VISION 360

MAR 2024

EDITION 41

A TREASURY OF KEY TAX & REGULATORY DEVELOPMENTS!

TCA TAXCRAFT ADVISORS
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EDITORIAL

Vision 360: Opportunities & Challenges Ahead...

As the Budget fever begins to fade, and anticipation for the new Financial Year builds, the Indian industry finds itself at a critical juncture, balancing economic expectations with regulatory uncertainties. Despite some uncertainties due to upcoming elections, the nation eagerly awaits clarity on fiscal policies, with eyes on maintaining economic momentum and fiscal prudence.

India's forecast for its GDP growth for the ongoing and upcoming financial year signifies an upward trend, as it expects the economy to continue its strong expansion. India's economy has performed well and stronger-than-expected data in 2023 has caused us to raise our 2024 growth estimate to 6.8 per cent from 6.1 per cent. Going by these estimates, India is expected to remain the fastest growing economy among G-20 economies.

As part of this growth story, the landscape of tax and regulatory continues its trajectory of undergoing substantial transformations. In the Direct Tax front, the CBDT ordered write-off of 'small demands' within 2 months pursuant to the FM's Budget Speech as relief to small taxpayers. Also, the CBDT further extends time for processing validly e filed ITRs in non-scrutiny cases for AYs 2018-19 to 2020-21 till April 30, 2024.

On the Indirect tax front, the constitutional validity of Section 16(4) of the CGST Act is challenged, which imposes a time limit for availing of ITC, has been challenged on the grounds of being violative of Articles 14, 19(1)(g) and 300A of the Constitution of India. The Hon'ble Supreme Court has admitted the SLPs and issued Notices to the Department, along with interim reliefs. The edition also pens an article which discusses at length the long-debated question of whether buyers can be denied ITC due to non-payment of GST by their supplier.

In this edition, we take a brief look at developments in the previous month. 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 international front, enhancing UAE'S competitiveness, OECD'S tax review of free zones, and Egypt, UAE ink double taxation avoidance agreement. Indian Government announces notification of tax information exchange agreement with Samoa.

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 **41th 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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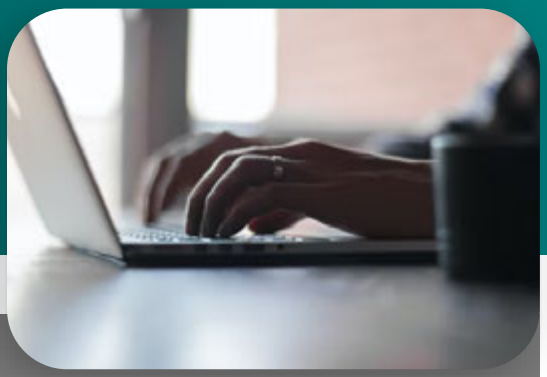


SAFEGUARDING ITC DESPITE REPORTING DISCREPANCIES IN GST RETURNS

In the world of taxes, few topics have sparked as much debate and legal scrutiny as ITC, in both pre GST as well as the GST era. Just as Income tax debates on revenue versus capital appears perpetual, ITC seemingly is now a perennial discussion in the world of indirect taxes. It's a complex issue that has consistently divided taxpayers, leading the judiciary, from time to time, to step in and unravel its intricacies. The callous approach of tax authorities in denying the ITC without appreciating the facts of the case or the intent of the judiciary has required the taxpayer to time and again approach different Courts for intervention and relief.

This was evident in a recent High Court ruling, wherein the judiciary once again delved into this contentious issue, shedding new light on its core principles. This article explores the landmark judgments from various High Courts, particularly focusing on the recent ruling by the Madras High Court in the case of Sri Shanmuga Hardwares Electricals [2024-TIOL-357-HC-MAD-GST]. This ruling emphasize that ITC cannot be denied solely due to non-reflection in Form GSTR-3B.

The Madras High Court's ruling provides a way to hope to tax payers who missed to avail genuine ITC in monthly returns but identified the same during filing of annual returns, emphasizing that ITC, being a substantiative right cannot be denied due to procedural or technical lapses, especially when all other conditions of Section 16 are fulfilled.

The Case in Hand

The Petitioner was engaged in the business of electrical products and hardware. Due to oversight, the Petitioner despite being eligible for ITC, had inadvertently claimed that NIL returns in the GSTR-3B returns. Consequently, the Petitioner explained that the GSTR-9 returns duly reflecting the ITC claims missed out to be claimed in GSTR-3B returns. However, the Assessing Officer had rejected the claim solely on the ground that the Petitioner had not claimed ITC in the GSTR-3B returns. Aggrieved the Petitioner preferred a writ before the Madras HC. The Petitioner argued that the rejection was unwarranted, as the ITC claims were duly reflected in GSTR-2A and GSTR-9 returns.

HC Ruling

The High Court ruled that when a registered person claims ITC based on Form GSTR-2A and Form GSTR-9 returns, the assessing officer must verify the validity of the claim by examining all relevant documents. However, in the instant case since, the rejection was solely based on GSTR-3B returns, the Court set aside the assessment order and remanded the matter for reconsideration.

Parting Thoughts

The High Court's ruling indicates a shift towards a more balanced and thorough approach in dealing with ITC availment, rather than a blanket denial based solely on the inconsistency between GSTR-2A and GSTR-3B. In a rare judgment, the HC emphasized directed the assessing officers to consider all relevant

documents and not rely solely on GSTR-3B filings when evaluating ITC eligibility.

Absolutely, the availability of ITC to an assessee should not be denied solely on the grounds that a transaction is not reflected in GSTR-2A. It is unjust to hold the assessee liable for conditions beyond their control, such as non-population of transactions in GSTR-2A or system glitches. Furthermore, this judgment aligns with similar rulings from other High Courts, such as the recent case of **Diya Agencies vs. State Tax Officer [2023-TIOL-1199-HC-KERALA-GST],** the Hon'ble Kerala High Court held that where the ITC claimed by the petitioner is bonafide and genuine, the same cannot be denied merely because of the fact that the amount was not reflected in Form GSTR-2A of the petitioner. If the supplier does not remit the amount paid to him by the petitioner, the petitioner cannot be held responsible.

The judgment of the Supreme Court in the case of the **State of Karnataka v. M/s. Ecom Gill Coffee Trading Private Limited [2023-TIOL-18-SC-VAT]** has held that the assessing officer is required to give an opportunity to the assessee in respect of his claim for ITC, if there is difference between GSTR- 2A and GSTR -3B. If on examination of the evidence submitted by the assessee, the assessing officer is satisfied that the claim is bonafide and genuine, the assessee should be given the ITC. Merely on the ground that in Form GSTR-2A the tax to an extent of ITC being claimed by the petitioner is not reflected should not be a sufficient ground to deny the claim of the assessee for ITC.

In **St. Joseph Tea Company Limited vs. State Tax Officer [Wp(C) No. 17235 Of 2020]**, the Hon'ble Kerala HC ruled that ITC shall not be denied only on the ground that the transaction is not reflected in GSTR 2A. It will be open for the GST functionaries to verify the genuineness of the tax remitted and credit taken.

The principle of ITC is fundamental to the GST regime, aimed at preventing the cascading effect of taxes and promoting tax neutrality. Denying ITC based solely on discrepancies in GSTR-2A would unfairly penalize taxpayers for shortcomings in the GSTN system or errors made by their suppliers. All taxpayers should be entitled to claim ITC if they can provide sufficient documentation and evidence to support their claims, regardless of whether the transaction is reflected in GSTR-2A. Tax authorities should conduct thorough assessments, considering all relevant factors, before making determinations on ITC eligibility.

However, there are instances wherein the credit is missed to be claimed in monthly returns but ideally, even when the taxpayer has fulfilled all the conditions of availing credit, he is still not allowed to claim the same through the annual returns. In the current return system, ITC cannot be claimed via the Form GSTR-9 return. However, this ruling could serve as a saving grace for cases where ITC was available but not claimed in the Form GSTR-3B return but duly considered in annual returns. However, it's worth noting that the issue appears far from settled, and it will be intriguing to observe the positions taken by other High Courts on similar matters.

INDUSTRY PERSPECTIVE

Mr. KETUL SHAH

Executive Director
Sundyota Numandis

01 How do you perceive Governmental policies with respect to the medical sector?

The Government's budget allocation of INR 35,000 Crores of priority capital investment towards The Governmental policies to address the dynamic challenges and emerging needs of healthcare systems. There is a notable trend towards promoting accessibility, affordability, and quality in healthcare services, with an emphasis on universal health coverage and equitable distribution of resources. Moreover, there is a growing recognition of the importance of digital health technologies and telemedicine in expanding access to healthcare services, especially in remote and underserved areas.

The Government policies particularly with recent amendments such as RoDTEP and exemptions from QCO represent a strategic move to streamline import processes and facilitate smoother operations, particularly for pharmaceutical companies. These policy changes reflect a broader commitment to fostering innovation, competitiveness, and growth within the medical sector, ultimately contributing to improved healthcare access and economic development.

02 Recently DGFT has extended RoDTEP benefits to exports made by AA, EOU, and SEZ Units. What is your perspective on the same?

The DGFT, through Notification expand the RoDTEP benefits for exports by AA , EOU, and SEZ Units can be seen as favourable development. The Companies often operating under AA, EOU, and SEZ schemes, play a critical role in India's export landscape. By extending RoDTEP benefits to these entities, the government is likely aiming to provide additional support and incentives for exporters.

The amendment expands RoDTEP benefits to AA holders (excluding deemed exports) and EOU until September 30, 2024, with the inclusion of eligible RoDTEP export items, rates, and per unit value caps specified to prevent potential complications and avoid unnecessary litigation in the future. RoDTEP benefits are expanded to exports of products manufactured by SEZ Units, to be implemented post ICEGATE to enable accurate tracking and monitoring of exports, facilitating the verification of eligibility criteria and compliance with RoDTEP regulations. Furthermore, incentivizing exports aligns with broader government objectives such as promoting 'Make in India' and boosting India's position as a global hub. It can

encourage investment in the sector, stimulate innovation, and foster growth in pharmaceutical exports, ultimately contributing to economic development and job creation. Overall, the extension of RoDTEP benefits to industry wide operating under AA, EOU, and SEZ schemes is likely to have a positive impact on the industry, facilitating growth, competitiveness, and sustainability in the global market.

03 What is your opinion on the recent amendments issued by DGFT to FTP 2023, which enable exemptions for inputs imported by AA holders, EOUs, and SEZs from mandatory Quality Control Orders, particularly concerning pharmaceutical companies?

