AUG
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EDITION 46

VISION 360

A TREASURY OF KEY TAX & REGULATORY DEVELOPMENTS!

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ONE-STOP DESTINATION FOR TAXMAN AND TAXPAYER

EDITORIAL

VISION 360: Good times ahead!

As we step into the month of August, it is important to take stock of the significant developments that have taken place in the GST landscape. The NDP Government's first Union Budget proposal was presented by Hon'ble FM Nirmala Sitharaman on the July 24, 2024. The Indirect tax proposals included the change in BCD which is the most significant among the rest. The budget announced reduction in BCD of mobile phone and related parts citing recent growth of domestic. industry. It also took cognizance of the need to promote domestic solar energy industry and announced withdrawal of exemption in import of solar glass and tinned copper interconnect which is a key component in manufacturing solar panels. The budget further exempted import of capital goods meant for manufacturing solar panels.

The Finance bill on the other hand have implemented several of the recommendations of the 53rd GST Council such as common time limit for adjudication of disputes irrespective of allegations of mala fide, empowering Central Government to regularise short or non-levy in common industry practices, Clarifications of time of supply under reverse charge, relaxation in limitation under Section 16(4), capping amounts of pre-deposit and several other changes.

Nonetheless, the month of July also witnessed some key moments in taxation, such as the amendment to CGST Rules and the CBIC issuing slew of Circulars, which provide much-needed clarifications on some burning GST issues such as the recovery of outstanding dues and pre-deposit adjustments due to the non-constitution of the GST Appellate Tribunal and the Circular which provides guidance on the valuation of services related to providing corporate guarantees between related parties, following the introduction of Rule 28(2) of the CGST Rules and its recent amendment. It also clarifies the taxability of such transactions that took place before the rule was introduced.

In addition to all these crucial recommendations, in this edition of our newsletter, we have also curated a diverse range of articles and insights focusing on the previous month, including recent tax reforms, emerging trends in the industry, and feedback and pros and cons of the Union Budget.We have also penned down an article which discusses the recent abolition of the "Angel Tax" in India's Union Budget 2024, a tax that previously targeted start-up investments exceeding their fair market value. It explains the origins and objectives of the tax, its impact on the start-up ecosystem, and the reasons behind its removal. The article highlights how the abolition is expected to boost start-up growth, attract investment, and drive innovation, while also addressing concerns about potential tax evasion. The need for careful regulatory oversight to balance supporting start-ups and ensuring tax compliance is emphasized.

As these developments make their way to headlines and board rooms, we at TIOL, in association with Taxcraft Advisors LLP, GLS Corporate Advisors LLP and VMGG & Associates, are glad to publish the 46th 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.

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

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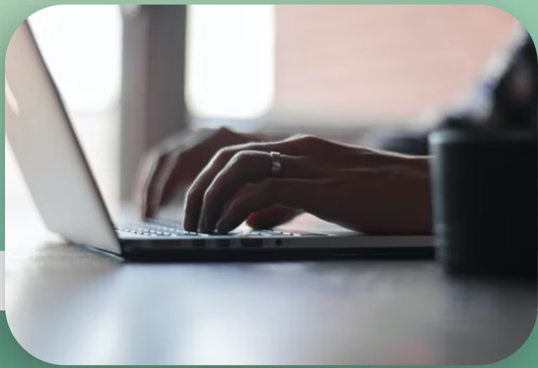
ARTICLE



Angel Tax Abolition: Catalyzing Startup Growth while Navigating Tax evasion concerns

The recent amendment in India's income tax legislation, abolishing the "Angel Tax," represents a significant policy shift and is expected to spark extensive discussion among stakeholders. To fully understand the implications of this change, it is crucial to explore the origins and objectives of the angel tax, its impact on the economy and the start-up ecosystem, and the rationale behind its recent abolition.

The angel tax was introduced in India in 2012 through Section 56(2)(viib) of the Income Tax Act to curb the circulation of unaccounted money, a longstanding issue in the Indian economy. It targeted investments by angel investors in start-ups, particularly those perceived as overvalued. When unlisted companies, especially start-ups, received equity investments exceeding the fair market value of their shares, the excess amount was taxed as income from other sources. This provision aimed to prevent money laundering and the infusion of illicit funds through inflated share valuations. Over the years, the government introduced exemptions for investments by Venture Capital Companies, Funds, and SEBI/IFSC regulated Category I and II AIFs. Additionally, start-ups registered with DPIIT were included in the exemption list, subject to certain conditions.

The introduction of the angel tax served a dual purpose. Firstly, it aimed to enhance transparency and ensure that all funds entering the start-up ecosystem were legitimate and accounted for. By subjecting these investments to tax scrutiny, the government sought to increase tax collection and reduce tax evasion, addressing the broader issue of black money that had long plagued the economy. This was seen as a necessary step to create a level playing field where all financial transactions were transparent and within the tax authorities' purview.

On the other hand, the angel tax had several unintended consequences that significantly impacted India's start-up ecosystem. Start-ups, inherently high-risk ventures, often require substantial capital inflows from angel investors and venture capitalists to drive growth and innovation. The imposition of the angel tax created a considerable burden on these early-stage companies, subjecting them to rigorous scrutiny and potential tax liabilities that many could ill afford. This led to a slowdown in investment, as investors became wary of the complex tax implications and entrepreneurs faced significant difficulties in raising the necessary funds to grow their businesses.

The challenges posed by the angel tax were multifaceted. Firstly, the valuation of start-ups is inherently subjective and can vary widely depending on the metrics used, making it difficult for start-ups to establish a fair market value that would withstand tax scrutiny. Additionally, the fear of potential tax liabilities created an environment of uncertainty and hesitation among investors. Many angel investors, who typically provide early-stage funding based on the start-up's potential and vision rather than current financial metrics, became reluctant to invest, fearing their investments would be subjected to punitive taxation.

The slowdown in investment had a ripple effect on the broader start-up ecosystem. Start-ups, often seen as engines of innovation and job creation, faced significant hurdles in securing the capital needed to grow. This stifled innovation and growth, undermining the government's start-up promotion initiatives.

The reduced investment also had broader economic implications, leading to slower economic growth and fewer job opportunities.

Recognizing the adverse impact on the start-up sector and the broader economy, the Indian government decided to abolish the angel tax with the Union Budget 2024. This policy shift aims to create a more supportive environment for start-ups and entrepreneurs. By eliminating the angel tax, the government seeks to encourage investment in the start-up sector, driving innovation, job creation and economic growth. The move is expected to attract both domestic and international investors, providing essential capital to early-stage companies and enabling them to scale their operations without fear of punitive tax measures.

The abolition of the angel tax is set to benefit the start-up ecosystem and the broader economy by removing the significant financial and administrative burdens on start-ups. Entrepreneurs can now focus on business growth rather than complex tax regulations. A more predictable and favourable investment climate will likely boost investor confidence, leading to increased investment, innovation, job creation, and economic growth.

Removing the angel tax is expected to boost the global competitiveness of India’s start-up ecosystem. By easing regulatory and tax burdens, India is likely to attract more international investors and venture capitalists seeking promising opportunities. This influx of foreign capital will provide financial support and bring valuable expertise, networks, and best practices, further strengthening the start-up sector.

While abolishing the angel tax is widely viewed as positive, it raises concerns about potential misuse for tax evasion. Without strict oversight, there's a risk that unaccounted funds could be funnelled into start-ups to evade taxes. To address this, the government must implement robust monitoring and vetting processes. Enhanced transparency and regulatory oversight will be crucial to prevent misuse while fostering a healthy investment climate.

The government must balance supporting start-ups with ensuring tax compliance through measures like mandatory disclosures, regular audits, and strict penalties. Effective oversight is essential to ensure that the abolition of the angel tax promotes genuine investment and growth without becoming a loophole for evasion.

In conclusion, the abolition of the angel tax represents a significant policy shift aimed at revitalizing India's start-up ecosystem. While it addresses concerns of investors and entrepreneurs, it requires vigilant regulatory oversight to prevent misuse. This change is expected to boost investment and innovation, driving economic growth and positioning India as a favorable destination for start-ups. The success of this policy will depend on implementing measures to maintain tax system integrity while supporting start-up growth.

INDUSTRY PERSPECTIVE

FULESH BANSAL

Finance Controller

Sigma Byte Computers Private Limited

01 What is your reaction on budget 2024?

Budget 2024 was a mixed bag. The Hon'ble Finance Minister in the first union budget under Modi 3.0 government has taken significant steps towards infrastructure development & sustainable transportation. The INR 26,000 crore investment in road infrastructure, proposal of industrial parks and road connectivity projects are in line with the goal of achieving the vision of Viksit Bharat. Further, it is heartening to see the Government's encouragement of internships and skill development amongst young people which will re-enforce not just our industry, driving innovation and growth.

This budget signals a strong vision for India's manufacturing sector and aligns with our mutual objective of building a resilient and inclusive economy. However, there's a feeling amongst major industry players that the budget could do more to directly address our sector's needs. While the overall emphasis on growth and investment is appreciated and has not been overlooked, we're looking for customised impetus which will directly incentivise members of our industry in contributing to the vision of Viksit Bharat.

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

Changes in tax laws can interfere with the business environments by influencing investment decisions, business structures, and location choices. It is well accepted that tax changes can directly affect any industry's demand and revenue. Higher taxes on specific services/goods may reduce demand, while lower taxes could give an impetus to growth in demand and increase in revenue for such suppliers of goods or services. Furthermore, an impact can also be seen on the administrative efforts and resources caused by additional compliance, which can impact operational efficiency and profitability.

All in all, the consequences of tax changes on not just our country's economy but the world economy can vary based on circumstances surrounding it, and as such a thorough scrutiny of various factors is needed to ascertain the calibration and corroboration of tax changes with long-term growth objectives.

Fulesh Bansal
Finance Controller — Sigma Byte Computers Private Limited

03 What are your thoughts on exemption on the mandatory QCO on import of inputs which are required for export by SEZ units?

The DGFT vide Notification No. 71/2023 dated March 11, 2024, inserted Para 2.03A which made provision for exempting SEZ Units from mandatory QCO on import of inputs which are required for export. As a result, goods manufactured from such inputs are not allowed for clearance to DTA. An undertaking ought to be furnish to the Development Commissioner of SEZ at the time of importation. Further, as per the Notification, the exemption from QCO will only be available to the physical exports and not deemed exports. This move was much awaited by the industry is much welcomed!

04 What are your thoughts on the recent CBIC Notification which exempts GST Compensation Cess on imports by SEZ units or developers for authorized operations?

