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A TREASURY OF KEY TAX & REGULATORY DEVELOPMENTS!

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EDITORIAL

Vision 360: Tax trails!

We're close to wrapping up calendar year 2024 which has been a rollercoaster ride in terms of legislative and judicial developments in the tax sphere. As such we have endeavoured to concisely put forth these critical developments in this month's edition of our newsletter.

In the sphere of direct tax developments we have covered important judgments of the ITAT on whether that software updates supply & support services is FIS under Article 12(4)(b) of India-US DTAA, whether TDS under Section 194-I of the IT Act is applicable where collaborator merely receives shared revenue and does not render service as well as a judgment on the law on fresh deduction claims made pursuant to search. On the other hand, in the legislative sphere, CBDT notifies procedure for making declaration and furnishing undertaking in Form-1 under Rule 4 of Direct Tax Vivad se Vishwas Rules, 2024, Circular to deal with refund claims/loss set-off filed late, revised TDS Rate Chart for AY 2025-26 effective October 1, 2024, etc.

On the indirect tax front, we have handpicked critical judgments from a significant number of judgments that have been passed not just by the various High Courts across the country but also by the Hon'ble CESTAT and Authority for Advance Rulings. Further, the CBIC has levied Anti-Dumping Duty on import of Electrogalvanized Steel, increased basic customs duty on imports of platinum and clarified that Supreme Court's decision on classification of 'relay' will not be applicable to all goods.

As always, we are delighted to bring to you an insightful discussion with an industry veteran who is known for his incisive views on not just economic but socio-economic effects of developments in the tax sphere. Last but not the least, we have captured the ever-evolving jurisprudence of the 'pre-import' condition which we hope will introduce you to new perspectives on the same!

As India moves towards the vision of becoming 'Aatma Nirbhar', the developments in the tax will need close consideration which we, at **TIOL**, in association with **Taxcraft Advisors LLP**, **GLS Corporate Advisors LLP** and **VMGG & Associates**, endeavour to simplify in the **49th** edition of our 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. 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 for some global trivia.

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LEARNING, UNLEARNING AND RELEARNING THE PRE-IMPORT CONDITION!

The jurisprudence surrounding the pre-import condition as well as related issues such as the imposition of interest and penalty thereon has continued to develop ever since the landmark judgment of the Hon'ble Supreme Court in **Union of India & Ors. Vs Cosmo Films Limited [2023 (385) E.L.T. 66 (SC)]**, which addressed the constitutional validity of the pre-import condition.

The most recent development pertaining to the pre-import condition and issues ancillary thereto, such as the imposition of interest and penalties, comes from the decision of the CESTAT, Ahmedabad in **Sakar Industries Pvt. Ltd. vs Commissioner of Customs-Ahmedabad [Custom Appeal No. 10453 of 2024 – DB].** The Hon'ble Tribunal therein examined the issue of non-compliance with the pre-import condition of goods imported under the AA and made critical observations regarding the resultant imposition of interest, penalties, redemption fines and extended period of limitation.

The Appellant, in the case of Sakar Industries (supra), had imported goods under multiple AAs, for use in the manufacture of export goods. As such, the Appellant claimed that exemption from payment of IGST levied under Section 3(7) of the CTA, on import of such goods, since it had fulfilled the pre-import condition as well as the requirement of physical export of goods.

However, the Department was of the view that the Appellant had contravened the pre-import condition and invoked the extended period of limitation to affirm the levy of duty demand as well as interest, penalty and redemption fine thereon.

As a result, the Appellant filed an Appeal before the Hon'ble CESTAT, Ahmedabad wherein the Tribunal observed that the Department had failed to bring on record any particular findings which indicated or implied that the Appellant had contravened the pre-import condition. Further, the Hon'ble Tribunal observed that the goods imported under the AAs were in fact used in the manufacture of exported goods and there was no evidence on record to indicate that such imported goods had been diverted for domestic use. As such, there was nothing on record to implicate the Appellant for the said contravention of the pre-import condition.

Further, as per the Tribunal the benefit of exemption applied to goods and not the AA per se. Therefore, the Appellant was entitled to combine multiple AAs as a result of which inputs imported against all the disputed licenses needed to be considered together based on their usage in manufacturing the finished goods which have been exported. With regard to one of the AAs, the Tribunal observed that the Appellant had already re-assessed BoE and had paid IGST along with interest and given that Appellant was entitled to ITC of IGST so paid, there existed no mala fide intent to evade payment of tax on part of the Appellant.

However, the Tribunal rendered a peculiar finding in respect of one of the AAs wherein it held that the Appellant had completed export obligation and post export imported duty-free inputs which were used in further manufacture of export goods. As such no demand could be raised unless failure to use imported goods in the manufacture of exported goods was proved by the Department. Resultantly, in the absence of evidence on record that imported goods or goods manufactured therefrom were cleared for domestic consumption the demand imposed was unsustainable for the said AA as well

The reason that such a finding is peculiar because it widens the scope of the pre-import condition itself

and attempts to distinguish itself from Cosmo Films (supra) which essentially decided the constitutionality of the pre-import condition and did not deliberate scope thereof. This being said, specific reference of the need for imports to precede exports for fulfillment of pre-import condition within the text of Cosmo Films (supra) is likely to be referred by the Department to challenge the decision of the Tribunal.

With respect to imposition of interest the Tribunal relied on the cases of **Mahindra & Mahindra Limited [(2023) 3 Centax 261 (Bom.)]** and **Chiripal Poly Films Ltd. [CESTAT, Ahmedabad – Customs Appeal No. 10228 of 2024]** wherein it was held that in the absence of corresponding charging provisions for interest and penalty under the Customs Tariff Act, 1975 the imposition for levy of interest and penalty on such payment IGST could not be sustained. It also observed that the pre-import condition had been fulfilled and even in cases where it was not, the transaction was revenue neutral which could not justify the levy of either interest or penalty.

Moreover, the Tribunal ruled that redemption fine was not applicable in the Appellant's case, since the goods were not available for confiscation and there had been no seizure of the goods. Further the imposition of a redemption fine was also ruled out, following the decision of the Larger Bench decision in **Misc. Order Nos. M/43-44/2009-WZB/LB(SMB), dated 19-1-2009** of **Shiva Kripa Ispat Limited.**

However, the most critical part of the Judgment was the observation that the SCN was issued more than two years after the goods had been cleared from the port, making the proceedings time-barred under Section 28(1) of the Customs Act, 1962. Furthermore, the extended period of five years for issuing an SCN under Section 28(4) could only have been invoked when there was an element of collusion or willful misstatement or suppression of facts by the imported as a result of which the duty has not been paid or has been short paid. However, since the Tribunal had rendered findings on merits of the case it refrained from passing any Judgment on the invocation of extended time period.

This decision is indicative of the shift in judicial interpretations in favor of taxpayers, especially in cases where non-compliance with pre-import condition is unintentional or without any fraudulent intent. Therefore, key rulings in Mahindra & Mahindra, Chiripal Poly Films, and now in Sakar Industries reflect a shift toward a more taxpayer-friendly approach whilst also emphasizing the importance of complying with the relevant statutory provisions. These decisions have provided valuable clarity for businesses, enabling them to challenge unjustified charges and ensuring better protection for those claiming benefit of AA, especially when export obligations are met, and no *mala fide* intent is present.

INDUSTRY PERSPECTIVE

DATTARTRAYA DESAI

Chief Finance Officer,
AVI Global Plast Private Limited

01 How has the recent amendment to GST laws, impacted your Company?

The recent amendments to GST laws, such as stricter compliance for claiming ITC, have posed both challenges and opportunities for the packaging sector. On one hand, the requirement to match ITC with supplier filings ensures transparency and encourages suppliers to adopt responsible practices. However, it also adds to the administrative burden, particularly when dealing with a diverse supply chain. For us, maintaining the GST compliance of smaller suppliers is essential but often challenging.

02 One of the more complex issues in the GST regime has been around ITC on immovable properties, highlighted by the Safari Retreats judgment. What's your perspective on the implications of that judgment for industries like yours?

The Safari Retreats judgment brought to light a critical and nuanced issue under the GST regime—whether ITC on immovable properties used for business purposes should be allowed. For industries like ours, where manufacturing facilities and infrastructure are integral to operations, this judgment holds significant implications.

Packaging industries, particularly those like ours that invest heavily in sustainable production facilities, often incur substantial capital expenditure on immovable properties. Denial of ITC on such expenses increases the cost burden, which can deter long-term investments in infrastructure. The judgment rightly argued for the necessity of allowing ITC if immovable property is directly linked to taxable outputs—a position that aligns with the fundamental principle of GST as a value-added tax.

However, the lack of clarity in legislative amendments post-*Safari Retreats* creates uncertainty. Industries like ours continue to face interpretative challenges, as authorities often adopt a restrictive approach despite judicial precedents. For sustainable industries, this has an additional layer of complexity. For example, if we construct advanced recycling units or green manufacturing facilities, denying ITC on these expenses directly contradicts the government's push towards eco-friendly initiatives. Recognizing such investments as eligible for ITC would incentivize more industries to adopt sustainable practices and boost compliance.

Ultimately, industries like ours would benefit from clearer rules or legislative amendments explicitly allowing ITC on immovable properties when used in connection with taxable outputs. This would align with the GST framework's intent and promote investment in the long-term infrastructure needed for growth and innovation.

