VISION 360

SEPT 2024

ISSUE 47

A TREASURY OF KEY TAX & REGULATORY DEVELOPMENTS!

TCA TAXCRAFT ADVISORS

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EDITORIAL

Vision 360: Taxing times!

As we step into the month of September, we bring you the notable developments in Tax topography. Whilst July brought us the Budget and August followed closely on its heels; September has been equally lively on the direct tax, indirect tax and the regulatory front.

In direct tax developments, the CBDT has issued notification advising applicants to standardize the manner of filing application under Section 10 (46A) of the IT Act. The Board has also relaxed provisions of TDS/TCS in event of death of deductee/collectee before linkage of its PAN and AADHAR. The inquiry/ verification under the Faceless Assessment is now also guided by an Order issued by the Board specifying the circumstances in which such inquiry/verification can be initiated.

On the indirect tax front, the GSTN has introduced a new 'RCM liability-ITC statement' feature on the portal. The Board has also issued revised guidelines for conducting CGST audit matters. In addition, this compendium also captures some key Judicial decisions.

The month has also witnessed critical developments internationally such as Kenyan Court's ruling which held the president's first tax law as unconstitutional, the UAE's decision to allow taxpayers to seek guidance on specific queries and more such developments in Singapore, Austria, etc and key legislative and judicial developments in the corporate regulatory sector.

Further, we have an industry veteran, Mr. Rajani Chinnari, who very generously gave insights on the recent tax developments, challenges to the industry, a corporate entity's responsibility toward society and many more things. In addition to all these crucial developments, in this edition of our newsletter, we have also written incisive articles on the latest development in the 'Pre-Import' condition saga. Further, we have another enlightening article on the newly inserted Section 128A of the CGST Act

As the implications of the changes in the tax landscape 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 **47th** edition of its exclusive monthly magazine **'VISION 360'**. We hope that, as always, you will find it an informative and interesting read. We look forward to receiving your inputs, thoughts and feedback, in order to help us improve and serve you better.

Happy Reading!

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

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ARTICLE

Another twist in the Pre-Import Saga!

In an unexpected and interesting turn of events, the Hon'ble CESTAT, Ahmedabad in the case of **Chiripal Poly Films Limited v. Commissioner of Customs-Customs Ahmedabad [CESTAT, Ahmedabad – Customs Appeal No. 10228 of 2024]** has set aside the demand for duty as well as the levy of interest, penalty, proposal for confiscation of goods and redemption fine thereon arising out of alleged violation **of the 'pre-import' condition** in connection with import of goods made under Advance Authorization.

This case has a bearing on any person who is even remotely connected with the realm of indirect taxes inasmuch the 'pre-import' condition caused the Exim Industry in a state of disarray. For the uninitiated, the 'pre-import' condition, introduced vide Notification No. 79/2017-Customs dated October 10, 2017, imposed a mandatory requirement for goods or products to be imported first and subsequently the goods sought to be exported had to be produced by using such imported goods or products. As such, an exporter was thus restricted from availing benefits of the AA on a 'replenishment basis' in which exporters could first undertake the exports and then avail the corresponding benefit of the exemption on subsequent imports

The pre-import condition was held to be ultra vires the Constitution by the Hon'ble Gujarat High Court, but this decision was overturned by the Hon'ble Supreme Court in **Union Of India & Ors. Vs. Cosmo Films Limited [Civil Appeal no(s). 290 of 2023]**. The Hon'ble Supreme Court whilst upholding the constitutionality of the 'pre-import' condition stated that the fact of inconvenience or hardship being caused to the industry could not be a ground for the court to hold that the insertion of the 'pre-import condition' was arbitrary.

Further, the Hon'ble Supreme Court vide their Judgment in **Cosmo Films (*Supra*)** directed the Respondents to approach their respective jurisdictional commissioners and apply for refund of customs duty paid or input tax credit for IGST and Cess **within six weeks from the date of judgment** i.e., April 20, 2023. Further, the court also directed the revenue to publish a circular detailing the appropriate procedure to be followed while making a claim for a refund of customs duty paid or input tax credit for IGST and Cess.

However, the Judgement as well as the subsequent clarification issued by the Department were completely silent on the aspect of levy of interest as well as penalty on such contravention of the pre-import condition. Therefore, there was a significant amount of uncertainty on the said aspect up until the Hon'ble CESTAT, Ahmedabad's decision in the case of **Chiripal Poly Films Limited v. Commissioner of Customs-Customs Ahmedabad [CESTAT, Ahmedabad – Customs Appeal No. 10228 of 2024].** The

Hon'ble CESTAT therein set aside the demand for duty as well as the levy of interest, penalty, proposal for confiscation of goods and redemption fine thereon arising out of alleged **violation of the 'pre-import' condition** in connection with import of goods made under Advance Authorization.

The Hon'ble CESTAT observed that the entire case was based upon assessments of the relevant Bills of Entry, cleared on final assessment by proper customs officers, who were provided with all the relevant documents and Information. Further, the same Bills of Entry were re-assessed after the Hon'ble Supreme Court's decision. Therefore, the revenue authorities were in possession of all the relevant documents and there was nothing on record to prove suppression of facts to justify the invocation of extended period under Section 28(4) of the Customs Act for recovery of IGST. **Therefore, the recovery of IGST, by invoking Section 28(4), by the Authorities could not be sustained.**

The Hon'ble CESTAT while dealing with the issue of levy of interest and penalty observed that Section **28AA of the Customs Act 1962** was a charging section for **interest** on delayed payment of **customs duty** levied under Section 12 of the Customs Act 1962. However, IGST was not a duty leviable under Section 12 of the Customs Act 1962; but is in fact levied under Section 3(7) of the Customs Tariff Act, 1975. However, there was no charging provision for **levy and collection of interest, fine and penalty for late payment** of IGST under Section 3(7) or under Section 3(12) of Customs Tariff Act 1975. As per the Tribunal Interest, Fine & Penalty are separate and independent financial levies, which necessitate the incorporation of charging provision in the statute which specifically levy interest, fine, penalty.

This is a decision in **Chiripal *(Supra)*** seems to be an accurate representation of the proverbial light at the end of the tunnel that was the long-drawn uncertainty over the aftermath of the Cosmo Films Judgment. is a significant weapon, if not a shield, in the taxpayer's arsenal against the onslaught of the Department's recovery proceedings for alleged contraventions of the 'pre-import' condition.

The GST regime was brought about with the aim of introducing a painless Tax Code - the transformation has been anything but. However, this has given an opportunity to our Courts to rise to the occasion and safeguard the taxpayers against any mis-use and misinterpretation of law through its various Judgments.

INDUSTRY PERSPECTIVE

RAJANI CHINNARI

Chief Finance Officer-Metal,
Vedanta Limited (Jharsuguda)

01 What are the key challenges your company faces in managing indirect taxes, and how do you address them?

With significant amendments happening on regular basis in Indirect Tax domain, it is important for all those in Indirect Taxes domain to keep track of the amendment in regulations, issuance of clarifications, judgments and so on to ensure that the correct positions are adopted, compliances are up-to date and the taxpayers are prepared for assessments and scrutiny. Indirect Tax domain presents various challenges and to tackle them we have implemented a comprehensive tax compliance strategy that includes continuous monitoring of tax law changes and automated tax calculation systems. We regularly consult with tax advisors and specialists to gain expert knowledge on challenging tax scenarios. This proactive approach helps us stay ahead of regulatory changes and ensures that our tax filings are accurate and timely, thereby minimizing the risk of non-compliance and financial liabilities.

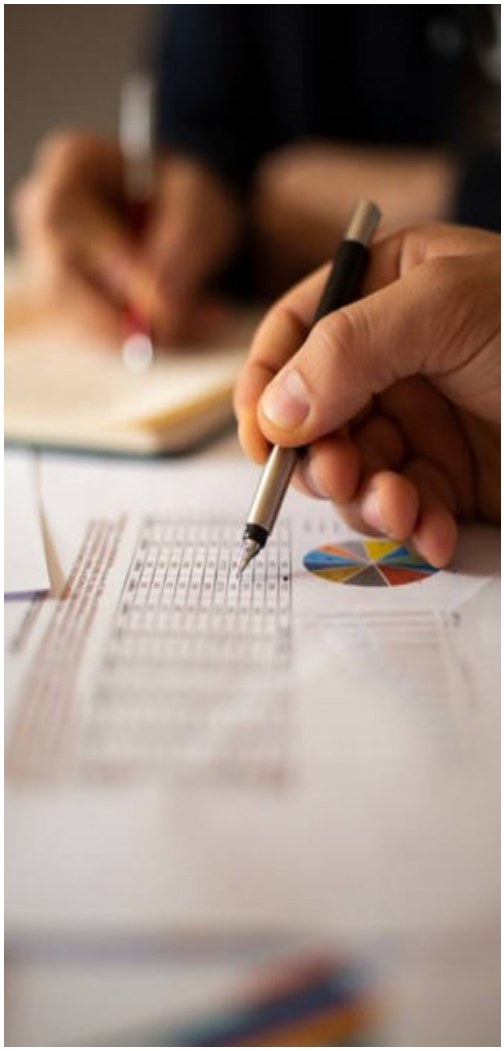
Rajani Chinnari
CFO-Metal, Vedanta Limited (Jharsuguda)

02 How does your company's commitment to corporate social responsibility influence its financial strategies and community engagement?

Our company's approach to CSR is a fundamental part of our financial strategy and community engagement efforts. We believe that responsible business practices lead to sustainable financial performance. We actively participate in community development programs, partnering with local organizations to support social causes, such as education, healthcare, and environmental conservation. These efforts improve the well-being of the communities we serve. By aligning our financial strategies with our CSR commitments, we ensure that our growth is both responsible and sustainable.

03 What KPIs do you use to measure the effectiveness of your tax strategy and compliance efforts?

In managing our tax strategy, we prioritize several KPIs. The tax compliance rate is fundamental, ensuring all filings are accurate and timely, thereby avoiding penalties. We track tax savings and benefits utilization, measuring the amount saved through effective tax planning and the utilization of available credits and incentives. Another critical KPI is the compliance error rate, where we aim to minimize discrepancies in our tax filings to reduce the risk of penalties. We also focus on audit outcomes, monitoring the number of adjustments and additional taxes assessed during tax audits, with minimal adjustments indicating strong compliance. Furthermore, our tax cash flow management, including the timing of tax payments and refunds, is crucial for maintaining optimal cash flow.