The Andhra Pradesh HC in the case of Maithan Alloys had held that GST compensation cess is not exempt in the case of import of goods by SEZ units. The order is likely to have an adverse impact on imports. As a s result, many industry members were looking to approach the Government for a retrospective exemption from payment of GST compensation cess in case of import of goods by an SEZ unit.

However, the CBIC, in pursuance of the 53rd GST Council meeting which recommended the exemption of GST Compensation Cess on imports by SEZ units or developers for authorized operations, issue Notification No. 27/2024-Customs dated July 12, 2024, which exempted all goods imported by SEZ units or developers for authorized operations from whole of the compensation cess. This was made effective from July 15, 2024, and was welcome by all the major players of our industry.

05 What is your outlook on digitisation and what role would it play in better corporate governance and compliance?

The 'Digital India' program which is a flagship programme of the Government of India was brought into the picture to transform India into a digital empowered society. Therefore, the India's shift to digitalization when it comes to tax compliances has not been a surprise to anyone. However, it is necessary to ensure that the transparency in these procedures which is necessary to reduced tax evasion and increase the taxpayer's faith in the tax system of our country. Therefore, digitisation is one of the key pillars for improving governance and compliance which can be done through greater security, transparency and e-fficiency in processes to which tax operations are no exception!

The Government's continuous efforts in digitizing the tax space have found unwavering support in not just our industry but in various industries through the country. Amendments in compliances such as the e-way bill, e-invoicing, IT return defaulters tagging, etc. has ensured greater transparency in such processes. However, with such changes a necessary and unavoidable consequence is the increased burden on the taxpayer in terms of IT systems preparedness, educating and aligning the on-ground team, ensuring timely and correct -ling of monthly/annual tax returns. Therefore, the Government must take note of the same if it wants more and more people to participate in the tax machinery and not avoid paying tax merely due to such practical difficulties.

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Tribunal holds microfinancing with exorbitant interest rate & profit intent, not charitable activity, rejects claim for exemption under Section 11 of the IT Act

Innovative Microfinance

ITA No. 164/Chny/2024

The Assessee had filed its return of income declaring 'Nil' income and claimed exemption of INR 76.36 Lakhs under Section 11 of the IT Act. During assessment, the Revenue denied the exemption claimed under Section 11 of the IT Act on the ground that the Assessee was carrying on micro-financing business in a commercial manner so as to earn profit and there was no iota of charity carried out by the Assessee, which was violative of proviso to Section 2(15) of the IT Act.

Aggrieved, the Assessee approached the Tribunal which noted that the Assessee generated profits by charging exorbitant rate of interest at 25% from its borrowers which were poor people as against the market rate i.e.12-14%. Moreover, the Assessee was also not protected under Section 11(4A) of the IT Act as it was mainly carrying out organized commercial activity of micro financing predominantly with the intention of making profit and no activity other than micro finance activity was conducted in the nature of charity. Further, placing a reference on the report of the sub-committee of the RBI issued in 2011, and having examined Assessee's activity in light of the above report, the Tribunal observed that the Assessee was solely doing microfinancing activities by charging exorbitant interest, which did not commensurate with the prevailing rate and in order to consider the activity to be charitable in nature, the services rendered must commensurate with the benefit that would arise to such low-income group, however, nothing was spent by the Assessee which could be considered in the nature of charity.

Accordingly, finding that the microfinance activity carried on by the Assessee could not be considered as a 'charitable activity' under Section 2(15) of the IT Act, the Tribunal denied the exemption claimed by the Assessee under Section 11 of the IT Act and dismissed the Assessee's appeal.

Tribunal deletes addition of non-compete fees paid to retiring partner of LLP, holding same to be revenue in nature

Samkeet Arya Homes LLP

ITA No. 249/Ahd/2024

The Assessee had approached the Tribunal against the disallowance of non-compete fees of INR 38 Lakhs, paid to a retiring partner of the LLP contending the same to be revenue expenditure.

The Tribunal observed that the Assessee had rightly claimed the compensation paid for refraining the retiring partner from carrying competitive business to be revenue in nature as the payment to the retiring partner was in accordance of his experience, reputation and eminence in real estate business and essentially for avoiding any near future business competition from him, therefore, the Revenue could not treat such compensation as to be purely stage managed especially when the said payment was also offered to tax by the retiring partner.

Further, the Tribunal observed that the non-compete clause between the Asseessee and the retiring partner was a strategy clause in respect of ensuring the competitive element as well as profit element and placing reliance on a plethora of HC judgments observed that the expenditure incurred for the purpose which was set out primarily and essentially related to the operation or work of the firm (LLP/ partnership firm) that constituted the profit earning apparatus of the Assessee was in the nature of revenue expenditure, therefore, the payment of the non-compete fees to the retiring partner, was in the nature of revenue expenditure.

Moreover, the Revenue not only received the tax in the very first year itself from the Assessee but the retiring partner also paid the higher tax on such payment, as surcharge payable and was higher in individual compared to the LLP, therefore, no prejudice was caused to the Revenue on account of this transaction.

Accordingly, finding the disallowance of the non-compete fees expenditure to not be justified, the Tribunal deleted the disallowance of the non-compete fees of INR 38 Lakhs and allowed the Assessee's appeal.

Tribunal condones delay of 1999 days, holds representative's negligence sans Assessee's knowledge, beyond Assessee's control 'sufficient cause'

JCR Drillsol Pvt Ltd.

ITA Nos. 870 & 871/Bang/2023

The Assessee had approached the HC pleading for condonation of delay of more than 1900 days in filing appeal before the CIT(A) due to negligence occurred on behalf of the representative without the knowledge of the Assessee, as the Assessee was declared an NPA since the year 2018 and consequent seizure of all the documents by the concerned bank, deprived the Assesse of proper representation before the assessment authority, therefore, the delay in filing of the appeal was neither wilful nor wanton but due to circumstances beyond Assessee's control.

The Tribunal noted that the reason for delayed filing of appeal pertained to the Assessee's wrong presumption based on the representative's wrong information that the appeals were filed within limitation, however, the fact of non-filing of appeal came to its knowledge only on the receipt of the recovery notice, therefore, this constituted a 'sufficient cause' for the condonation of delay and also that the Assessee could not be punished for the lapse occurred on behalf of the representative which was beyond its control and which could be substantiated on perusal of the affidavit containing reason for delay in filing of the appeal.

Accordingly, the Tribunal observed that the expression 'sufficient cause' should receive a liberal construction in order to advance substantial justice and as the Assessee had shown reasonable cause for the delayed filing of appeal, there was no question of any excessive or inordinate delay. Moreover, the period of delay was not a relevant factor once the 'sufficient cause' was established by the Assessee.

Thus, condoning the delay of more than 1900 days in filing of appeal before the CIT(A) due to the negligence occurred on behalf of the representative without the knowledge of the Assessee, the Tribunal remitted the matter back to the CIT(A) for de-novo adjudication of appeals.

Tribunal holds supply of design & engineering services inextricably linked to offshore plant and equipment sale, not FTS

Andritz AG

ITA No.5991/Del/2015

The Assessee was a tax resident of Austria which was engaged in the business of supplying plants and services for hydropower. The Assessee entered into an agreement with SAIL and as a consequence thereof, received consideration of INR 3.18 Crores towards offshore supply of design and engineering, offshore supply of plants and equipment and onshore supply of supervisory services from its supervisory PE.

The Revenue observed that the contract with SAIL involved composite contracts and the provision of design and engineering services was an intrinsic part of contract and could not be seen in isolation, therefore, the services pertaining to design and engineering were technical and constituted FTS under Section 9(1)(vii) of the IT Act *read with* Article 12 of India-Austria DTAA and the amount received towards onshore supervisory services was attributable to the supervisory PE and had to be treated as FTS under Article 12 of India-US DTAA.

Aggrieved, the Assessee approached the Tribunal which noted that it was an admitted fact that the Assessee received the amount towards design and engineering services in pursuance to a composite contract wherein the Assessee was not only required to supply services pertaining to design and engineering on offshore basis but also that of plant and equipment manufactured based on such design and engineering and therefore, the design and engineering services were inextricably linked with the manufacturing and supply of equipment. Accordingly, the Revenue's conclusion of treating design and engineering services independent of supply of plant and machinery was held untenable.

The Tribunal further observed that the supply of design and engineering services had identical nature and character to that of offshore supply of plant and machinery and therefore was not taxable as FTS in terms of Section 9(1)(vii) of the IT Act *read with* Article 12 of India-Austria DTAA.

On the issue of taxability of onshore supervisory services as FTS, the Tribunal observed that although Article 7 of the India-Austria DTAA provided for taxability of business profit of an Austrian entity in the source country having PE on net basis, however, Article 12(5) of the India-Austria DTAA carved out an exception wherein the receipts in the nature of FTS connected to a PE in India, could be treated as business profit under Article 7 of the India-Austria DTAA, therefore, the amount received towards supervisory services could not be taxed as FTS under Article 12(4) of the India-Austria DTAA.

DIRECT TAX
From the Legislature

Sr No	Notification/Circular	Summary
1.	**Notification No. 01/2024-25 dated June 24, 2024**	**CBDT specifies Forms to be furnished electronically under Rule 131** Director General of Income Tax (Systems), with the approval of the CBDT, specifies Forms 3CN,3CS,3CEC,3CEFB,59,59A, to be furnished electronically and to be verified in the manner prescribed under sub-rule (1) of Rule 131 of the IT Rules. The Notification is effective from June 27, 2024.
2.	**Order No. No.173/03/2021-ITA-I (Pt.2) dated June 27, 2024**	**CBDT directs PCIT to accept delayed payment of taxes under Section 10 of the DTV Act, 2020, subject to certain conditions** The CBDT directs that the delayed payment of requisite taxes be accepted by the PCIT under Section 10(2) of the Direct Tax Vivad se Vishwas Act, 2020 (DTV Act), in cases fulfilling the following conditions: • The Assessee has made full payment of taxes (including amount payable after due date as prescribed in Form-3 of the DTV Act Rules) on or before February 28, 2022, under the DTV Act, and • The appeal(s) mentioned in Form-I of the DTV Rules has either been withdrawn or has not been decided as on the date of full payment of taxes (including amount payable after due date as prescribed in Form-3 of the DTV Rules). Further, the CBDT also directs the concerned PCIT to issue modified Form-3 if needed and allow the Assessee to file Form-4 manually and thereafter, issue Form-5 manually after examining the conditions as per the DTV Act. The due date for the completion of the entire process has been set by the CBDT to September 30, 2024.