03 The IMS dashboard has recently been activated on the GST portal. How do you foresee this system impacting the way to handle the Company's GST compliance and invoice reconciliation?

The introduction of the IMS is a pivotal step towards enhancing GST compliance efficiency. The IMS will help streamline this process by allowing us direct access to invoice details in real time, making it easier to identify discrepancies or pending actions.

Before this, we relied on periodic reconciliations, which were time-consuming and prone to errors. The IMS dashboard provides a more transparent view of discrepancies between GSTR-2B and GSTR-3B, enabling us to take corrective action more promptly. This not only reduces the risk of erroneous ITC claims but also minimizes disputes with the tax authorities. Overall, it enhances our ability to stay compliant and manage cash flow more efficiently, as we can claim ITC with greater confidence.

04 Don't you think the delay in incorporation of GSTAT is now been a burning issue in the industry, as many of the taxpayer want to prefer an Appeal but are unable to do so?

No doubt, a robust and efficient appellate process is one of the foundation pillars of any tax legislation. 7 years, since GST was Implemented, but we still do not have the GST Appellate Tribunal. Apart from the delay the Appeal process, the absence of GSTAT has also led to lack of precedents related to interpretative issue which could have been resolved.

While the GST regulations have laid down the process of filing the appeals, constitution of benches and the members, the nitty gritty of such procedures are to be finalized by the GST council, which is likely to meet in the coming months. It is high time now that the GST council sets the ball rolling and to make the appellate process even more solutions oriented, there should be a timeline fixed to dispose off the appeals. As a result, countless writs have been filed which have already clogged the High Courts and the Supreme Courts making the appeal process far too expensive and cumbersome.

05 With the increasing frequency of GST audits and inspections, how does your Company ensure readiness for scrutiny while managing day-to-day compliance needs?

We believe that preparedness for GST audits and inspections begins with embedding compliance into our day-to-day operations. Recognizing the increasing frequency of audits, we have developed a proactive strategy to ensure that our systems are audit-ready at all times without disrupting routine activities. Our first line of readiness lies in maintaining comprehensive and meticulously organized documentation. Every invoice, reconciliation statement, and tax return is systematically recorded and stored in a way that facilitates easy retrieval during audits. To further streamline this process, we rely on advanced ERP systems integrated with GST compliance tools. These systems not only automate filings but also assist in real-time reconciliation, ensuring accuracy and minimizing errors.

Dattartraya Desai
CFO-AVI Global Plast Private Limited

06 Do companies face any compliance issues, and are any changes expected to be taken up by Government?

Yes, companies continue to face compliance challenges under the GST regime despite significant improvements over the years. Key issues include the complexity of reconciling ITC with GSTR-2B data, managing vendor compliance to avoid ITC denial, and navigating ambiguities in tax rates and classifications. Additionally, frequent changes in procedural requirements, such as e-invoicing thresholds and filing deadlines, create operational hurdles for businesses.

On the government's part, efforts are being made to simplify compliance. One expected change is the streamlining of ITC claims by introducing more automated and real-time reconciliation tools, such as the IMS dashboard recently launched on the GST portal. Additionally, the long-awaited establishment of the GST Appellate Tribunal aims to reduce litigation and bring consistency to dispute resolution. Stakeholders are also hopeful for clarity on issues like ITC on immovable properties and the rationalization of tax rates, which remain contentious for many industries.

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DIRECT TAX
From the Judiciary

Tribunal holds software updates supply & support services, not FIS under Article 12(4)(b) of India-US DTAA, rejects trial & error method

Attachmate Corporation

ITA Nos. 2296 & 2297/Del/2022 & 782/Del/2023

The Assessee was a US based Company which was engaged in the business of developing, manufacturing and distribution of software products, that had received compensation from its Indian distributors towards provision of software updates and patches and on-call support services. During the course of the scrutiny assessment, the Revenue observed that the Assessee's receipts from the Indian distributors were in the nature of FTS/FIS and held the same to be taxable under Article 12(4)(b) of India-US DTAA. Accordingly, the Revenue brought the receipts to tax at 10% on gross basis, which was confirmed by the DRP. Aggrieved, the Assessee approached the Tribunal.

Reiterating the well settled principle that technical knowledge, know-how, experience, skill etc. were made available to a service recipient when the service recipient was capable of performing such services independently on its own without requiring the aid and assistance of the service provider and placing reliance on the coordinate bench ruling in Assessee's own case for a previous year wherein it was held that receipts towards supply of software products/updates could not be treated as royalty, the Tribunal observed that the Revenue, being conscious of the fact that the receipts could not be made taxable as royalty income under Article 12(3) or as FIS under Article 12(4)(a) of India – USA treaty, made a futile attempt to make the receipts taxable under Article 12(4)(b) by adopting trial and error method.

Moreover, no material had been brought on record by the Revenue to establish that the service recipients, while availing service from the Assessee, had also acquired technical knowledge, know-how, skill etc. concerning such services, which enabled them to perform such services independently in the future, contrarily, the fact that the Assessee continued to provide on-call support services year-after-year proved that the technical knowledge, know-how, skill etc. relating to such services had not been transferred to the service recipients. Therefore, holding that the Assessee's receipts towards supply of software updates and patches and on-call support services, were not taxable as FIS under Article 12(4)(b) of India – USA DTAA, in the absence of the fulfilment of the 'make available' condition, the Tribunal rejected the trial and error method adopted by the Revenue and disposed of the matter.

Hon'ble SC dismisses Revenue's SLP on issues of reopening of assessment finding it to be devoid of any merits

Godrej Agrovet Ltd.

SLP (Civil) Diary No. 43563/2024

The Revenue had filed an SLP before the Hon'ble SC against the order of the Hon'ble Bombay HC wherein it had quashed the reassessment notice issued under Section 148 of the IT Act and the order rejecting the Assessee's objections against the reopening of assessment, involving taxability of share premium under Section 56(2) (viib) of the IT Act for AY 2009-10, citing that the AO had not bothered to read the balance

sheet or the valuation report and therefore, the AO's reason to believe was purely hypothetical and a matter of conjecture that could not be a tangible material for arriving at reason to believe escapement of income.

The Hon'ble HC had further observed that the amendments to Section 2(24)(xvi) and Section 56(2)(viib) of the IT Act and the amendment in Section 68 of the IT Act by the incorporation of the first proviso were applicable from AY 2013-14 onwards, and were not applicable to the relevant AY 2009-10 and accordingly, there was no basis for the Revenue to form a reason to believe that income had escaped assessment for the relevant AY. Concurring with the observations of the Hon'ble HC, while also noting that there was a delay of 142 days in filing of the SLP by the Revenue and therefore, finding the Revenue's SLP involving the issue of re-opening of the assessment over taxability of share premium under Section 56(2) (viib) of the IT Act, to be devoid of any merits, the Hon'ble SC, dismissed the same.

Tribunal holds TDS under Section 194-I of the IT Act not applicable where collaborator merely receives shared revenue and does not render service

VLCC Health Care Ltd.

ITA No. 4414/Del/2017

The Assessee was engaged in the business of slimming and beauty services and had claimed expenses amounting to INR 2.39 Crores under the head 'Profit from collaborators', which the AO disallowed under Section 40(a)(ia) of the IT Act due to non-deduction of tax under Section 194-I of the IT Act. Aggrieved, the Assessee approached the CIT(A) who deleted the addition made by the AO, causing the AO to approach the Tribunal.

Noting that the Assessee was the absolute owner of the VLCC brand and logo and operated the business in accordance with a fully owned distinctive system, plant, utilizing and comprising of certain proprietary markets that had granted a franchisee to a partner and engaged in the business as per the terms of a franchise agreement, and received requisite fee or payment in consideration for the same and also that the Assessee was sharing the revenue based on the franchise agreement and claimed expenditure or shares surplus based on the method adopted by it, the Tribunal observed that whatever expense was claimed as share of surplus with the collaborator, was only sharing of revenue and not claim of expenditure as per the terms of the agreement, as the collaborator did not render any service to the Assessee.

Further, the Assessee had shared the surplus with the collaborator, which did not fall under any expenditure drawn under Sections 30 to 37 or Section 40(a)(ia) of the IT Act and as the Assessee followed the JV model, incurred all expenditure and shared the surplus with the collaborator it clearly showcased that the facilities were operated and controlled by the Assessee. Therefore, holding that the issue of TDS had no application as the collaborator did not render any service and the claim of expenditure was nothing but sharing of revenue in accordance to the agreement undertaken by the parties, the Tribunal dismissed the Revenue's appeal.

Tribunal opines on the law on fresh deduction claims made pursuant to search

SEW Infrastructure Limited

2024-TIOL-1211-ITAT-HYD-SB

The Assessee was engaged in the business of development of infrastructure projects, that had filed its original return of income for AY 2009-10. The assessment had been completed under Section 143(3) of the IT Act, accepting the returned income. Subsequently, a search and seizure operation under Section 132 of the IT Act was conducted. Consequent to the search, a notice under Section 153A of the IT Act was issued and served on the Assessee, requiring the Assessee to file a return of income within 15 days from the date of receipt of the notice. In response to the notice, the Assessee filed a return of income after claiming a deduction under Section 80IA (4) of the IT Act, in respect of profits and gains derived from the development of infrastructure projects. The case was taken up for scrutiny, and during the course of assessment proceedings, the AO called upon the Assessee to show cause as to why the fresh claim of deduction under Section 80IA (4) of the IT Act, should not be disallowed.