04 How do you assess and mitigate tax-related risks within the company?

To assess and mitigate tax-related risks, we start with comprehensive risk assessments to identify potential exposures across all operations, evaluating the impact of new tax laws and regulations. We prioritize risks based on their potential financial impact and implement robust internal controls and procedures, which are regularly reviewed and updated. Continuous training for our tax team ensures they stay current with the latest regulations. Technology, such as tax compliance software, helps automate and streamline tax processes, reducing human error. Open communication with tax authorities and seeking professional advice helps us stay informed about regulatory changes. Regular internal audits identify weaknesses, allowing us to take corrective actions. By fostering a culture of compliance and awareness throughout the organization, we ensure everyone understands the importance of tax compliance and their role in mitigating risks.

Rajani Chinnari
CFO-Metal, Vedanta Limited (Jharsuguda)

05 How do you approach tax planning for long-term projects and investments, ensuring that the company maximizes benefits while remaining compliant?

Our approach to tax planning for long-term projects and investments involves a comprehensive strategy that starts with a detailed analysis of the tax environment. We evaluate potential tax savings and incentives available for specific projects and incorporate these into our planning. This includes exploring tax credits, deductions, and favorable tax treatments that can enhance the financial viability of our investments. The cross functional team consisting of finance, legal, commercial, projects, taxation, etc. work together to ensure that our tax planning aligns with overall corporate strategies and compliance requirements. Regular updates and training sessions for our tax team ensure they are well-informed about the latest tax laws and regulations. By maintaining a proactive stance, we can adjust our tax strategies as needed to adapt to regulatory changes and new opportunities, thereby optimizing benefits while ensuring full compliance.

06 How do you leverage technology to improve tax compliance and reporting within your organization?

In our organization, technology is central to enhancing tax compliance and reporting. We have implemented an integrated tax management system that consolidates all tax-related activities into a single platform. This system automates the preparation and filing of tax returns, reducing manual intervention and the associated risk of errors. Additionally, we use advanced data analytics to monitor compliance in real time, providing us with insights that help us stay ahead of potential issues. The system also supports electronic document management, ensuring that all tax records are securely stored and easily retrievable. By investing in continuous improvement and staying abreast of technological advancements, we ensure our tax compliance processes are efficient, accurate, and up-to-date.

Hon'ble HC holds Circulars/ Instructions supplement not supplant statutory provisions, quashes notice issued under Section 148 of the IT Act

Jatinder Singh Bhangu

CWP-15745-2024

The Assessee was a farmer who was issued a notice under Section 148 by the jurisdictional AO intimating him that a prior approval has been issued from PCIT, and the Assessee was required to file return within 94 days from the date of the notice. Subsequently, the Assessee also received an intimation that his case was selected for assessment and the proceedings would be conducted in a faceless manner, while the assessee opined that after introduction of faceless assessment, jurisdictional AO cannot issue the notice. Aggrieved, the Assessee preferred a writ petition before the Hon'ble HC.

The Hon'ble HC noted that the faceless assessment scheme had been introduced with effect from April 1, 2021, to eliminate the interface between the Revenue and the Assessee to the extent feasible and the scheme was applicable from the stage of show cause notice under Section 148 and Section 148A of the IT Act. Further, the Central Government had issued Notification No.18/2022 dated March 29, 2022 under Section 151A of the IT Act, which notified the e-assessment of Income escaping assessment Scheme and wherein clause 3(b) thereof provided that the e-assessment scheme would be applicable from the stage of notice issued under Section 148 of the IT Act.

Accordingly, observing that it was a settled proposition that the assessment proceedings commenced from the stage of issuance of show cause notice and the object of introducing faceless assessment would be defeated if notice was issued by the jurisdictional AO, the Hon'ble HC held that it was axiomatic in tax jurisprudence that circulars, instructions and letters issued by Board or any other authority could not override statutory provisions and were only binding on authorities and not on courts. Moreover, there was no ambiguity in the language of statutory provisions, therefore, the office memorandum or any other instruction issued by the Board or any other authority could not be relied upon as instructions and circulars could only supplement but not supplant statutory provisions.

Thus, quashing the notice under Section 148 of the IT Act that was issued by the JAO, the Hon'ble HC allowed the Assessee's writ petition.

Tribunal holds professional fees paid by KPMG to non-resident independent concern not FTS or business income sans PE

KPMG Assurance and Consulting Services LLP

ITA No.2272-2276/Mum/2023

The Assessee was engaged in the business of advisory and audit services that filed its return of income for AY 2013-14 and claimed deduction of INR 11.21 Crores on account of professional fees paid to its non-resident concern.

The Revenue held that the payment made to the non-resident concern on account of professional fees were either FTS or other income (in absence of FTS) and liable to TDS under Section 195 of the IT Act and therefore made a disallowance of INR 11.21 Crores under Section 40(a)(i) of the IT Act on the professional fee payment due to non-deduction of TDS. On appeal, the CIT(A) partly allowed Assessee's appeal and held that no disallowance under Section 40(a)(i) of the IT Act for non-deduction of TDS was tenable since the non-residents were not liable to tax in India as FTS and the professional fee was in the nature of business profits or income from Independent Personal Services which, in absence of a PE, was not liable to tax in India. Aggrieved, the Revenue approached the Tribunal contending that in the absence of FTS clause, the income of non-residents would be considered other income.

The Tribunal placing reliance on a plethora of rulings and the DTAA with India observed that without the FTS article, the income by way of FTS continued to be dealt with by the provisions for business profits or Independent Personal Services, as the case may be, and in the event of existence of the FTS article, additionally, with such article relating to FTS. Moreover, whether the payments to non-residents fell within the ambit of Article 14/15 (income from Independent Personal Services) or Article 7 (Business Profits) would not make any difference since in either case, the provisions of Article 22 on other income would not get attracted.

Further, the Revenue failed to establish that the non-resident payee had a PE in India, and therefore, the payments whether covered by Article 7 and/or 14/15 of the applicable DTAA, would not be liable to tax in India and even in case of countries having the FTS article with MFN clause, it was a settled position that the payment for services of a similar nature were not liable to tax in India as FTS because the same did not make available any knowledge, skill, experience to the Asssessee.

Thus, on the basis of the above, the Tribunal held that the professional fees paid by the Assessee to the non-resident independent concern did not constitute FTS and nor a business income in the absence of fixed base/ PE in India. Therefore, the liability to deduct TDS under Section 195 of the IT Act did not arise and disallowance under Section 40(a)(i) was rightly deleted by the CIT(A).

Hon'ble HC holds faceless assessment procedure mandatory for all Assessees, including non-residents, quashes assessment proceedings

Venkataramana Reddy Patloola

Writ Petition No. 13353 of 2024

The Assessee was a non-resident to whom a notice was served under Section 148 of the IT Act by the DCIT and not by an officer holding charge of International Tax cases. Accordingly, the faceless procedure prescribed through the notification dated March 29, 2022, of the CBDT was required to be followed. However, the Revenue held that since the Assessee was a non-resident, the faceless procedure would not apply in his case and conducted assessment proceedings and passed an assessment order.

Aggrieved, the Assessee filed a writ petition before the Hon'ble HC which noted that clause 3(b) of the notification dated March 29, 2022 squarely covered issuance of notice under Section 148 of the IT Act, mandating automated allocation and issuance of such notice in a faceless manner.

Accordingly, the Hon'ble HC observed that the notice under 148 of the IT Act was required to comply with the faceless procedure regardless of the Assessee being a non-resident/ Indian Citizen. Further, the expression used in clause 3(b) of the notification dated March 29, 2022 did not preclude the mandatory faceless procedure for issuance of notice and any other interpretation to the language would not only cause violence to the language but defeat the object for which transparent faceless procedure was introduced.

Thus, holding that since the Revenue erred in not following the mandatory faceless procedure prescribed by the notification dated March 29, 2022, the entire proceedings and assessment orders stood vitiated, the Hon'ble HC allowed the Assessee's writ petition.

Tribunal holds Revenue not entitled to change share valuation method adopted by Assessee, deletes addition made by Revenue under Section 56(2)(viib) of the IT Act

Pisces EServices Pvt. Ltd

ITA No. 310/Bang/2023

The Assessee was a company that had issued fresh 14.66 Crores shares to an investment company at share value of INR 13.94 per share including premium of INR 3.94 per share based on the valuation report following the DCF method. The Revenue rejected the share valuation report by observing that the projected net cash flow used therein was too high and the valuation should be based on the historical data and therefore, adopted the NAV method while determining share value at INR 1.20 per share and made addition of INR 1.86 Crores under Section 56(2)(viib) of the IT Act.

Aggrieved, the Assessee approached the Tribunal which, placing reliance on a catena of Hon'ble HC judgments, observed that it was not open to the Revenue to change the method of valuation which had

been opted for by the Assessee. Even if the Revenue was dissatisfied with the share valuation of the Assessee, it could only appoint an independent valuer for fresh valuation but the method already adopted by the Assessee could not be altered, therefore, the Revenue had erred in substituting method of share valuation from DCF method to NAV method. Moreover, a perusal of Rule 11UA(2) of the IT Rules clearly demonstrated that the option to choose the share valuation method was only available with the Assessee.

Thus, deleting the addition of INR 1.86 Crores under Section 56(2)(viib) of the IT Act, made on account of difference between the fair market value of shares computed by the Revenue under NAV method as against the value computed by the Assessee using DCF method, the Tribunal allowed the Assessee's appeal.

DIRECT TAX
From the Legislature

Sr No	Notification/Circular	Summary
1.	**Notification No. F.No.196/82/2024-ITA-I dated August 20, 2024**	**CBDT advises applicants to standardize the manner of filing application under Section 10(46A) of the IT Act** The Finance Act, 2023 inserted clause (46A) in Section 10 of the IT Act to exempt any income arising to a body or authority or Board or Trust or Commission, not being a company, which has been established or constituted by or under a Central or State Act with one or more of the following purposes, namely: • dealing with and satisfying the need for housing accommodation. • planning, development or improvement of cities, towns and villages. • regulating, or regulating and developing, any activity for the benefit of the general public. • regulating any matter, for the benefit of the general public, arising out of the object for which it has been created. Further, such body or authority or Board or Trust or Commission, referred above, is required to be notified by the Central Government in the official Gazette for the purposes of this Clause. Given this backdrop, in order to standardize the manner of filing of an application under Section 10(46A) of the IT Act and to avoid procedural delays in processing the same, the CBDT advises applicants to file their applications along with the requisite enclosures to the Principal Commissioner/ Commissioner of Income-tax/ Principal Director/Director of Income-tax under whose jurisdiction their cases fall. Further, the CBDT also advises the applicants to adopt the Format laid down as per Annexure-A while submitting the application along with all its enclosures to the Under Secretary (ITA-I), CBDT, accompanied by the acknowledgement receipt as evidence of having furnished the application in the office of the jurisdictional Principal Commissioner/ Commissioner of Income-tax/Principal Director/Director of Income-tax.