The recent amendments issued by DGFT to FTP 2023, enabling exemptions for inputs imported by AA holders, EOUs, and SEZs from mandatory QCO, are significant . For AA holder imported inputs must comply with QCO unless exempted and used solely for manufacturing export products under the same authorization. This exemption applies only to physical exports, not deemed exports. Failure to endorse the exemption on the Advance License requires QCO compliance. Unused imports cannot be transferred to the DTA and must be destroyed in the presence of authorities, with duties, interest, and a composition fee paid. These measures are designed to strike a balance between facilitating exports, ensuring compliance with quality standards, and safeguarding against misuse of import benefits

For EOUs, the requirement of complying with mandatory QCOs on imported inputs for export is waived. However, goods produced from these inputs cannot be released for clearance to the DTA without furnishing an undertaking to both Customs and the Development Commissioner. This undertaking ensures accountability and transparency in the utilization of imported inputs by EOUs. And lastly, SEZ Units are relieved from the obligation of adhering to mandatory QCOs on imported inputs meant for export. Nonetheless, products manufactured from these inputs cannot be authorized for clearance to the DTA unless an undertaking is provided to the Development Commissioner. Overall, the revisions made by DGFT to various taxes and FTP has impacted the industry at large, enhancing efficiency and competitiveness in imports while maintaining quality standards in drug manufacturing. The Government had extended the sunset clause from 2023 to 2024 considering the fact that implementation of certain projects was delayed due COVID-19 disruptions along with non-readiness of power evacuation infrastructure.

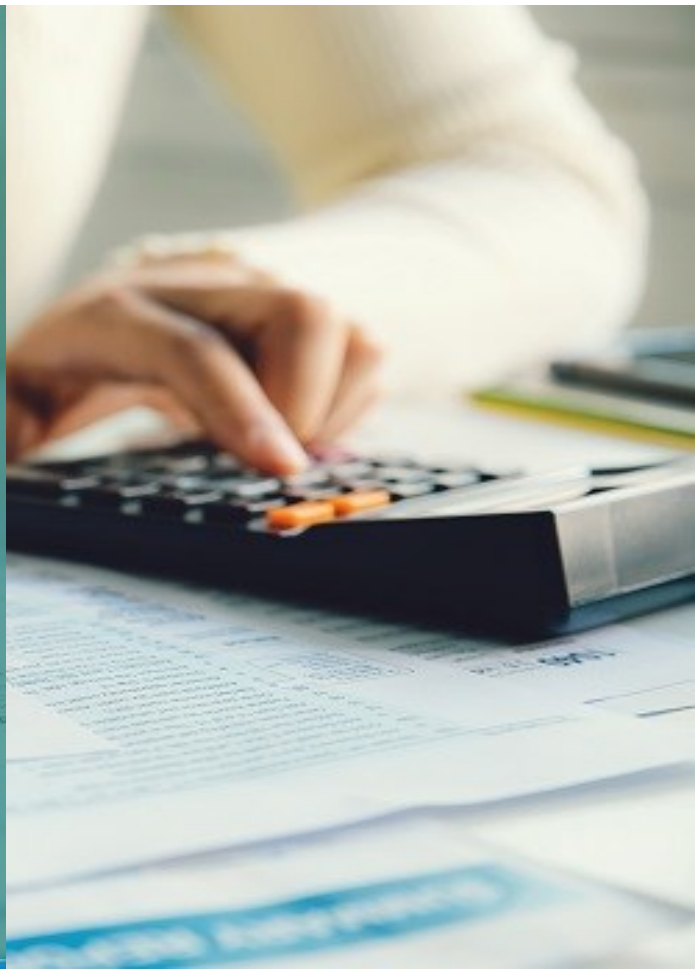
Mr. Ketul Shah
Executive Director - Sundyota Numandis

04 Is your company or industry currently embroiled in ongoing tax disputes, and do you think it's time for tax authorities to reconsider their approach?

In the ever-evolving landscape of the industry, tax disputes often emerge as significant challenges. While we diligently tackle these issues, they prompt us to contemplate the broader implications. Establishing a tax environment characterized by clarity and predictability holds immense potential benefits for businesses and the economy at large. A shift in the perspective of tax authorities towards proactive communication, providing clear guidelines, and fostering collaborative problem-solving could not only mitigate legal conflicts but also cultivate an atmosphere conducive to mutual growth and compliance within the sector. Despite notable advancements in transparency, such as the implementation of measures like faceless assessment, there remains room for improvement. Nonetheless, the current environment offers promising opportunities for growth, both on a macroeconomic scale and within the intricate workings of the industry.

Have there been any challenges encountered in Direct Tax assessments? What anticipated alterations could potentially aid the pharmaceutical industry in enhancing governance and compliance measures?

As a pharmaceutical company, navigating Direct Tax assessments can indeed pose challenges, especially given the complexities inherent in the industry. While specific issues may vary, common concerns include transfer pricing disputes, interpretation of tax laws related to research and development expenses, and uncertainties surrounding tax incentives and deductions. However, with the evolving regulatory landscape, there is an expectation for changes that could enhance governance and compliance within the pharmaceutical sector.



These changes may involve clearer guidelines on tax treatment for intellectual property rights, research and development expenditures, and transfer pricing methodologies tailored to the unique characteristics of the industry. Additionally, streamlined processes for tax assessments, increased transparency, and robust compliance frameworks could help ensure a better environment for pharmaceutical companies to operate, fostering confidence among stakeholders and supporting sustainable growth in the sector.

Mr. Ketul Shah
Executive Director - Sundyota Numandis

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

The rapid evolution of the tax landscape in recent years has had a profound impact on the economy, influencing various sectors and stakeholders. One significant consequence of these changes has been an increased focus on fairness, transparency, and compliance within the tax system. Measures such as the closing of loopholes, tightening of regulations, and enhanced enforcement efforts have aimed to combat tax evasion and ensure that businesses and individuals contribute their fair share to government revenues.

Additionally, tax reforms often seek to incentivize certain behaviours or investments deemed beneficial for economic growth, such as research and development, job creation, and sustainable business practices. By aligning tax policies with broader economic objectives, governments strive to foster a more equitable and resilient economy that supports long-term growth and prosperity. However, achieving this alignment requires careful balancing of competing interests and ongoing evaluation of the effectiveness and unintended consequences of tax changes. Overall, while the impact of tax reforms on the economy may vary depending on specific circumstances, the overarching goal is to create a tax environment that promotes sustainable economic development and shared prosperity for all stakeholders.

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DIRECT TAX
From the Judiciary

SC orders 'natural consequences' once subsidy held as capital receipt, follows its judgment in Munjal Auto

Sunbeam Auto Pvt. Ltd.

SLP(C) No. 18572/2018

The Delhi HC had held sales tax subsidy to be a capital receipt and directed the Revenue to pass the consequential order, aggrieved by which the Revenue approached the SC placing reliance on the SC judgment in **Munjal Auto [C.A. No.6226/2013]**, wherein the SC took note of the fact that if the sales tax subsidy was held to be a capital receipt then the natural consequences of the said fact should follow and submitting that the appeal of the Assessee to the Delhi HC may be disposed of in the terms of that judgment.

Perusing the SC judgment of **Munjal Auto [supra]**, the SC noted that while dismissing the civil appeal which arose in the case of M/s Munjal Auto Industries Limited, the SC had sustained the judgment of the Gujarat HC passed in the said case, accordingly, the observations of the Gujarat HC in that case would have a bearing on the present case and therefore, on the sales tax subsidy receipt by the Assessee being treated as a capital receipt, the natural consequences as a result of the said declaration would follow.

Thus, following the observations made by the SC in **Munjal Auto [supra]**, the SC dismissed the present appeal and mutatis-mutandis upheld the judgment of the Delhi HC.

HC quashes reassessment proceedings against Godrej Projects on share premium received from Mauritian investor

Godrej Projects Development Pvt Ltd.

Writ Petition No. 804 of 2015

The Assessee was engaged in the business of development of real estate and had issued 16,730 shares of the face value of INR 10 at premium of INR 12,842 per share to a Mauritius-based entity, and was subject to scrutiny assessment. Subsequently, based on the communication received from Revenue's superior officer, the Assessee was served with reassessment notice under Section 148 of the IT Act on the ground that income escaped assessment pertaining to receipt of excessive share premium.

Aggrieved, the Assessee filed objections before the Revenue against re-opening of the assessment, which was rejected by the Revenue, which caused the Assessee to file a writ petition before the HC.

Noting that the AO had not bothered to read the balance sheet or the valuation report and therefore, the AO's reason to believe, was purely hypothetical and a matter of conjecture which could not be a tangible material for arriving at a reason to believe an escapement of income and also that the reopening of assessment was based on the change of opinion of the AO from that held earlier during the course of assessment proceedings which could not constitute justification and/or reasons to believe that income chargeable to tax had escaped assessment and further, placing reliance on a plethora of judgments, wherein, on similar facts, it was held that receipt of share capital including the premium was on capital account and gave rise to no income, the HC observed that there was no basis for the Revenue to form a reason to believe that the income had escaped assessment.

Thus, finding that the jurisdictional requirement under Section 147 of the IT Act of existence of a valid 'reason to believe' for re-opening the assessment, remained unfulfilled and hence the proposed reopening was without jurisdiction, the HC quashed the reassessment notice and allowed the Assessee's writ petition.

HC holds post-amalgamation assessment not solely based on modified return, invalid, grants Revenue liberty to reassess

Pallava Textiles Private Limited

W.P. No. 1801 of 2023

The Assessee was a private limited company, engaged in the business of manufacturing and trading of yarn and fabric that was amalgamated with one Sri Cheran Synthetics India Private Limited (transferor company) which post-amalgamation was dissolved without being wound up. The scheme of amalgamation was sanctioned by the NCLT with effect from April 1, 2020, through an NCLT order dated April 18, 2022 and therefore, since the last date for filing return of income AY 2021-2022 was in March 2022, the Assessee was constrained to file the standalone return of income before the due-date. Subsequently, the Assessee was served with a scrutiny notice and was also served with the show cause notices, to which the Assessee duly replied.

Thereafter, the Assessee filed the modified return manually since the ITBA portal was not enabled for filing such return electronically and the Revenue passed the assessment order, aggrieved with which the Assessee preferred a writ petition before the HC. Noting that the consolidated/modified return filed by the Assessee after the amalgamation was not solely considered and that the Revenue also took into account standalone returns of the Assessee and the transferor company and perusing Section 170A of the IT Act which provided that any assessment after the business reorganization was sanctioned should be on the basis of the modified return,

the HC observed that as the assessment procedure was initiated subsequent to the effective date of merger, i.e. April 1, 2020, the Assessee's consolidated return of income, after its amalgamation, should have been the basis for the scrutiny assessment. Moreover, considering the lists of dates and events, the HC observed that it was conspicuous that the show cause notice was followed by the assessment order in a matter of about 5 or 6 days and the issuance of an assessment order within about 2 days from the receipt of the reply to the show cause, in a matter relating to about 59 additions to income, constituted a further reason to interfere with the assessment order. Thus, holding that after amalgamation, a consolidated modified return of income should be the basis of assessment, the HC quashed the assessment order clarifying that it was open for the Revenue to issue fresh notices and make a reassessment on the basis of the consolidated return filed by the Assessee.

HC holds TDS under Section 194C of the IT Act applicable on EDC, privity of contract between real estate developers & development authority no prerequisite

Puri Constructions Pvt. Ltd. & Others

2024-TIOL-215-HC-DEL-IT

The Assessees were real estate developers that were subject to proceedings under Section 201 of the IT Act for failure to deduct tax at source on the EDC paid to HSVP on the direction of DTCP which was a department under the Government of Haryana. The DTCP clarified to the Assessees that EDC was a charge levied by the Government for carrying out external development works and that the same was deposited in the receipt head of the DTCP and would therefore constitute a Government receipt, accordingly, no tax was being deducted thereon since it was a Government receipt.