The Assessee filed the relevant details called for by the AO, stating that it had executed various infrastructure projects in terms of agreements with the Central or State Governments, and the profits derived from such infrastructure projects were eligible for deduction under Section 80IA (4) of the IT Act. The AO, after considering the relevant submissions of the Assessee and taking note of certain judicial precedents, rejected the fresh claim of deduction under Section 80IA(4) of the IT Act, for the reason that the said deduction could not be claimed during the proceedings under Section 153A of the IT Act, as no such claim was made in the return of income originally filed by the Assessee.

Further, the Assessee could not take advantage of the search and seizure operation conducted under Section 132 of the IT Act and the consequent assessment proceedings under Section 153A of the IT Act, because the reassessment proceedings were for the benefit of the Revenue, and hence, no new claim could be raised towards any deduction or expenditure in the return of income filed in response to Section 153A of the IT Act. The AO further held that the Assessee was not entitled to a deduction under Section 80IA (4) of the IT Act for all the projects and therefore, rejected the fresh claim of deduction under Section 80IA (4) of the IT Act. Aggrieved, the Assessee approached the CIT(A) who observed that in an assessment pursuant to notice under Section 153A of the IT Act, a statutory deduction not hither to claimed under Section 139(1) of the IT Act can also be claimed, therefore, by taking note of projects executed by the Assessee in light of the agreements between the Assessee and the relevant State or Central Governments, the CIT(A) held that the the Assessee was eligible for claiming deduction under Section 80IA(4) of the IT Act.

Aggrieved, the AO approached the Special Bench of the Tribunal which clarifying the law on fresh claim of deductions under Chapter VIA pursuant to search, observed that in case of abated assessments, the Assessee can make a fresh claim of deduction under Chapter VIA in the return of income filed in response to the notice issued under Section 153A of the IT Act, pursuant to a search conducted under Section 132 of the IT Act, however, in case of an unabated/concluded assessments like in the instant case, the Assessee could not make any fresh claim, including the claim of deduction under Chapter VIA as the purpose of assessment in relation to search cases is to assess undisclosed income, if any, on the basis of incriminating material found as a result of the search, but not to disturb the completed/unabated assessment. Moreover, if the Assessee's fresh claim for deduction under Section 80IA (4) of the IT Act was accepted, then the provisions of law on this subject would become redundant which could not be the intention of the legislature.

Accordingly, as the Assessee and the Revenue did not argue on merits as to whether the Assessee was eligible for such a claim of deduction under Section 80IA (4) of the IT Act or not, the Tribunal directing the Registry to post the Revenue's appeal for hearing in due course, adjourned the matter.

DIRECT TAX
From the Legislature

NOTIFICATIONS

Notification	Key Updates
Notification No. 4/2024 dated September 30, 2024	**CBDT notifies procedure for making declaration and furnishing undertaking in Form-1 under Rule 4 of Direct Tax Vivad se Vishwas Rules, 2024** The CBDT notifies the procedure for making a declaration and furnishing an undertaking in Form-1 under Rule 4 of the Direct Tax Vivad se Vishwas Rules, 2024. Through the Notification, the CBDT inter-alia lays down the procedure for the online filing of Form-1, preparation and submission of Form-1 and viewing of the submitted Form-1.
Notification No. 112/2024 dated October 15, 2024	**CBDT introduces Form 12BAA for submitting Assessee's details regarding TDS under Section 192(1) of the IT Act** The Finance (No. 2) Act, 2024 had earlier amended sub-section (2B) of Section 192 of the IT Act to allow the employer to consider any tax deducted or collected under the provisions of Part B or Part BB of Chapter XVII of the IT Act. Given this backdrop, the CBDT amends Rule 26 of the IT Rules and notifies a new Form 12BAA, which is to be submitted to the employer to deduct tax on salary income. This new form incorporates the earlier amendments brought by the Finance (No. 2) Act, 2024, permitting the credit of all taxes deducted or collected in the employee's name.

Circulars/Guidelines

Circulars/ Guidelines	Key Updates
Circular No. 11/2024 dated October 01, 2024	**CBDT issues Circular to deal with refund claims/loss set-off filed late** With a view to deal with the applications for condonation of delay in filing returns claiming refund and returns claiming carry forward of loss and set off thereof, the CBDT authorizes the Income-tax authorities to admit an application or claim for refund and carry forward of loss and set off thereof under Section 119 (2)(b) of the IT Act by providing comprehensive guidelines on the conditions for condonation and the procedures to be followed for deciding such matters. Further, the CBDT provides that no condonation application for claim of refund/ loss may be accepted beyond five years from the end of the Assessment Year for which such application/claim is made and the time limit for filing of such application within five years from the end of the Assessment Year will be applicable for applications filed on or after October 1, 2024.

Circulars/ Guidelines	Key Updates
	Additionally, the CBDT also prescribes that those officers dealing with the said applications, should ensure that there is a reasonable case for filing of returns beyond due date and also that it is a case of 'genuine hardship'.
CBDT website update dated October 07, 2024	**CBDT revises TDS Rate Chart for AY 2025-26 effective October 1, 2024** The concept of TDS was introduced with an aim to collect tax from the very source of income. As per this concept, a person (Deductor) who is liable to make payment of specified nature to any other person (Deductee) shall deduct tax at source and remit the same into the account of the Central Government. The Deductee from whose income, tax has been deducted at source would be entitled to get credit of the amount so deducted on the basis of Form 26AS or TDS certificate issued by the Deductor. The Union Budget 2024 included several significant proposals, which had been ratified through the Finance (No. 2) Act, 2024. One of these changes included the revision of TDS rates for AY 2025-26, effective October 1, 2024. Given this backdrop, the CBDT on its website has published the revised TDS Rate Chart for AY 2025-26 applicable from October 1, 2024.
Circular No. 12/2024 dated October 15, 2024	**CBDT issues Frequently Asked Questions relating to Direct Tax Vivad se Vishwas Scheme, 2024** Taking cognizance of the several queries received from the stakeholder's seeking guidance in respect of the various provisions contained in the Direct Tax Vivad se Vishwas Scheme, 2024, the CBDT issues Guidance Note 1/2024 in form of answers to Frequently Asked Questions under Section 97 of the Direct Tax Vivad se Vishwas Scheme, 2024. The Guidance Note contains 35 Frequently Asked Questions that inter-alia provide clarifications on the eligibility criteria, the rates, forms and the timelines among others, which will help the taxpayers gain a better understanding of the provisions of the Scheme.
Press Release dated October 17, 2024	**CBDT revises guidelines for compounding offences under the IT Act** With a view to reduce complexities, lower compounding charges and simplify the procedure, the CBDT notifies its decision to revise the guidelines for compounding of offences under the IT Act by eliminating the categorization of offences, removing limit on number of occasions for filing applications, allowing fresh application upon curing of defects, allowing compounding of offences under Sections 275A and 276B of the IT Act and removing the existing time limit for filing application *viz* 36 months from the date of filing of complaint among others. Additionally, to further facilitate compounding of offences by companies and Hindu Undivided Families, the CBDT, in the Press Release notifies its decision to dispense with the requirement of the main accused filing the application and to reduce the compounding rates for various offences such as for TDS defaults, where it reduces multiple rates of 2%, 3% and 5% to a single rate of 1.5% per month and also notifies the simplification of the basis for calculation of compounding charges for non-filing of return.

TRANSFER PRICING
From the Judiciary

Tribunal confirms TPO's 1% guarantee -commission, rejects Assessee's plea for restricting adjustment to 0.5%

DTDC Express Ltd.

IT(TP)A No. 1552/Bang/2024

The Assessee was engaged in the business of express services such as courier, cargo, logistics, freight forwarding and related services both within and outside India, that had given a corporate guarantee to Axis Bank for a loan taken by one of its AEs in Singapore, on which no commission was charged. Consequently, the TPO/DRP, by relying on Safe Harbor Rules (viz. Rule 10TC and Rule 10TD of IT Rules) proposed a TP-adjustment of 1% per annum on the amount guaranteed. Aggrieved, the Assessee approached the Tribunal contending that the corporate guarantee was not an international transaction under Section 92B of the IT Act and that the corporate guarantee commission should be determined at 0.5% instead of 1% as determined by the TPO/DRP.

The Tribunal rejected the Assessee's plea that corporate guarantee was not an international transaction under Section 92B of the IT Act and with regards to the Assessee's alternate plea that corporate guarantee commission should be determined at 0.5%, noted that no details were submitted by the Assessee when asked whether the loan was closed by the borrower or whether it was still outstanding. Moreover, the necessity of standing as a guarantor for loan availed by AE in Singapore was not justified by placing any material on record. Further, the TPO had relied on Safe Harbour Rules to arrive at 1% as guarantee commission, which was even confirmed by the DRP. Therefore, finding that the Assessee did not produce any material on record to show on facts of the instant case that a lesser guarantee commission of 0.5% needed to be charged instead of 1% charged by the TPO/DRP, the Tribunal confirmed the TP-adjustment.

Tribunal holds no separate benchmarking required for royalty payment, follows earlier order

Toyota Kirloskar Motors Pvt Ltd.

