financing risks and the size of the client's business.
- As per Rule 3A (1) of the PML (Maintenance of Records) Rules, 2005, a reporting entity which is part of a group is required to implement group-wide programmes against money laundering and terror financing. These programmes are expected to include safeguards to maintain confidentiality, prevent tipping off, etc.
- The information pertaining to suspicious transactions carried out through any of the modes under Rule 3(1)(D) of the PML (Maintenance of Records) Rules, 2005 has to be promptly shared with the Director. Earlier, the said information had to be communicated within 7 working days under Rule 8(2) of the PML (Maintenance of Records) Rules, 2005.
- The insertion of sub-rule (6) in Rule 8 of the PML (Maintenance of Records) Rules, 2005 seeks to ensure the confidentiality of the records maintained under Rule 3 of the PML (Maintenance of Records) Rules, 2005 and the information shared with the Director under Rule 8 of the PML (Maintenance of Records) Rules, 2005

INTERNATIONAL DESK

UAE: Federal Tax Authority Releases UAE Transfer Pricing Guide

- The UAE Federal Tax Authority (FTA) has been gradually releasing informational materials on different aspects of the UAE Corporate Tax Law. In its most recent publication dated October 23, 2023, the FTA issued a comprehensive Transfer Pricing Guide (referred to as the 'UAE TP Guide').
- This UAE TP Guide provides valuable insights and practical examples regarding various elements of the UAE Transfer Pricing (TP) framework. These include the application of the arm's length principle, documentation requirements, considerations for specific types of transactions such as financial transactions, intra-group services, intangibles, and cost contribution arrangements. It also addresses Transfer Pricing audits and risk assessments. Importantly, the UAE TP Guide incorporates guidance from the 2022 OECD TP Guidelines.
- For UAE taxpayers, the primary references for navigating Transfer Pricing matters should be the Corporate Tax Law and the UAE TP Guide. In cases where specific aspects or issues are not covered by these documents, it is advisable for UAE taxpayers to consult the OECD TP Guidelines. It's important to highlight that even though the UAE TP Guide lacks legal binding, it will be the primary reference for addressing matters related to Transfer Pricing guidance.

Thailand: New Tax Incentives For Digital Investment Tokens In Thailand

The Royal Decree, enacted under the Revenue Code B.E. 2481 (1938), titled "Exemption from Taxes (No. 779) B.E. 2566" and effective as of August 16, 2023, introduces significant exemptions from corporate income tax and value-added tax for certain transactions involving digital tokens used for investment purposes. These digital investment tokens are specifically defined as tokens that provide their holders with the right to invest in a project or business, with the promise of receiving a portion of revenue or profits as a return on their investment.

Prior to this Decree, transfers of such digital investment tokens were subject to taxation, unlike transfers of securities. By implementing these corporate income tax and value added tax exemptions, the Decree aims to encourage the use of digital investment tokens as a novel fundraising tool.

The exemptions apply to companies and registered partnerships that lawfully issue and offer digital investment tokens for sale to the public in the primary market. Qualifying entities, including registered

partnerships should they be included in future legal changes, must adhere to the specific criteria, methods, and conditions set forth by the Director-General of the Revenue Department.

In the secondary market, any transfers of digital investment tokens to third parties are now exempted from value added tax. This exemption applies to both individuals and legal entities and has been in effect since May 14, 2023.

US-Taiwan Double Taxation Relief Deal Attracts Investors' Interest

The US-Taiwan Expedited Double-Tax Relief Act, aimed at eliminating double taxation between the United States and Taiwan. This legislation is designed to bolster investments in critical sectors, particularly the semiconductor industry. A key focus for taxpayers and Taiwan residents involved in activities and investments in the US is the dividend provisions in the agreement. The bill lowers the withholding tax rate on dividends sourced from the US, which are paid to or received by eligible residents of Taiwan, from 30% to 15%. This change has a substantial positive impact on Taiwanese funds that invest in US stocks, leading to a 50% decrease in the tax imposed on dividends earned from these shares.