Meanwhile, CBDT through an office memorandum dated December 23, 2017 also clarified that EDC was paid not to the Government but to HSVP which was a development authority of the State Government of Haryana and was a taxable entity under the IT Act. Hence, TDS provisions would be applicable on EDC payable by the developer to HSVP. However, the Revenue held that the said EDC payment fell under the ambit of Section 194C of the IT Act and therefore, the Assessee was held to be in default under Section 201 of the IT Act and was consequently liable to penalty proceedings under Section 271C of the IT Act.

Aggrieved, the Assessee approached the HC contending that there was an absence of privity of contract with HSVP. Noting that payments were made to HSVP albeit under the directive of the DTCP which was directed towards subserving an arrangement between HSVP and the Government of Haryana for external development work being carried out by the HSVP and placing reliance on a plethora of SC judgments, the HC observed that the underlying contract could otherwise be

discerned from the arrangement between parties and their conduct was sufficient even though it may not have been reduced in writing. Moreover, Section 194C of the IT Act explicitly stated that the existence of a contract which was spoken of in Section 194C of the IT Act was between the contractor and a specified person. The provision therefore did not construct a contractual relationship between the person responsible for paying the sum and deducting tax with the contractor as a precondition and this was clearly not a prerequisite for Section 194C of the IT Act being attracted. All that was required for the purposes of Section 194C of the IT Act, was a payment being effected to a contractor who had a contractual relationship with a specified person.

Further, the moment the Assessees effected a payment in favour of HSVP in connection with the external development work which was to be executed by it pursuant to the arrangement that existed between the said entity and the State Government, the provisions of Section 194C of the IT Act stood attracted and HSVP had obtained no certification as contemplated in terms of the Section 197 of the IT Act nor had it obtained a declaration that moneys received by it were exempt from tax. Thus, holding the Assessees liable for TDS on EDC payments made to HSVP, the HC disposed of the matter.

DIRECT TAX
From the Legislature

NOTIFICATIONS

Sr. No.	Notification	Summary
1	Notification No. 19/2024 dated January 31, 2024	**CBDT notifies ITRs 2,3 and 5 for AY 2024-25** The CBDT notifies ITR-2, ITR-3 and ITR-5 for AY 2024-25 and amends Rule 12 of the IT Rules to provide that Individual or HUF required to be audited under Section 44AB of the IT Act can also opt for transmitting the data electronically in the return under electronic verification code for furnishing the ITR.
2	Notification No. 20/2024 dated February 06, 2024	**CBDT notifies 16 CIT(A) Units under 4 headquarters** The CBDT notifies 16 CIT(A) Units under 4 headquarters with effect from January 22, 2024. The newly notified CIT(A) units are as follows: - * 5 CIT(A) Units under PCCIT (NER), Guwahati. * 6 CIT(A) Units under PCCIT (Kerala), Kochi. * 3 CIT(A) Units under PCCIT (Odisha), Bhubaneswar.
3	Notification No. 21/2024 dated February 07, 2024	**CBDT notifies Tax Information Exchange Agreement with Samoa** The CBDT notifies an agreement between India and Samoa for the exchange of information with respect to taxes. The Agreement came into force on September 12, 2023, being the date of the later of the notifications of the completion of the procedures required by the respective laws of the contracting states for entry into force of the said Agreement. The agreement was signed at Apia in Samoa on March 12, 2020.
4	Notification No. 22/2024 dated February 21, 2024	**CBDT releases corrigendum to Notification No. 19/2024 dated January 31, 2024** The CBDT releases a Corrigendum to Notification No. 19/2024 dated January 31, 2024, by virtue of which ITRs 2,3 and 5 for AY 2024-25 were notified.

Sr. No.	Notification	Summary
		Through the corrigendum, the CBDT rectifies minor errors in Notification No. 19/2024 dated January 31, 2024, by: * modifying the name of the amendment rules from Income-tax (Amendment) Rules, 2024 to Income-tax (Second Amendment) Rules, 2024. * placement of an additional column for the amounts in Schedule 80DD of ITR-2 and ITR-3 and Schedule 80U of ITR-3. * correction of the Sections of the IT Act under which deduction can be claimed in Schedule CG for capital gains under ITR-5.

CIRCULARS

Sr. No.	Circulars/Instructions/ Orders/Press Releases	Summary
1	CBDT Order dated January 31, 2024	**CBDT further extends time for processing validly e-filed ITRs in non-scrutiny cases for AYs 2018-19 to 2020-21 till April 30, 2024** The CBDT further extends the timeframe prescribed under Section 143(1) of the IT Act for AYs upto AY 2020-21 from January 31, 2024 till April 30, 2024. This applies to all ITRs validly filed electronically with refund claims. All contents of the previous orders except for the extended date of April 30, 2024, remain unchanged.
2	Instruction No. 01/2024 dated February 09, 2024	**CBDT issues Instruction for work allocation to CIT (J), effective immediately** CBDT issues Instruction for expansion of the work allocation to CIT(J) in supersession of Instruction No. 6/2015 dated July 03, 2015. The Instruction comes into effect immediately and defines the structure, work jurisdiction and domain of CIT(J) consequent to the progressive increase in workload due to roll out of the faceless assessment and appeals. As per the Instruction, CIT(J) shall be the nodal officer for all matters relating to the jurisdictional HC as also coordination with counterparts for other HCs and shall also be responsible for ensuring that the departmental view on legal interpretation is enforced uniformly and coherently within the jurisdiction of the respective PCCIT.

Sr. No.	Circulars/Instructions/ Orders/Press Releases	Summary
3	CBDT Order dated February 13, 2024	**CBDT orders write-off of 'small demands' within 2 months consequent to FM's Budget Speech** The CBDT directs DIT (Systems) and CPC to implement remission and extinguishment of 'small demands' outstanding as of January 31, 2024, preferably within two months, stating that demand of INR 25,000 upto AY 2010-11 and upto INR 10,000 for AYs 2011-12 to 2015-16 shall be remitted or extinguished subject to maximum limit of INR 1 Lakh for any taxpayer. However, the CBDT clarifies that such remission or extinguishment shall not be applicable on TDS or TCS demands but the tax liability arising from invocation of Section 2(24)(xviii) of the IT Act (subsidy or grant) shall be covered. Further, the remission or extinguishment shall not confer any right to claim any credit or refund and shall not have any effect on criminal proceedings pending, initiated or contemplated against the Assessee and shall also not confer any right to claim immunity under any law. In addition to the above, the CBDT also states that the Order not only covers demand entries pertaining to wealth tax, gift tax apart from income-tax but also the interest, fee, penalty, surcharge and cess under the statutes governing the above three taxes and that the CPC can rectify any mistake apparent from record arising on implementation of this Order and such rectification shall be considered to be the execution of the Order.
4	Press Release dated February 26, 2024	**CBDT issues reconciliation between disclosed income & third-party information through 'on-screen functionality'** CBDT issues a press release on the implementation of e-Verification Scheme, 2021. The Press Release apprises that the IT department has identified certain mismatches between the information received from third parties on interest and dividend income and the ITR filed by taxpayers and that in many cases, taxpayers have not even filed their ITR. An on-screen functionality has been made available in the compliance portal of the e-filing website for taxpayers to provide their response with an aim to reach out to the taxpayers and provide them an opportunity to respond to the communication in a structured manner.

TRANSFER PRICING
From the Judiciary

ITAT deletes TP-adjustment on account of corporate guarantee, follows precedents

Hindusthan National Glass & Industries

ITA No. 184/Kol/2018

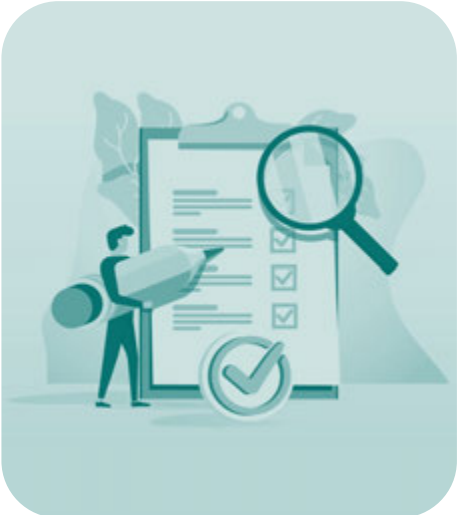
The Assessee was a company that had extended a corporate guarantee to its AE for AY 2012-13. The TPO/AO made a TP adjustment on the transaction, aggrieved by which the Assessee approached the CIT(A) who deleted the said adjustment on the ground that it was not an international transaction under Section 92B of the IT Act prior to the amendment made to Section 92B of the IT Act by the Finance Act, 2012. Aggrieved, the AO approached the ITAT which placing reliance on a plethora of cases, observed that corporate guarantee was indeed not an international transaction under Section 92B of the IT Act prior to its amendment by the Finance Act, 2012 by way of an Explanation to Section 92B of the IT Act and the Explanation in itself was only clarificatory in nature as it could not be read independent of Section 92B(1) of the IT Act and did not have any impact on the profits, income, losses or assets of the Assessee though it could influence the profits, income, losses and assets of the Assessee as admittedly no consideration was received by the Assessee in respect of this corporate guarantee from its AE.

Moreover, though the Explanation was introduced by Finance Act 2012, the rules were notified only on July 10, 2013, and therefore, the Assessee could not be expected to report this transaction also as an international transaction in its transfer pricing study and the audit report thereon. Thus, deleting the TP adjustment made by the TPO/AO on corporate guarantee, the ITAT upholding the order of the CIT(A), dismissed the AO's appeal.

HC dismisses Revenue's appeal against ITAT order deleting AMP -adjustment qua Adidas India

Adidas India Marketing Pvt Ltd.

2024-TII-08-HC-DEL-TP



The Revenue had made a TP adjustment on the AMP expenditure made by the Assessee following the Bright Line Test method to determine the ALP of the AMP expenditure incurred by the Assessee, aggrieved by which the Assessee approached the ITAT. Before the ITAT, the Revenue contended that the Bright Line Test was an internationally accepted economic tool which determined the expenditure incurred by a routine distributor not promoting any marketing intangible, however, the ITAT treated the Bright Line Test method for AMP adjustment as unsustainable and deleted the TP adjustment made by the Revenue on AMP expenditure.

Aggrieved, the Revenue approached the HC which observed that the ITAT had rejected the application of the Bright Line Test following the

jurisdictional HC ruling in **Sony Ericson Mobile Communications Pvt Ltd. [2015-TII-06-HC-DEL-TP]** and therefore, finding no reason to interfere with the order of the ITAT and no substantial question of law to have arisen, dismissed the Revenue's appeal and upheld the order of the ITAT.