Sr No	Notification/Circular	Summary
3.	**Press Release dated July 19, 2024**	**CBDT awards Taxnet 2.0 Project to Bharti-Airtel, eyes digital infrastructure enhancement** CBDT awards 'Taxnet 2.0' project to telecom giant Bharti-Airtel for providing network connectivity, facility management services and video conferencing services to the Income Tax Department, stating that it is a state-of-the-art technology, providing secure, reliable and seamless connectivity services and marks a significant advancement over the current Taxnet 1.0 project, that will enhance the digital infrastructure of the Department.
4.	**Press Release dated July 24, 2024**	**Finance Ministry releases FAQs clarifying amendments proposed for capital gains taxation** The Finance Ministry releases FAQs on the 'New Capital gains Taxation regime' proposed under the Finance Bill, 2024. The FAQs states that the new regime applies to any transfer made on or after July 23, 2024, and further, clarifies on the significant issues relating to holding period, rate structure, change in exemption limit, roll over benefits etc.
5.	**Press Release dated July 28, 2024**	**Finance Ministry extends validity of India and USA Transitional Approach on Equalization Levy, 2020 until June 30, 2024** India and the USA had earlier joined 134 other OECD member countries of the Inclusive Framework on October 8, 2021, in reaching agreement on the Pillar 2 Solution addressing the tax challenges arising from the Digitalization of the Economy. On October 21, 2021, the USA, Austria, France, Italy, Spain, and the UK reached a political compromise on the transitional approach to the unilateral measures in force while Pillar 1 is implemented which was reflected in the joint statement that was issued by those six countries on "October 21 Joint Statement". On November 24, 2021, India and the USA agreed that the same terms as under the October 21 Joint Statement shall apply between India and the USA with respect to India's 2% Equalisation Levy on e-commerce supply of services and the USA's trade action regarding the said Equalisation Levy.

Sr No	Notification/Circular	Summary
		Thereafter, the USA, Austria, France, Italy, Spain, and the UK decided to extend the political compromise set forth in the October 21 Joint Statement until June 30, 2024 and in light of the above developments, India and the USA also decided to extend the validity of the transitional approach with respect to India's charge of 2% Equalization Levy on e-commerce supply of services and the USA's trade action regarding the said Equalization Levy as reflected in November 24 Statements until June 30, 2024.

TRANSFER PRICING
From the Judiciary

Tribunal holds electronic products different from electrical ones, directs consideration of comparables dealing in former

Advance Power Display Systems Ltd.

ITA No. 1532 to 1535/Mum/2024

The Assessee was a 100% Export Oriented Unit, engaged in manufacturing of Switch Mode Power Supplies (SMPS) used in computer industry and IT applications that had approached the Tribunal contending that the comparables selected by TPO were electrical companies, whereas the product manufactured by the Assessee was an electronic product.

Noting that the entire dispute revolved around whether the comparables selected by the TPO were in the same line of business as that of the Assessee and also that SMPS which was manufactured by the Assessee was an electronic product, the Tribunal observed that electrical systems dealt with the flow of electrical power of charge, while electronic systems dealt with the flow of electrons. Moreover, electrical devices converted electrical energy into other forms, such as heat, light, or sound, to perform tasks whereas electronic devices controlled the flow of electrons to perform tasks like calculations or amplifications, therefore, electronic products were different from electrical products.

Accordingly, refusing to compare apples with oranges, the Tribunal further remarked that given the technical nature of the products, both parties were asked to bring in their respective comparables which dealt in electronic products only, supported by the certificate of some technical experts.

Thus, restoring the issue back to TPO with a direction to bring comparables on record which dealt in electronic products, supported by certificate of some technical experts and also directing that since the Assessee was a 100% Export Oriented Unit, it would be proper to apply filter of export turnover of more than 75% of total turnover and RPT should be less than 25% and allowing the Assessee to bring fresh comparables in line with its business, keeping in mind the above filters, the Tribunal remitting the selection of comparables, disposed of the appeal.

Tribunal deletes TP adjustment made in respect of corporate guarantee, follows earlier order

Afcons Infrastructure Ltd.

2024-TII-121-ITAT-MUM-TP

The Assessee was a part of the Shapoorji Pallonji Group and was engaged in executing complex civil engineering projects in the infrastructure sector in India and abroad that had extended existing guarantee to First Gulf Bank in respect of banking facilities availed by its AE and the TPO had called upon the Assessee to furnish reasons for not charging any fee from the AE towards the same.

Before the TPO, the Assessee submitted that the First Gulf Bank had a fixed card rate for giving loan and guarantee i.e. 1.5% and since the Assessee had given the counter guarantee, the bank charged 1% towards a guarantee to the AE.

However, the TPO observed that since the First Gulf Bank charged the lesser rate of interest only because of the guarantee given by Assessee, the benefit of 0.5% lesser interest accruing to the Assessee should be added as a TP Adjustment as 0.5% was the benefit derived by the AE. Therefore, the TPO applied 0.5% on the various guarantees given by the Assessee to make a TP adjustment. On appeal to the CIT(A), the CIT (A) giving partial relief to the Assessee, reduced the rate of guarantee fee to 0.23%.

Still aggrieved, the Assessee approached the Tribunal which noted that the coordinate bench in the Assessee's own case for a previous year had deleted a similar adjustment, by observing that even if it was reckoned as an international transaction, then also on FAR analysis, the reward or profit to the AE was almost negligible, i.e. the ultimate profit was not even 1%.

Thus, given, the same set of guarantees to First Gulf Bank and facts being similar to the previous year, the Tribunal observed that the adjustment, if at all, would also be negligible on the facts of the present case and accordingly, deleted the same.

Tribunal holds guarantee ceases on classification of loan as NPA, deletes TP-adjustment qua guarantee

JE Energy Ventures Private Limited

ITA No. 513/Del/2022

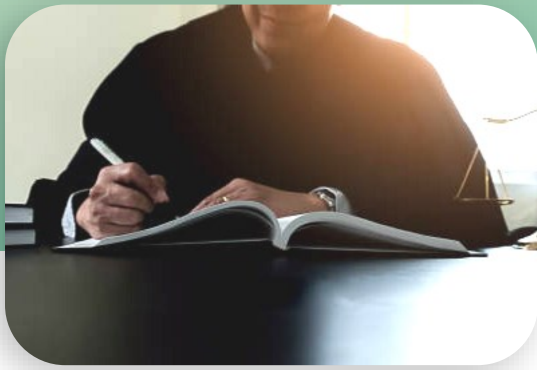
The Assessee was engaged in providing support and other services of air charter, leasing, trading, lending finance business and investments that had provided a primary guarantee to its step-down foreign subsidiaries against the loan taken by them from EXIM Bank. Accordingly, the Revenue made a TP adjustment qua the corporate guarantee fees. Aggrieved, the Assessee approached the Tribunal contending that the guarantee should have been classified as shareholder activities rather than an international transaction and accordingly the Revenue had erred in making the TP adjustment.

The Tribunal noted that in the Assessee's own case for a previous year, guarantee was classified as an international transaction, where the Assessee received a guarantee fee of INR 2.7 Crores, however, stating that the transaction must be evaluated every year, the Tribunal noted that the facts in that previous year differed from the year under consideration since the step-down subsidiaries had not serviced the obligation towards the loan taken by them which caused the loan to be classified as an NPA by the EXIM bank and the same was intimated to the Assessee in May 2016, for which the recovery proceedings had already been initiated from the Assessee being the primary guarantor. Accordingly, the Tribunal observed that the Assessee being the holding company, was aware of the situation prior to the intimation received from the bank and as the situation was apparent and recovery proceedings were commenced, the guarantee seized to exist at the beginning of the year itself.

Moreover, the Assessee had not recovered any fees for guarantee, as in the past, during the present period and the liability of the Assessee towards the guarantee was restricted to the extent of its investments in the subsidiaries and to the extent of recovery of the assets held by the subsidiaries. Further, as the classification of the loan as NPA was intimated to the Assessee, it could not be presumed that the corporate guarantee existed, hence, there was no possibility that the Assessee had continued the guarantee and accordingly, there was no international transaction during the year relevant period under consideration. Thus, holding that the TPO was wrong in initiating proceedings to benchmark corporate guarantee as there was no international transaction in the first place, the Tribunal directed the Revenue to delete the said TP adjustment.

GOODS & SERVICES TAX

From the Judiciary



HC: ITC cannot be granted unless the tax has actually been paid to the government exchequer

Tirupati Balaji Traders

WP(C) NO. 16259 OF 2024

In this case, the Petitioner raised issues similar to those in the M**. Trade Links v. Union of India case**. The core issue involved the interpretation of Section 16(2)(c) of the CGST Act. The petitioner argued that interpreting this section to deny ITC, despite paying the full tax amount to the supplier, would undermine other related provisions in the CGST/SGST Act and the Insolvency and Bankruptcy Code, 2016. The Petitioner's argument centred around the idea that such an interpretation would make several provisions of the CGST/SGST Act redundant.

Despite these arguments, the court emphasized that the right to avail ITC is conditional. The court held that the Petitioner cannot be granted the benefit of input tax credit unless the tax collected from them has actually been paid to the government. This is in line with the view taken in Nahasshukoor vs. Assistant Commissioner and Others, where it was established that input tax credit is a benefit subject to specific conditions, and it cannot be claimed if those conditions are not met. As a result, the writ petition was dismissed.

Upon examination, the High Court ruled that the Appellate Authority had exceeded its jurisdiction by introducing an issue that was not mentioned in the original order and by independently formulating a new question. Moreover, even if the Appellate Authority purported to exercise its powers under Section 107 (2) of the CGST Act, it failed to adhere to the statutory provisions, thereby violating the principles of natural justice. As a consequence, the High Court nullified the Appellate Authority's order and granted the refund to the Petitioner.

Authors' Notes

*The instant judgment, which asserts that input tax credit can only be availed if the tax collected from the purchaser is actually paid to the exchequer, presents a notable departure from previous judicial decisions. This ruling contrasts with the findings in **Suncraft Energy Private Limited**, where the court determined that procedural shortcomings by the supplier should not necessarily deny the purchaser their ITC, provided certain conditions are fulfilled. Similarly, the decision diverges from the LGW Limited, which underscored the importance of a pragmatic approach to ITC claims, focusing on the GST regime's broader objective of ensuring smooth credit flow through the supply chain. In these earlier rulings, the courts supported a more flexible interpretation that aimed to avoid penalizing buyers for issues arising from supplier errors or procedural difficulties. The current judgment's stricter interpretation of Section 16(2)(c) of the CGST/SGST Act, 2017, demanding that tax collected must be remitted to the government for the credit to be valid, represents a shift towards a more stringent application of GST credit rules, potentially affecting how businesses approach their ITC claims.*

HC : Interest cannot be levied unless such ITC is both availed and utilized

Utpal Das

WPA 18241 of 2022

In this case, the Petitioner challenged two orders imposing interest and penalties. The Petitioner had received a notice for excess ITC due to a clerical error, which was corrected by debiting the electronic credit ledger. Despite this, a SCN was issued, and subsequent order, imposed interest and penalties. Aggrieved, the Petitioner preferred a writ before the High Court. The Petitioner contended that, under Section 50(3) of the GST Act, interest could only be levied if ITC was both availed and utilized.