Sr No	Notification/Circular	Summary
2.	**Order No. F. No. 1871712024-ITA-I dated August 01, 2024**	**CBDT specifies the circumstances for enquiry/ verification by the Verification Unit under the Faceless Assessment Scheme** The Faceless Assessment Scheme comprises of verification units that perform various verification functions such as enquiry, cross verification, examination of books of accounts, witness and recording of statements, and such other functions. In this regard, Section 144B(5) of the IT Act, specifies that all communications between assessment unit, review unit, verification unit or technical unit or with the Assessee or any other person shall happen through National Faceless Assessment Centre/electronic mode. However, the proviso thereof empowers CBDT to specify certain circumstances in which communication in such manner shall not be required. Accordingly, in pursuance of the said proviso, the CBDT specifies the following circumstances where communication through electronic mode may not be required by the verification unit for carrying out the functions of verification as specified by Section 144B(3)(iii) of the IT Act: • Non-availability of digital footprint in respect of the Assessee or any other person. • Electronic or Online verification is not possible on account of no response to notice issued to the Assessee or any other person. • Physical verification of assets or premises or persons is required, regardless of the presence of digital footprint. The Order comes into force with immediate effect.
3.	**Circular No. 8/2024 dated August 05, 2024**	**CBDT relaxes provisions of TDS/TCS in event of death of deductee/collectee, before linkage of PAN and Aadhaar** The CBDT had earlier extended the date for linking of PAN and Aadhaar upto May 31, 2024, for the taxpayers (for the transactions entered into upto March 31, 2024) to avoid higher TDS/TCS as per the IT Act. However, grievances were received by the Board wherein certain cases were reported relating to demise of the deductee/collectee during the said period (i.e. upto May 31, 2024) before they could link

Sr No	Notification/Circular	Summary
		their PAN and Aadhaar owing to which, tax demands were standing against those deductor/collector as a result of such failure. With a view to redress such grievances, the CBDT provides that in respect of cases where higher rate of TDS/TCS was attracted under Section 206AA/206CC of the IT Act pertaining to the transactions entered into upto March 31, 2024, wherein the demise of the deductee/collectee took place on or before March 31, 2024, there shall be no liability on the deductor/collector to deduct/collect the tax under Section 206AA/206CC of the IT Act, as the case maybe, pertaining to the transactions entered into upto March 31, 2024.
4.	**Press Release dated August 20, 2024**	**CBDT issues Press Release clarifying requirements for obtaining ITC** The Finance (No.2) Act, 2024 made an amendment in Section 230 (1A) of the IT Act, through which, reference of the Black Money Act, 2015, had been inserted in the said Section. Due to incorrect interpretation of the said amendment, it was being erroneously reported that all Indian citizens must obtain ITCC before leaving the country. Given this backdrop, the CBDT clarifies that as per Section 230 of the IT Act, every person is not required to obtain an ITCC. The ITCC under Section 230(1A) of the IT Act, may be required to be obtained by persons domiciled in India only in the following circumstances as stated in Instruction No. 1/2004, dated February 05, 2004: • where the person is involved in serious financial irregularities and his presence is necessary in investigation of cases under the IT Act or the Wealth Tax Act, 1957 and it is likely that a tax demand will be raised against him. • where the person has direct tax arrears exceeding INR 10 Lakhs outstanding against him which have not been stayed by any authority. Further, the CBDT clarifies that a person can be asked to obtain an ITCC only after recording the reasons for the same and after taking approval from the Principal Chief Commissioner of Income-tax or Chief Commissioner of Income-tax.

TRANSFER PRICING
From the Judiciary

Tribunal accepts Assessee's plea for inclusion/ exclusion of comparables in ITeS segment

Swiss Re Global Business Solutions India Pvt Ltd.

IT(TP)A No.104/Bang/2024

In the present case, the Tribunal had earlier set aside the issue of comparable selection to the file of the AO/TPO with necessary directions, consequent to which the TPO called on the Assessee to make submissions with regards to the inclusion of 1 comparable and exclusion of 2 comparables in reference to the ITeS segment.

Accordingly, as the TPO did not accept the submissions of the Assessee, the Assessee filed objections before the DRP which confirmed the exclusion of the 2 comparables but directed the AO/TPO to include the other comparable. However, in the final assessment order, the said comparable was not included by the AO/TPO, aggrieved by which the Assessee approached the Tribunal.

The Tribunal directing the exclusion of the 2 comparables for not being engaged in ITeS and also accepting the Assessee's plea for inclusion of the other comparable, held that the AO/TPO had exceeded their jurisdiction by not following the DRP's direction.

Tribunal adopts CPM for manufacturing segment, RPM for trading activities, deletes AMP-adjustment

AO Smith India Water Products Pvt Ltd

IT(TP)A No.890/Bang/2022

The Assessee was engaged in manufacturing and distribution of water heaters that had filed its return declaring 'Nil' income. Thereafter, the case of the Assessee was selected for scrutiny and the AO noting that the Assessee had entered into international transactions with its AE referred the matter to the TPO for computation of ALP vis-a-vis the transactions of the Assessee with its AE.

The TPO after examining the TP report conducted certain adjustments and sent his order to the AO. Accordingly, a draft assessment order was passed. Against this draft assessment order, the Assessee filed its objection before the DRP. The DRP partly accepted the objections of the Assessee and granted some relief. Thereafter, the AO passed the final assessment order.

Aggrieved with the order of the AO, the Assessee approached the Tribunal which rejected the TPO's adoption of TNMM for benchmarking manufacturing segment and RPM to the trading activities and directed the AO/TPO to adopt CPM as MAM for the manufacturing unit of the Assessee and continue with the RPM method for the trading activities of the Assessee and further placing reliance on a catena of coordinate bench judgments, deleted the adjustment made by the AO/TPO in respect of AMP expenses.

Hon'ble HC dismisses Revenue's appeal against the Tribunal's order in Birlasoft's case qua internal comparison

Birlasoft Pvt Ltd.

ITA 115/2018

The Revenue had approached the Hon'ble HC aggrieved with the order of the Tribunal. The Hon'ble HC noted that the appeal before the Tribunal represented the second round of litigation, since in the first round, the matter had been remanded back to TPO with a direction to determine ALP by making internal comparison of profitability from AE-transactions and non-AE transactions, after allocating respective revenues/expenses to both segments, however, the TPO had proceeded far beyond the directions of remit which had been framed, and had undertaken an exercise to recompute net profit margin.

Further, the Hon'ble HC also noted that the Tribunal had taken into consideration the undisputed fact that by the time the appeal was to be taken up, the Revenue had already taken a consistent view for the subsequent years insofar as comparables and controlled transactions were concerned.

Accordingly, the Hon'ble HC observed that as per the order of the Tribunal, the TPO, instead of restricting itself to directions of the Tribunal, proceeded to recompute net profit margin earned from unrelated transactions in non-AE segment, by substituting actual cost of employee expense and cost of outsourced work in unrelated party segments at the same level as that in the related party segment.

In view thereof, finding that no substantial question of law arose and therefore, there was no ground to entertain appeal, the Hon'ble HC, dismissed the Revenue's appeal.

Tribunal holds DRP should give categorical direction, cannot 'gyrate' TP-dispute by remanding it to AO

L H Sugar Factories Ltd.

IT(TP)A No.142 & 143/LKW/2022

The Assessee was engaged in the manufacturing of sugar, generation of power, molasses, bagasse and other residual by-products that entered into certain specified domestic transactions with its AEs.

The TPO rejected the method applied by the Assessee for determining ALP of its specified domestic transactions and determined ALP as 'Nil'. On appeal by the Assessee to the DRP, the DRP held that the TPO's rejection of the method applied by the Assessee was unjustified and directed the AO to determine the ALP either on the basis of a certificate from a chartered engineer / cost accountant, or in its absence, apply CPM after considering capacity utilization & indirect cost allocation/apportionment. Therefore, in absence of the certificate, the AO computed the ALP by applying CPM and passed the assessment order.

Aggrieved, the Assessee approached the Tribunal which perusing Section 144C of the IT Act observed that the DRP did not have any power to set aside any proposed variation or issue any fresh direction for further enquiry as the statute contemplated that the DRP should give categorical direction to the AO for passing the assessment order and it could not delegate its authority back to the AO. Moreover, the DRP was a 'nisi auctoritate' i.e. the only authority which should cease the dispute conclusively in accordance with

provisions of the Act and therefore was not empowered to gyrate the dispute by remanding it to the AO with any cinematic direction when the statute prescribed a particular body or authority to exercise power, which must be exercised by that body or authority alone.

Further, the DRP's direction was not only a clear-cut violation of Section 144C(8) of the IT Act but the determination of ALP by AO, following DRP's direction, was also irregular and could not be given effect to, for the reason that "once the original direction itself had been held to be without jurisdiction and hit by the doctrine of 'coram non judice', there would be no question of upholding the subsequent action of determination of ALP merely on the ground that the objection to the jurisdiction of the DRP in giving direction to the AO who passed the final assessment order was not taken separately before the Tribunal.

Thus, finding the present case to be a case of irregular exercise of power (and not illegal assumption of jurisdiction), the Tribunal observed that the irregularity could be cured by setting aside such action/ direction, back to the same stage and to the same authority from where the irregularity had crept in. Accordingly, setting aside the DRP's direction as also consequential assessment order passed pursuant thereto, the Tribunal restored the matter back to the DRP, to the stage of filing of objections, for considering them in light of evidence and to pass an appropriate order giving clear direction either confirming or reducing or enhancing or deleting variations/adjustment made by the TPO.

Tribunal upholds TNMM over CUP for goods' sale, remits adjustment qua interest on debentures

Hospira Healthcare India Private Ltd.