IT(TP)A No. 568/Bang/2024

The Assessee was engaged in the manufacturing and selling of multi utility vehicles and passenger cars that had reapproached the Tribunal with respect to the benchmarking of the royalty transaction of the Assessee after the Tribunal in the first round while considering whether the Assessee's transactions should be segregated into trading and manufacturing segments or should be combined for purposes of benchmarking, found that the royalty transaction should also be considered to be interlinked, and remitted the issue back to AO/TPO for verifying margin computation.

Subsequently, while adjudicating a miscellaneous application filed by the Assessee, the Tribunal directed the TPO to recompute the ALP by applying the prescribed methods and carry out fresh search for comparables and also observed that in the set aside proceedings, the TPO did not consider the royalty payment at entity level and treated the same as a separate transaction.

Accordingly, noting that the same issue was covered by the Assessee's own case in subsequent years

wherein it was held that no separate adjustment was required for payment of royalty if TNMM had been adopted at entity level and also that no material was placed on record pointing out any distinguishing feature qua facts of the subsequent years and the year under consideration, the Tribunal remitted the issue to the TPO with a direction to consider payment of royalty at entity level, with no requirement of separate benchmarking.

Tribunal deletes penalty under Section 271G of the IT Act for Twentieth Century Fox, finding no inaccuracy of information

Twentieth Century Fox Telecommunications International Inc

ITA No. 2914/Mum/2024

The Assessee was a US based entity that was engaged in the distribution of motion pictures that had received a license fee from its AE towards exhibition of motion pictures over television in various territories including India. The Assessee had no place of business or PE in India, and it filed its return of income on gross basis offering license fee received from India during the year under consideration.

Subsequently, a penalty was levied on the Assessee under Section 271G of the IT Act for failing to furnish documents and information under Section 92CA/92D of the IT Act, aggrieved by which the Assessee approached the Tribunal.

Noting that neither was there a finding by the TPO/AO that the information/explanations provided by the Assessee during TP assessment proceedings were inaccurate or that there was any insufficient information/explanation preventing the TPO from determining ALP, nor was there any finding recorded by the TPO that the Assessee's conduct lacked bonafides or there was any indifference on the Assessee's part in not producing the records called for by TPO and on the contrary, the TPO had acknowledged that the Assessee had furnished the details and information, the Tribunal observed that, whatever TP adjustment had been done by the TPO had been deleted by the DRP, accordingly, directing the AO to delete the impugned penalty, the Tribunal disposed of the matter.

ARTICLE

DECODING THE BOMBAY HC'S JUDICIAL INTERPRETATION ON TAXING ADVANCE AND CLAIMING ITC – WHAT IT MEANS FOR THE BUSINESSES

The GST was introduced as a simplified and unified tax system. However, often finds itself in the crosshairs of complex real-world scenarios. A recent judgment of the Bombay High Court in **L&T IHI Consortium v. Union of India [Writ Petition No. 2980 OF 2019]** has brought to light unique challenges tied to advances, ITC claims, and procedural limitations in large-scale infrastructure projects.

THE DILEMMA OF TAXING ADVANCES AND CLAIMING ITC:

Picture this: a Company tasked with building a 22 km-long bridge receives an advance payment from the government for mobilization. This advance is categorized as an 'interest-free loan' in the contract—an upfront payment to help kickstart the project. Yet, GST laws consider this advance taxable, even though no goods or services have been delivered.

For the Company i.e the Petitioner in the present case, this meant paying over Rs. 32 crores in GST on the advance. But is this fair? The Constitution allows GST to be levied only on the supply of goods or services, not on payments made in anticipation of supply. This conflict became a central issue in the case.

Things didn't end there. The Company, having paid GST on the advance, tried to claim ITC for the same. However, as per the eligibility conditions prescribed in Section16(2) of the CGST Act requires the Company to possesses a tax invoice or debit note issued by the supplier for availing ITC. The 'receipt voucher' issued for the advance payment didn't qualify.

This meant the Company couldn't offset the GST it had paid, leading to a significant cash crunch. The mismatch between when GST is paid and when ITC can be claimed creates a heavy burden for taxpayers, particularly for long-term projects.

A CONSTITUTIONAL CHALLENGE:

Aggrieved the Company raised a fundamental question before the Hon'ble Bombay HC: can GST be applied to advances when the actual supply has not occurred? Under GST laws, the tax is triggered by either the receipt of payment or the issuance of an invoice, even if the goods or services are yet to be delivered.

The key issues were:

1. ***Whether Sections 7, 12, 13, and 16(2)(b) of the CGST Act are unconstitutional?***
2. ***Whether advance payments received by the Company are subject to GST, and if so, whether ITC can be claimed based on receipt vouchers issued by the Company?***

The Company argued that this practice violates the Constitution, which permits GST only on actual supply. Moreover, while GST was charged on advances, the ITC on these payments was denied until the supply was completed—a clear inconsistency that the —an inconsistency that the Company deemed arbitrary and unreasonable.

COURT INTERPRETATION:

The Hon'ble Bombay High Court provided the following key interpretations:

- **Taxability of Advance Payments and Scope of Supply (Section 7)**

The Company challenged the constitutional validity of Section 7, which includes 'supplies agreed to be made' within the scope of taxable supply. The Company argued that an advance payment was not taxable as no goods or services had been supplied yet.

The Court, however, held that the advance payment received by the Company is considered 'consideration' for the supply of services under a works contract, as defined under Section 2(119) of the CGST Act. The Court reasoned that the advance was received in furtherance of the contract and thus constituted a supply subject to GST.

The Court also clarified that the inclusion of 'supplies agreed to be made' within Section 7(1)(a) was valid. Section 7(1A), introduced by the CGST Amendment Act, 2018, retrospectively clarified that advance payments are taxable when made in relation to a 'works contract,' which is classified as a composite supply. This confirms that advance payments fall under taxable supplies, as the legislative intent clearly encompasses such advances. The Court rejected the Company's challenge, affirming that advances received for future supplies under a works contract are subject to GST.

- **Time of Supply (Sections 12 and 13)**

The Court also examined Sections 12 and 13, which govern the time of supply. The Company contested whether these provisions applied to advance payments and whether they violated constitutional provisions. The Court upheld the validity of Sections 12 and 13, concluding that the date of receipt of payment, not the issuance of an invoice, determines the time of supply. The Court emphasized that the contract between the parties specifically termed the advance as a 'mobilization advance,' which triggered the tax liability on receipt.

Thus, the Court ruled that the time of supply would be governed by the date of receipt of payment, consistent with Sections 12 and 13. The Court rejected the Company's argument that advance payments fell outside the scope of these provisions.

- **Entitlement to ITC (Section 16(2)(b))**

The key issue was whether the Company could claim ITC on the GST paid on the advance. Section 16(2)(b) of the CGST Act stipulates that ITC can only be claimed if the recipient has received the goods or services. As the Company had not received the actual supply, ITC was initially denied.

However, the Court agreed with the Company's argument that denying ITC on the basis of non-receipt of goods or services would create an anomalous situation. The Court harmonized Section 16(2)(b) with Section 16(1), which allows ITC for goods or services 'intended to be used' in the course or furtherance of business. The Court ruled that the advance payment made for services under the contract was intended for business purposes and, therefore, the Company should be allowed ITC. The Court further noted that the Company had issued a 'Receipt Voucher,' which it accepted as a valid tax-paying document for ITC under Section 16(2)(a). This allowed the Company to claim ITC, even without having received the actual supplies.

- **Harmonizing Section 16(2)(b) with Section 16(1)**

The Court ruled that denying ITC simply because the Company had not received the goods or services would create a contradiction in the GST provisions. Section 16(1) allows ITC for goods or services 'intended

to be used' in business, while Section 16(2)(b) requires receipt of the goods or services. The Court emphasized that these provisions must be read together to avoid creating an absurd situation, where the government collects tax on an advance but denies ITC. The Court concluded that ITC should be granted on the GST paid for the advance, provided the payment is linked to intended business use.

WAY FORWARD ON THE JUDGMENT:

The judgment provides important clarity on the application of GST to advance payments and the entitlement to ITC in long-term projects, especially those involving works contracts. By affirming that advance payments are taxable under GST and that ITC should be allowed based on receipt vouchers, the Court has eliminated much ambiguity and reinforced the tax regime's consistency.

From a taxpayer's perspective, this ruling is crucial. It sets a precedent that advances, even when classified as 'interest-free loans' or linked to future supplies, are subject to GST. This aligns with the legislative intent to tax transactions as value is exchanged, regardless of when the actual supply occurs. The Court's pragmatic approach to ITC, particularly allowing claims based on receipt vouchers, ensures that businesses are not unduly burdened by timing discrepancies in long-term contracts.

However, while the judgment clears up many uncertainties, it also highlights areas where the GST framework can be refined. The Court's emphasis on harmonizing provisions such as Section 16(2)(b) with Section 16(1) indicates a gap in the application of GST rules, which could lead to inconsistencies in future cases. Legislative amendments may be needed to address these gaps and ensure that GST provisions cater more effectively to real-world business scenarios.