The court held that the imposition of interest and penalties on the Petitioner was incorrect. The HC held that, based on Section 50(3) of the CGST Act, interest could only be levied if the ITC was both availed and utilized. Since the Petitioner had corrected the ITC error and had sufficient credit in their ledger, the court determined that the interest and penalty were not justifiable. Consequently, the court set aside the orders quashing the demand for interest and penalties.

Authors' Notes

It is a well-established principle that interest in the GST framework is compensatory and should be imposed on an assessee who has delayed or withheld payment of tax when it is due. The GST Council's stance aligns with this view, emphasizing that interest liability arises only in cases of wrongful availment and utilization of credit. This perspective is consistent with various judicial precedents, including decisions from different High Courts, and is further reflected in the Press Release dated 29.06.2022 from the 47th GST Council Meeting. These precedents and the Council's recommendation confirm that interest charges should be applied only where there has been both wrongful availment and utilization of ITC.

Section 7(1)(aa) of the CGST Act is not ultra vires but cannot be applied retrospectively

Indian Medical Association Vs. UOI

TS-433-HC(KER)-2024-GST

The petitioner challenged the levy of GST on services provided by clubs/associations to their members. They contested the validity of the amendment made to Section 7 of the CGST Act, through the Finance Act, 2021, which inserted Section 7(1)(aa) and an explanation related to the taxability of such services. The Petitioner argued that unless Article 246A of the Constitution is amended, such activities by clubs/associations cannot be taxed under GST, citing the principle of mutuality.

The Court Held:

- **Constitutional Validity of Section 7(1)(aa) –** The court found that the judgment in Gannon Dunkerley does not necessitate a constitutional amendment for every transaction involving the supply of goods and services. Article 246A grants the Parliament and State Legislatures the power to enact laws for GST on the supply of goods and services. This power is not restricted by the Constitution regarding the nature of the entity involved in the transaction. The insertion of Section 7(1)(aa) by the Finance Act, 2021, was deemed valid and not beyond legislative competence. The amendment does not infringe on fundamental rights and is neither manifestly arbitrary nor capricious. Therefore, the challenge to the constitutionality of Section 7(aa) was dismissed, though it was decided that the amendment would apply prospectively from 01.01.2022.

- **Prospective vs. Retrospective Application** – Prior to the amendment, the law of mutuality was established, and GST was not collected on the services provided by clubs/associations to their members. The principle of mutuality does not bar the taxation of services provided by a club or association to its members. With the introduction of Section 7(1)(aa) by the Finance Act, 2021, the associations became liable to pay GST on such supplies. The amendment under Section 7(1)(aa) of the CGST Act, 2017, which includes such services within the scope of GST, is constitutionally valid and falls within the legislative competence of Parliament and State Legislatures. However, this provision will only apply prospectively from 01.01.2022 and not retrospectively.
- **Examination of Activities** – The court directed that each activity undertaken by the Petitioner-association should be examined independently to determine whether it constitutes the supply of goods and services and, consequently, whether GST should be imposed.

HC: Communication of the deficiency is to be excluded from the 2 years limitation period for filing the refund application

M/s Darshan Processors vs UOI & Ors

2024-VIL-760-GUJ

The Petitioner filed a refund application under Section 54(3) of the CGST Act. Initially, the application was submitted to the Assistant Commissioner of State GST but was later transferred to the Assistant Commissioner of Central GST & Excise Division-II. Thereafter the refund application was rejected on the grounds that it was filed beyond the prescribed period of limitation.

The court ruled that the refund application should be considered within the limitation period. It referenced Notification No. 15/2021-CT, which stipulates that the time from filing the refund claim to the communication of deficiencies is excluded from the two-year limitation period. Consequently, the original refund application was deemed to be within the limitation period, and the subsequent application made after addressing deficiencies should be treated as a continuation of the initial claim. The court quashed the order rejecting the refund application on the basis of limitation and directed the authorities to assess the petitioner's refund application on its merits.

GOODS & SERVICES TAX

From the Legislature

Sr No	Notification/ Circular	Summary
1.	**Notification No. 12/2024 (Central Tax) dated July 10, 2024**	**Amendment to CGST Rules** The notification introduces several amendments to the CGST Rules, 2017 & new changes in forms notified. Below are some point -wise changes: • **Amendment in Rule 8 – Application for Registration: Sub-rule (4A)**: After the first proviso, a new proviso is inserted: ◊ For applicants not opting for Aadhaar authentication, a photograph of the applicant (or relevant individuals) must be taken. ◊ Verification of the original documents uploaded with FORM GST REG-01 must be done at designated Facilitation Centers. ◊ The application will be deemed complete only after successful verification . • **Amendment in Rule 21 – Cancellation of Registration**: ◊ **Clause (f)**: After the words, letters, and figures "FORM GSTR-1", the letters, words, and figures ", as" are added . • **Amendment in FORM GSTR-4**: ◊ In the instructions, at Sr. No. 2, after the words "end of such financial year", the words and letters "for the financial year up to FY 2023-24. Further, the details in FORM GSTR-4, for every financial year or part thereof, should be furnished till the 30th day of June following the end of such financial year for the financial year 2024-25 onwards." are inserted . • **Amendment in FORM GSTR-1A**: ◊ For the brackets, letters, words, and figures "(Auto-drafted from GSTR-1, GSTR-5 and GSTR-7)", the substitution is made with "(Auto-drafted from GSTR-1, GSTR-1A, GSTR-5 and GSTR-7)" .

Sr No	Notification/ Circular	Summary
		• **Amendment in FORM GSTR-1 Table 5:** ◊ With effect from 1st August 2024: ◊ **Serial Number 6**: In the heading, the figures, letters, and words "Rs. 2.5 lakh" are substituted with "Rs. 1 lakh". ◊ **Serial Number 7**: In the table, in clause (7B), in the heading, the figures, letters, and words "Rs. 2.5 Lakh" are substituted with "Rs. 1 lakh" . • **Amendment in FORM GSTR-7**: ◊ **Table 3**: The table is substituted with a new format for capturing GSTIN, invoice details, amount paid to deductee, and the amount of tax deducted at source. ◊ **Table 4**: A new table format is introduced to capture similar details as Table 3 . • **Amendment in FORM GSTR-9**: ◊ **Pt. II, Sl. No. 4**: A new entry "G1 Supplies on which e-commerce operator is required to pay tax as per section 9(5)" is added. ◊ **Sl. No. 5**: A new entry "C1 Supplies on which tax is to be paid by e-commerce operators as per section 9(5) [Supplier to report]" is added. ◊ **Instructions, Paragraph 4**: The words "or FY 2023-24" are inserted after "or FY 2022-23" . • **Amendment in Rule 21A – Suspension of Registration**: ◊ **Sub-rule (2A)**: After the first proviso, a new proviso is inserted to specify conditions under which suspension of registration may be lifted .
2.	**Notification No 14/2024 of Central Tax dated July 10, 2024**	**Exemption from GST Annual Return Filing for FY 2023-24** Annual return in GSTR 9 is exempted to the registered person whose aggregate turnover in the financial year 2023-24 is up to two crore rupees, from filing annual return for the said financial year.

Sr No	Notification/ Circular	Summary
3.	**Circular No. 224/18/2024 dated July 10, 2024**	**Clarifications on Recovery of Outstanding Dues and Pre-Deposit Adjustments under CGST Act** Due to the non-constitution of the GST Appellate Tribunal, taxpayers are unable to file appeals against the decisions of the first appellate authority. This situation has raised questions regarding the recovery of outstanding dues and the adjustment of amounts paid through FORM GST DRC-03. To address the non-constitution of the GST Appellate Tribunal, the GST authorities have provided a mechanism for taxpayers to stay recovery proceedings by paying the required pre-deposit amount and filing an undertaking. **Clarifications:** • **Appeal Process and Recovery Stay:** Currently, taxpayers cannot file appeals to the GST Appellate Tribunal due to its non-operation. Recovery proceedings are initiated if the due amount is not paid within three months of the order. If an appeal is filed with the required pre-deposit, recovery proceedings are stayed until the appeal is resolved. • **Payment of Pre-deposit and its procedure:** Taxpayers intending to appeal and stay the recovery can make pre-deposit payments via the Electronic Liability Register (ELL) Part-II on the GST portal. This can be navigated by **Services ›› Ledgers›› Payment towards demand.** The pre-deposit amount paid will be mapped against the specific outstanding demand order and adjusted accordingly. • **Undertaking/Declaration Requirement:** Taxpayers must file an undertaking with the proper officer declaring their intent to file an appeal once the Tribunal is operational. Upon payment of the pre-deposit and submission of the undertaking, recovery of the remaining demand amount will stand stayed. • **Consequences of Non-Compliance with above 2 points:** If the taxpayer does not make the pre-deposit payment or submit the undertaking/ declaration, then it will be presumed that taxpayer is not willing to file appeal against the order of the appellate authority and recovery proceedings will commence. Similarly, after the Tribunal is constituted, failure to file an appeal within the prescribed timeline will result in the recovery of the remaining demand amount.