The proposed legislation also offers clear guidelines concerning the taxation of wages for employees from the US or Taiwan when they engage in work-related travel or temporary assignments. According to this legislation, qualified residents of Taiwan who render services in the US will not be subjected to US taxes on specific portions of their earnings.

The Joint Committee on Taxation anticipates that, from 2023 to 2033, this bill will not affect federal fiscal year revenues. The Committee has already given its approval to the bill, moving it forward for consideration by the entire Senate. The provisions of this legislation will become effective upon its enactment, subject to confirmation by the US Treasury Secretary that Taiwan has reciprocally extended benefits to US individuals.

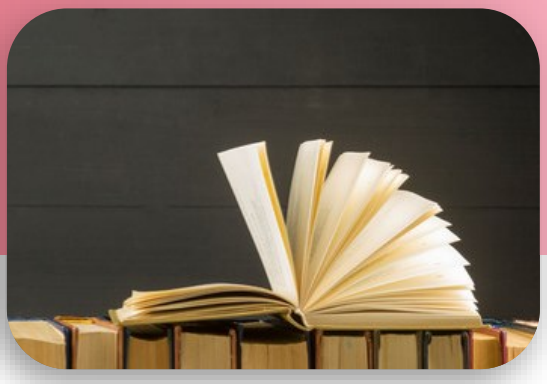
New Multilateral Tax Treaty Implements the Subject to Tax Rule

Since October 2021, a coalition of more than 135 jurisdictions has collaborated on an innovative plan to address specific tax challenges arising from the ever-evolving digital and global economy. This plan introduces a Two-Pillar Solution designed to modernize critical elements of the international tax system. Pillar Two, a central component of this comprehensive strategy, involves the establishment of a global minimum tax and the introduction of a novel "subject to tax" rule.

The OECD has recently unveiled the Multilateral Convention, designed to streamline the implementation of the Pillar Two Subject to Tax Rule. This development emerged from negotiations within the OECD/G20 Inclusive Framework, concluding in September 2023. The convention simplifies the integration of the subject to tax rule into existing bilateral tax treaties, eliminating the need for individual negotiations between nations. Under the subject to tax rule, source jurisdictions gain the authority to reclaim their taxation rights over specific payments made by certain legal entities to their "connected persons," provided these payments are subject to a tax rate below 9 percent in the resident jurisdiction.

Pillar Two, encompassing the Global Anti-Base Erosion Model Rules (GloBE) and the new subject to tax rule, ensures that multinational enterprises face a minimum tax on their income in each jurisdiction where they operate. This treaty-based rule has the potential to protect the taxation rights of developing nations, especially regarding intragroup payments subject to a corporate income tax rate below the specified minimum. The new multilateral instrument offers an efficient means for countries like Mexico to incorporate these subjects to tax rules into their existing bilateral tax treaties.

GLOSSARY



Abbreviation	Meaning
AA	Adjudicating Authority
AAAR	Appellate Authority for Advance Ruling
AAR	Authority for Advance Ruling
ADD	Anti-Dumping Duty
ADG	Additional Director General
AE	Associated Enterprises
AGM	Annual General Meeting
AICD	Agriculture Infrastructure and Development Cess
AIF	Alternative investment Fund
AIFs	Alternative Investment Funds
ALP	Arm's length price
AMCs	Assets Management Companies
AMT	Alternate Minimum Tax
AO	Assessing Officer
AOP	Association of Persons
APA	Advanced Pricing Agreement
ARE	Alternate Reporting Entity
ASBA	Application Supported by Blocked Amount
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
BPSL	Bhushan Power Steel Limited
CA	Chartered Accountant
CAG	Comptroller and Auditor General of India
CASS	Computer Assisted Scrutiny Selection
CAT	Common Aptitude Test
CAVR 2023	Customs (Assistance in Value Declaration of Identified Imported Goods) Rules, 2023
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
CBLR	Custom Broker Licensing Regulations
CCIT	Chief Commissioner of Income tax
CG	Central Government
CGST Act	Central Goods and Services Act, 2017
CIT	Commissioners of Income Tax
CLB	Company Law Board
CPC	Centralized Processing Centre
Cus	Customs Act, 1962
CVD	Countervailing Duty
DDT	Dividend Distribution Tax
DGIT	Director General of Income Tax
DRC	Dispute Resolution Committee