ITAT deletes TP-adjustments qua export commission, royalty payment, follows earlier orders

Honda Motorcycle & Scooter India Pvt Ltd

ITA No. 1524/Del/2022

The Assessee was a resident corporate entity and a subsidiary of Honda Motor Co. Ltd., Japan and was engaged in the business of manufacture and sale of motorcycles and scooters. For AY 2018-19, the Assessee had entered into various international transactions with its AEs. One amongst them being payment of export commission to Honda Motor Co. Ltd., Japan. The Assessee had also entered into a technical know-how agreement with Honda Motor Co. Ltd., Japan in terms of which, the Assessee paid royalty based on percentage of sales including exports to Honda Motor Co. Ltd., Japan. In the transfer pricing study report, the Assessee had benchmarked the transaction of export commission by using TNMM. The approach adopted by the Assessee was not to the liking of the TPO. After rejecting the benchmarking of the Assessee qua the payment of export commission, the TPO proceeded to benchmark the transaction independently using CUP method. While doing so, the TPO determined the ALP at 'Nil' on the reasoning that no services were provided to the Assessee to deserve any commission and secondly, the Assessee was a contract manufacturer and only exported as per orders received from its AEs. Accordingly, he suggested adjustment of the entire export commission paid to the AE.

Further, the TPO did not accept the benchmarking of payment of royalty by the Assessee. The Assessee had benchmarked the transaction by adopting aggregate approach under TNMM. However, the TPO proceeded to benchmark the payment of royalty separately by applying CUP method. While doing so, he held that the sale made to its AE was equivalent to the sale made to self. Hence, there was no requirement to pay royalty. Thus, he determined ALP of royalty payment at 'Nil', thereby proposing the entire amount of royalty payment as a TP adjustment. Aggrieved by the TP adjustments made by the TPO, the Assessee approached the DRP before which, the Assessee's submission was to the effect that the transaction relating to payment of export commission was intrinsically linked with manufacture and sale of products, hence, could not be segregated to be benchmarked separately. It was further submitted that the Assessee paid export commission to its parent entity to keep access to various markets globally, which was possible only due to the existence of AEs network in those countries. However, the submissions made by the Assessee did not find favor with the DRP. They followed their earlier directions in Assessee's own cases in earlier assessment years and upheld the adjustment and while deciding the Assessee's objection on the issue of the TP adjustment on payment of royalty, the DRP again relied upon the directions issued by them in Assessee's own cases for previous years and upheld the adjustment.

Aggrieved, the Assessee approached the ITAT which with regards to export commission paid to Honda Motor Co. Ltd., Japan, followed the Assessee's own case for AY 2017-18 wherein similar adjustment was

deleted observing that the Assessee was a licensed manufacturer and had successfully demonstrated benefits and accordingly deleted the TP adjustment. Further, with reference to TP adjustment on royalty payments, the ITAT followed the Assessee's own case for AY 2016-17 and deleted the TP adjustment.

HC holds foreign AE can be tested party, dismisses Revenue's appeal

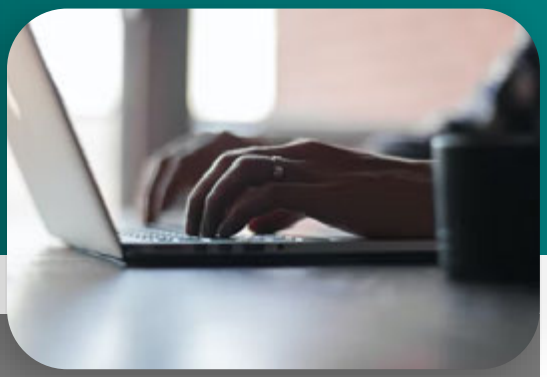
ITC Infotech India Ltd.

2024-TII-07-HC-KOL-TP

The Revenue had approached the HC against the ITAT order in the case of the Assessee for AY 2015-16 contending that the ITAT erred in not considering the fact that foreign AEs could not be taken as tested party as per Indian TP regulations, not considering that segmental accounts which did not form part of audited financial statement could at all be taken into account to determine ALP wherein necessary verification is warranted at TPO's level regarding use of proper allocation keys/ basis while preparing segmented accounts and in not considering that accounts prepared by the Assessee without any basis and breakup of expenses allocated to its segments was not justified and acceptable as per law.

The HC noted that all of these issues had already been decided in favor of the Assessee in its own cases for AY 2005-06, AY 2010-11 to 2013-14 and that it had already been held in a plethora of cases that there was no prohibition on the selection of a foreign AE as a tested party based on TP Guidelines of the OECD and ICAI, accordingly, finding no substantial question of law to have arisen, the HC dismissed the Revenue's appeal.

ARTICLE



APPLICABILITY OF GST ON TDR

Constitutional Court draws a line between Transferable Development Rights and Sale of Land

In the recent Judgment of **Prahitha Construction Private Ltd. v. Union of India** [Writ Petition No. 5493 of 2020 dated February 09, 2024], the Hon'ble Telangana High Court (***'Hon'ble Telangana HC'***) ruled that the execution of a JDA or the "transfer of development rights" does not equate to a transfer of land ownership and is therefore subject to GST.

A JDA was signed between the Petitioner with M/s. Jitvan Land Limited and M/s. Janina Marine Properties Private Limited (***'landowner/s'***) to construct three buildings. According to the JDA, the Petitioner was entitled to sell the constructed portion of the land, in accordance with his undivided share of the land, which would be given to him upon completion of the said project.

As per Notification No. 4 of 2018-Central Tax (Rate) dated January 25, 2018, as amended by Notification No. 23 of 2019 dated September 30, 2019, ('***Notification'***) GST was applicable on transfer of development rights under the JDA. The Petitioner filed a Writ Petition before the Hon'ble Telangana HC bringing up the following issues:

- Does the transfer of development rights in essence qualify as the transfer of immovable property and, therefore, is exempt from GST?
- Whether the transfer of development rights can be likened to an outright sale of land?

The Hon'ble Telangana HC observed that one of the landowner's many rights, associated with his land, is the ability to develop it. Whilst the landowner's property would be open to the Petitioner's entry and development in compliance with the terms and conditions of the JDA, the ownership and title, even throughout the JDA, would remain vested in the landowner. The transfer of ownership could only take place by way of a separate deed of conveyance, after the completion of the development activity and issuance of a completion certificate.

Upon reviewing the JDA, the Hon'ble Telangana HC also observed that the Petitioner would only be entitled to an undivided share of the land upon: a. project completion; b. issuance of completion certificate; and c. execution of sale deed to transfer said undivided share of land in the Petitioner's name.

The Hon'ble Telangana HC held that the signing of a JDA or the transfer of development rights would not, in and of itself, imply a transfer of ownership or title rights over any a property. Only after the development activity was finished, completion certificate was issued and a deed of conveyance was executed, could ownership be transferred. Furthermore, in accordance with Section 53-A of the Transfer of Property Act, 1882, the Petitioner would only have permissive possession of the land for the limited purpose of developing it; this would not be interpreted as delivery of ownership in part performance.

In light of the aforementioned facts and circumstances, the Hon'ble Telangana HC determined that the transaction in question would not be considered a "sale of land" as defined by Entry 5 of Schedule III of the CGST Act. The Hon'ble Telangana HC further noted that the Notification, merely indicated that the time-of-service delivery for the transfer of development rights—which was previously always taxable (ever since the introduction of GST)—has been delayed to the point at which the Petitioner gives the landowner possession of the constructed or developed area. Therefore, with regard to the challenge to the Notification's constitutionality, the Hon'ble Telangana HC determined that as per Article 246A of the Indian Constitution, the extraordinary powers granted to the GST Council, the Notification only clarified the nature of the transfer of development rights subject to GST/TGST and did not constitute a violation of the Constitution.

GOODS & SERVICES TAX
From the Judiciary

Time limit to avail ITC u/s 16(4) of the CGST Act challenged in SC : Notice issued to the Revenue

Shanti Motors v. Union of India & Ors.

SLP(C) Dy. No.4695/2024

The constitutional validity of Section 16(4) of the CGST Act is challenged, which imposes a time limit for availing of ITC, as being violative of Articles 14, 19(1)(g) and 300A of the Constitution of India. The Hon'ble Supreme Court has admitted the SLPs and issued Notices to the Department, along with interim reliefs

Authors' Notes:

*It is noteworthy that various HCs in **RE: Thirumalakonda Plywoods [W.P.No.24235 of 2022]** and **RE: Gobinda Construction [2023-TIOL-1178-HC-PATNA-GST]** have upheld the constitutional validity of Section 16(4), the intervention by the Supreme Court adds a new dimension of anticipation among taxpayers. The rejection of ITC availed by taxpayers beyond the time-limit has been highly litigative, however, what the department seems to overlook is that such delays were largely due to the pandemic and subsequent lockdown. The interpretations of the Supreme Court regarding this matter will determine whether it provides relief for the assessee or makes the matter worse the anticipation further.*

ITC cannot be denied solely due to non-reflection in GSTR-3B

Sri Shanmuga Hardwares Electricals

Order No. Writ Petition Nos. 3804, 3808 & 3813 of 2024 and W.M.P.Nos. 4105, 4107, 4110, 4111, 4116 & 4119 of 2024 dated 20.02.2024

The Petitioner was engaged in the business of electrical products and hardware. Due to oversight, the Petitioner despite being eligible for ITC, had inadvertently claimed that NIL returns in the GSTR-3B returns. Consequently, the Petitioner filed the that GSTR-9 returns duly reflecting the ITC claims. However, the Assessing Officer had rejected the claim solely on the ground that the Petitioner had not claimed ITC in the GSTR-3B returns. Aggrieved the Petitioner preferred a writ before the Madra HC.

The Petitioner argued that the rejection was unwarranted, as the ITC claims were duly reflected in GSTR-2A and GSTR-9 returns. The High Court ruled that when a registered person claims ITC based on GSTR-2A and

GSTR-9 returns, the assessing officer must verify the validity of the claim by examining all relevant documents. However, in the instant case since, the rejection was solely based on GSTR-3B returns, the Court set aside the assessment order and remanded the matter for reconsideration.

Authors' Notes:

In the current return system, ITC cannot be claimed vide GSTR-9 return. This ruling comes as a saviour in those cases, where ITC was available, but not claimed in GSTR-3B return. However, the issue seems far from settled and it will be interesting to see positions taken by other HC on similar issue.

Rejection of ITC not justified solely on retrospective GST registration cancellation of supplier

Engineering Tools Corporation

Writ Petition No.3505 of 2024 and W.M.P.Nos.3758 & 3759 of 2024

The Petitioner was ordered to reverse the ITC availed on the ground that the GST registration of the relevant supplier was cancelled with retrospective effect. The Petitioner submitted proof of purchases, including tax invoices, e-way bills, and delivery challans, but the contentions were rejected, emphasizing the need to prove the existence of the supplier and the genuineness of the transactions. Aggrieved the Petitioner preferred a writ before the Madras HC.

The HC held that the Petitioner had fulfilled its obligation by submitting relevant documents, which were unjustly disregarded. Thus, ITC claim should not be rejected solely due to the supplier's registration cancellation with retrospective effect. Furthermore, the court observed that the rejection solely based on the supplier's cancelled registration was unjustified. It emphasized the importance of assessing the genuineness of transactions based on concrete evidence rather than administrative assumptions. Accordingly, the assessment order was deemed unsustainable, and the matter was remanded for reconsideration. The assessing officer was directed to examine all relevant documents to determine the genuineness of the transactions. Consequently, the writ petition was allowed.