GOODS & SERVICES TAX
From the Judiciary

HC: Date of Original Application Determines Limitation Period for GST Refund under Section 54 of CGST

Sali P. Mathai

WP(C) NO. 739 OF 2022

The Petitioner applied for a GST refund under Section 54 of the CGST Act. The tax authorities issued a deficiency memo, highlighting errors in the application and requesting corrections. After addressing these issues, the petitioner refiled the application, which was subsequently rejected as time-barred by the authorities. Aggrieved the Petitioner preferred a writ before the HC. The key issue was whether the rejection of the petitioner's refiled refund application on the grounds of time limitation was valid, given that it was filed in response to a deficiency memo issued by the authorities.

The Court ruled that the authorities' rejection of the petitioner's refund application as time-barred was unsustainable. It held that Section 54 of the CGST Act does not require a second application when a deficiency memo is issued; rather, the taxpayer should correct the original application's deficiencies. Further, the Court clarified that under Rule 90(3) of the CGST Rules, while a fresh application may technically be filed after addressing deficiencies, the original application date should still determine the limitation period under Section 54. The Court quashed the rejection order and directed the authorities to process the refund based on the original filing date, provided all deficiencies had been corrected.

HC: 'Month' Used in a Statute Refers to the Actual Period of a Calendar Month and Not a Period of 30 Days

N.N Steel Trading Co.

WP(C) NO. 35471 OF 2024

The Petitioner filed an appeal against an order under CGST Act, which the First Appellate Authority dismissed as time-barred. The initial limitation period for filing an appeal under Section 107 of the CGST Act is three months, with a potential one-month extension (condonable period) at the discretion of the appellate authority. The Petitioner filed the appeal within the one-month condonable period but was still rejected due to an interpretation dispute regarding the term 'month'. Aggrieved the Petitioner preferred a writ before the HC. The issue was whether the term 'month' in Section 107 should be interpreted as a strict 30-day period or a full calendar month, as recognized in standard British usage and Indian statutes.

The Court held that the term 'month' in Section 107 of the CGST Act should be interpreted as a full calendar month, not a strict 30-day period. Relying on the Supreme Court's ruling in Himachal Techno Engineers and Section 3(35) of the General Clauses Act, 1897, the court clarified that a statutory 'month' is measured by calendar months. Consequently, the Petitioner's appeal, filed on, fell within the permissible one-month condonable period after the initial three-month limit and was therefore timely. The Court quashed the First Appellate Authority's dismissal of the appeal as time-barred and directed it to restore the appeal and condonation application for fresh consideration.

HC: Limitation Period for issuance of show-cause notice after erroneous GST refund under section 73 of the CGST Act

Enaltec Labs Private Limited

Writ Petition No. 32309 of 2024

The Petitioner was issued a show-cause notice under Section 73 of the CGST Act, alleging the refund of IGST on export of goods between FY 2018-19 and 2020-21, which was claimed erroneously in violation of Rule 96(10) of the CGST Rules. The petitioner contended that the notice was issued beyond the limitation period prescribed under Section 73(10), arguing that it was time-barred. Aggrieved the Petitioner preferred a writ before the HC.

The Court ruled that the show-cause notice issued under Section 73(1) of the CGST Act was not time-barred, as it was issued within the prescribed limitation period of three years from the date of the erroneous refund, as per Section 73(10). Additionally, the court held that the writ petition was not maintainable because the Petitioner had a statutory remedy available through appeal. Consequently, the writ petition was dismissed.

HC: Assesee should not be prejudiced from availing the credit due to the inadvertent filing of GSTR-1

Nivriya India Private Limited

WPA 14380 of 2024

The Petitioner had filed GSTR-1 forms with an inadvertent error, marking supplies as 'without payment of IGST' instead of 'with payment of IGST', although the corresponding figures in the GSTR-3B were correctly reflected. The petitioner's application for a refund was partly allowed, but the Department denied permission to rectify the GSTR-1 forms, citing lack of control over the common portal.

The Court ruled that the petitioner should not be prejudiced from availing the legitimate credit due to the inadvertent error in the GSTR-1 forms. The petitioner was permitted to manually resubmit the corrected GSTR-1 form within three weeks. The GSTN was directed to receive the manually corrected form and facilitate its uploading on the portal. The respondents were instructed to ensure that the petitioner could avail the credit for export invoices, subject to the petitioner clearing all taxes along with the payment of interest. The petition was disposed of accordingly.

AAR: Admission Services to Foreign Universities Not Exempted from GST

Salve Maria International

KER/07/2024

The Applicant sought clarification from the Kerala AAR regarding the applicability of GST on the services it provides in relation to admission to foreign universities. The Applicant also inquired whether the courses offered by foreign universities that are members of the Association of Indian Universities and the Association of Commonwealth Universities, and which have entered into a MoU for mutual recognition of degrees, are considered recognized by law in India for the purpose of GST exemption under Notification No. 12/2017.

The Kerala AAR held that the services provided by the applicant in relation to admission to foreign universities are not exempt from GST under Notification No. 12/2017. It further clarified that for a course to be considered as recognized by law in India, it must be recognized under an Act of the Central or State Government. The courses offered by the foreign universities, even if they are members of the AIU and ACU and have entered into an MoU for mutual recognition of degrees, are not considered recognized by law in India. The AAR emphasized that the issuance of equivalence certificates by the AIU does not amount to legal recognition of the courses.

AAR: GST Payable on Corporate Guarantee Issued Under Reverse Charge Mechanism on One-Time Basis

Green Infra Wind Farm Assets Limited

RAJ/AAR/2024-25/10

The Applicant's overseas group companies provide corporate guarantees to banks and financial institutions for loans taken by the applicant (Indian subsidiary), without charging any consideration. The question arose regarding whether GST under the reverse charge mechanism is payable on a one-time basis or periodically, considering the guarantee was issued once for a specified period without any requirement for periodic renewal.

The AAR held that GST under the reverse charge mechanism is to be paid on a one-time basis. Since the corporate guarantee is issued once and is valid for a specified period without the need for periodic renewal, the time of supply, according to the second proviso to Section 13(3) of the CGST Act, 2017, will be the date of entry of the guarantee in the books of the recipient (Indian subsidiary). Therefore, the GST on the issuance of the corporate guarantee is not payable periodically, and the applicant is required to discharge GST liability once, at the time of the guarantee issuance.

Since the AAR ruled that GST is payable on a one-time basis, the issue of periodic valuation does not arise. However, if the corporate guarantee was executed without consideration prior to 26.10.2023, GST would be payable as per the valuation mechanism under Rule 28(1) of the CGST Rules, 2017, which provides the method of determining the value of supply in the absence of consideration. For corporate guarantees executed after 26.10.2023, where no consideration is charged, GST under the reverse charge mechanism is payable on 1% of the deemed total value of the loan as per Rule 28(2) of the CGST Rules. The value is to be determined on a one-time basis at the time of the execution of the corporate guarantee.

GOODS & SERVICES TAX

From the Legislature

Sr. No	Notification/ Circular	Summary
1	**Circular No. 236/30/2024-GST dated October 15, 2024**	**Extension of GST Amnesty Scheme** CBIC vide the circular has extended the amnesty scheme for delayed returns in forms GSTR-9 and GSTR-10 for FY 2017–18 to 2021–22. Taxpayers can benefit from reduced late fees until 31st December 2024, offering relief to those unable to comply earlier. This extension aims to increase compliance and reduce pending liabilities
2	**Advisory dated October 12, 2024**	**Advisory on Invoice Management System** The GSTN introduced an optional Invoice Management System in October 2024. This system allows taxpayers to accept, reject, or mark invoices as pending, directly affecting their ITC in GSTR-2B. Errors in marking invoices can be corrected until filing GSTR-3B. This advisory emphasized manual adjustments for accurate ITC claims during the system's initial implementation phase
3	**Circular No. 237/31/2024 dated October 15, 2024**	**Clarification on Retrospective ITC Provisions** CBIC vide the circular clarified the use of newly inserted retrospective provisions under Section 16(5) and 16(6) of the CGST Act. It provides a procedure for rectification of orders related to wrongful ITC claims due to contraventions of Section 16(4). The circular detailed actions for adjudicating and appellate authorities, ensuring consistency in handling such cases across field formations

CUSTOMS & FTP
From the Judiciary

CESTAT allows benefit of Deemed conclusion of proceedings

Balkrishna Industries Ltd Vs C.C. Ahmedabad

The Appellant had imported Shell Flavex Oil 595/B Shell Flavex Oil 595H classified under CTH 38122090. The Department alleged the goods to be misdeclared as the goods were allegedly classifiable as "Rubber Processing Oil" having more aromatic components under CTH 2707 which is subjected to a higher rate of duty. Thereafter, the Appellant was subject to SCN proposing to reject the classification and for the demand of differential customs duty along with interest. Aggrieved, the Appellant filed the instant appeal.

The bench held that as the Appellant has complied with the conditions mentioned in the Section 28 of the Customs Act. Resultantly, impugned order was set aside extending the benefit of deemed conclusion of the proceedings along with consequential benefits.