2024-TII-132-ITAT-MAD-TP

The Assessee was engaged in the manufacturing and selling of generic injectable drugs to its group entities and certain other concerns called distribution partners. The Assessee had acquired the generic injectable pharmaceutical business of a company, by virtue of which, various agreements entered between that company and the distribution partners were inherited by the Assessee (viz. 'legacy agreements'). The company was also supplying pharmaceuticals products to 2 other companies under the same formula. To finance this acquisition, the Assessee had issued inter-corporate convertible debentures at an interest rate of 10.5%, subscribed to by its related entity.

To benchmark its international transactions, the Assessee adopted CUP as MAM relying on the legacy agreement as a valid comparable. However, the TPO/DRP adopted TNMM and made a TP-adjustment with regards to the sale of goods and separately with regards to interest on debentures.

Aggrieved, the Assessee approached the Tribunal which placing a reference to the scheme of Sections 92, 92C of the IT Act and Rule 10B of the IT Rules, rejected the Assessee's contention that the sale of goods prior to March 2010 could be considered as internal CUP and noted that 99.84% of sale had been made to AEs, and there were 589 sale transactions, out of which, in 166 cases, sale realized was less than so-called agreement price, and in 419 cases, it was more than agreement price.

Moreover, for the previous AY, the TPO had made adjustment only for transactions where there was short realization, and the Tribunal had held that even though an adjustment could be made, such adjustment

had to consider both the positive and negative price difference. Accordingly, the Tribunal upheld the adoption of TNMM as MAM by the TPO/DRP.

Further with regards to interest paid on debentures, the Tribunal following the earlier orders in the Assessee's own case for previous years, remanded the adjustment back to the TPO.

ARTICLE

Section 128A of the CGST Act: A Fresh Perspective on Easing Tax Disputes

The GST regime in India has undergone several iterations and adjustments since its inception. A notable recent development is the introduction of Section 128A into the CGST Act via the Finance (No. 2) Act, 2024. This provision represents a significant shift in managing historical tax disputes related to interest and penalties. This article delves into Section 128A, tracing its legislative evolution, implications, and industry impact, while highlighting key challenges and areas requiring clarification.

Legislative Background

The journey of Section 128A from its recommendation by the GST Council to its formal inclusion in the Finance (No. 2) Act, 2024, reflects a nuanced approach to addressing taxpayer challenges. During the 53rd GST Council meeting on June 22, 2024, a scheme was proposed to waive interest and penalties for demands under Section 73, excluding those involving fraud or willful misstatement as covered under Section 74. This proposal aimed to mitigate issues faced by taxpayers in the early GST years.

Subsequently, the proposal was incorporated into the Modi 2.0 Government's Union Budget presented by Hon'ble FM Nirmala Sitharaman on July 24, 2024. Section 128A was officially enacted on August 16, 2024, though it has yet to come into force. Its implementation will be notified by the Central Government in the Official Gazette.

Scope and Applicability of Section 128A

Section 128A introduces a waiver mechanism for interest and penalties concerning certain tax disputes, specifically those arising from notices issued under Section 73 of the CGST Act. The scope of this provision is centered on tax disputes for the financial years 2017-18, 2018-19, and 2019-20, where the tax has been paid, but interest and penalties remain unresolved.

- Scope of Waiver: The waiver applies where the taxpayer has settled the full tax amount but has not yet addressed the interest or penalties. It is available provided that no SCN was issued under Section 74, which pertains to cases involving fraud or willful misstatement. This ensures the waiver targets genuine compliance issues rather than deliberate evasion.
- Eligibility Conditions:
    - The demand must relate to the tax periods FY 2017-18, 2018-19, or 2019-20.
    - The full amount of tax must be paid by the notified date.
    - Any pending appeals related to the demand must be withdrawn unconditionally.
- Exclusions and Limitations: The waiver does not apply to demands raised under Sections 52, 62, 63, 64, 75, or 76, nor does it cover cases involving erroneous refunds. Additionally, if interest or penalties have

already been paid, no refund will be issued.

Implications for Taxpayers and Tax Authorities

The introduction of Section 128A presents a double-edged sword:

- For Taxpayers: It offers relief from the burden of accrued interest and penalties, facilitating the resolution of long-standing disputes. This provision is expected to unlock substantial amounts of outstanding dues and reduce litigation backlog, offering respite to taxpayers who have faced genuine compliance issues.
- For Tax Authorities: The provision ensures that tax authorities are protected from punitive actions due to procedural lapses in issuing SCNs. This safeguard aligns with Section 128A's objective to ease the compliance burden on both parties, reducing unnecessary litigation.

Challenges and Issues Requiring Clarification

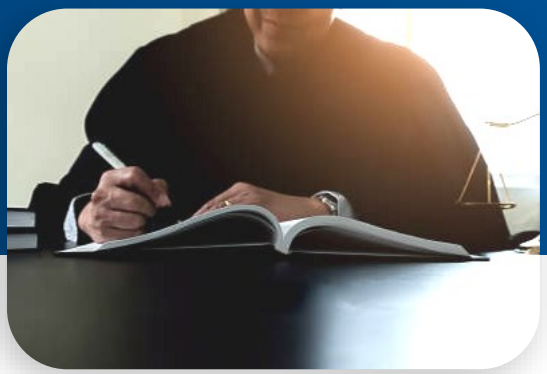
- **Partial Relief in Multi-Issue Notices:** A significant concern is whether partial relief can be granted in cases involving multiple issues. For example, if a taxpayer receives a notice covering both disputed and undisputed issues, can they seek relief under Section 128A for the undisputed portion while litigating the remaining issues? The current wording of Section 128A does not address this explicitly, potentially leading to interpretative challenges.
- **Multiple Years of Demand**: The provision's applicability in cases spanning multiple years is also ambiguous. Can a taxpayer claim a waiver for specific years while contesting demands for other years? The language of Section 128A suggests a need for clarity on whether partial relief is permissible in such scenarios.
- **Date for Payment and Conditions**: The 53rd GST Council's recommendation specified that the waiver would apply if disputed tax was paid by March 31, 2025. However, the Finance Bill lacks specific conditions or a precise payment date, necessitating a formal notification or rule to clarify these aspects and ensure uniform implementation.
- **Safeguarding Officers from Penalty**: While the provision aims to protect taxpayers from undue litigation, it does not explicitly address how officers who failed to issue SCNs within the normal period due to misunderstandings should be treated. Clear guidelines are needed to ensure that officers are not penalized for procedural lapses that occurred under the mistaken belief that interest recovery could be handled differently.

Conclusion

Section 128A's introduction into the CGST Act marks a significant development in GST compliance and dispute resolution. By offering a structured approach to waiving interest and penalties for specific periods and conditions, this provision aims to address historical issues and streamline dispute resolution.

However, the effectiveness of Section 128A will hinge on the clarity of its implementation and the Government's responsiveness to outstanding issues. Tax professionals and industry stakeholders must remain engaged in the dialogue to ensure that Section 128A meets its intended objectives and contributes to a more efficient and equitable tax administration system.

GOODS & SERVICES TAX
From the Judiciary



HC: IGST refund granted after deduction of differential drawback amount claimed

Kunal Housewares Private Limited

Writ Petition No. 2215 Of 2023

The Petitioner exported goods and paid IGST while claiming a higher rate of drawback (refund of duties) under the Drawback Rules. Later, the Petitioner sought an IGST refund under Section 16(3)(b) of the IGST Act. The claim for the refund was denied on the basis that the Petitioner had already claimed a higher duty drawback, which covered the refund of various duties and taxes subsumed under GST. Aggrieved the Petitioner preferred a writ before the Bombay HC

The Court observed that since the Petitioner had opted for a higher rate of drawback and claimed the benefit voluntarily, they were already availing a refund of duties including Central Excise and Service Tax. Providing an additional IGST refund would amount to a double benefit. However, the Court held that the Petitioner is entitled to an IGST refund, but the refund should be reduced by the differential amount of drawback claimed.

HC: Appeal cannot be dismissed solely for non-filing of certified copy

AP Machine Tools

Writ Tax No. 965 of 2024

The Petitioner's appeal was dismissed by the appellate authority solely for failing to file a certified copy of the order within the prescribed time frame. Aggrieved the Petitioner preferred a writ before the Allahabad HC. The Petitioner argued that the non-filing of the certified copy within the time limit, given that the appeal was filed electronically, was a technical error and that the merits of the case should be considered.

Court held that it is a well-established principle that non-filing of a certified copy within the time limit for electronically filed appeals is considered a technical error and should not result in dismissal without evaluating the merits of the case. The appellate authority's dismissal based on this ground lacked justification as per established legal principles. Accordingly, the impugned order was set aside, and the matter was remanded to the appellate authority to review the appeal on its merits.

Authors' Notes:

> *The instant judgement highlights an ongoing issue with the procedural handling of appeals under the GST regime. This Court's decision aligns with earlier judgments, such as those in Enkay* ***Polymers Vs. State of UP [Writ C No. 1155 of 2023]*** *and Jai Prakash Shiv Charan Bidi [Writ C No. 1417 of 2022], which*

have affirmed that dismissing appeals solely on the basis of non-filing of certified copies of orders is unwarranted. These cases established that procedural lapses should not overshadow the substantive merits of an appeal.

Moreover, the amendment to Rule 108(3) of the GST Rules, which removed the requirement to file a certified copy of the decision along with the appeal, further supports this view. This change reflects a move towards reducing technical barriers and ensuring that appeals are considered based on their merits rather than procedural shortcomings. Given this context, it is clear that the appellate authority should focus on the substantive issues of an appeal rather than dismissing it on technical grounds.

HC: Appellate Authority does not possess the power to extend the filing period beyond the additional period allowed

Sai Balaji Infrastructures

Writ Petition Nos: 13662, 13712 & 14803 of 2024

The Petitioners, dissatisfied with the orders of the assessing authorities, filed appeals before the appellate authorities under Section 107 of the CGST Act. However, these appeals were submitted beyond the prescribed period of limitation set out under the Act, as well as beyond the additional 1-month period for which the appellate authority is empowered to condone delays under Section 107(4). Consequently, the appeals were dismissed on the grounds of being time-barred. Aggrieved by these dismissals, the Petitioners approached the court through writ petitions. The orders challenged in this batch of writ petitions include those dismissing the appeals due to the expiration of the limitation period.