Sr No	Notification/ Circular	Summary
		• Adjustment of Payments Made through FORM GST DRC-03: Taxpayers who have inadvertently paid amounts intended for demand through FORM GST DRC-03 can file FORM GST DRC-03A to adjust these payments against the demand. The amounts will be treated as paid towards the demand from the date of intimation through FORM GST DRC-03.Mechanism to adjust payments made inadvertently through FORM GST DRC-03 has been provided vide Notification No. 12/2024-Central Tax dated 10.07.2024 vide which sub-rule (2B) of Rule 142 and FORM GST DRC-03A has been inserted in Central Goods and Services Rules, 2017. – • **Functionality of FORM GST DRC-03A:** Currently, the functionality for FORM GST DRC-03A is not available on the GST portal. Until this functionality is available, taxpayers should inform the proper officer about the inadvertent payments through FORM GST DRC-03 , and on such intimation, the proper officer may not insist on recovery for the remaining amount payable by the concerned taxpayer, till the time the said functionality of FORM GST DRC-03A is made available on the portal. Once the functionality is available, taxpayers must file FORM GST DRC-03A to formalize the adjustment.
4.	**Circular No. 225/19/2024-GST dated July 10, 2024**	**Clarification on the taxability and valuation of services of providing corporate guarantee between related persons:** This Circular provides guidance on the valuation of services related to providing corporate guarantees between related parties, following the introduction of Rule 28(2) of the CGST Rules and its recent amendment. It also clarifies the taxability of such transactions that took place before the rule was introduced. • **Deemed Valuation of Corporate Guarantees Prior to the Introduction of Rule 28(2):** ◊ Providing a corporate guarantee to a banking company or financial institution on behalf of a related party was considered a taxable service even before Rule 28(2) of the CGST Rules was implemented. ◊ Rule 28(2), effective from October 26, 2023, specifies the method for valuing the taxable supply of corporate guarantees but does not address the issue of taxability itself. ◊ For the period before October 26, 2023, the valuation of corporate guarantee services, whether newly issued or renewed, should follow the version of Rule 28 that was applicable at that time. Any corporate guarantee issued or renewed on or after October 26, 2023, will be valued according to the amended Rule 28(2).

Sr No	Notification/ Circular	Summary
		• **Valuation and ITC Implications for Partial or No Availment of Loan:** ◊ Providing a corporate guarantee involves assuming the risk of default, which is independent of the actual disbursement of the loan. ◊ The value of the service will be based on the guaranteed amount, not the amount of the loan that is actually disbursed. ◊ Eligibility for ITC will be determined according to the relevant provisions, irrespective of when or how much of the loan has been availed. • **GST Applicability on the Takeover of Existing Loans:** ◊ In a corporate guarantee arrangement, the service supplier is the corporate entity providing the guarantee, and the recipient is the related entity for whom the guarantee is provided. ◊ The takeover of an existing loan by one banking company or financial institution from another does not constitute the service of providing a corporate guarantee and is not subject to GST. ◊ However, if the loan takeover is accompanied by the issuance of a new corporate guarantee or the renewal of an existing one, GST will apply. • **Valuation of Corporate Guarantee When Multiple Entities/Co-Guarantors Are Involved:** ◊ **If the total consideration paid to guarantors exceeds 1% of the corporate guarantee amount:** The entire sum of the consideration paid or payable to the guarantors will be subject to GST. ◊ **If the total consideration is less than 1% of the corporate guarantee amount:** GST will be proportionately applied to 1% of the amount guaranteed by each co-guarantor. • **Intra-Group Corporate Guarantee for Related Persons in India:** ◊ By a Domestic Company: * GST is payable under the forward charge mechanism. * The supplier must issue an invoice to the recipient. ◊ By a Foreign/Overseas Company: * GST is payable under the reverse charge mechanism.

Sr No	Notification/ Circular	Summary
		• **Deemed value of 1% is on a onetime, yearly basis, or monthly basis :** ◊ The deemed valuation of 1% of the corporate guarantee amount is calculated on a per-annum basis according to the amended Rule 28(2). ◊ Multiple-Year Guarantees: For guarantees spanning multiple years, the valuation is 1% per year, multiplied by the number of years, or the actual consideration, whichever is higher. ◊ Proportionate Valuation: If the guarantee period is less than a year, the valuation will be proportionate to the time period. ◊ Yearly Renewals: If the corporate guarantee is renewed annually, the deemed valuation will apply each year. • **Benefit of Declared Value as Open Market Value (OMV):** ◊ If the recipient is eligible for full ITC, the value declared in the invoice will be considered the open market value (OMV). • **Applicability of Rule 28(2) for Export of Services:** ◊ Rule 28(2) does not apply to the export of corporate guarantee services between related persons, in accordance with the amended rule.
5.	**Circular No. 226/20/2024 dated July 10, 2024**	**Refund mechanism for additional IGST paid on account of upward revision of price of goods post exports** This circular provides guidelines for exporters to claim refunds on additional IGST paid as a result of upward price revisions after goods have been exported, ensuring compliance with the CGST Rules. Clarifications on the Refund Application Process— • **Filing the Refund Application:** ◊ Exporters should file a refund application for the additional IGST paid in **FORM GST RFD-01** electronically on the common portal. ◊ The jurisdictional GST officer will process the application. ◊ Amendments to the CGST Rules were made via Notification No. 12/2024-CT dated 10.07.2024, to facilitate the filing of these refund applications, which will be processed under **Rule 89** of the CGST Rules.

Sr No	Notification/ Circular	Summary
		• **Interim Measures Until a Separate Category Is Available on the Portal:** ◊ Until a dedicated category for claiming refunds of additional IGST is created, exporters should file their applications under the category "**Any other**," with a note stating "Refund of additional IGST paid due to price increase after export of goods." ◊ Relevant documents as prescribed in clause (bb) of sub-rule (2) of **Rule 89** of the CGST Rules should be submitted. • **Required Documentation:** ◊ Copy of the shipping bill or bill of exports. ◊ Original invoices. ◊ Contract or other documents indicating the necessity for the price revision. ◊ Original invoices along with relevant debit notes or supplementary invoices. ◊ Proof of payment for additional IGST and any applicable interest. ◊ Proof of receipt of additional foreign exchange remittance (FIRC). ◊ Certificate from a practicing chartered accountant or cost accountant confirming the additional foreign exchange remittance. ◊ Statements **9A** and **9B** of FORM GST RFD-01. • **Minimum Refund Amount:** ◊ Refunds will not be processed for amounts less than one thousand rupees, as per sub-section (14) of **Section 54** of the CGST Act. • **Time Limit for Filing the Refund:** ◊ Refund applications must be submitted within **two years** from the relevant date, as defined in clause (a) of Explanation (2) of Section 54 of the CGST Act. ◊ For cases where the relevant date predates the introduction of sub-rule (1B) of Rule 89, the application must be filed within **two years** from the effective date of the sub-rule.

Sr No	Notification/ Circular	Summary
		• **Processing the Refund Application:** ◊ The officer will verify the application for completeness and eligibility. This includes confirming that the exporter has correctly reported export invoice and debit note details in FORM **GSTR-1** and paid the additional IGST and interest in FORM **GSTR-3B**. ◊ The officer will also verify the revised value declared by the exporter and the details of foreign exchange remittances received. ◊ If satisfied, the officer will issue a refund sanction order in **FORM GST RFD-06** and a payment order in **FORM GST RFD-05**, accompanied by a detailed speaking order. • **Downward Price Revision:** ◊ In cases of a downward revision in the price of exported goods for which IGST was paid, the exporter must return the proportional IGST refund along with applicable interest. ◊ The proper officer will verify the deposit of excess refund amounts during the relevant tax period when processing new refund applications.

Tribunal overturns duty demand due to procedural irregularities in customs assessment

Shami Impex

2024-VIL-753-CESTAT-CHE-CU

The instant case revolves around the import of Low-Density Polyethylene (LDPE) reprocessed granules and the associated provisional assessment of customs duties under the Customs Act, 1962. The issue in this case is whether a notice demanding duties u/s. 28 can be issued without first finalizing the provisional assessment u/s. 18 of the Act. The Bill of Entries (BEs) in question were filed before April 8, 2011, when self-assessment of customs duties became the norm. The department, instead of finalizing the provisional assessments, directly issued a demand for duties u/s. 28. The court held that the relevant date for issuing a notice u/s. 28 is after the final assessment, not before. Consequently, the process adopted by the department was deemed to have no legal basis, leading to the setting aside of the impugned order.

Additionally, the case involved allegations of undervaluation of imports by Appellant and its related entities, leading to a SCN demanding differential duties and imposing penalties. The appellants argued that the assessment was still provisional and thus, no demand or penalties could be enforced. They also claimed that their rights under the principles of natural justice were violated as they were not given adequate time to respond or pursue settlement proceedings. The Tribunal decided that the procedural fairness was not upheld and that the SCN was issued prematurely without finalizing the assessments.

Lastly, the involvement of fraud and collusion was discussed, but the Tribunal found that without a finalized assessment and proper verification procedures, such allegations could not justify the SCN. The Tribunal accordingly concluded that the department's actions were legally flawed and that the appellants were entitled to a fair opportunity to defend their case based on clear and correct legal provisions. The appeal was allowed, and the penalties and confiscation were overturned.

Imported item should classified based on its own characteristics and cannot be combined with other goods

M/s. Leadstone Energy Limited

2024-VIL-860-CESTAT-KOL-CU

In the recent ruling by CESTAT concerning the clearance of Lead Scrap "Radio," the Customs authorities discovered that the consignment contained a mix of lead scrap and spent cartridges, including both burst and un-burst types. The import of such mixed goods was restricted under the Foreign Trade Policy, leading to the consignment being held liable for confiscation. However, the authorities permitted the goods to be re-exported upon payment of a redemption fine and a penalty imposed on the appellant.

The issue in the instant case addressed was whether a redemption fine could be validly imposed when the goods are allowed for reexport. The appeal challenged the validity of the redemption fine, arguing that the Customs Act does not empower adjudicating authorities to impose such fines in cases of re-export. While examining the issue, the Tribunal referenced prior decisions, notably HCL Hewlett Packard Ltd. v.

Commissioner of Customs, Delhi, and HBL Power Systems Ltd. v. Commissioner of Customs, Visakhapatnam. These cases established that adjudicating authorities do not have the power to impose a redemption fine when goods are re-exported. The Tribunal concluded that the Customs authorities, bound by the provisions of the Customs Act, could not impose a redemption fine in cases of re-export.

Additionally, the Tribunal found that the penalty imposed on the appellant was excessively high. In line with precedents and the principles of fair adjudication, the Tribunal set aside the redemption fine and reduced the penalty from Rs. 3,00,000 to Rs. 1,00,000.

CESTAT rules that imported industrial fans are to be valued based on transaction value, not MRP

M/s. Amar Radio Corporation

2024-VIL-623-GUJ-CU

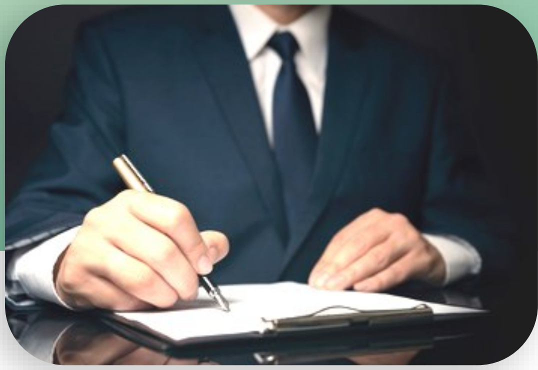
The Appellant imported brushless DC/Axial fans intended for use in the electronic industry, specifically for manufacturing electronic equipment such as medical devices, inverters, and control panels. The Appellant declared these goods in the Bills of Entries (BoEs) as intended for industrial use, and the goods were cleared by the Customs department under the Risk Management System without further assessment. However, the department initiated an investigation, alleging that the appellant had underpaid CVD by valuing the goods based on transaction value under Section 4 of the Central Excise Act, 1944, instead of adopting the MRP-based valuation under Section 4A, which applies when goods are sold in retail packaging.