CESTAT confirms Interest on delayed Sanction of Refund Claim, under benefit of section 27A of Customs Act

Commissioner of Customs Vs Pidilite Industries Ltd

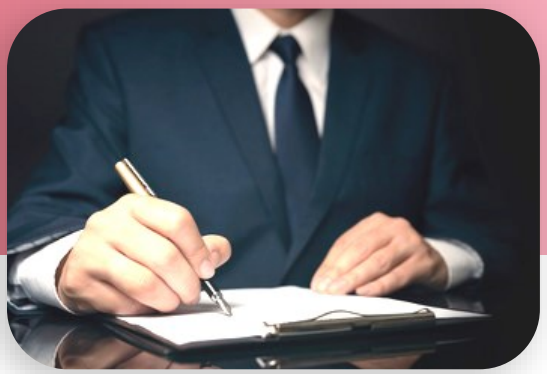
The Assesse had requested a refund for the differential 'extra duty' discharged by them on the assessment of eighteen bills of entry due to the assessing officer's use of'retail sale price' rather than 'transaction value' as claimed. The claim was granted by the first appellate authority. Pursuant thereto the assesse sought appropriate interest under Section 27A of the Customs Act. Subsequently the claim was rejected initially by the original authority, but later was approved on appeal. Aggrieved, Revenue challenged the order in the instant appeal.

The Tribunal explained that Section 27A of the Customs Act, 1962 provided for the payment on interest on delay in sanction of refund beyond three months from date of claim. Accordingly, the appeal was withheld and the Assesse was entitled to interest on the delayed refunds along with interest.

CUSTOMS & FTP
From the Legislature

Notification/ Circular	Summary
Notification No. 29/2022-Customs ADD, dated October 19, 2024	**Anti-Dumping Duty on import of Electrogalvanized Steel** CBIC has imposed Anti-Dumping Duty on import of Electrogalvanized Steel originating in or exported from Korea RP, Japan and Singapore, for a period of 5 years, in pursuance of fresh final findings issued by DGTR.
Notification No. 52/2022-Customs, dated the October 3, 2024	**CBIC increases Basic Customs Duty on imports of platinum** CBIC has increased the rate of Basic Customs Duty imposed on platinum from 10.75% to 15.40%

REGULATORY
From the Judiciary



Hon'ble SC overturns HC's deferment of CIRP, given lack of jurisdiction under Article 226

Committee of Creditors vs. M/s Uttar Pradesh Power Corporation Limited and Ors.

Civil Appeal No. 11086 of 2024

In the instant case, a dispute arose when a creditor sought to consolidate the CIRP of the Corporate Debtor with two other companies and accordingly instituted a petition under Article 226 of the Constitution for the same before the Hon'ble HC which declined to grant the relief of consolidation and deferred the CIRP.

Aggrieved by the deferment of the CIRP, the CoC of the Corporate Debtor approached the Hon'ble SC which noted that the Hon'ble HC's directive to defer the CIRP was unjustified and lacked proper legal basis, as the directive violated the established legal procedures set out by the IBC. Moreover, the Hon'ble HC had already ruled against consolidating the CIRP of 3 separate corporate entities and considering this there were no valid grounds for the Hon'ble HC's use of its powers under Article 226 to intervene and delay the CIRP.

Accordingly, finding merit in the grievance that the Hon'ble HC had no justification, to direct the deferment of the CIRP in the exercise of its jurisdiction under Article 226 of the Constitution and that there was absolutely no reason for the Hon'ble High Court to exercise its jurisdiction under Article 226 by directing the deferment of the CIRP, as such a direction under Article 226 breached the discipline of the law which had been laid down in the provisions of the IBC, the Hon'ble SC set aside the portion of the Hon'ble HC's order that pertained to the deferment of the Corporate Debtor's CIRP and allowed the appeal.

Division Bench of the Hon'ble HC holds Registrar of NCLT has no 'legal sanction' to examine maintainability of insolvency petition

Buoyant Technology Constellations Private Limited vs. The Registrar, NCLT

Writ Appeal No. 498 of 2024 (GM-RES)

The instant writ appeal was filed by the Petitioner before the Division Bench of the Hon'ble HC assailing the Single Judge's judgment in the matter, which upheld the adjudication of maintainability of the petition filed under Section 95 of the IBC by the Registrar of the NCLT.

Noting that in receiving the insolvency petition, the Registrar performed a purely administrative function, had no judicial trapping, and therefore it was not permissible for the Registrar of the NCLT, to go into the merits of the petition and/or to decide about maintainability thereof on merits, for, the Registrar did not discharge any adjudicatory or judicial function at this stage, the Division Bench of the Hon'ble HC observed that if the Registrar who was a purely administrative authority was entrusted with the power or permission to examine the presentation of the petition for its merit contents, the adjudicatory stages statutorily contemplated in the IBC would turn upside down and it would amount to topsy turvy-ing the entire legal framework and adjudicatory mechanism.

Moreover, once the petition under Section 94 or 95 of the IBC was filed and registered, it would follow the

course contemplated under Sections 96 to 100 of the IBC, and therefore, the adjudicatory function could not be pinned or performed at the stage of receipt of the petition by the Registrar, who had no legal sanction to assume the role of adjudicator to decide the maintainability of the petition.

Thus, holding that the Registrar of the NCLT was not entitled to examine the maintainability of a petition filed under Section 95 of the IBC for its merit content, at the stage of its filing and presentation, the Division Bench of the Hon'ble HC allowed the writ appeal.

SEBI penalizes stockbroker for non-segregation of client funds, stock mismatch & violating stockbrokers regulations

In the matter of GRD Securities Limited

Adjudication Order No. Order/BM/DS/2024-25/30811

SEBI had conducted an inspection of a Company with respect to its stock broking activities, jointly with the Stock Exchanges (NSE and BSE) from December 29, 2022, to January 04, 2023. Through the inspection, SEBI observed that a substantial amount of funds had been transferred from client accounts to proprietary bank accounts via a settlement account when such transfer of funds from client account to proprietary account was permitted only for legitimate purposes, such as recovery of brokerage, statutory dues and funds shortfall of debit balance clients, therefore, the company had violated provisions of the SEBI circular on 'Enhanced supervision of Stock Brokers/DPs'.

Further, the Company had not done monthly/quarterly settlement of funds and securities, in 9 instances across 7 quarters and the retention statement was not sent to 37 clients in 60 instances and there was a delay in settlement of client securities in 104 instances. Moreover, the Company had also incorrectly reported reconciliation of stock mismatch alerts and short collection of margins to the Exchanges in 8 instances and SEBI's findings also indicated that the Company had not periodically reconciled its back-office holdings with stocks lying in client beneficiary accounts.

Thus, finding that the Company had violated various provisions of the Securities Contracts (Regulation) Act, 1956, Stock-Brokers Regulations, 1992 and applicable SEBI circulars relating to numerous discrepancies in segregation of client's funds and securities, monthly settlement of funds, reconciliation of stock mismatch alerts, reporting and short collection of margin and client registration process, SEBI imposed a penalty of INR 9 Lakhs on the Company.

Hon'ble SC holds eviction order under Public Premises (Eviction of Unauthorized Occupants) Act, 1971, does not bar arbitration for contractual disputes

Central Warehousing Corporation vs. M/s Siddhartha Tiles & Sanitary Private Limited

SLP (C) No. 4940 of 2022

The Appellant was a statutory body that fell under the administrative control of the Ministry of Consumer Affairs which was engaged in the provision of warehousing facilities to the Respondent and had invoked the provisions of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971, for not vacating the premises against the Respondent that in turn had invoked arbitration by filing an application under Section 11(6) of the Arbitration Act before the Hon'ble HC for the appointment of an arbitrator in view of a subsisting arbitration clause in the agreement against the order of the Estate officer that the Respondent was in illegal possession of the premises.

The Hon'ble HC referred the dispute between the Appellant and the Respondent to arbitration, aggrieved by which, the Appellant approached the Hon'ble SC. Noting that the Public Premises (Eviction of Unauthorized Occupants) Act, 1971, neither barred nor overlapped the scope and ambit of proceedings that were initiated under the Arbitration Act and the resolution of the disputes between the parties was clearly covered by the arbitration clause, the Hon'ble SC observed that an eviction order passed by the Estate officer under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971, did not prevent the parties from invoking an arbitration clause for resolving contractual disputes, as the eviction order addressed only the question of physical possession of the premises and did not extinguish the parties' rights under the arbitration clause of the lease agreement.

Further, Section 11(6) of the Arbitration Act, permitted the appointment of an arbitrator upon application, even after statutory eviction had occurred, as the Public Premises (Eviction of Unauthorized Occupants) Act, 1971, and the Arbitration Act served distinct purposes wherein the former ensured swift recovery of public properties from unauthorized occupants, while the latter governed the resolution of disputes arising from the terms of a contract and the mere existence of an eviction order did not preclude arbitration proceedings on matters unrelated to possession, such as financial claims and contractual interpretation.

Accordingly, holding that the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 did not override the Arbitration Act and the Hon'ble HC, while considering the application seeking appointment of arbitrator, was only required to examine the existence of an arbitration agreement, the Hon'ble SC, rejected the appeal filed by the Appellant.

Hon'ble HC holds timeline for award under MSME Act, 'directory', rejects plea for extending arbitrator's mandate

Porel Dass Water & Effluent Control Pvt Ltd. vs. The West Bengal Power Development Corporation Ltd.