The Court determined that where a special or local law, such as the CGST Act, specifies a distinct period of limitation and restricts the additional period for condoning delays, the provisions of the Limitation Act are excluded by implication. Specifically, Section 107 of the CGST Act, which details the time frame for filing appeals and limits the condonation period to one month, implicitly excludes the applicability of Section 5 of the Limitation Act. Thus, the appellate authority does not possess the power to extend the filing period beyond the additional month allowed. As a result, the writ petitions challenging the dismissals of the appeals were dismissed.

Authors' Notes:

This ruling aligns with the general principle that statutory limitations set out by specific laws must be adhered to, and such provisions implicitly exclude the broader applicability of the Limitation Act's provisions. The court's decision is in contrast with the Calcutta High Court's judgment in S.K. Chakraborty & Sons Vs. UOI & Ors., where it was held that delays in filing appeals could be condoned beyond the limitation period prescribed under GST, reflecting a more lenient approach.

Central GST Circular not binding on State GST Officers

Atulya Minerals

W.P.(C) No. 14540 of 2024

In the instant case, the Petitioner sought to challenge the orders issued by the Deputy Commissioner of State Tax, contending that the Dy. Commissioner lacked the jurisdiction to block ITC under Rule 86(A)(1) of the OGST Rules. The Petitioner argued that the orders were improperly based on a circular issued under Central GST, which should not apply to State GST unless it had been explicitly adopted by the State Government. The Petitioner also raised concerns about non-compliance with the principles of natural justice, asserting that the orders were passed without providing a fair opportunity to be heard.

The High Court dismissed the petition, affirming that under Rule 86(A)(1) of the OGST Rules, the Commissioner or any officer authorized by him, not below the rank of an Asst. Commissioner, is indeed empowered to block ITC. In this instance, since the Dy. Commissioner holds a rank higher than that of an Asst. Commissioner, the HC found that he acted within his jurisdiction. Furthermore, the HC clarified that the circular issued by the Central Government pertains only to Central GST and does not extend to State GST unless specifically adopted by the State Government, which was not the case here. In view of the same, the Petitioner's claims regarding the lack of jurisdiction and non-compliance with the principles of natural justice were deemed without merit, leading to the dismissal of the writ petition.

HC: SEZ Units are entitled to claim refunds of accumulated ITC

Messrs Meghmani Organochem Limitd

R/Special Civil Application No. 1202 of 2024

The petitioner, operating as a SEZ Unit, sought a refund of accumulated ITC on exports made under a LUT without payment of tax. The refund application was denied on the grounds that only the supplier of goods or services, not the recipient in a SEZ Unit, could claim such a refund. The Petitioner challenged this denial, arguing that, according to established legal precedents, SEZ Units are entitled to claim refunds of accumulated ITC.

The court referred to a precedent set by a Coordinate Bench in Britannia Industries Limited vs. Union of India, which confirmed that SEZ Units are entitled to claim refunds of accumulated ITC. The court ruled that the Appellate Authority erred by dismissing the claim based on pending adjudication of the precedent case without a stay. Consequently, the impugned order was quashed, and the authorities were directed to process the petitioner's refund claim.

GOODS & SERVICES TAX
From the Legislature

Sr. No	Notification/ Circular	Summary
1.	Press Release No. 514 dated August 23rd, 2024	**GSTN Introduces New RCM Liability/ITC Statement** The GSTN has announced the introduction of a new 'RCM Liability/ITC Statement' on the GST Portal, designed to help taxpayers accurately report RCM transactions. This new statement will improve the accuracy and transparency of RCM reporting by capturing the RCM liability reported in Table 3.1(d) of GSTR-3B and its corresponding ITC claims in Table 4A(2) and 4A(3) of GSTR-3B for each return period. It will be applicable from the tax period of August 2024 for monthly filers and from the July-September 2024 quarter for quarterly filers. The RCM Liability/ITC Statement can be accessed through the navigation path: Services >> Ledger >> RCM Liability/ITC Statement.
2.	Instruction No. 03/2024-GST on August 14, 2024	**Guidelines for CGST Audit and Investigations** The CBIC has issued instruction which provides new guidelines for CGST audit matters. It has been instructed that if a CGST Zone encounters issues involving different interpretations of the CGST Act, rules, or notifications that could lead to litigation, the Zonal Chief Commissioner should refer the matter to the relevant policy wing of the Board before concluding the investigation and issuing a show cause notice. The Board has now extended this guideline to audits, advising CGST Audit Commissioners to follow this procedure in both ongoing and future audits. This approach is intended to ensure consistency in tax enforcement.

HC: Non-submission of Bills of Export Does Not Affect Export Obligation Compliance for SEZ Supplies

Phoenix Industries Limited

Writ Petition No.15057 OF 2023

In this case, the petitioner, an exporter, was granted an Advance Authorization allowing duty-free import of goods for use in exports to a customer in a SEZ. However, due to an inadvertent error, the company failed to file the 'Bills of Export' for supplies to the SEZ unit, although it provided all other required documentation. The denial of considering these supplies as valid discharge of export obligations under the AA was solely based on the non-submission of the "Bills of Export."

The court referred to established legal precedents from **Larsen & Toubro Limited vs. Union of India** and **Electromech Material Handling System (India) Private Limited vs. Union of India** , which held that if a party can demonstrate proof of supply to the SEZ unit, the absence of "Bills of Export" should not be considered a failure to meet export obligations. The court directed the DGFT to issue an Export Obligation Discharge Certificate to the petitioner, contingent on the submission of required documents according to DGFT policy circulars. The impugned decision was quashed and set aside, and the writ petition was allowed.

CESTAT: Description of goods did not justify the denial of the refund

AGS Transact Technologies Private

Customs Appeal No. 41252 of 2015

Customs Appeal No. 41253 of 2015

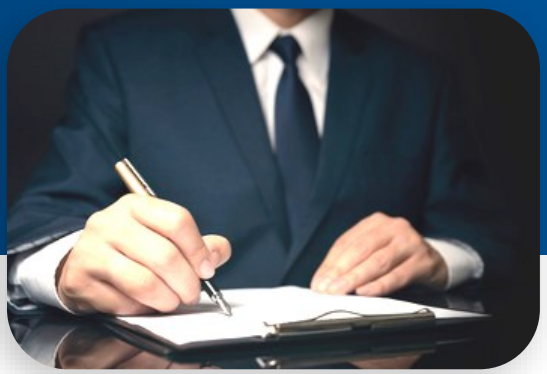
Customs Appeal No. 41254 of 2015

In this case, the appellant sought a refund of SAD paid on imported goods. The original authority rejected the claim on two grounds: a mismatch between the goods' descriptions in the invoices and the Bill of Entry, and the claim being filed beyond the one-year limitation period.

The court held that the minor discrepancy in the description of goods did not justify the denial of the refund, as the description was materially the same and consistent with the goods sold domestically. Referencing the Jurisdictional High Court's decision in the Johnson Lifts Pvt Limited case, the court found that rejecting the refund on the grounds of description mismatch was not legally justified. Additionally, regarding the limitation period, the court determined that the one-year limitation period introduced in 2008 did not apply to refunds under Notification No. 102/2007. As such, the original authority's rejection of the claim based on this limitation was incorrect. The appeals were thus allowed, and the impugned orders were set aside.

CUSTOMS & FTP
From the Legislature

Sr. No.	Notification/ Circular	Summary
1.	Notification No. 55/2024-Customs (N.T.) dated 23rd August, 2024	**Amendment to AIR of duty drawback for Gold and Silver Jewelry** The CBIC through this Notification revises the AIR of duty drawback for specific gold and silver jewelry articles. Notably, the duty drawback rates for tariff items 711301, 711302, and 711401 have been significantly reduced. The rate for tariff item 711301 has been adjusted from 704.1 to 335.50, while the rates for items 711302 and 711401 have been decreased from 8949 to 4468.10.
2.	Circular No. 10/2024-Customs dated 20th July, 2024	**CBIC introduces ICETABs to streamline customs cargo Examination and clearance** CBIC has introduced the use of ICETABs—mobile tablet devices designed to enhance the efficiency and transparency of customs cargo examination and clearance. These devices enable Customs Officers to access Risk Management System instructions, examination orders, and BoE details directly, by allowing real-time uploading of examination reports and capturing up to four images of the cargo.
3.	Notification No. 57/2024-Customs (N.T.) dated 31st August, 2024	**Extension of transitional provisions under Sea Cargo Manifest and Transshipment Regulations, 2024** CBIC vide this Notification amends the Sea Cargo Manifest and Transshipment Regulations, 2018. This amendment is an extension of the transitional provisions under Regulation 15(2). Initially set to expire on August 31, 2024, the transitional provisions will now apply until specific dates for different customs ports, as outlined in a newly added table. The extended deadlines range from September 10, 2024, for Mormugao Port to November 30, 2024, for all other ports not specifically listed. This notifications takes effect from 31st August, 2024.



SEBI issues informal guidance to clarify regarding post-merger compliance requirements on promoter shareholding

Anjani Portland Cement Ltd.

SEBI/HO/CFD/PoD-2/OW/P/2024/16806/1

The Applicant was a company that was being merged with its unlisted subsidiary that had approached SEBI with a query as to whether the promoter of the company, holding shares or voting rights in excess of 25%, shall acquire additional shares or voting rights in the company, in compliance with Regulation 3(2) of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, post approval of the amalgamation scheme, without requiring continued compliance with Part 1(A) clause 3(b) of the Master Circular on Scheme of Arrangement and also a query with regards to the compliance with Insider Trading norms in case of disposal of shares by the company's promoter for complying with the requirement of the Master Circular.

SEBI noted that in the present case, the shareholding of the "merged company" would be 24.91%, which would be less than the stipulated 25% limit as specified in the Master Circular on Scheme of Arrangement, thereby failing to satisfy the stipulated requirement and accordingly observed that the shares allotted to persons classified as "other non-promoter public shareholders" of the subsidiary company, may have to be classified under the "promoter and promoter group" category. Moreover, since the merger company would continue to be a listed entity, it shall comply with the minimum public shareholding requirements, on a continuing basis, and hence, even if the promoter holding was in excess of 25%, it could acquire shares/voting rights in the company in compliance with the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011.