Authors' Notes:

It is a settled principle that credit cannot be denied when all the condition u/s 16 have been fulfilled especially when the genuineness of the transaction is not in question. The Hon'ble Calcutta HC in RE: ***LGW Industries Limited [WPA No.23512 OF 2019]*** *had directed that if it is found upon considering the relevant documents that all the purchases and transactions in question are genuine and supported by valid documents and transactions were made before the cancellation of registration of those suppliers than the benefit of input tax credit shall be given.*

Limitation act not applicable as GST appeal provisions is a complete code in itself

Yadav Steels

WRIT TAX No. 975 of 2023

The Petitioner had filed an Appeal before the GST Commissioner (Appeals) with a delay of 66 days. The said Appeal was rejected on the ground of limitation u/s. 107(4) of the CGST Act, which provides for a period of 30 days beyond the normal limitation for filing of Appeal within three months from the date of receipt of order.

Aggrieved, the Petitioner preferred a Writ Petition before the Allahabad HC, relying on the Calcutta HC judgement in **RE: S.K. Chakraborty & Sons [2024-T.L.D.-22-CAL]** to argue that Section 5 of the Limitation Act, which provides for admission of Appeal in case of sufficient reason, would be attracted, as Section 107 of the CGST Act does not expressly exclude the inclusion of Section 5 of the Limitation Act.

The Allahabad HC judgment held that the judgement in **RE: S.K. Chakraborty & Sons (supra)** failed to adequately consider the authoritative pronouncements of the SC in the **RE: Singh Enterprises [(2008) 3 SCC 70]** and **Hongo India Private Limited [(2009) 5 SCC 791],** wherein it was held that Section 107 of the GST Act operates as a complete code in itself and specifies the limitation periods for filing appeals and implicitly excludes the application of general limitation such as Section 5 of the Limitation Act. Basis the above observations, the HC dismissed the Writ filed by the Petitioner.

HC allows IGST refund on payment routed through intermediary as per FEMA

Afortune Trading Research Lab LLP

W.P.No.2849 of 2021

The Petitioner was engaged in providing online services for US and neighbouring clients and considered the services provided to clients as "export of service" per Sec 2(6) of the IGST Act. The Payments were received via an intermediary under FEMA Regulations. The Petitioner was seeking refund under Sec 54 of CGST Act, their claim was rejected due to lack of export invoices. Aggrieved the Petitioner preferred a writ before the Madras HC.

The HC ruled that payments received by the intermediary, in compliance with FEMA Regulations, are considered received by the client. Thus, the Petitioner was entitled to refund for tax paid on exports and unutilized input tax credit. The HC set aside the impugned order and the writ petition was allowed.

Authors' Notes:

The instant ruling is welcomed by the trade and industry as it clarifies that the payments routed through intermediaries and in compliance with FEMA Regulations will be considered as received by the exporter.

ANDHRA AAR RULES: COMPENSATION ON CONTRACTUAL BREACH ATTRACTS 18% GST

M/s South India Krishna Oil & Fats Private Limited

AAR No. 12/AP/GST/2023

The Applicant is engaged in manufacturing of edible oils. The Applicant receives compensation from customers for breach of contract or non-performance. They sought clarification from the AAR on whether GST is applicable on such compensation.

The AAR stated that the compensation is paid based on a clear calculation formula and the conditions outlined in the agreement. It reasoned that a prudent business person would not justify payment without merit. Thus, indicating that the compensation is linked to gaining benefits or avoiding disadvantages. The AAR opined that the compensation is considered consideration for tolerating non-performance hence constituting a supply of service. Consequently, the compensation, including liquidated damages, is subject to 18% GST.

Authors' Notes:

In the Circular No. 178/10/2022-GST dated 03/08/2022, para 7.1 CBIC has explicitly states that compensation for breach of contract does not qualify as consideration for a supply and thus is not subject to taxation. However, in the instant case the AAR referenced an incorrect paragraph and misapplied it to the present case. While both the CBIC Circular and the AAR ruling is aimed to resolve confusion surrounding the taxability of compensation for breach of contract, the instant case appears to have further complicated the matter. The discrepancy between the circular and the AAR's interpretation has resulted in increased uncertainty regarding the taxation of such compensation.

GOODS & SERVICES TAX

From the Legislature

Sr. No.	Notification / Circular	Summary
1	Notification No. 06/2024- Central Tax dated February 22, 2024	**'Public Tech Platform for Frictionless Credit' Notified as Information Sharing System** The Central Government has notified that "Public Tech Platform for Frictionless Credit" is the system with which information may be shared by the common portal based on consent under sub-section (2) of Section 158A of the CGST Act, 2017.
2	Advisory No. 625 dated February 28, 2024	**Advisory issued regarding the delay in GST registration** The GSTN has issued an Advisory regarding the Instances of Delay in registration reported by some Taxpayers despite successful Aadhar Authentication. It states that when a person has undergone Aadhaar authentication as per sub-rule (4A) of rule 8 but has been identified in terms of Rule 9(aa) by the common portal for detailed verification based on risk profile, their application for registration will be processed within thirty days of application submission. Also necessary changes will be made to reflect the same in the online tracking module vis-à-vis processing of registration application.

CUSTOMS & FTP
From the Judiciary

CESTAT rules against payment of interest on short-paid CVD

Titagarh Wagons Limited

Customs Appeal No. 75464 of 2015

The Appellant is a manufacturer of various industrial equipment and imported Meter gauge bogies, wheels, axles and other parts of railway locomotives/rolling stock. They initially paid duty based on the EDI system at a rate of 6%. However, they later discovered that the correct duty rate was 12% due to changes in the Finance Bill, resulting in underpayment of countervailing duty (CVD) by 6%. They were served a Show Cause Notice and were adjudicated upon, with the Order confirming the demand for the short-levied CVD and interest under Section 28AA of the Customs Act.

The CESTAT noted that while interest is compensatory in character and not punitive, the Appellant's underpayment was due to a misunderstanding of the duty rate. Additionally, the duty was paid without objection and on time. The Tribunal emphasized that the appellant complied with Section 47 requirements at the time of clearance and thus, subjecting the importer to levy interest on short paid duty in terms of Section 28 is unjustified. The CESTAT set aside the demand for interest and the appeal was allowed.

CAAR RULES: Operation Theatre Lights Are Medical Devices

Edifice Medical Technologies

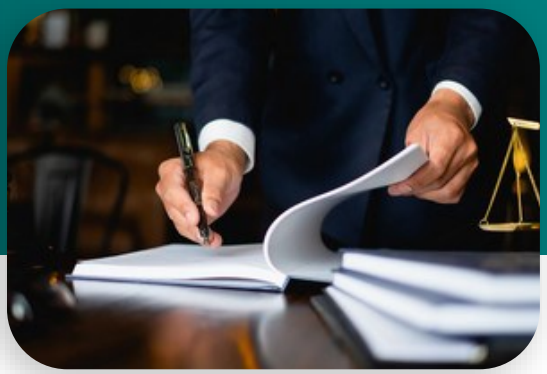
Ruling Nos. CAAR/Mum/ARC/29 & 30/2024

The Applicant filed two applications for advance ruling before the CAAR, seeking advance ruling on the classification of “Operation Theatre Lights” for imports through the port of Nhava Sheva and Air Cargo Complex, Mumbai. They sought clarification from the AAR on whether Operation Theatre Lights can be classified as medical devices.

The CAAR held that Operation Theatre Lights are to be classified under heading 9018 as these are specialised goods and are to be used in operation theatres only. The CAAR ruled that ‘Operation Theatre Lights’ merit classification under Custom Tariff Heading 9018, more specifically under CTI 9018 9099 of the First Schedule of the Customs Tariff Act, 1975 and is classified as a medical device.

CUSTOMS & FTP
From the Legislature

Sr. No.	Notification/ Circular	Summary
1	F. Notice No. 01/2024- dated February 07, 2024	**India-Korea CEPA notifies acceptance of printed e-CoO for defacement** This notice addresses the acceptance of printed copies of electronic Certificates of Origin for defacement purposes. This move aims to enhance efficiency in Customs clearances and expedite trade under the India-Korea Comprehensive Economic Partnership Agreement. This notice mandates the presentation of a printed e-CoO to Customs officers for verification against the Bill of Entry, effectively replacing the defacement of original hard copies
2	JNCH Public Notice No. 13/24 dated February 23, 2023	**Procedure for filing and processing of BoE amendment requests** The Office of Jawahar Lal Nehru Custom House, has issued a Public Notice No. 13/2024, delineating the procedure for filing and processing BoE amendment requests. The notice divides amendments into two categories Self-Approval/Auto Approval and Approval by the Officer. The notice also outlines various scenarios, from pre-assessment amendments to post OOC modifications, and delineates the roles of different officers in processing each request. The amendment requests are further classified into categories based on the nature and complexity of the amendment. Additionally, the notice describes procedures for specific cases, emphasizing adherence to statutory requirements and proper officer approval.



HC holds after CIRP, company's tax-prosecution cannot continue against new management, old officers liable

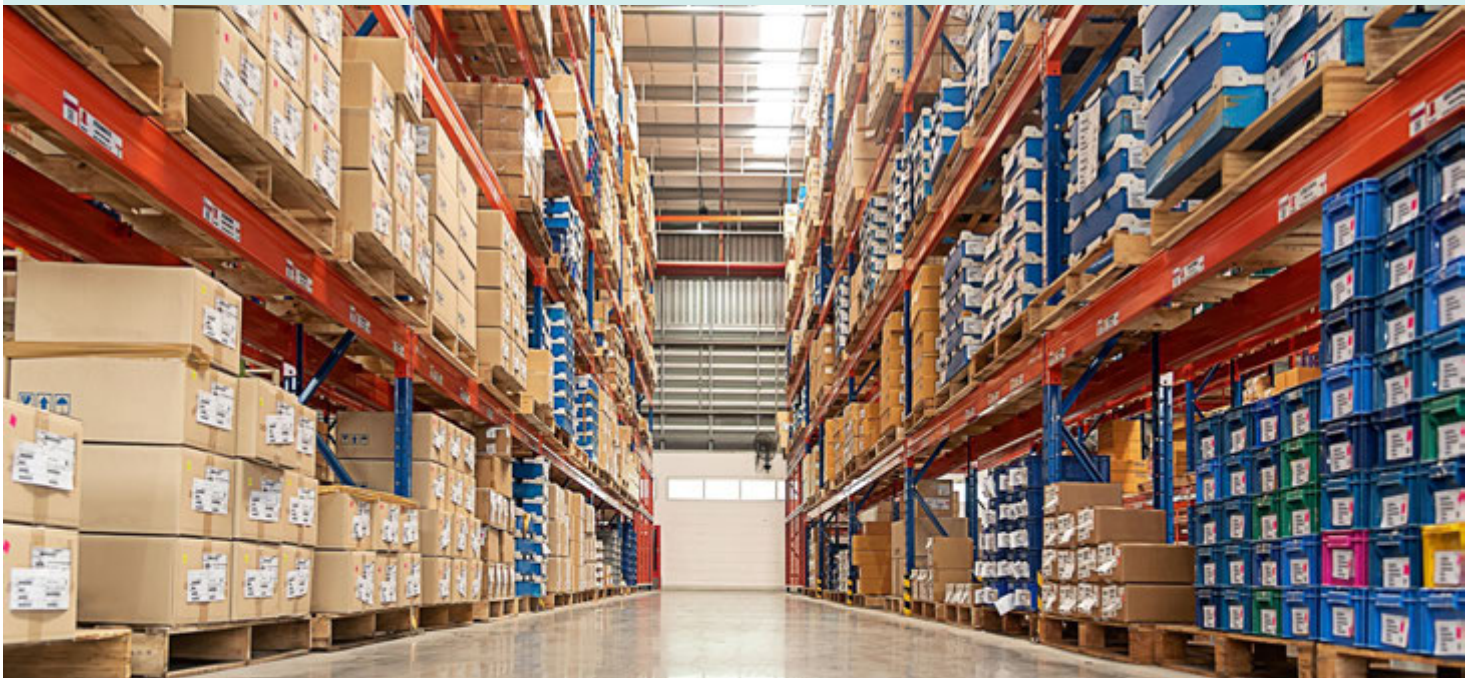
Vasan Healthcare Pvt. Ltd vs. The Deputy Director of Income Tax

Criminal Original Petition No. 134 of 2024

The Assessee was a company which along with its managing director were subject to prosecution under Section 277 of the IT Act (false verification) for AYs 2010-2011 to 2015-2016 involving undisclosed income of about INR 95 Crores. Aggrieved, the Assessee filed a criminal original petition before the HC under Section 482 of the CrPC praying for quashing of the prosecution on the ground that as per Section 32A of the IBC, the liability of corporate debtor completely gets wiped off after the resolution plan is approved by the NCLT and therefore, the prosecution as against Assessee (corporate debtor with new management) could not be continued.