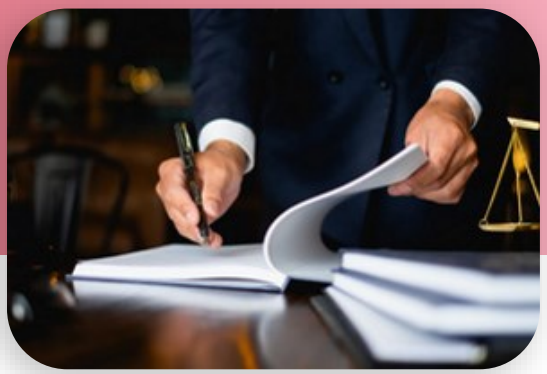
AP-COM No. 789 of 2024

The Petitioner was an MSME company which was a claimant in an arbitral proceeding, that had filed an application under Section 29A of the Arbitration Act before the Hon'ble HC seeking extension of the mandate of the MSME Facilitation Council acting as the Arbitral Tribunal.

Noting that even if the timeline of 90 days was exceeded, there was no sanction either to terminate the mandate or to affect the validity of the mandate even thereafter and therefore, a scenario under Section 18(5) of the MSME Act was not covered by Section 29A of the Arbitration Act and the time-limit could not and need not be extended under the said section. Moreover, there was no longer any stipulation of time-limit for completion of an arbitral proceeding by the Council and Section 18 of the MSME Act stood in its original form, unamended by the 2023 Act as yet, the Hon'ble HC observed that conspicuously, there was no such sanction for non-completion of the arbitral proceeding within the stipulated period of 90 days in Section 18(5) of the MSME Act or elsewhere in the said Act, accordingly if the Council or its nominee was substituted as an Arbitrator and a third entity was so appointed to conduct the arbitral proceeding under the MSME Act, it would be acting *de hors* the specific provisions of the MSME Act.

Further, as opposed to Section 29A (3) of the Arbitration Act, Section 18(5) of the MSME Act did not carry any sanction or adverse consequence for non-adherence to such outer time-limit, which was an additional indicator that the timeline stipulated in Section 18(5) was not mandatory but directory. Accordingly, holding that the present application under Section 29A of the Arbitration Act was redundant, as the Council still had the mandate, even without an extension being granted, to continue with the arbitral proceeding, the Hon'ble HC dismissed the application, finding the prayer for extension made therein to be unnecessary and academic.

REGULATORY
From the Legislature



MCA issues Investor Education and Protection Fund Authority (Form of Annual Statements of Accounts) Amendment Rule, 2024

Notification No. G.S.R. 607(E) dated October 03, 2024

The MCA through a Notification notifies the Investor Education and Protection Fund Authority (Form of Annual Statements of Accounts) Amendment Rules, 2024 which amends Rule 5 of the IEPFA (Form of Annual Statement of Accounts) Rules, 2018.

Previously, the balance sheet, income and expenditure account, and receipt and payment account were approved by the Authority or an authorized committee and signed by the Chairperson and one Member of the Authority. The advent of these amendment rules, changes this requirement by requiring these documents to now be signed by the Chairperson and the Chief Executive Officer of the Authority instead of a Member.

This change aligns the approval and authentication process with a more streamlined approach by involving the Chief Executive Officer in the financial reporting and governance of the Authority.

MCA notifies the Companies (Adjudication of Penalties) Second Amendment Rules, 2024, clarifying the prospective application of the previous amendment which moved all pending proceedings online

Notification No. G.S.R. 630(E) dated October 09, 2024

The MCA, previously in August 2024, had notified the Companies (Adjudication of Penalties) Amendment Rules, 2024, amending the Companies (Adjudication of Penalties) Rules, 2014, through which it had added a Sub-Rule 3A which provided for mandatory online adjudication of all proceedings, including notices, replies, hearings, orders, penalties, etc., through the e-adjudication platform developed by the Central Government for this purpose. This amendment came into effect on September 16, 2024.

Given this backdrop, the MCA through a Notification now issues the Companies (Adjudication of Penalties) Second Amendment Rules, 2024, to clarify the prospective application of the previous amendment which moved all adjudication proceedings online, by further amending Sub-Rule 3A, to add a proviso which stipulates that any proceedings already pending before an Adjudicating Officer or Regional Director at the time of this amendment will continue according to the rules that were in place prior to the amendment.

The updated rules aim to ensure consistency in handling ongoing cases despite the regulatory changes and are effective immediately.

SEBI provides for review of Stress Testing Framework for Equity Derivatives segment for determining the corpus of Core Settlement Guarantee Fund

Circular No. SEBI/HO/MRD/MRD-PoD-2/P/CIR/2024/131 dated October 01, 2024

SEBI through a Circular introduces new guidelines to enhance stress testing framework for equity derivatives segments for determining the corpus of Core Settlement Guarantee Fund.

Through the Circular, SEBI introduces new stress testing methodologies to have a deeper understanding of the prevalent tail risks in the equity derivatives segment, ensuring better preparedness for evolving market dynamics. The additional stress tests will lead to increase in the initial Minimum Required Corpus requirement of equity derivatives segment after adoption and SEBI shall provide guidance for inter-segment transfer of funds and staggered contributions to the Core Settlement Guarantee Fund.

Some of the key stress testing methodologies introduced by SEBI for determining the Minimum Required Corpus requirement of Core Settlement Guarantee Fund in the equity derivatives segment include stressed VAR, filtered historical simulation, factor model, choice of stress period, staggered Settlement Guarantee Fund contribution and joint standard operating procedures among others.

SEBI introduces measures to strengthen equity index derivatives framework for increased investor protection and market stability

Circular No. SEBI/HO/MRD/TPD-1/P/CIR/2024/132 dated October 01, 2024

SEBI through a Circular, details measures to strengthen the equity index derivatives framework with the objective of enhancing investor protection and market stability amid increasing retail participation and speculative trading on expiry days. Some of the key measures introduced by SEBI include the upfront collection of option premiums from buyers, the removal of calendar spread treatment on expiry days, and the introduction of intraday monitoring for position limits.

Additionally, SEBI has also set a minimum contract size for index derivatives at INR 15 Lakhs and ensures that the lot size shall be fixed in such a manner that the contract value of the derivative on the day of review is within INR 15 Lakhs to INR 20 Lakhs, effective November 20, 2024,

Further, SEBI plans to rationalize weekly index derivatives products to curb excessive trading and also introduces increased tail risk coverage on options expiry days to manage heightened speculative risks. These changes are aimed at improving the risk management and integrity of the derivatives market, with implementation dates ranging from November 20, 2024, to April 1, 2025.

SEBI extends relaxation to listed entities from certain provisions of SEBI LODR related to annual general meetings and general meetings till September 30, 2025

Circular No. SEBI/HO/CFD/CFD-PoD-2/P/CIR/2024/133 dated October 03, 2024

SEBI through a Circular extends the relaxation for listed entities from compliance with certain provisions of the SEBI LODR including among others, the provision requiring a listed entity to send proxy forms to holders of securities in all cases mentioning that a holder may vote either for or against each resolution and the provision requiring a listed entity to send hard copies of statement containing the salient features of all the

documents, as prescribed in Section 136 of Companies Act, 2013 or Rules made thereunder to those shareholder(s) who have not registered their email address either with the listed entity or any depository.

Initially provided for annual general meetings and general meetings held electronically until September 30, 2024, the relaxation from the above-mentioned provisions has now been extended until September 30, 2025. This extension aligns with the MCA's General Circular No. 09/2024 dated September 19, 2024, which allows AGMs to be conducted without sending physical copies of financial statements and related documents to shareholders.

SEBI, however states that the listed entities must comply with specific conditions outlined in the Master Circular of July 2023 while availing the above-mentioned relaxation and that the relaxation is granted under SEBI's powers and is subject to the Companies Act, 2013, and any related modifications.

SEBI directs AIFs to carry out specific due diligence of investors and investments

Circular No. SEBI/HO/AFD/AFD-POD-1/P/CIR/2024/135 dated October 08, 2024

SEBI through a Circular, instructs AIFs and their managers to exercise specific due diligence with respect to investors and investments in a bid to prevent circumvention of various laws and ensure compliance with regulatory frameworks. Accordingly, AIFs designated as Qualified Institutional Buyers or Qualified Buyers must ensure that investors who are not eligible for Qualified Institutional Buyers or Qualified Buyers status on their own do not avail of the respective benefits through the AIF. Additionally, AIFs are required to avoid facilitating the ever-greening of stressed loans/assets for RBI-regulated entities, adhering to RBI's norms for income recognition, asset classification, provisioning, and restructuring.

The due diligence is required for investments from countries sharing land borders with India, in line with the Foreign Exchange Management Rules. If any investor or group of investors contributes 50% or more to the AIF's scheme, detailed due diligence is required. Further, if the scheme includes RBI-regulated entities, additional checks are necessary to ensure compliance with norms.

For existing investments, AIFs need to report any investments that fail the due diligence checks or confirm compliance by April 7, 2025. In case, due diligence is not passed, the investor may be excluded from the investment or the investment will not proceed. Further, AIF managers must submit reports on the status of existing investments by April 7, 2025. This framework is aimed at ensuring that AIFs are conducting thorough due diligence to maintain transparency and compliance with SEBI, RBI, and other relevant regulatory bodies.