With regards to the query on compliance with Insider Trading norms in case of disposal of shares by the company's promoter for complying with the Master Circular requirement, SEBI observed that clause (iii) of the proviso to Regulation 4(1) of the Prohibition of Insider Trading Regulations provided a defence if the transaction in question was carried out pursuant to a statutory or regulatory obligation to carry out a bona -fide transaction, however, in the present case, disposal of shares by the promoter could not be construed as a transaction carried out pursuant to a statutory or regulatory obligation as there was no mandate under the clause 3(b) of Part 1(A) of the Master Circular, and therefore, clause (iii) of the proviso to Regulation 4(1) of the Prohibition of Insider Trading Regulations could not be used for granting exemption/ permission for disposal of shares by the promoter.

NCLAT holds unconditional performance guarantees are outside the purview of Section 14 of the IBC, can be invoked during moratorium

Mitsubishi Heavy Industries Limited vs. M/s. Punj Lloyd Limited and Ors.

Company Appeal (AT) (Insolvency) No. 1479 of 2023

The Appellant had approached the NCLAT challenging the order of the NCLT which restrained the invocation of a performance bank guarantee against the Corporate Debtor, contending that the IBC specifically excluded performance bank guarantees from the purview of Section 14, and the NCLT lacked jurisdiction to evaluate the legality of bank guarantee invocation or to intervene in the contractual dispute.

Finding the NCLT's decision to restrain the bank guarantee encashment erroneous, the NCLAT observed that, as per the law laid down by the Hon'ble SC, any dispute raised by the contractor against the invocation of the bank guarantee was not to be looked into when the bank guarantee was unconditional and irrevocable just as in the present case. Moreover, in cases of unconditional and irrevocable bank guarantees, any disputes arising between the beneficiary (Appellant) and the party who obtained the guarantee were not relevant to the beneficiary's right to invoke the guarantee, and the Appellant acted within its rights by invoking the guarantee.

Further, Section 14 of the IBC, specifically its moratorium clause, did not restrict or invalidate the beneficiary's right to invoke a bank guarantee during the period of moratorium, and therefore, the invocation of the performance bank guarantee by the Appellant remained valid despite the ongoing insolvency proceedings against the Corporate Debtor.

Thus, holding that the NCLT committed an error in allowing the application filed by the RP of the Corporate Debtor for restraining the Appellant and the other banks who had given a counter guarantee from invoking the bank guarantee, the NCLAT allowed the appeal.

Hon'ble HC holds lookout circular can be issued only in 'exceptional circumstances', not for every bank-loan default

Balram Garg vs. Union of India and Anr.

W.P.(C) 6739/2024 & CM APPLs. 28113/2024, 32279/2024

The Petitioner was the Managing Director of a renowned jewelry brand that had filed a writ petition before the Hon'ble HC seeking the quashing of the lookout circular issued against him at the request of a public sector bank.

The Hon'ble HC noted that in the year 2022, the jewelry brand faced financial turbulences and therefore, the public sector bank and other members of the consortium of banks initiated proceedings against the jewelry brand under Section 19 of the Recovery & Bankruptcy Act, 1993 before the DRT, as also by the public sector bank under Section 7 of the IBC, before NCLT, meanwhile, due to an OTS being arrived at, the public sector bank approached the NCLT to withdraw the insolvency plea.

Accordingly, the Hon'ble HC observed that merely because the MHA Office Memorandum permits the issuance of a lookout circular in exceptional circumstances, even when an individual was not involved in any offence under the IPC or any other penal law, the said power was required to be used in exceptional circumstances and not as a matter of routine. Moreover, the issuance of lookout circular could not be resorted to in every case of bank loan defaults or where credit facilities were availed for business and the Fundamental Right of a citizen of the country to travel abroad could not be curtailed only because of the failure to pay a bank loan, more so, when the person against whom the lookout circular was opened had not even been arrayed as an accused in any offence for misappropriation or siphoning off the loan amounts.

Further, as an amicable settlement had already been arrived at and the Petitioner had already deposited the requisite sum with the public sector bank, which was the lead member of the consortium, and in view of the fact that there was no criminal case pending against the Petitioner, the Hon'ble HC holding that the lookout circular issued against the Petitioner which had the effect of taking away the Fundamental Right guaranteed under Article 21 of the Constitution of India could not be permitted to sustain, quashed the same and allowed the writ petition.

PMLA Appellate Tribunal upholds ED's penalties for FERA violations

Ambassador Construction (P) Ltd. and Ors. vs. The Special Director, Directorate of Enforcement

FPA-FE- 167-168-169/DLI/2005

The Appellant were the directors of a company who had approached the PMLA Appellate Tribunal against the order of the ED which imposed a penalty of INR 30 Lakhs on the company, a penalty of INR 2 Lakhs on the Appellants and INR 5 lakhs on one of the Directors exclusively, for contravention of multiple sections of the FERA.

The PMLA Appellate Tribunal noted that the Appellants had received foreign remittances of USD 500,000 from a US citizen and USD 100,000 from an allegedly non-existent individual and these transactions were scrutinized as part of the ED's investigation.

Before the PMLA Appellate Tribunal, the Appellants submitted that the remittances were in fact investments rather than loans, backed by an MoU and permissible under RBI guidelines allowing NRIs and OCBs to invest in Indian real estate companies. Further, the evidence used by the ED, sourced from the Income-tax Department documents was inadmissible in FERA proceedings and the principles of natural justice were violated as statements relied upon were not subjected to cross-examination.

Per contra, the ED submitted that the funds received were temporary loans, not investments as there were no RBI permissions, and the funds were transferred to a company, without issuing shares. Further, Section 72 of FERA permitted the use of documents obtained from other legal proceedings, therefore, validating the use of Income-tax documents in this case and the lack of cross-examination did not violate procedural justice, as the findings were based on documentary evidence and admissions.

Considering the submissions of both the Appellants as well as the ED, the PMLA Appellate Tribunal not finding anything contrary produced by the Appellant to refute the findings made in the ED's investigation, upheld the order of the ED and also confiscated USD 100,000 under Section 63 of FERA since the amount remained unexplained and tainted.

Hon'ble HC holds mere balance sheet entry doesn't 'create' liability for company to pay gratuity, dismisses ex-promoters' writ seeking gratuity

Anil Govind Ganu vs. Innovative Technomics Pvt. Ltd. and Ors.

Writ Petition No. 160 of 2024

The Petitioners were the ex-promoters and directors of the Respondent that had filed a writ petition before the Hon'ble HC challenging the orders passed by the controlling authority-cum-labor court seeking resolution of their grievance with regards to the non-payment of gratuity.

Before the Hon'ble HC, the Petitioners submitted that when they were treated as employees for the purpose of provident fund, it was incomprehensible that they were not employees selectively for the purpose of payment of gratuity.

Per contra, the Respondent submitted that the Petitioners were its founder directors, who were in absolute control of its affairs, and therefore, they had been correctly treated as employers of various other employees employed in the company.

The Hon'ble HC noted that in the absence of any underlying agreement or contract as opposed to the Petitioners' claims, mere entry in the balance sheet would not give rise to creation of liability for the company, to pay gratuity under Section 4(5) of the Payment of Gratuity Act, therefore, the Petitioners could not claim gratuity by merely relying on entry in the balance sheet of the company. Moreover, as the balance sheet was prepared on the instructions of the Petitioners, who were in full control of the company as on the date of finalization of the balance sheet and having found that there was no agreement within the meaning of Section 4(5) of the Payment of Gratuity Act, the issue of Petitioners fitting into the definition of the term 'employee' became purely academic.

Further, the Petitioners were not just promoters, but in fact founder promoters of the company, and they also functioned as its managing directors, and looking at their shareholding in the company, since the Petitioners had more than 5% voting power, they could not be paid gratuity under the Payment of Gratuity Act.

Thus, finding that the mere entry in the balance sheet created for the first time by the Petitioners, who were

in complete control of the company on that date, that too 5 days before sale of their stake in the company, could not amount to agreement under provisions of section 4(5) of the Payment of Gratuity Act, the Hon'ble HC held that the Petitioners' claim for gratuity was totally untenable and had rightly been rejected by the controlling authority-cum-labor court and accordingly, dismissed the writ petition.

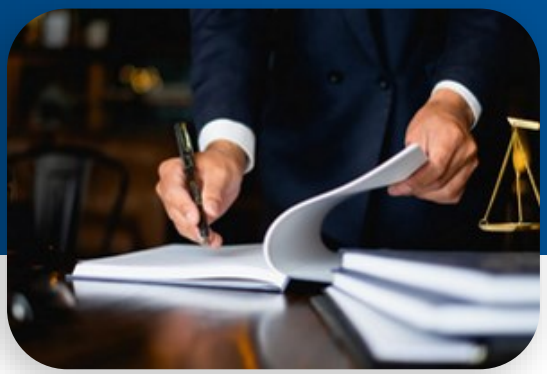
Hon'ble HC holds NCLT 'well empowered' to examine forgery allegations, remands oppression case to NCLT

Smt. Kavita Arora vs. Leptons Designtek Pvt Ltd. & Ors

CO. A(SB) 4/2016 & CO. A(SB) 5/2016

In the present case, after the marital disputes between the Appellant and her husband, the Appellant was removed from the company's directorship, basis a purported resignation letter and her husband planned to sell the property purchased using the company's funds without her consent, accordingly, the Appellant filed a petition before the CLB alleging forgery, oppression and mismanagement, which was dismissed by the CLB, with a direction to seek redressal before the Civil Court, holding that it lacked jurisdiction to adjudicate the issue of forgery of documents.

Aggrieved, the Appellant approached the Hon'ble HC which noting that the NCLT was empowered to examine the documents and direct forensic examination of the same and placing reliance on a catena of NCLAT judgments wherein it was unequivocally held that the NCLT had very wide powers under the Companies Act and the NCLT Rules, 2016 to enquire into the allegation of oppression and mismanagement and sending disputed documents for forensic investigation was also part of this enquiry, the Hon'ble HC holding that in the interest of justice, the matter should be remanded to the NCLT to prevent any mismanagement or oppression within the company, remanded the matter to the NCLT for adjudication, to examine the allegations of oppression, forgery and fabrication of documents on part of the Appellant's husband.



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

Notification No. SEBI/LAD-NRO/GN/2024/197 dated August 01, 2024

SEBI through a Notification notifies the SEBI (Mutual Funds) (Second Amendment) Regulations, 2024 to amend the SEBI (Mutual Funds) Regulations, 1996.

Through these amendment regulations, SEBI, notably introduces new definitions and regulations, including a broad definition of "market abuse" covering manipulative and fraudulent practices. Further, asset management companies are now required to establish mechanisms to detect and prevent market abuse, such as front-running and fraudulent transactions and the Chief Executive Officer, Managing Director, or equivalent, along with the Chief Compliance Officer, are now held to be responsible for these compliance measures.