Placing reliance on a plethora of judgments, the HC observed that insofar as the criminal prosecution was concerned, after the approval of the resolution plan, the criminal liability of the corporate debtor was to be completely wiped off and the new management was allowed to take over the company on a clean slate. Therefore, not only was the new management not to take over the criminal liability of the Assessee but also could not be made to undergo criminal prosecution for the offence committed by the persons who were in-charge of the Assessee during the relevant point of time. Moreover, the erstwhile managing director had already passed away and accordingly the charge against him stood abated.

Thus, quashing the prosecution against the Assessee which was taken over by a new management by holding that criminal liability could not be fastened against the new management, the HC directed the Revenue to identify the persons who were in-charge of day-to-day affairs of the Assessee during AYs 2010 -2011 to 2015-2016, and to continue the criminal prosecution as against such officers.



SC holds Revenue to refund 'TDS-refund' borne by Stakeholders Committee of company under CIRP

R.K. Industries (Unit-Ii) LLP vs. Sundaresh Bhat

Miscellaneous Application Diary No(s). 3803/2023

The Petitioner was a creditor of a company under CIRP where refund of the principal amount of the Earnest Money Deposit had been already made to the Petitioner by the Respondent, however the TDS on the interest accrued thereon (which interest was required to be paid by the Respondent as had earlier been directed by the SC in a contempt petition) remained pending, aggrieved by which the Petitioner filed a miscellaneous application before the SC, which, noting the submission of the official liquidator that the Revenue had not refunded the TDS, observed that the present miscellaneous application for refund of TDS on the interest accrued on Earnest Money Deposit had become infructuous as the TDS was already received by the Petitioner from the company's Stakeholders Committee, however holding, that the IT department should refund the TDS-refund that was borne by the Stakeholders Committee of the company under CIRP preferably within four weeks, the SC directed the official liquidator to send an e-copy of this order to the Revenue for compliance and disposed of the miscellaneous application.

HC stays NFRA order penalising CA in Quess Corp case

CA Pawan Jain vs. NFRA

W.P.(C) 1377/2024

The NFRA had earlier slapped a penalty of INR 50 Lakhs on a CA (Petitioner), for professional misconduct, by failing to exercise due diligence and obtain sufficient information before issuing reports under the IT Act, basis which one Quess Corp Ltd. (Assessee) claimed deductions under Section 80JJAA of the IT Act. Aggrieved, the Petitioner filed a writ petition before the HC contending that NFRA had passed the impugned order without jurisdiction.

Noting that the Petitioner had raised the issue of the validity of the NFRA proceedings, and a similar issue had also been raised in another writ petition which was to be heard on May 7, 2024, the HC listed the instant writ petition as well on May 7, 2024, and thereby, stayed the impugned order till the next date of hearing.

SC quashes NCLT, NCLAT orders approving resolution plan without considering shortcomings, underscores "power to recall"

Greater Noida Industrial Development Authority vs. Prabhjit Singh Soni & Anr.

Civil Appeal Nos. 7590-7591 of 2023

The Appellant had filed an appeal before the SC against the NCLAT order that dismissed its appeal against the NCLT order, rejected its applications for recalling of the NCLT order and questioned the RP's decision in treating the Appellant as an operational creditor and not informing the Appellant about the CoC meetings in

respect of the corporate debtor.

Noting that neither the NCLT nor the NCLAT while deciding the application/appeal of the Appellant took note of the fact that not only had the Appellant not been served notice of the meeting of the CoC but the entire proceedings up to the stage of approval of the resolution plan were ex-parte to the Appellant and though the Appellant had submitted its claim, and was a secured creditor by operation of law, yet the resolution plan projected the Appellant as one who did not submit its claim as well as the fact that the resolution plan did not meet all the parameters laid down in Section 30(2) of the IBC read with Regulations 37 and 38 of the CIRP Regulations, the SC observed that though the commercial wisdom of the CoC in approving a resolution plan may not be justiciable in exercise of the power of judicial review, the Adjudicating Authority can always take notice of any shortcoming in the resolution plan in terms of the parameters specified in sub-section (2) of Section 30 of the IBC coupled with Regulations 37 and 38 of the CIRP Regulations, and if any such shortcomings appeared in the resolution plan, it may send the resolution plan back to the CoC for re-submission after satisfying the parameters so laid down.

Further, relying on a catena of rulings, the SC observed that a Tribunal or a Court was vested with such ancillary or incidental powers as may be necessary to discharge its functions effectively for the purpose of doing justice between the parties and, in absence of a statutory prohibition, in an appropriate case, it could recall its order in exercise of such ancillary or incidental powers. Moreover, neither the IBC nor the Regulations framed thereunder, in any way, prohibited, exercise of such inherent power, rather, Section 60 (5)(c) of the IBC, which opened with a non-obstante clause, empowered the NCLT to entertain or dispose of any question of priorities or any question of law or facts, arising out of or in relation to the insolvency resolution or liquidation proceedings of the corporate debtor or corporate person.

Accordingly, quashing the NCLT/NCLAT orders that approved the resolution plan without considering the shortcomings therein and emphasizing on the power of the NCLT/NCLAT to recall its orders, the SC allowed the Appellant's appeal and disposed of the matter after directing the resolution plan to be sent back to the CoC for re-submission once the parameters set out by the IBC were satisfied.

HC holds Sales Tax Department cannot claim priority over dues payable to secured-creditor, allows bank's writ petition

Union Bank of India vs. Deputy Commissioner of Sales Tax & Ors.

Writ Petition No. 248 of 2020

Union Bank of India (Petitioner- secured creditor) had filed a writ petition before the HC against the Deputy Commissioner of Sales Tax (Respondent) inter-alia praying for ad-interim reliefs seeking issuance of a writ of Mandamus or Certiorari to quash and set aside the attachment order passed by the Respondent with reference to the secured assets of the corporate debtor.

Before the HC, the Petitioner contended that no legal rights could be recognized for the State Government to assert any charge overriding the Petitioner's interest as a secured creditor under the SARFAESI Act, and therefore, the Petitioner had priority over the secured assets in the recovery of its dues from the corporate debtor, however, the Respondent refused

to remove such attachment by the impugned order, which could not be sustained and was needed to be set aside.

Placing reliance on a plethora of judgments wherein the full bench of the HC considered the issue as to who between the secured creditor and the taxing/revenue departments can legally claim priority for liquidation of their respective dues qua the borrower/dealer, the HC observed that the dues of the secured creditor subject to the proceedings under the IBC would rank superior to the dues of the relevant department to the State Government and accordingly, holding that the Sales Tax Department could not claim priority over the dues payable to the Petitioner who was a secured creditor and setting aside the attachment order passed by the Respondent, the HC allowed the writ petition, directing the Petitioner to remit the surplus if any after appropriating its entire dues from the sale proceeds of the secured assets, to the Respondent.

SC holds Directors who have resigned cannot be held liable for negotiable instruments failing realization

Rajesh Viren Shah vs. Redington (India) Ltd.

SLP (Criminal) 6905 & 7050 of 2022

The Appellant (former director of MIEL e-Security Pvt. Ltd.) was arrayed as accused in a complaint filed under Section 138 of the NI Act by the Respondent against MIEL e-Security Pvt. Ltd. and its Directors, with the dishonoring of a cheque on presentation, on account of insufficient funds, the Respondent after serving statutory notice, preferred a complaint under Section 200 and Section 191A of the CrPC read with Section 144 of the NI Act.

Aggrieved, the Appellant filed a criminal original petition before the HC seeking the quashing of the action initiated by the Respondent, however the same was dismissed by the HC which caused the Appellant to approach the SC.

The SC while considering the issue at hand as to whether a director who had resigned from such position and which fact stood recorded in the books as per the relevant rules and statutory provisions, could be held liable for certain negotiable instruments, failing realization, observed that the non-realization of the cheque was clearly, after the Appellant had severed its ties with the Respondent and, therefore, in no way could the Appellant be considered responsible for the conduct of business at the relevant time. Moreover, Section 141 of the NI Act, categorically stated that every person who at the time of the offence was responsible for the affairs/conduct of the business of the company, shall be held liable and proceeded against under Section 138 of the NI Act with exception thereto being that if such an act, was done without his knowledge or after him having taken all necessary precautions, in which case he would not be held liable and in the absence of any incontrovertible evidence which was beyond suspicion or doubt or totally acceptable circumstances which clearly indicated that the director could have been concerned with the issuance of cheques, asking him to stand the trial was an abuse of the process of the court.

Further, it was evident from the Form-32 issued much prior to the date on which the cheque was drawn and presented for realization, that the Appellant had no role in the issuance of the instrument and the veracity of Form-32 had neither been disputed by the Respondent nor had the act of resignation simpliciter been questioned. As such, rendering the basis on which liability was sought to be fastened upon the Appellant, questionable. Accordingly, holding that the director having resigned could not be held liable for failed realization of the negotiable instrument, the SC allowed the appeal.

REGULATORY
From the Legislature

MCA announces the establishment of a CPC and the processing of e-forms in Manesar

Notification No. S.O. 446(E) dated February 02, 2024

The MCA through a Notification announces the establishment of a CPC at Indian Institute of Corporate Affairs, Plot No. 6,7,8, Sector 5, IMT Manesar, District Gurgaon (Haryana), Pin Code- 122050. The CPC will now be responsible for processing and disposing of e-forms, replacing the jurisdictional State Registrars in this capacity. However, the Jurisdictional Registrars will retain authority over companies regarding all other provisions of the Companies Act, 2013, and the rules therein, excluding e-forms.

The Notification will be effective from February 06, 2024 onwards.