RBI directs AD Category-I banks to carry out the necessary due-diligence in relation to non-resident guarantees availed by persons resident in India

Notification No. RBI/2024-25/79 dated October 04, 2024

Owing to the various instances of guarantees including standby letters of credit and/or performance guarantees issued by persons resident outside India, favouring persons resident in India, which was not permitted under the extant FEMA regulations, the RBI through a Notification, directs the AD Category-I banks to ensure that guarantee contracts advised by them to, or on behalf of, their resident constituents are in accordance with the FEMA regulations by carrying out the necessary due-diligence.

RBI notifies extension to the Interest Equalization Scheme for pre and post-shipment Rupee Export Credit until December 31, 2024

Notification No. RBI/2024-25/80 dated October 09, 2024

The RBI through a Notification, notifies the extension to the Interest Equalization Scheme for pre and post-shipment Rupee Export Credit until December 31, 2024, by virtue of the Trade Notice No. 18/2024-2025 dated September 30,2024 issued by the Central Government with a key modification to the Scheme that the MSME manufacturer exporters can only receive benefits up to a maximum of INR 50 Lakhs for FY 2024-25 till December 31, 2024, and those exporters who have already availed of INR 50 Lakhs or more by September 30, 2024, will not be eligible for further benefits in the extended period.

RBI directs credit information companies and credit institutions to implement credit reporting mechanism after license/ registration cancellation of banks/NBFCs

Notification No. RBI/2024-25/81 dated October 10, 2024

The Credit Information Companies (Regulation) Act, 2005, provides that only entities defined as credit institutions can provide credit information to credit information companies. Once a credit institution's license or certificate of registration is cancelled, it can no longer be considered a credit institution, and its borrowers' repayment histories will not be updated, creating difficulties for borrowers who continue to meet their obligations.

Accordingly, to address this issue, the RBI mandates that credit institutions with cancelled licenses must still report credit information related to borrowers onboarded before cancellation. The RBI requires the implementation of this reporting mechanism within six months and stipulates that these credit institutions will remain categorized as such under the Credit Information Companies (Regulation) Act, 2005, until the loan lifecycle is completed or the institution is wound up.

Additionally, credit information companies are directed not to charge fees from these credit institutions and to tag them as 'license cancelled entities.' This new mechanism aims to ease the reporting burden on borrowers and ensure that their repayment histories are recorded despite the cancellation of their financial institution's license.

INTERNATIONAL DESK

UK: Transfer Pricing guidelines a framework for risk and auditing

The UK tax authority, often referred to as the Crown's Revenue and Customs released new guidelines outlining their expectations for transfer pricing compliance. This comprehensive document covers various aspects, including policy design, implementation, monitoring, and documentation, providing critical insights into HMRC's forthcoming approach to risk assessment and audits in this area. By detailing their expectations, HMRC aims to create a clearer framework for businesses to navigate the complexities of transfer pricing, ensuring that all processes align with regulatory requirements and best practices.

These guidelines represent a significant shift toward a more prescriptive stance by HMRC, building on recent changes to transfer pricing documentation and guidance related to the OECD's risk control framework. This move is designed to encourage "upstream compliance" and influence business practices effectively, reinforcing the need for businesses to adopt robust compliance measures that meet HMRC's standards. As the guidelines evolve, companies must adapt to these expectations to minimize risk and foster a proactive relationship with the tax authority.

Key takeaways for tax and transfer pricing teams include the necessity for detailed, UK-focused functional analyses and the appointment of UK risk leads to ensure adherence to HMRC's expectations. Businesses should prioritize establishing a governance framework for these roles, equipping individuals with the authority and resources needed to navigate compliance effectively. Additionally, proactive assessment of transfer pricing policies against HMRC's risk indicators will be crucial for mitigating compliance risks, ultimately leading to a more secure and compliant operational framework.

Corporate alternative minimum tax regulations: implications for compliance and tax liabilities

The US Treasury Department's proposed regulations for the CAMT could lead to significant changes for taxpayers if finalized as is. This hybrid system may raise tax liabilities for certain large corporations and impose additional administrative and compliance burdens on all taxpayers, necessitating careful evaluation of both regular tax implications and CAMT impacts.

Under the proposed regulations, large corporate taxpayers will need to maintain separate accounting records for CAMT, which introduces complexities such as the requirement to track CAMT-specific items like basis and earnings. The treatment of transactions will vary, with some adhering to regular tax principles and others to book principles, creating potential surprises in routine transactions. Notably, the regulations introduce different rules for transactions involving foreign versus domestic corporations, along with a potential "cliff effect" for domestic transactions.

Additionally, the proposed regulations present a new approach for partnership income allocations and restructuring transactions, which may complicate decision-making for distressed companies. The changes could diverge significantly from regular tax principles, increasing compliance costs and requiring taxpayers to navigate new factors and complexities. Taxpayers are encouraged to provide feedback to the Treasury Department by December 12 to address these challenges.

UAE removes value added tax for cryptocurrency transactions

The UAE has exempted cryptocurrency transactions from VAT a significant regulatory change that aligns the cryptocurrency sector with various traditional financial services. This exemption, which will take effect on November 15, applies retroactively to transactions dating back to January 01, 2018. The announcement was first made available in Arabic on October 02, 2024, followed by an English version on October 4, 2024, reflecting the UAE's commitment to enhancing clarity and transparency in its tax policies regarding digital assets.

For the first time, the exemption specifies that digital assets are not subject to VAT, covering both the exchange of cryptocurrencies and the transfer of ownership. As a result, all transactions involving the buying, selling, and conversion of cryptocurrencies will be free from the previously imposed 5% tax. By categorizing virtual assets alongside traditional financial services, the UAE legitimizes the use of cryptocurrencies within its regulatory framework. This strategic move not only enhances the attractiveness of the UAE as a hub for digital asset businesses but also signals a progressive approach to integrating innovative financial technologies into the economy. The exemption is expected to drive greater adoption and investment in cryptocurrencies, further solidifying the UAE's position in the global digital asset landscape.

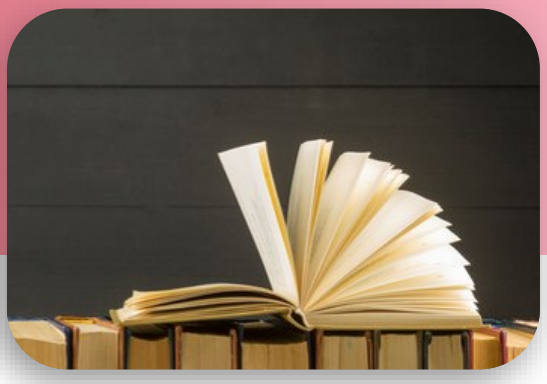
Saudi: Real Estate transaction tax exempted under 21 circumstances

A newly approved law outlines 21 scenarios for exemptions from the RETT, as detailed in the official gazette. Approved by the Council of Ministers on September 17, 2024, the legislation represents a significant advancement in real estate transaction regulation.

To assist individuals with undocumented real estate transactions completed before the RETT's effective date (October 1, 2020), the law provides a one-year grace period for rectifying their status and documenting past transactions. The Council of Ministers can extend this period based on recommendations from the Chairman of the Zakat, Tax, and Customs Authority.

The RETT, which applies to various real estate transfers at a rate of 5%, mandates that all transactions be registered on the Zakat, Tax, and Customs Authority's portal. The law includes exemptions for estate divisions, gifts to relatives, charitable transactions, lease-to-own contracts, and certain mergers and acquisitions, enhancing clarity and flexibility for stakeholders in the real estate sector.

GLOSSARY



Abbreviation	Meaning
AA	Advance Authorization
AAAR	Appellate Authority for Advance Ruling
AAR	Authority for Advance Ruling
ACU	Asian Clearing Union
ADD	Anti-Dumping Duty
ADG	Additional Director General
AE	Associated Enterprises
AFA	Additional Factor of Authentication
AGM	Annual General Meeting
AICD	Agriculture Infrastructure and Development Cess
AIF	Alternative investment Fund
AIFs	Alternative Investment Funds
ALP	Arm's length price
AMCs	Assets Management Companies
AMP	Advertising, Marketing and Promotion
AMT	Alternate Minimum Tax
AO	Assessing Officer
AOP	Association of Persons
APA	Advanced Pricing Agreement
ARE	Alternate Reporting Entity
ASBA	Application Supported by Blocked Amount
AU	Assessment Unit
AY	Assessment Year
B2B	Business to Business
B2C	Business to Customer
BBT	Buy-Back Tax
BCD	Basic Customs Duty
BED	Basic Excise Duty
BEPS	Base Erosion and Profit Shift
BEPS	Base Erosion and Profit Shifting
BOI	Body of Individuals
BPSL	Bhushan Power Steel Limited
CA	Chartered Accountant
CAG	Comptroller and Auditor General of India
CASS	Computer Assisted Scrutiny Selection
CAT	Common Aptitude Test
CAVR 2023	Customs (Assistance in Value Declaration of Identified Imported Goods) Rules, 2023
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)
CAMT	Corporate alternative minimum tax
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
CUP	Comparable Uncontrolled Price
Cus	Customs Act, 1962
CTA	Customs Tariff Act, 1975
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
EPFO	Employees Provident Fund Organization
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
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
ICFR	Internal Controls Over Financial Reporting
IFRS	International Financial Reporting Standards
IFSC	International Financial Services Centres
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
Inds AS	Indian Accounting Standard
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
RETT	Real Estate Transaction Tax
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
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
TNMM	Transaction 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**

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

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

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

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

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