In addition to the above, the asset management companies must now also implement a whistleblower policy providing confidential reporting channels and protection for whistleblowers and furthermore, face-to-face communications including out-of-office interactions between fund managers and dealers of the fund need not be recorded.

These provisions have been decided to be implemented in phases over different timelines: three months, six months, and twelve months from the publication date, depending on the size of the asset management companies.

SEBI notifies the SEBI (Alternative Investment Funds) (Fourth Amendment) Regulations, 2024

Notification No. SEBI/LAD-NRO/GN/2024/198 dated August 05, 2024

SEBI notifies the SEBI (Alternative Investment Funds) (Fourth Amendment) Regulations, 2024 to amend the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012.

Through these amendment regulations, SEBI, modifies several key provisions by:

- removing the requirement for funds to undertake leverage or borrowing to meet day-to-day operational needs as a requirement for registration as a Category II AIF.
- Allowing large value funds for accredited investors to extend their tenure up to five years with the approval from two-thirds of the unit holders, by value of their investment instead of heading for full liquidation within one year following the expiration of the fund tenure or extended tenure in the absence of consent of the unit holders, where earlier, permission could have only been given for an extension of tenure beyond two years, subject to the terms of the contribution agreement, other fund

documents, and conditions by the Board.

- Limiting Category I & II AIFs' borrowing to temporary funding for up to 30 days, not exceeding 10% of investable funds for the purpose of investments or otherwise, where earlier, such purpose was not specified by SEBI and also allowing encumbrance on equity for infrastructure projects.

These changes aim to streamline operational practices and enhance regulatory oversight for AIFs and come into effect from their publication in the official gazette i.e. August 06, 2024.

SEBI directs 'AT-1 bonds' valuation by mutual funds to be based on yield-to-call

Circular No. SEBI/HO/IMD/PoD1/CIR/P/2024/106 dated August 05, 2024

AT-1 bonds are issued by banks with no maturity date, but they include a call option. Yield to call is the expected return an investor gets if they buy a bond and hold it until the issuer repurchases it on the call date, before maturity.

Given this backdrop, SEBI through a circular directs mutual funds to value Additional Tier 1 or AT-1 bonds based on yield to call, basis the NFRA's recommendation of valuation of AT-1 bonds to be based on yield to call to align with market practices and Ind AS 113 principles.

This recommendation applies only to the valuation of AT-1 bonds under Ind AS 113, not to other purposes, as for all other purposes, since the liquidity risk of perpetual bonds is required to be suitably captured, the deemed maturity of perpetual bonds are still required to follow the guidelines on the valuation of bonds with multiple call options laid down in the Master Circular for Mutual Funds dated June 27, 2024.

MCA notifies Companies (Indian Accounting Standards) Amendment Rules, 2024

Notification No. G.S.R.492 (E) dated August 12, 2024

The MCA through a Notification introduces significant amendments to the Companies (Indian Accounting Standards) Rules, 2015. These amendments aim to align Indian Accounting Standards (Ind AS) with the International Financial Reporting Standards (IFRS) and address specific challenges within the Indian context. A key focus of these amendments is the introduction of Ind AS 117, which fully replaces the previous Ind AS 104, offering a more comprehensive framework for the accounting of insurance contracts.

Ind AS 117 provides for detailed guidance on recognition, measurement, presentation and disclosure of insurance contracts. Moreover, the financial statements are now required to reflect this by applying a risk adjustment to compensate for non-financial risks that are attributable to uncertainty.

Ind AS 101, 103, 105, 107, 109 and 115 have also been modified significantly. These modifications overall aim at ensuring consistency with Ind AS 117 specifically for financial instruments treatment as it relates to business combinations in addition non-current assets held for sale, revenue recognition among others.

For instance, Ind AS 103 is revised to include more specific guidance on the measurement of insurance contracts acquired in business combinations. Meanwhile, Ind AS 109 has been modified to include insurance contracts as financial instruments under the new standard.

Additionally, these changes have introduced more extensive disclosure requirements particularly in Ind AS 107 so as to bring about greater transparency in respect of financial instruments linked to insurance contacts. These disclosures are expected to assist stakeholders in understanding the risks and financial implications associated with such agreements.

The amendments also include transitional provisions that would ensure a smooth transition from the old standards as required by the new ones, which are effective from the date of their publication in the Official Gazette. The MCA's objective is to enhance quality, comparability and transparency of financial reporting in India which is especially difficult with regard to insurance contracts so as to enable Indian companies to maintain their global competitiveness and compliance with international standards.

RBI imposes stringent norms for peer-to-peer lending platforms

Notification No. RBI/2024-25/63 dated August 16, 2024

Peer-to-peer platforms act as an intermediary providing an online marketplace/platform to participants involved in peer-to-peer lending. The RBI had earlier issued guidelines for peer-to-peer lending platforms in 2017, these guidelines laid out clear directions on the various aspects of the functioning of NBFC-peer-to-peer lending platforms, since these guidelines had been observed by the RBI, to be repeatedly violated and contravened, it was therefore decided by the RBI to revise the same and bilaterally deal with such violations by remediation.

Therefore, with a view to promote transparency and compliance, the RBI through a Notification revises the guidelines for NBFC- peer-to-peer lending platforms. According to the revised guidelines issued by the RBI on this subject, a peer-to-peer platform cannot, inter-alia:

- promote peer-to-peer lending as an investment product with features like tenure-linked assured minimum returns, liquidity options etc.
- cross-sell any insurance product, which is in the nature of credit enhancement or credit guarantee.
- disburse any loan unless the lenders and borrowers have been matched/mapped as per the policy framed and approved by the board.

The revised guidelines come into effect immediately.

Ministry of Finance notifies the Foreign Exchange Management (Non-debt Instruments) (Fourth Amendment) Rules, 2024

Notification No. S.O. 3492(E) dated August 16, 2024

The Ministry of Finance amends the Foreign Exchange Management (Non-debt Instruments) Rules, 2019,

through the Foreign Exchange Management (Non-debt Instruments) (Fourth Amendment) Rules, 2024, to enhance cross-border investment flexibility.

The amendments simplify the process for swapping equity instruments between Indian and foreign companies. The key changes brought about by the amendment rules include clarifications on the definition of 'control' in line with the Companies Act, 2013, and updates to the definition of 'startup company' to match existing government notifications.

The changes also facilitate Foreign Direct Investment in White Label ATMs, aimed at improving financial inclusion and further address the treatment of investments by entities owned by overseas citizens of India and streamline rules related to equity capital swaps among others.

These amendments are in line with the broader goals of the Union Budget 2024-25, focusing on making India a more attractive destination for foreign investors and simplifying regulatory processes for global business expansion.

INTERNATIONAL DESK

Singapore: taxpayers urged to take proactive approach on transfer pricing regulations

The IRAS recently updated its Transfer Pricing Guidelines, highlighting its continued focus on transfer pricing compliance. These changes emphasize the importance of good compliance records, as taxpayers who are co-operative during audits and maintain proper documentation may benefit from partial or full remission of transfer pricing surcharges. IRAS has also taken a stricter stance during audits, where any non -arm length pricing will lead to immediate adjustments and surcharges, with limited opportunities for taxpayers to contest these adjustments.

The guidelines also introduce new measures to ease compliance burdens, such as allowing higher thresholds for aggregated related party transactions before requiring documentation and simplifying the use of past transfer pricing records. These updates aim to reduce the costs and practical challenges associated with compliance, particularly for transactions that fall within certain thresholds or categories. Additionally, IRAS has outlined that transfer pricing documentation is not necessary for certain capital transactions and strictly pass-through costs, provided specific conditions are met.

Overall, the updated guidelines reflect a balanced approach of IRAS in maintaining rigorous compliance standards while also recognizing the need to streamline processes for taxpayers. By implementing these changes, IRAS aims to ensure that transfer pricing compliance does not impose undue burdens, while still protecting Singapore's tax base through stringent audit and documentation requirements.

Kenyan: court rules president's first tax law unconstitutional

A Kenyan appeals court has ruled that the taxes introduced in the Finance Act 2023 were unconstitutional, potentially disrupting a significant source of budget financing for the government. The court found that the process of enacting these taxes violated Kenya's budget-making laws and was fundamentally flawed. These taxes, which were expected to generate about 211 billion Shillings ($1.6 billion) for the fiscal year, included measures such as doubling the value-added tax on fuel and increasing the top salary-tax rate.

The court's ruling follows widespread unrest in Kenya over President’s attempts to implement revenue-raising measures, including a set of tax proposals earlier this year aimed at generating 346 billion Shillings. These proposals, which included significant tax hikes on essentials like fuel and new levies on digital assets and high-income earners, led to widespread protests, culminating in demonstrators storming parliament and forcing the government to abandon the plans. The Finance Act 2023, which included doubling the fuel tax, increasing excise duties on money transfers, and introducing a 3% tax on digital assets, was struck down as unconstitutional by the court. However, the government may still collect a 1.5% housing levy under separate legislation enacted following an earlier court ruling. This legal and political battle underscores the challenges Ruto's administration faces in balancing public opposition with the

need for essential budget funding.

Austria: Introduces public country-by-country reporting and releases draft amendments to transfer pricing guidelines

On July 5, 2024, Austria's National Council passed the law implementing the EU public CbC reporting directive, known as the CbCR-VG. This law requires companies to prepare and publish public CbC reports for financial years beginning after June 21, 2024, with the first reports due for the year 2025. Key changes from the draft law include clarifications on reporting obligations for ultimate parent companies and subsidiaries, adjustments to the definition of "income" to align with national laws, and the option to disclose tax information either on an aggregated basis or separately for other jurisdictions.

In addition, the Federal Ministry of Finance released a draft Maintenance Decree 2024 on June 14, 2024, proposing amendments to the Transfer Pricing Guidelines 2021. These amendments would incorporate elements from the OECD Transfer Pricing Guidelines 2022 and introduce various other changes. This draft decree reflects Austria's efforts to align its transfer pricing framework with international standards and update existing guidelines to address current tax challenges.