MCA announces that all the incorporation related services can also be accessed through the NSWS

MCA Notice dated February 12, 2024

The MCA through a Notice announces that all the incorporation related services can also be accessed through the NSWS. The NSWS can be used to obtain central and state approvals related to incorporation and to avail benefits of the schemes. The NSWS portal can be accessed through the following link: https://www.nsws.gov.in/.

MCA notifies the Companies (Registration Offices and Fees) Amendment Rules, 2024

Notification No. G.S.R. 107(E) dated February 14, 2024

With a view to streamline the registration process and centralize decision-making for specified filings across India, the MCA notifies the Companies (Registration Offices and Fees) Amendment Rules, 2024, through which, effective from February 16, 2024, a new rule, 10A, is added to the Companies (Registration Offices and Fees) Rules, 2014, establishing a CPC. This CPC, under Section 396 of the Companies Act, 2013, is tasked with examining all applications, e-Forms, or documents for approval or registration by the Registrar.

The Registrar at the CPC must make decisions within 30 days of filing, excluding cases requiring approval from higher authorities. The newly added Rule 10A, grants the CPC jurisdiction over various filings, including resolutions, share capital alterations, name change applications, and conversions of company types. Multiple filings at once will be handled collectively by the CPC, ensuring uniformity in processing. However, the newly added Rule 10A also clarifies that it does not grant to the Registrar of the CPC, the

authority under Section 399 of the Companies Act, 2013, leaving the Registrar with territorial jurisdiction to exercise those powers.

MCA deploys the 'Change Request Form' on MCA-21 for the convenience of users of MCA-21 Services

General Circular No. 02/2024 dated February 19, 2024

The MCA through a General Circular provides for the deployment and usage of Change Request Form on MCA-21. Stakeholders are informed that the Change Request Form has been made available on V3 portal for the convenience of users of MCA-21 services. This web- based Form is to be used only under exceptional circumstances, for making a request to the RoCs for the purposes which cannot be catered through any existing form or services or functionality available either at front office level (users of MCA-21 services) or back office level (RoCs) and is primarily intended to be used for purposes like Master Data correction and to comply with certain directions of Courts/Tribunals, which ordinarily cannot be complied with through existing functionality of forms or services on MCA-21 system. The Form is required to be processed by RoCs within 3 days of its filing, after which it is required to be forwarded to the Joint Director (e-governance cell), who shall process and decide the matter within a maximum time of 7 days.

SEBI directs intermediaries to centralize FATCA and CRS certifications at KYC registration agencies

Circular No. SEBI/HO/MIRSD/SECFATF/P/CIR/2024/12 dated February 20, 2024

As per the SEBI **Circulars No. CIR/MIRSD/2/2015 dated August 26, 2015, and CIR/MIRSD/3/2015 dated September 10, 2015**, and guidance note on FATCA and CRS norms issued by the MoF, the reporting financial institution is required to obtain a self-certification from the client, as part of the account opening documentation, to determine the client's residence for tax purpose. Given this backdrop, to promote ease of doing business and compliance reporting, SEBI issues norms for the centralization of certifications under the FATCA and CRS at KYC registration agencies. As per the new norms, SEBI has directed the intermediaries, who are reporting financial institutions, to upload the FATCA and CRS certifications obtained from the clients onto the system of KYC registration agencies with effect from July 1, 2024.

Further, the existing certifications obtained from clients prior to July 1, 2024, are required to be uploaded by the intermediaries onto the systems of KYC registration agencies within a period of 90 days from the implementation of this Circular. The onus of obtaining and reporting the FATCA and CRS certification and related compliances shall lie with the respective intermediaries and the intermediary must confirm the reasonableness of such certification based on the information obtained in respect of account opening, including any documentation obtained in accordance with the Prevention of Money Laundering (Maintenance of Records) Rules, 2005 and shall also update the self-certification, as and when, there is a change reported by the client. In addition to the above, the KYC registration agencies are required to develop their systems/mechanisms in coordination with each other and follow uniform internal guidelines/standards, in consultation with SEBI.

RBI allows the issue of Prepaid Payment Instruments for making payments across public transport

Notification No. RBI/2023-24/126 dated February 23, 2024

To provide convenience, speed, affordability, and safety of digital modes of payment to commuters for transit services, the RBI allows authorized bank and non-bank Prepaid Payment Instruments issuers to issue Prepaid Payment Instruments for making payments across various public transport systems. Prepaid Payment Instruments issuers will now be able to issue such Prepaid Payment Instruments for mass transit systems to make payments across various modes of public transport such as metro, buses, rail, and waterways, tolls, and parking, effective immediately.

These Prepaid Payment Instruments shall now contain the automated fare collection application related to transit services, toll collection and parking, and will be allowed to be issued by the authorized bank and non-bank Prepaid Payment Instruments issuers without KYC verification of the holders. While the Prepaid Payment Instrument accounts may be "reloadable in nature", the amount outstanding cannot exceed INR 3,000 at any time and no cash withdrawal, refund or funds transfer will be permitted. Further, these Prepaid Payment Instruments will have perpetual validity.

IBBI mandates that the RP shares a copy of the report prepared under Section 99 of the IBC with debtor and creditor in all cases for equal information access

Circular No. IBBI/II/66/2024 dated February 12, 2024

The RP in an insolvency resolution process of a debtor under the IBC examines the application filed under Section 94 or 95 of the IBC and submits a report to the Adjudicating Authority under Section 99 of the IBC, recommending for approval or rejection of the application.

Section 99 of the IBC mandates the RP to share a copy of this report with the debtor or the creditor. However, taking cognisance of the fact that because of this provision, in certain cases, the RPs have not shared a copy of the report with both the debtor and the creditor, leading to a lack of equal information access among them, the IBBI through a Circular mandates that the RP provides a copy of the report to both the debtor and the creditor in all cases to ensure that the debtor and the creditor are well-informed about the evaluation and recommendations made by the RP, thereby promoting transparency and informed decision-making.

IBBI directs the liquidators to ensure financial service providers have the requisite permissions from their respective regulator before commencing voluntary liquidation

Circular No. IBBI/LIQ/67/2024 dated February 13, 2024

The definition of corporate persons under the IBC excludes financial service providers which once notified by the CG are required to consult financial regulators and obtain prior permission from the appropriate regulator if they want to undergo a voluntary liquidation process as per the IBBI (Insolvency and Liquidation Proceedings of Financial Service Providers and Application to Adjudication Authority) Rules, 2019.

Taking cognisance of instances wherein some financial service providers had commenced the voluntary liquidation process without notifying their appropriate regulator or taking prior permission, the IBBI through a Circular directs the liquidators in cases of a financial service provider, to declare the category under which the financial service provider has been notified by the CG and also ensure that prior permission for voluntary liquidation has been obtained from the appropriate regulator by the financial service provider.

Further, the liquidators have also been directed to share the following documents with the IBBI via email to liqvol@ibbi.gov.in:-

Form H and Final Report: Liquidators are directed to submit a copy of Form H and the final report before the Adjudicating Authority, as per Regulation 38 of the IBBI (Voluntary Liquidation Process) Regulations, 2017, to the IBBI. This step ensures that the IBBI has access to comprehensive documentation of the liquidation proceedings.

Dissolution Order: Liquidators are also directed to submit the dissolution order, marking the conclusion of the liquidation process, to the IBBI. This requirement facilitates the IBBI's role in documenting and overseeing the orderly dissolution of corporate entities.

INTERNATIONAL DESK

Enhancing UAE'S competitiveness: OECD'S tax review of free zones

The UAE Ministry of Finance recently declared that the OECD has officially acknowledged the country's Free Zone Corporate Tax regime as 'non-harmful' signalling its strong adherence to international tax standards. This recognition stems from the OECD's extensive review of 322 taxation regimes worldwide as part of the BEPS Project. The findings, revealed during the October 2023 meeting of the FHTP, underscore the UAE's robust tax legislation and its dedication to preventing tax avoidance and harmful tax practices.

Mohamed Hadi Al Hussaini, Minister of State for Financial Affairs, emphasized the significance of this rating, stating that it reflects the UAE's commitment to transparency, non-harmful taxation, and the implementation of best practices in tax policy. He noted that this recognition represents a significant milestone in the UAE's journey toward consolidating its position as a leading global hub for business and investment. Additionally, Al Hussaini underscored the role of the Free Zone Corporate Tax regime in supporting the UAE's economic diversification strategy and its pledge to align with international taxation standards.

ABU DHABI: FTA launches next phase of corporate tax awareness campaign with SME-focused workshop

The FTA in Abu Dhabi launches the second phase of its Corporate Tax awareness campaign, aiming to educate businesses and provide ongoing support to taxpayers. The campaign includes events and workshops across the UAE's seven emirates, focusing on legislation, compliance requirements, and leveraging technology for easy access to information. FTA Director General H.E. Khalid Ali Al Bustani inaugurated the first workshop of the second phase of the awareness campaign in Abu Dhabi, tailored for small and medium-sized enterprises (SMEs) and focusing on "Small Business Obligations and Relief Under the Corporate Tax Law".

Coinciding with the launch of corporate tax registration, the Excellency highlighted the FTA's introduction of various awareness initiatives, such as guides, programs, and explanatory videos available on their website. These resources aim to provide detailed insights into legislative aspects and compliance mechanisms related to Corporate Tax, with the aim of informing taxpayers about their rights, duties, tax calculation methods, executive procedures, and legal obligations. The workshop emphasized the positive outcomes of last year's comprehensive awareness campaign by the FTA, which facilitated direct engagement between the authority and taxpayers, particularly in the corporate sectors. The campaign witnessed significant participation and response from stakeholders. Looking forward, the Excellency stated that the second phase of the campaign aims to provide continuous knowledge support to relevant taxpayers and stakeholders. Special workshops will be organized for SMEs, with the FTA allocating numerous sessions for their induction and maintaining ongoing communication with other sectors.

EGYPT, UAE ink double taxation avoidance agreement

Egypt and the UAE on February 11, 2024, entered into an agreement aiming to eliminating double taxation and preventing income-tax evasion. The agreement was formalized during the eighth annual Arab Fiscal Forum in Dubai, with Egyptian Minister of Finance Mohamed Maait and his Emirati counterpart, Mohamed

Bin Hadi Al Hussaini, signing the accord.

Indian Government announces notification of tax information exchange agreement with Samoa

The Finance Ministry, through Notification No. 21/2024 dated February 7, 2024, announces an agreement between India and Samoa for the exchange of tax-related information. This Agreement became effective on September 12, 2023, which marks the later of the notifications completing the required procedures as per the laws of both countries. Signed in Apia, Samoa, on March 12, 2020, this agreement is now officially in force.

COLOMBIA: New Deadlines For Transfer Pricing Documentation

Columbia *vide* Decree 2229 of December 22, 2023, introduced new deadlines for the submission of various forms of transfer pricing documentation, including the informative declaration, Country-by-Country (CbC) notification, Local file, Master file, and CbC report for tax year 2023 onwards. The deadlines have shifted to between the 7th and the 16th business day of September of the respective year, signifying a notable departure from the earlier submission deadlines set in December. It's pertinent to highlight that even taxpayers exempt from submitting an informative declaration yet belonging to a multinational group must submit a CbC notification, which, akin to the CbC report, is required by the 10th business day of December.