The Adjudication Authority supported the department's position, confirming the demand for additional duty by assessing the goods under Section 4A. The appellant aggrieved by the demand, challenged this decision, arguing that the fans were exclusively for industrial use, not for retail sale, and therefore, the provisions of Section 4A were not applicable. They emphasized that under the Legal Metrology (Packaged Commodity) Rules, 2011, goods meant for industrial consumers are exempt from MRP declaration requirements, a point upheld in a previous case involving the appellant.

The Tribunal, referring to the Hon'ble Supreme Court's rulings in similar cases, agreed with the appellant. It ruled that the valuation under Section 4A could only be adopted if there was a legal requirement to declare the MRP on the packaging, which was not the case here. The Tribunal noted that no objections were raised by the relevant authorities about the lack of MRP on the products over time. Accordingly, the impugned order by the Adjudication Authority was set aside, and the appeal was allowed.

CUSTOMS & FTP
From the Legislature

Sr No	Notification/ Circular	Summary
1.	**Notification No. 27/2024-Customs dated July 12, 2024**	**CBIC exempts Compensation Cess on SEZ Imports for Authorized Operations** CBIC has exempted all goods imported by units or developers in SEZs for authorized operations from the GST compensation cess. This exemption is effective from 15th July 2024 and follows the 53rd GST Council meeting recommendation and applies to goods imported since 1st July 2017.
2.	**Notification No. 28/2024-Customs dated July 12, 2024**	**CBIC implements 5% IGST on Aircraft Parts and IGST exemption for RAMA Research Equipment** CBIC through this notification has amended the earlier Notification No. 50/2017 pursuant to the 53rd GST Council meeting. The changes include a uniform 5% IGST rate on imports of aircraft parts, components, and tools, regardless of HS classification, to boost MRO (Maintenance, Repair, and Overhaul) activities, subject to specified conditions. Additionally, an IGST exemption is extended for research equipment and buoys imported under the RAMA program, with specific conditions such as Ministry of Earth Sciences certification and re-export timelines. These amendments take effect from 15th July 2024.
3.	**Notification No. 31/2024-Customs dated July 23, 2024**	**CBIC amends CEPA Rates for India-UAE** The Government of India, through the Ministry of Finance's Department of Revenue, has issued Notification No. 31/2024-Customs dated July 23, 2024, to amend Notification No. 22/2022-Customs. CBIC through this amendment revises the rates under the India-UAE Comprehensive Economic Partnership Agreement (CEPA). Specifically, the changes are in Table III, where for S. No. 12, the entry in Column (5) is revised to "4" and the entry in Column (6) is revised to "1."



Hon’ble SC holds company’s authorized signatory cannot be considered cheque ‘drawer', cannot be directed to pay interim compensation

Shri Gurudatta Sugars Marketing Private Limited vs. Prithviraj Sayajirao Deshmukh

SLP(Crl.) Nos. 8849-8850 of 2023

The Appellant had approached the Hon’ble SC challenging the order of the Hon’ble HC which set aside the order of the Judicial Magistrate that directed payment of interim compensation by the Respondent who was the director of the company on whose account the dishonored cheque had been drawn. Noting the Hon’ble HC's observations with reference to the obligation of the drawer of the cheque, general rules of criminal liability, whether an authorized signatory can be equated to the company and the interpretation of Section 143A of the NI Act and its legislative intent, the Hon’ble SC observed that the authorized signatory's act to issue cheque on behalf of the company did not assume the company's legal identity, and hence they could not be held liable for the default committed by the company. Moreover, an ‘authorized signatory’ could not be considered as a ‘drawer’ under Section 138 of the NI Act when the statutory language was clear and unambiguous on this aspect and a natural and ordinary meaning showed the legislative intent to hold the drawer accountable.

Further, the Hon’ble HC’s decision to interpret 'drawer' strictly as the issuer of the cheque, excluding authorized signatories, was well-founded as this interpretation aligned with the legislative intent, established legal precedents and principles of statutory interpretation to hold the primary liability for an offence under Section 138 of the NI Act with the company, and the company’s management was vicariously liable only under specific conditions provided in Section 141 of the NI Act.

Accordingly, finding that the distinction between legal entities and individuals acting as authorized signatories was crucial as the Authorized signatories acted on behalf of the company but did not assume the company's legal identity and this principle, fundamental to corporate law, ensured that while authorized signatories could bind the company through their actions, they did not merge their legal status with that of the company, the Hon’ble HC holding that an authorized signatory’ of the company could not be considered as a 'drawer' of the cheque, and therefore, could not be directed to pay the interim compensation to the complainant, upheld the order of the Hon’ble HC.

SEBI penalises IA for fraudulently inducing investors into taking advice basis 'fake testimonials' on website

In the matter of Monetary Solutions, Proprietor – Mr Ankit Vyas (Investment Adviser)

Adjudication Order No. Order/BM/GN/2024-25/30571

The Noticee was an investment advisory firm that had employed individuals who interacted with clients but lacked the necessary qualifications and certifications as mandated by Regulation 15(13) and Regulation 7 of the IA Regulations. The Noticee had failed to maintain essential records, including client agreements, KYC documents, call recordings, and risk profiling details, as mandated by Regulations 19(1) and 19(2) of the IA regulations wherein this failure undermined the transparency and investor protection. Moreover, despite claiming data loss due to hard disk failure, the Noticee did not provide any evidence to support this claim, even after being prompted during the hearing. Further, the Noticee used fake testimonials and misleading past performance data on its website which was deemed as an act to deceive clients and influence their investment decisions.

Noting that the Noticee admitted that the testimonials shown on its website were fake, however in reply to the SCN, the Noticee submitted that these testimonials were genuine and it was pressurized and coerced into giving the statement, however, no evidence with regard to this submission was given by the Noticee, SEBI observed that the submission of the Noticee in reply to the SCN was just an afterthought of the Noticee and by making fake statements, the Noticee acted fraudulently to induce investors into taking advice from it, and hence, the Noticee's acts were squarely covered under the definition of 'fraud and were therefore liable for monetary penalty.

Accordingly, SEBI imposed a penalty of INR 25 Lakhs against the Noticee inter-alia for non-compliance with qualification requirements, maintenance of records, and fraudulent practices under the SEBI (Investment Advisers) Regulations, 2013 as well as the violation of the PFUTP Regulations.

Hon’ble SC holds payment to Financial Creditor through the Corporate Guarantor’s CIRP does not extinguish Corporate Debtor’s liability

BRS Ventures Investments Ltd. vs. SREI Infrastructure Finance Ltd. & Anr.

Civil Appeal No. 4565 of 2021

In the present case, the dispute originated when the Corporate Debtor who was also the principal borrower defaulted on a loan of INR 100 Crores granted by the Respondent which was secured by a corporate guarantee from the Corporate Guarantor (holding company of the Corporate Debtor), however, upon default, the Respondent invoked the corporate guarantee and initiated CIRP against the Corporate Guarantor under Section 7 of the IBC before the NCLT which was confirmed by the NCLAT. Moreover, when the Appellant (successful resolution applicant), paid INR 38.87 Crores to the Respondent as full and final settlement of the Corporate Guarantor’s dues, the Respondent instead later filed another application before the NCLT, under Section 7 of the IBC against the Corporate Debtor for the remaining debt of INR 1428 Crores as per the debt repayment and settlement agreement that had earlier been entered into by the Corporate Debtor, Corporate Guarantor and the Respondent. Aggrieved by which, the Appellant approached the NCLAT which dismissed the appeal causing the Appellant to approach the Hon’ble SC.

The key legal issues for consideration before the Hon’ble SC were whether the payment made under the resolution plan of the Corporate Guarantor, extinguished the liability of the Corporate Debtor/Principal Borrower and whether IBC permitted simultaneous petitions. The Hon’ble SC observed that, the payment of the sum of INR 38.87 Crores to the Respondent under the resolution plan of the Corporate Guarantor would not extinguish the liability of the Corporate Debtor to pay the entire amount payable under the loan transaction after deducting the amount paid on behalf of the Corporate Guarantor in terms of its resolution plan and as to whether IBC permitted simultaneous petitions, the Hon’ble SC observed that separate or simultaneous insolvency proceedings could be initiated under Section 7 by a Financial Creditor against both the Corporate Debtor and Corporate Guarantor under IBC.

The Hon’ble SC further observed that, the resolution plan of the Corporate Debtor approved by the Adjudicating Authority would bind the Corporate Debtor, its employees, members, creditors, guarantor and other stakeholders. Therefore, where a company furnished a corporate guarantee for securing a loan taken by another company and if the CIRP of the Corporate Guarantor ended in a resolution plan, it would bind the creditor of the Corporate Guarantor. The Corporate Guarantor's liability may end in such a case by operation of law. However, such a resolution plan of the Corporate Guarantor would not affect the liability of the principal borrower to repay the loan amount to the creditor after deducting the amount recovered from the Corporate Guarantor or the amount paid by the successful resolution applicant on behalf of the Corporate Guarantor as per the resolution plan.

Thus, by virtue of the CIRP process of the Corporate Guarantor, the Corporate Debtor did not get a discharge, and its liability to repay the loan amount to the extent to which it was not recovered from the Corporate Guarantor was not extinguished. Accordingly, finding that the view taken by NCLAT could not be faulted, the Hon'ble SC dismissed the appeal.

NCLAT holds IT Department cannot unilaterally execute claim by adjusting ITR-amount with past tax-dues during liquidation

Avil Menezes, Liquidator of Sunil Hitech and Engineers Limited vs. PCCIT, Mumbai

Company Appeal (AT) (Insolvency) No. 258 of 2024

The Appellant had approached the NCLAT assailing the order of the NCLT on the ground that the action taken by the IT Department, in recovering the income-tax demand by way of adjustment/set-off of ITR amount by invoking Section 245(1) of the IT Act was beyond the provision of law and hence legally improper, given the overriding effect of Section 238 of the IBC. Moreover, for the recovery of the income-tax dues, the IT Department was required to abide by the procedure laid down by the IBC in the Liquidation Regulations, which it clearly failed to comply with, and therefore acted unlawfully in adjusting the ITR amount with the pre-CIRP income tax dues, without having filed any claim before the Liquidator.