UAE: Policy on issuing clarifications and directives, including advance pricing agreements

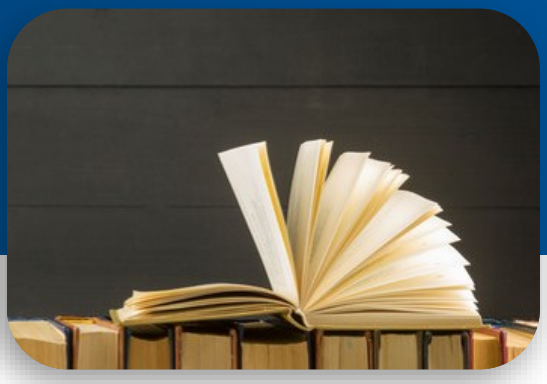
The UAE FTA has introduced Decision No. 4 of 2024, effective from July 1, 2024, which revises its policy on issuing clarifications and directives. Under this decision, taxpayers can now seek guidance on specific queries related to the application of federal tax laws through the private clarification mechanism. This includes the ability to apply for APAs for proposed transactions, with the procedures and start date for APA applications set to be announced in Q4 of 2024.

Additionally, the FTA may grant administrative exceptions under the VAT and excise tax laws when the conditions and controls outlined in the tax legislation are met. This policy update aims to provide greater clarity and flexibility for taxpayers navigating federal tax requirements.

India's BEPS pillar two legislation to impact multinational corporations

India has not yet officially adopted the OECD's minimum tax law, known as Pillar Two, which aims to address BEPS. Despite this, Indian MNCs will still be subject to its requirements. The Pillar Two law was anticipated to be announced in the recent Budget, but its inclusion was notably absent. This raises questions about whether Indian MNCs will be exempt from the compliance obligations associated with Pillar Two, even as global negotiations on the OECD's Pillar One and Pillar Two solutions are nearing their final stages. The absence of a formal adoption means that while the global framework moves forward, Indian MNCs must prepare for eventual compliance with the new regulations.

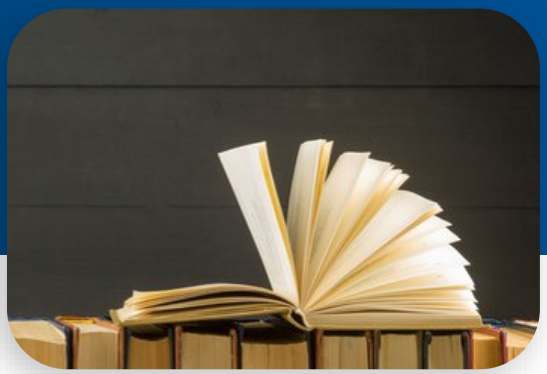
GLOSSARY



Abbreviation	Meaning
AA	Adjudicating Authority
AAAR	Appellate Authority for Advance Ruling
AAR	Authority for Advance Ruling
ACU	Asian Clearing Union
ADD	Anti-Dumping Duty
ADG	Additional Director General
AE	Associated Enterprises
AFA	Additional Factor of Authentication
AGM	Annual General Meeting
AICD	Agriculture Infrastructure and Development Cess
AIF	Alternative investment Fund
AIFs	Alternative Investment Funds
ALP	Arm's length price
AMCs	Assets Management Companies
AMP	Advertising, Marketing and Promotion
AMT	Alternate Minimum Tax
AO	Assessing Officer
AOP	Association of Persons
APA	Advanced Pricing Agreement
APAs	Advance Pricing Agreements
ARE	Alternate Reporting Entity
ASBA	Application Supported by Blocked Amount
AU	Assessment Unit
AY	Assessment Year
B2B	Business to Business
B2C	Business to Customer
BBT	Buy-Back Tax
BCD	Basic Customs Duty
BED	Basic Excise Duty
BEPS	Base Erosion and Profit Shift
BEPS	Base Erosion and Profit Shifting
BOI	Body of Individuals
BPSL	Bhushan Power Steel Limited
CA	Chartered Accountant
CAG	Comptroller and Auditor General of India
CASS	Computer Assisted Scrutiny Selection
CAT	Common Aptitude Test
CAVR 2023	Customs (Assistance in Value Declaration of Identified Imported Goods) Rules, 2023
CbC	country-by-country
CBCR	Country By Country Reporting
CbCR-VG	CbCR Publication Act
CBDT	Central Board of Direct Taxes
CBI	Central Board of Indirect Tax
CBIC	The Central Board of Indirect Taxes and Customs
CBLR	Custom Broker Licensing Regulations
CCI	Chief Commissioner of Income-tax
CCIT	Chief Commissioner of Income tax
CG	Central Government
CGST Act	Central Goods and Services Act, 2017
CIMS	Centralized Information Management System
CIT	Commissioners of Income Tax
CIT(A)	Commissioner of Income-tax (Appeals)
CIT(J)	Commissioner of Income-tax (Judicial)
CJI	Chief Justice of India
CLB	Company Law Board
CoC	Committee of Creditors

Abbreviation	Meaning
CPC	Centralized Processing Centre
CPM	Cost Plus Method
CrPC	The Code of Criminal Procedure, 1973
CRS	Common Reporting Standard
CS	Company Secretary
CSR	corporate social responsibility
Cus	Customs Act, 1962
CVD	Countervailing Duty
DCIT	Deputy Commissioner of Income Tax
DDT	Dividend Distribution Tax
DGIT	Director General of Income Tax
DIT	Directorate of Income Tax
DRC	Dispute Resolution Committee
DRI	Directorate of Revenue Intelligence
DRP	Dispute Resolution Panel
DTAA	Double Taxation Avoidance Agreement
DTCP	Director General, Department of Town and Country Planning
ED	Enforcement Directorate
EDC	External Development Charges
EOI	Expression of Interest
EP	Engagement Partner
EPSEPS	Employees' Pension Scheme
Evidence Act	Indian Evidence Act, 1872
FATCA	Foreign Account Tax Compliance Act, 2010
FATF	Financial Action Task Force
FDI	Foreign Direct Investment
FEMA	Foreign Exchange Management Act, 1999
FHTP	Forum on Harmful Tax Practices
Fin	Finance Bill Finance Bill, 2023
FIR	First Information Report
FIRMS	Foreign Investment Reporting and Management System
FM	Finance Minister
FMV	Fair Market Value
FY	Financial Year
G2B	Government to Business
GST	Goods and Services Tax
H&EC	Health and Education Cess
HC	High Court
HFC	Housing Finance Company
HNI	High Net Worth Individual
HSVP	Haryana Shahari Vikas Pradhikaran
HUF	Hindu Undivided Family
IBBI	Insolvency and Bankruptcy Board of India
IBC	Insolvency and Bankruptcy Code
ICAI	Institute of Chartered Accountants of India
ICDR	Issue of Capital and Disclosure Requirements Regulations, 2009
ICFR	Internal Controls Over Financial Reporting
IFSC	International Financial Services Centres
IFSC	International Financial System Code
IFSCA	International Financial Services Centres Authority Act, 2019
IGST	Integrated Goods and Services Tax
IMC	Indian Medical Council Act, 1956

GLOSSARY



Abbreviation	Meaning
Ind AS	Indian Accounting Standards
InvITs	Infrastructure Investment Trusts
IRP	Interim Resolution Professional
IT Act/ Act	The Income-tax Act, 1961
ITBA	Income Tax Business Application
JAO	Jurisdictional Assessing Officer
KPIs	key performance indicators
KYC	Know Your Customers
LIC	Life Insurance Corporation
LLP	Limited Liability Partnership
LODR Regulations	Listing Obligations and Disclosure Requirements Regulations, 2015
LRS	Liberalized Remittance Scheme
LTC	Long-Term Capital Gains
MAT	Minimum Alternate Tax
MII	Market Infrastructure Institution
MNCs	Indian Multinational Corporations
MoF	Ministry of Finance
MoU	Memorandum of Understanding
MSEFC	Micro, and Small Enterprises Facilitation Council
MSME	Micro Small and Medium Enterprises
MSMED Act	Micro, Small and Medium Enterprises Development Act, 2006
NaFAC	National Faceless Assessment Centre
NBFC	Non-Banking Finance Company
NCCD	National Calamity Contingent Duty
NCD	Non-Convertible Debentures
NCLT	National Company Law Tribunal
NCS	Non-Convertible Securities
NDFC	Net Distributable Cash Flows
NELP	New Exploration Licensing Policy
NFRA	National Financial Reporting Authority
NFT	Non-Fungible Token
NHB	National Housing Bank
NI Act	Negotiable Instruments Act, 1881
NPA	Non-Performing Assets
NPS	National Pension System
NSWS	National Single Window System
OBU	Offshore Banking Unit
ODC	Online Dispute Resolution
OECD	Organization for Economic Co-operation and Development
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 Commissioners of Income Tax
PFUTP	Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market Regulations, 2003
PIV	Pooled Investment Vehicle
PLR	Prime Lending Rate
REITs	Real Estate Investment Trusts

Abbreviation	Meaning
RoC	Registrar of Companies
ROMM	Risk of Material Misstatements
RP	Resolution Professional
RPM	Resale Price Method
RPT	Related Party Transactions
RTGS	Real Time Gross Settlement
SAD	Special Additional Duty
SAED	Special Additional Excise Duty
SARFAESI Act	The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002
SC	Supreme Court
SCAORA	Supreme Court Advocates-on-Record Association
SCBA	Supreme Court Bar Association
SCN	Show Cause Notice
SCRA	Securities Contracts (Regulation) Act, 1956
SEBI	Securities and Exchange Board of India
SFIO	Serious Fraud Investigation Office
SFIO	Serious Fraud Investigation Office
SFT	Statement of Financial Transaction
SGST	State Goods and Services Tax
SIAC	Singapore International Arbitration Centre
SLP	Special Leave Petition
SLP	Special Leave Petition
SMF	Single Master Form
SPF	Specific Pathogen Free
SPV	Special Purpose Vehicle
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
TOL Act	Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020
TPO	Transfer Pricing Officer
TPS	Tax performing system
UAPA	Unlawful Activities (Prevention) Act, 1967
UCB	Urban Co-operative Bank
UK	United Kingdom
UPI	Unified Payments Interface
UPSI	Unpublished Price Sensitive Information
USA	United States of America
UTGST	Union Territory Goods and Services Tax
VDA	Virtual Digital Assets
VsV	Vivad se Vishwas
VU	Verification Unit
WMD Act	Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005
WTO	World trade Organization
XBRL	eXtensible Business Reporting Langauge

FIRM INTRODUCTION

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

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

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

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

Website: **www.taxcraftadvisors.com**

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