OECD Foresees the global minimum tax altering the trajectory of investment flow

The introduction of a global minimum corporate tax this year is poised to reshape multinational corporations' foreign investment strategies as the benefits of profit allocation in tax havens dwindle. As per an updated impact study by the OECD released recently, the global minimum tax, initially endorsed in a significant accord involving 140 countries in 2021, is now being put into action. With 36 nations already enacting laws establishing a 15% minimum corporate tax rate and others expected to follow suit, the initiative aims to mitigate tax competition among countries by enabling governments to impose supplementary taxes to elevate profits to the 15% threshold for earnings recorded in jurisdictions with lower tax rates. The OECD, overseeing the agreement's progression from negotiation to implementation, stated that the global minimum tax would halve the average disparity between tax rates in tax havens and other nations, reducing it from 14 percentage points to 7 points upon implementation. Consequently, the OECD highlighted in its updated economic impact assessment that multinational corporations are likely to increasingly base their foreign investments on factors such as workforce education and infrastructure, rather than solely prioritizing locations to minimize overall tax obligations.

The OECD additionally reported that while approximately 36% of corporate profits are currently estimated to be taxed at less than 15%, only 7% are projected to fall below that threshold once the global minimum tax is enforced.

GLOSSARY

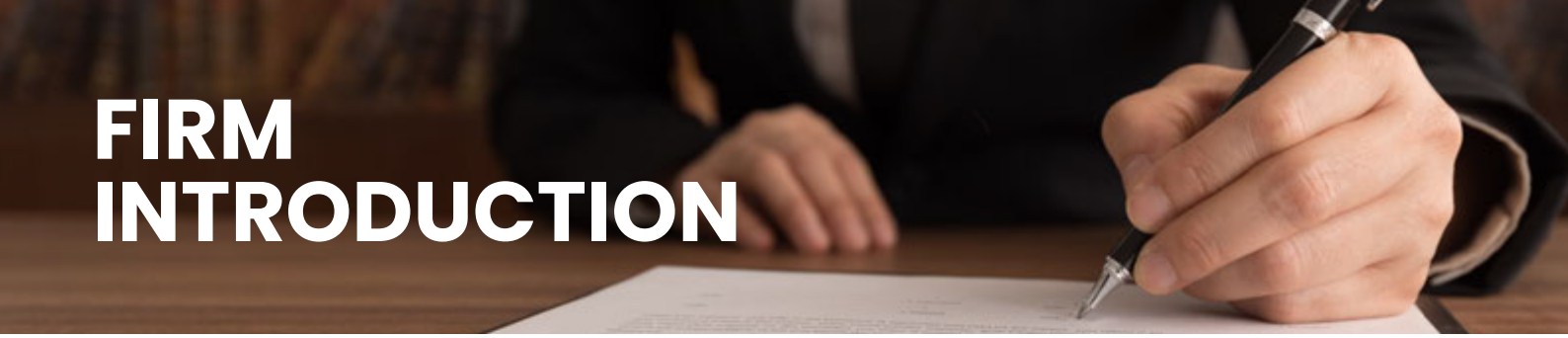
Abbreviation	Meaning
AA	Adjudicating Authority
AAAR	Appellate Authority for Advance Ruling
AAR	Authority for Advance Ruling
ACU	Asian Clearing Union
ADD	Anti-Dumping Duty
ADG	Additional Director General
AE	Associated Enterprises
AFA	Additional Factor of Authentication
AGM	Annual General Meeting
AICD	Agriculture Infrastructure and Development Cess
AIF	Alternative investment Fund
AIFs	Alternative Investment Funds
ALP	Arm's length price
AMCs	Assets Management Companies
AMP	Advertising, Marketing and Promotion
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
BEPS	Base Erosion and Profit Shifting
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
CCI	Chief Commissioner of Income-tax
CCIT	Chief Commissioner of Income tax
CG	Central Government
CGST Act	Central Goods and Services Act, 2017
CIMS	Centralized Information Management System
CIT	Commissioners of Income Tax
CIT(A)	Commissioner of Income-tax (Appeals)
CIT(J)	Commissioner of Income-tax (Judicial)
CJI	Chief Justice of India
CLB	Company Law Board
CoC	Committee of Creditors
CPC	Centralized Processing Centre
CrPC	The Code of Criminal Procedure, 1973
CRS	Common Reporting Standard
CS	Company Secretary

Abbreviation	Meaning
Cus	Customs Act, 1962
CVD	Countervailing Duty
DCIT	Deputy Commissioner of Income Tax
DDT	Dividend Distribution Tax
DGIT	Director General of Income Tax
DIT	Directorate of Income Tax
DRC	Dispute Resolution Committee
DRI	Directorate of Revenue Intelligence
DRP	Dispute Resolution Panel
DTAA	Double Taxation Avoidance Agreement
DTCP	Director General, Department of Town and Country Planning
ED	Enforcement Directorate
EDC	External Development Charges
EOI	Expression of Interest
EP	Engagement Partner
EP	Engagement Partner
EPSEPS	Employees' Pension Scheme
Evidence Act	Indian Evidence Act, 1872
FATCA	Foreign Account Tax Compliance Act, 2010
FATF	Financial Action Task Force
FDI	Foreign Direct Investment
FEMA	Foreign Exchange Management Act, 1999
FHTP	Forum on Harmful Tax Practices
FHTP	Forum on Harmful Tax Practices
Fin	Finance Bill Finance Bill, 2023
FIR	First Information Report
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
HSVP	Haryana Shahari Vikas Pradhikaran
HUF	Hindu Undivided Family
IBBI	Insolvency and Bankruptcy Board of India
IBC	Insolvency and Bankruptcy Code
ICAI	Institute of Chartered Accountants of India
ICDR	Issue of Capital and Disclosure Requirements Regulations, 2009
ICFR	Internal Controls Over Financial Reporting
IFSC	International Financial Services Centres
IFSC	International Financial System Code
IFSCA	International Financial Services Centres Authority Act, 2019
IGST	Integrated Goods and Services Tax

GLOSSARY

Abbreviation	Meaning
IIM	Indian Institute of Management
IMC	Indian Medical Council Act, 1956
Ind AS	Indian Accounting Standards
InvITs	Infrastructure Investment Trusts
InvITs	Infrastructure Investment Trusts
IRP	Interim Resolution Professional
IT Act/ Act	The Income-tax Act, 1961
ITBA	Income Tax Business Application
JAO	Jurisdictional Assessing Officer
KYC	Know Your Customers
LIC	Life Insurance Corporation
LLP	Limited Liability Partnership
LODR Regulations	Listing Obligations and Disclosure Requirements Regulations, 2015
LRS	Liberalized Remittance Scheme
LTC	Long-Term Capital Gains
MAT	Minimum Alternate Tax
MII	Market Infrastructure Institution
MoF	Ministry of Finance
MoU	Memorandum of Understanding
MSEFC	Micro, and Small Enterprises Facilitation Council
MSME	Micro Small and Medium Enterprises
MSMED Act	Micro, Small and Medium Enterprises Development Act, 2006
NaFAC	National Faceless Assessment Centre
NBFC	Non-Banking Finance Company
NCCD	National Calamity Contingent Duty
NCD	Non-Convertible Debentures
NCLT	National Company Law Tribunal
NCS	Non-Convertible Securities
NCS Regulations	SEBI (Issue and Listing of Non-Convertible Securities) Regulations, 2021
NDFC	Net Distributable Cash Flows
NELP	New Exploration Licensing Policy
NFRA	National Financial Reporting Authority
NFT	Non-Fungible Tokens
NHB	National Housing Bank
NI Act	Negotiable Instruments Act, 1881
NPA	Non-Performing Assets
NPS	National Pension System
NSWS	National Single Window System
OBU	Offshore Banking Unit
ODC	Online Dispute Resolution
OEC	Organization for Economic Co-operation and Development
OECD	Organization for Economic Co-operation and Development
OFS	Offer for Sale
OPC	One Person Company
PAN	Permanent Account Number
PAN	Permanent Account Number
PBPT	Prohibition of Benami Property Act, 1988
PCCI	Principal Chief Commissioner of Income-tax

Abbreviation	Meaning
PCCIT	Principal Chief Commissioner of Income-tax
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
REITs	Real Estate Investment Trusts
RoC	Registrar of Companies
ROMM	Risk of Material Misstatements
RP	Resolution Professional
RPT	Related Party Transactions
RTGS	Real Time Gross Settlement
RU	Review Unit
SAD	Special Additional Duty
SAED	Special Additional Excise Duty
SARFAESI Act	The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002
SC	Supreme Court
SCAORA	Supreme Court Advocates-on-Record Association
SCBA	Supreme Court Bar Association
SCN	Show Cause Notice
SCRA	Securities Contracts (Regulation) Act, 1956
SEBI	Securities and Exchange Board of India
SFIO	Serious Fraud Investigation Office
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
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
TCS	Tax Collected at Source
TDS	Tax Deducted at Source
TNMM	Transactional Net Margin Method
TPO	Transfer Pricing Officer
TPS	Tax performing system
UAPA	Unlawful Activities (Prevention) Act, 1967
UCB	Urban Co-operative Bank
UK	United Kingdom
UPI	Unified Payments Interface
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
XBRL	eXtensible Business Reporting Langauge



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.

Of-late, GLS has expanded its reach with offerings in respect of Product Centric Regulatory Requirements (such as BIS, EPR, WPC), Environmental and Pollution Control laws, Banking and Financial Regulatory laws etc. to be a single point solution provider for any trade and business entity in India.

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

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

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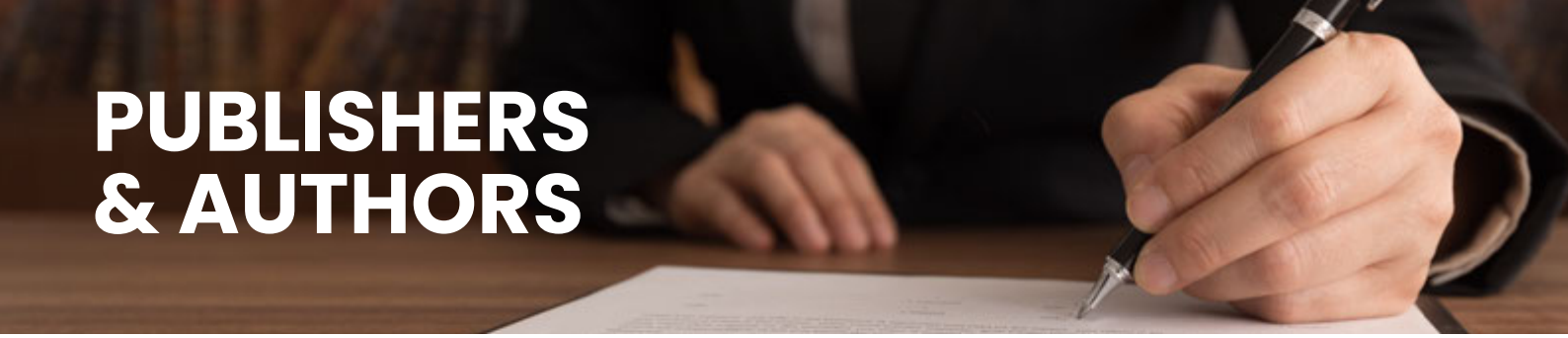

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