Abbreviation	Meaning
DRI	Directorate of Revenue Intelligence
DRP	Dispute Resolution Panel
DTAA	Double Taxation Avoidance Agreement
ED	Enforcement Directorate
EOI	Expression of Interest
EP	Engagement Partner
FATF	Financial Action Task Force
FDI	Foreign Direct Investment
FHTP	Forum on Harmful Tax Practices
Fin	Finance Bill Finance Bill, 2023
FIRMS	Foreign Investment Reporting and Management System
FM	Finance Minister
FMV	Fair Market Value
FY	Financial Year
G2B	Government to Business
GST	Goods and Services Tax
H&EC	Health and Education Cess
HC	High Court
HFC	Housing Finance Company
HNI	High Net Worth Individual
HUF	Hindu Undivided Family
IBC	Insolvency and Bankruptcy Code
ICDR	Issue of Capital and Disclosure Requirements Regulations, 2009
IFSC	International Financial System Code
IFSC	International Financial Services Centres
IFSCA	International Financial Services Centres Authority Act, 2019
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
IRP	Interim Resolution Professional
IT Act/ Act	The Income-tax Act, 1961
ITAT	Income Tax Appellate Tribunal
ITC	Input Tax Credit
ITO	Income-tax Officer
ITR	Income Tax Report

GLOSSARY

Abbreviation	Meaning
KYC	Know Your Customers
KYC	Know Your Customer
LIC	Life Insurance Corporation
LLP	Limited Liability Partnership
LODR Regulations	Listing Obligations and Disclosure Requirements Regulations, 2015
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
NCS	Non-Convertible Securities
NCS Regulations	SEBI (Issue and Listing of Non-Convertible Securities) Regulations, 2021
NELP	New Exploration Licensing Policy
NFRA	National Financial Reporting Authority
NFT	Non-Fungible Tokens
NHB	National Housing Bank
NPA	Non-Performing Assets
NPS	National Pension System
NSWS	National Single Window System
OBU	Offshore Banking Unit
OEC	Organization for Economic Co-operation and Development
OPC	One Person Company
PAN	Permanent Account Number
PAN	Permanent Account Number
PBPT	Prohibition of Benami Property Act, 1988
PCIT	Principal Commissioners of Income Tax
PFUTP	Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market Regulations, 2003
PIV	Pooled Investment Vehicle
PLR	Prime Lending Rate

Abbreviation	Meaning
RoC	Registrar of Companies
RP	Resolution Professional
RPT	Related Party Transactions
RTGS	Real Time Gross Settlement
RU	Review Unit
SAD	Special Additional Duty
SAED	Special Additional Excise Duty
SC	Supreme Court
SCN	Show Cause Notice
SCRA	Securities Contracts (Regulation) Act, 1956
SEBI	Securities and Exchange Board of India
SFIO	Serious Fraud Investigation Office
SFT	Statement of Financial Transaction
SGST	State Goods and Services Tax
SIAC	Singapore International Arbitration Centre
SLP	Special Leave Petition
SMF	Single Master Form
SPF	Specific Pathogen Free
STT	Security Transaction Tax
SWS	Social Welfare Surcharge
TAN	Tax Deduction Account Number
TOL Act	Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020
TPS	Tax performing system
UAPA	Unlawful Activities (Prevention) Act, 1967
UCB	Urban Co-operative Bank
UK	United Kingdom
UPSI	Unpublished Price Sensitive Information
USA	United States of America
UTGST	Union Territory Goods and Services Tax
VDA	Virtual Digital Assets
VsV	Vivad se Vishwas
VU	Verification Unit
WMD Act	Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005
WTO	World trade Organization

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**

GLS Corporate Advisors 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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