The NCLAT observed that the IT Department enjoyed a limited jurisdiction of continuing with assessment proceedings and in determining the quantum of income-tax dues during liquidation but did not enjoy the jurisdiction and power to suo-motu initiate recovery of dues or execute their claim unilaterally by adjusting the ITR amount with past tax dues, therefore, the NCLT partially erred in allowing a suo-motu set-off by the Income Tax Department, in the liquidation proceedings of the Corporate Debtor, without the claims having been filed by the IT Department with the Liquidator.

Thus, holding that by unilaterally adjusting the ITR amount, the IT Department could not put itself in a better footing than what was permissible as their claim in the distribution matrix, the NCLAT disposed of the matter.

SEBI slaps penalty of INR 2 Crores on Company for repeatedly disclosing false shareholding pattern

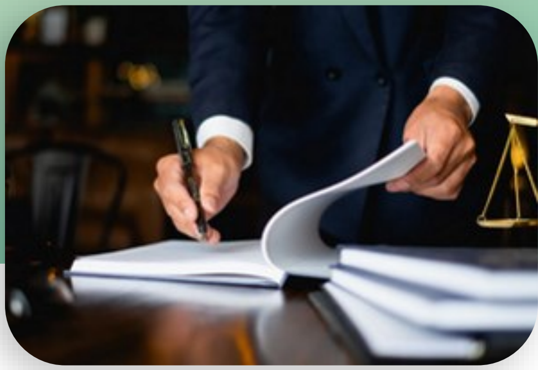
In the matter of Kemp & Company Limited

Adjudication Order No. QJA/AA/CFD/CFD-SEC-2/30532/2024-25

SEBI's examination of the shareholding pattern of the Noticee suggested that certain related entities who should have been classified as promoters of the Noticee were classified as public shareholders. Therefore, SEBI conducted further examination of the Noticee and its related entities to ascertain whether they were part of the promoter group of the Noticee, thereby, leading to wrongful disclosure of shareholding under the LODR Regulations. Further, the examination also focused on ascertaining whether the Noticee was, prima-facie, in non-compliance with the Minimum Public Shareholding norms of Securities Contracts (Regulations) Rules, 1957, if seen in light of consolidation of the shareholding of entities that should have been classified as promoters of the Noticee.

Through the examination, SEBI found that by virtue of control of the promoter entities, the related entities, squarely fell within the definition of 'Promoter' under ICDR Regulations 2009 and 2018 and should have been disclosed as such, hence, there was a wrongful disclosure of promoter shareholding of the Noticee, which was in violation of the LODR Regulations.

Further, the Noticee along with its related entities were together holding more than 75% of the shares of the company in disregard to the Minimum Public Shareholding requirement stipulated in the Securities Contracts (Regulations) Rules, 1957 and the LODR Regulations. Thus, finding that the Noticee had repeatedly disclosed a patently false shareholding pattern on numerous occasions and was non-compliant to the Minimum Public Shareholding requirements, SEBI imposed a penalty of INR 2 Crores on the Noticee and disposed of the matter.



MCA amends MSME Form-1 with enhanced disclosures for reporting payments pending over 45 days to micro/small enterprises

Notification No. S.O. 2751(E) dated July 15, 2024

The MCA notifies Specified Companies (Furnishing information about payment to micro and small enterprise suppliers) Amendment Order, 2024. This amendment aims to strengthen the reporting framework concerning payments to micro and small enterprise (MSE) suppliers.

The amendment, enacted under Section 405 of the Companies Act, introduces a pivotal change impacting specified companies. According to the amendment order, companies are now required to furnish information if payments specifically to MSEs remain outstanding for more than 45 days from the date of acceptance or deemed acceptance of goods or services.

The new form, as per the amendment order, requires companies to provide comprehensive details of their financial transactions with MSME suppliers. This includes payments made within and beyond the 45-days period and outstanding amounts, along with reasons for any delays. This means irrespective of whether amounts are outstanding as of 31st March or 30 September or not, if payments were made after 45 days during the half-year reporting period, MSME-1 Return is required to be filed.

Companies were earlier not required to file an 'MSME-1 Return' when there were no outstanding amounts due to micro or small suppliers at the end of the reporting period i.e. 31st March and 30th September.

MCA notifies the Investor Education and Protection Fund Authority (Accounting, Audit, Transfer and Refund) Amendment Rules, 2024.

Notification No. G.S.R. 414(E) dated July 16, 2024

The MCA notifies the Investor Education and Protection Fund Authority (Accounting, Audit, Transfer and Refund) Amendment Rules, 2024 ('the amendment rules') through which it amends various IEPF forms and updates procedures for fund transfers and claims. Some of the key changes brought about by the amendment rules are as follows: -

- Substitution of forms IEPF-1, IEPF-2 and IEPF-1A and replacement of forms IEPF-3 with IEPF-4 and IEPF-7 with IEPF-1 and omission of form IEPF-7.
- Revision of the online transfer process for amounts due to the IEPF Authority by now requiring companies to remit any amount required to be credited to the Investor Education and Protection Fund (IEPF), online to the Authority within 30 days from the date it becomes due instead of the specified account of the IEPF Authority maintained in the Punjab National Bank.
- Amendments to Rules 6 and 6A of the Investor Education and Protection Fund Authority (Accounting, Audit, Transfer and Refund) Rules, 2016, to streamline the remittance procedures.

The updated Rules and forms aim to enhance the efficiency and accuracy of fund management under the Investor Education and Protection Fund framework.

RBI issues revised Master Directions on Fraud Risk Management for Regulated Entities

Master Direction No. RBI/DOS/2024-25/118 to 120 dated July 15,2024

The RBI issues three revised Master Directions on Fraud Risk Management for the Regulated Entities viz. (i) Commercial Banks (including Regional Rural Banks) and All India Financial Institutions; (ii) Cooperative Banks (Urban Cooperative Banks / State Cooperative Banks / Central Cooperative Banks); and (iii) Non-Banking Finance Companies (including Housing Finance Companies).

These Master Directions have been prepared based on a comprehensive review of the earlier Master Directions, Circulars and emerging issues. They expressly require the Regulated Entities to ensure compliance with the principles of natural justice in a time-bound manner before classifying Persons/ Entities as fraud, duly taking into account the judgment of the Hon'ble SC in the matter of State Bank of India and others vs. Rajesh Agarwal and others [Civil Appeal No. 7300 of 2022].

Framework on early warning signals and red flagging of accounts has been strengthened further for early detection and prevention of frauds and timely reporting to supervisors in the Regulated Entities, as well as the Law Enforcement Agencies. Further, requirement for data analytics and market intelligence units for strengthening risk management systems has also been mandated.

These Directions have now been made applicable to Regional Rural Banks, Rural Cooperative Banks and Housing Finance Companies as well, with the intent of promoting better fraud risk management systems and framework.

With the issuance of these Master Directions, the existing 36 Circulars on the subject have been duly withdrawn.

RBI issues Master Direction on Overseas Investment Rules, 2024

Master Direction No. RBI/FED/2024-25/121 dated July 24, 2024

The RBI issues Master Direction on Overseas Investment for Authorized Dealer Category-I banks. This Master Direction compiles the rules and regulations governing overseas investments by residents in India under the Foreign Exchange Management (Overseas Investment) Rules and Regulations, 2022.

Further, the Master Direction also outlines the procedures and definitions for various investment types, including Overseas Direct Investment and Overseas Portfolio Investment, and provides reporting instructions.

The Master Direction aims to ensure compliance and effective implementation of these rules by authorized dealers in their foreign exchange dealings.

RBI revises guidelines on bank finance against shares and debentures for Primary (Urban) Co-operative Banks

Notification No. RBI/2024-25/54 dated July 25, 2024

The RBI revises guidelines governing Primary (Urban) Co-operative Banks concerning their financing against shares and debentures.

Under the previous guidelines, Primary (Urban) Co-operative Banks were instructed to ensure that the total value of all loans granted against the security of shares and debentures remained within an overall ceiling of 20% of their owned funds.

Given this backdrop, the RBI following a review, decides to modify this overall ceiling requiring the aforementioned 20% ceiling to now be linked to the Tier I capital of the bank as of March 31 of the previous financial year. This change will take effect from January 1, 2025, and aims to align the lending limits more closely with the banks' core capital strength, providing a more robust framework for assessing and mitigating risk.

The shift from owned funds to Tier I capital as the basis for calculating the ceiling is a significant move which is based on the fact that Tier I capital, as defined in the Master Circular – Prudential Norms on Capital Adequacy for Primary (Urban) Co-operative Banks dated April 1, 2024, represents the core capital of a bank, which includes equity capital and disclosed reserves. This core capital is considered a more stable and reliable measure of a bank's financial health compared to owned funds.

The revised guidelines are set to come into effect on January 1, 2025. This gives Primary (Urban) Co-operative Banks ample time to adjust their internal processes and ensure compliance with the new requirements. It is also essential to note that while this key aspect of the regulation is changing, all other related provisions of the previous circulars on this subject remain unchanged to ensure continuity and stability in the broader regulatory framework governing Primary (Urban) Co-operative Banks.

SEBI notifies the SEBI (Mutual Funds) (Amendment) Regulations, 2024

Notification No. SEBI/LAD-NRO/GN/2024/188 dated July 02, 2024

SEBI through a Notification, amends clause 9 of the Seventh Schedule of the SEBI (Mutual Funds) Regulations, 1996 to specifically introduce an exception to the existing limit on investment in certain assets starting July 02, 2024.

Previously, the regulations stipulated that investments should not exceed 25% of the net assets. Through the Notification, SEBI now allows equity-oriented exchange-traded funds and index funds to exceed this 25% limit, subject to such conditions as may be specified by the Board.

SEBI enacts the SEBI (Issue and Listing of Non-Convertible Securities) (Amendment) Regulations, 2024.

Notification No. SEBI/LAD-NRO/GN/2024/190 dated July 08, 2024

SEBI through a Notification, enacts the SEBI (Issue and Listing of Non-Convertible Securities) (Amendment) Regulations, 2024, to introduce several changes to the existing regulations *inter-alia* mandating issuers to fix a record date for payments related to non-convertible securities and stipulating that it must be set fifteen days prior to the due date. Additionally, requiring debenture trustees to now provide due diligence certificates in specified formats at various stages of the issuance process so as to ensure compliance and transparency and also permitting listed issuers to include a QR code and web link to their audited financial statements in offer documents or placement memoranda, subject to certain conditions including certification by statutory auditors.

SEBI consolidates all the circulars pertaining to surveillance of securities market

Master Circular No. SEBI/HO/ISD/ISD-PoD-2/P/CIR/2024/99 dated July 09, 2024

SEBI through a Master Circular, consolidates all the circulars pertaining to surveillance of securities market. To ensure availability of the consolidated information, the Master Circular has been categorized into :

- Trading rules and shareholding in dematerialized mode
- Monitoring of unauthenticated news circulated by SEBI registered market intermediaries through various modes of communication
- Disclosure reporting under the Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 2015

Further, the Master Circular covers various circulars issued by the Integrated Surveillance Department of SEBI and *inter-alia* rescinds various earlier circulars listed in Annexure 7, such as, the Circulars on 'Trading Rules and Shareholding in dematerialized mode' and 'Unauthenticated news circulated by SEBI Registered Market Intermediaries through various modes of communication' etc.

The Master Circular comes into effect from the date of its issue i.e. July 09, 2024.

SEBI recognizes BSE Limited as the supervisory body for Research Analysts and Investment Advisers for 5 years

Circular No. SEBI/HO/MIRSD/MIRSD-POD-1/P/CIR/2024/101 dated July 12, 2024

SEBI grants recognition to BSE Limited as both the Research Analyst Administration and Supervisory Body and the Investment Adviser Administration and Supervisory Body. This recognition, effective from July 25, 2024, marks a significant step in ensuring the effective administration and supervision of Research Analysts and Investment Advisers in India and aligns with SEBI's ongoing efforts to streamline and enhance the regulatory framework governing Research Analysts and Investment Advisers. The recognition is granted under Regulation 14 of the SEBI (Research Analysts) Regulations, 2014, and the SEBI (Investment Advisers) Regulations, 2013, for a period of five years.

As part of its new role, BSE Limited will be responsible for formulating bye-laws, Standard Operating Procedures, and issuing circulars and Frequently Asked Questions. Applicants seeking registration or renewal as Research Analysts or Investment Advisers will be required to pay administrative fees as specified by the BSE Limited. Further, the registration fees payable to SEBI has also been revised, effective from July 25, 2024, to ensure a smooth transition for all stakeholders involved, details of which shall be available on the SEBI website. For applications received before this date, the registration fees will be processed under the previous fee structure.

The total fees has been structured to remain fee neutral, ensuring that the total fees payable by applicants does not exceed the previous fee structure. This adjustment ensures that the transition to the new supervisory framework does not impose additional financial burdens on applicants.

The other terms and conditions specified in SEBI's earlier Circular dated May 2, 2024, will continue to apply, to ensure that the regulatory environment remains stable and predictable for Research Analysts and Investment Advisers and facilitates compliance and adherence to established norms.

INTERNATIONAL DESK

India and US extend 2% digital tax on e-commerce transactions

India and the United States have extended the 2% digital tax on e-commerce supplies until June 30, 2024. This decision, announced by India's Ministry of Finance, ensures that American digital companies operating in India will continue to be subject to this tax during the extended period. The original agreement, made in November 2021, allowed India to levy this tax on digital transactions involving American companies until March 31, 2024, or the implementation of the OECD's Pillar 1 international tax agreement. The extension maintains continuity in the tax regime, providing clarity for affected companies.

The Equalisation Levy, also known as the "Google Tax," targets income earned by foreign e-commerce companies from Indian customers, primarily in business-to-business transactions. Companies like Netflix and Google have approached the levy differently, with Netflix not passing the cost to consumers and Google adjusting advertisement charges in India.

India's extension of the digital tax aligns with its commitment to equitable taxation in the digital economy and ongoing international discussions under the OECD/G20 framework.

India will not sign global tax deal until its concerns are addressed, official says

The "Pillar 1" arrangement aims to replace unilateral Digital Services Taxes (‘DSTs’) with a new mechanism for sharing taxing rights on multinational companies. India would not sign a global corporate tax deal on multinationals unless its concerns on dispute resolution and withholding tax are addressed. The "Pillar 1" arrangement, part of a 2021 global tax deal, aims to replace unilateral DSTs with a mechanism to share taxing rights on companies like Google, Amazon, and Apple. India is constructively engaging with countries but won't agree if its interests are compromised. India opposes international arbitration for tax disputes and proposed removing a 2% equalisation duty on digital service providers, costing 25 billion rupees ($300 million) annually, as a conciliatory measure.

However, talks are ongoing beyond the June 30 deadline, with hopes for progress at the G20 finance leaders' meeting in Brazil. Failure to agree could lead countries to reinstate taxes on U.S. tech giants and risk U.S. punitive duties on exports. Many countries are implementing Pillar 2 (global minimum tax of 15% on multinationals), though the U.S. hasn't ratified it. India has set up a panel to frame rules for Pillar 2's implementation.

UAE: FTA urges resident juridical persons with licences issued to promptly register for corporate tax

The FTA reminds Resident Juridical Persons with May-issued licenses to submit their Corporate Tax registration by July 31, 2024. This deadline aligns with FTA Decision No. 3 of 2024 under Federal Decree-Law No. 47 of 2022, effective 1st March 2024. The FTA emphasizes the importance of meeting these deadlines to avoid an AED 10,000 penalty. Registration is available on the "EmaraTax" platform, involving four steps and taking about 30 minutes. Accurate information and documents like commercial licenses, Emirates ID, passport, and proof of authorization are required.

The FTA conducts awareness campaigns, including workshops, webinars, guides, and videos, to clarify procedures. Registration is also available through authorized tax agents and Government Service Centres nationwide.

Saudi extends initiative to cancel fines on financial penalties for taxpayers until end of 2024

The ZATCA extended the Cancellation of Fines and Exemption of Financial Penalties Initiative for six months until December 31, 2024. This extension aims to alleviate the economic impact of COVID-19 on businesses. The initiative covers fines for late registration, late payment, late filing of returns, VAT return corrections, and e-invoicing violations.

In order to take the benefit, taxpayers must be registered, submit all previously unfiled returns, and pay all principal tax debts. Installment plans are available if applied for while the initiative is active. Penalties related to tax evasion and fines paid before the initiative's start are excluded.

Yellen Canada enacts digital services tax act amidst OECD multilateral talks

On June 20, 2024, Canada enacted the DST Act to ensure digital companies pay their fair share of tax amid delays in implementing an international system. Canada had previously agreed to pause the DST implementation, initially announced in 2020, until the end of 2023 to allow time for Pillar One negotiations.

The OECD recently indicated that the Inclusive Framework on BEPS is close to finalizing the Pillar One package, including a MLC for Amount A and a framework for Amount B, with the aim of opening the MLC for signature by the end of June.

The US Chamber of Commerce and the American Chamber of Commerce in Canada strongly opposed Canada’s DST Act, arguing it is retroactive and discriminatory, contradicting international tax principles and the OECD/G20 Inclusive Framework process. They claimed that the DST would disproportionately affect U.S. companies, undermine digital exports, harm Canadian innovation, and violate obligations under the US-Mexico-Canada Agreement and the WTO. They urged Canada to reconsider the DST, halt its implementation, and rejoin the OECD/G20 multilateral process for a common North American approach.

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
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
BOI	Board of Investment of Thailand
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
CBIC	The Central Board of Indirect Taxes and Customs
CCIT	Chief Commissioner of Income tax
CCs	Clearing Corporations
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
CKYCRR	Central KYC Records Registry
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
Cus	Customs Act, 1962

Abbreviation	Meaning
DCIT	Deputy Commissioner of Income Tax
DDT	Dividend Distribution Tax
DGIT	Director General of Income Tax
DIN	Director Identification Number
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
EPSEPS	Employees' Pension Scheme
Evidence Act	Indian Evidence Act, 1872
EXIM Bank	Export-Import Bank of India
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
Fin	Finance Bill Finance Bill, 2023
FIRMS	Foreign Investment Reporting and Management System
FM	Finance Minister
FMV	Fair Market Value
FTA	Federal Tax Authority
FY	Financial Year
G2B	Government to Business
GRI	Global Reporting Initiative
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
IEPF	Investor Education and Protection Fund
IFSC	International Financial Services Centres
IFSC	International Financial System Code
IFSCA	International Financial Services Centres Authority Act, 2019
IGST	Integrated Goods and Services Tax
IIM	Indian Institute of Management
IMC	Indian Medical Council Act, 1956
Ind AS	Indian Accounting Standards
InvITs	Infrastructure Investment Trusts

GLOSSARY

Abbreviation	Meaning
IRP	Interim Resolution Professional
IT Act/ Act	The Income-tax Act, 1961
ITBA	Income Tax Business Application
JAO	Jurisdictional Assessing Officer
KRAs	KYC Registration Agencies
KYC	Know Your Customer
LLP	Limited Liability Partnership
LODR Regulations	Listing Obligations and Disclosure Requirements Regula-
LRS	Liberalized Remittance Scheme
LTC	Long-Term Capital Gains
MAT	Minimum Alternate Tax
MII	Market Infrastructure Institution
MNE	Multinational Enterprise
MoF	Ministry of Finance
MoU	Memorandum of Understanding
MSE	Micro and Small Enterprise
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) Reg-
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 Asset
NPS	National Pension System
NSWS	National Single Window System
OBU	Offshore Banking Unit
ODC	Online Dispute Resolution
OECD	Organization for Economic Co-operation and Develop-
OFS	Offer for Sale
OPC	One Person Company
PAN	Permanent Account Number
PBPT	Prohibition of Benami Property Act, 1988
PCCI	Principal Chief Commissioner of Income-tax
PCIT	Principal Commissioner of Income Tax
PFUTP	Prohibition of Fraudulent and Unfair Trade Practices relat-
PIV	Pooled Investment Vehicle
PSL	Priority Sector Lending

Abbreviation	Meaning
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
SCN	Show Cause Notice
SCRA	Securities Contracts (Regulation) Act, 1956
SEBI	Securities and Exchange Board of India
SFIO	Serious Fraud Investigation Office
SFT	Statement of Financial Transaction
SGST	State Goods and Services Tax
SIAC	Singapore International Arbitration Centre
SLP	Special Leave Petition
SMF	Single Master Form
SPF	Specific Pathogen Free
STT	Security Transaction Tax
SWS	Social Welfare Surcharge
TAN	Tax Deduction Account Number
TCS	Tax Collected at Source
TDS	Tax Deducted at Source
TNMM	Transactional Net Margin Method
TPO	Transfer Pricing Officer
TPS	Tax performing system
TRD	Thai Revenue Department
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
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 Coporate 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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