VISION 360

A TREASURY OF KEY TAX & REGULATORY DEVELOPMENTS

DECEMBER 2024
EDITION 50

TCA TAXCRAFT ADVISORS

GLS

VMGG & ASSOCIATES

tiol ONE-STOP DESTINATION FOR TAXMAN AND TAXPAYER

EDITORIAL

Vision 360: November Tax Insights!

November 2024 witnessed a plethora of legislative and judicial advancements in the field of taxation, which we have documented in this month's newsletter.

In the realm of Direct tax developments, we have examined significant judgments of the Hon'ble Supreme Court regarding the validity of jurisdiction under Section 153C of the IT Act, the imposition of penalty under Section 271(1)(c) of the IT Act, and reassessment proceedings that resulted from a sale-cum-gift between a mother and son. Among other things, the CBDT issued numerous Circulars and Press Releases in the legislative space. These circulars and releases extended the due date for filing the return of income for Assessees requiring audit to November 15, 2024, for the 2024-25 academic year, updated the timelines for the issuance of tax notices and the completion of assessments, and declared monetary limits for the reduction or waiver of interest under Section 220(2) of the IT Act. Additionally, we have expressed our opinions regarding the new auditing standards for LLPs established by the National Financial Reporting Agency (NFRA).

We have compiled a number of significant judgments from High Courts throughout the country that have established the law on a variety of topics, including the ability to pay pre-deposits through an electronic credit ledger, the power of High Courts to tolerate delays, the invocation of Section 74 in the event of a mismatch between GSTR-3B and GSTR-1, the applicability of GST on personal guarantees and loan transactions between related parties, and more. Additionally, we have recorded the CBIC's notification, advisories, and instructions regarding GST, Customs, and FTP. Additionally, we have composed an insightful article in which we have decoded the Bombay High Court's judicial interpretation regarding the taxation of advance and the claim of ITC, as well as the implications for businesses.

In the **50th** edition of our exclusive monthly magazine "**VISION 360**," we, at **TIOL**, are thrilled to present these developments and more in collaboration with **Taxcraft Advisors LLP**, **GLS Corporate Advisors LLP**, and **VMGG & Associates**. We trust that you will continue to find it an engaging and informative read. We eagerly anticipate your input, opinions, and feedback, which will enable us to enhance our services and better meet your needs.

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.

Table of CONTENTS

Vision 360 | Dec 2024 | Edition 50

Table of CONTENTS

Vision 360 | Dec 2024 | Edition 50

ARTICLE

THE COURT'S STAND ON CLUBBING MULTIPLE PERIODS FOR SHOW CAUSE NOTICES!

Introduction

Under the GST regime, SCNs are essential tools for addressing non-compliance. However, the practice of clubbing SCNs—consolidating multiple notices for different periods or contraventions into one—has raised significant legal concerns. While this approach may improve administrative efficiency, it risks undermining natural justice and the taxpayer's ability to defend each issue separately. This article explores recent judicial interpretations of clubbing SCNs, examining case law and the need for legislative clarity.

Key Provisions for SCNs

1. Section 73: Governs the determination of tax not paid or short-paid. It mandates a three-year limitation period for issuing SCNs from the relevant date (typically the due date of filing returns).

2. Section 74: Applies when fraud or willful misstatement is involved, with a five-year limitation for issuing SCNs.

The Controversy: Legality of Clubbing SCNs

Clubbing SCNs, though administratively efficient, presents significant risks, especially for businesses. When notices for multiple periods are consolidated, it can lead to confusion, prevent adequate responses, and undermine the right to a fair hearing for each period. Under Section 73, a three-year limitation applies to each assessment year, but clubbing notices for multiple years may deprive taxpayers of the opportunity to contest each period independently.

Judicial Interpretations on Clubbing SCNs

Several court rulings have addressed the legality and implications of clubbing SCNs, emphasizing clarity, fairness, and adherence to limitation periods.

1. Bangalore Golf Club (Writ Petition No. 16500 of 2024)

In this case, the Petitioner challenged the consolidation of SCNs covering 2019-20 to 2023-24. The Petitioner argued that each assessment year should be treated separately, with its own limitation period under Section 73. The Court ruled in favor of the Petitioner, quashing the consolidated SCN. It cited the Supreme Court's ruling in State of Jammu and Kashmir v. Caltex (India), which affirmed that assessments involving different years must be handled independently. This ruling reinforced the importance of respecting limitation periods for each tax period.

2. Titan Company Ltd. v. Joint Commissioner of GST & Central Excise (W.P.No.33164 of 2023 and W.M.P.No.32855 of 2023)

The Madras High Court reaffirmed the ruling in Bangalore Golf Club, holding that clubbing SCNs for different assessment years violated the statutory limitation periods under Section 73. The Court emphasized that such practices attempt to circumvent the prescribed timelines and undermine the taxpayer's rights. It stressed the need for fairness and transparency in issuing SCNs and the importance of respecting individual limitation periods for each financial year.

3. Naveen Jain v. Union of India (2019)

The Delhi High Court ruled that SCNs must be clear and specific for each violation. The Court noted that clubbing multiple issues into one notice could lead to ambiguity and hinder the taxpayer's ability to present a defense. This case reinforced the principle that SCNs must comply with natural justice requirements, ensuring taxpayers are given a reasonable opportunity to respond to each issue independently.

4. M/s. Aarti Industries Ltd. v. Union of India (2021)

The Bombay High Court ruled that while administrative efficiency might justify clubbing notices in some cases, it should not compromise fairness. The Court emphasized that distinct periods and contraventions should be treated separately. Clubbing SCNs for multiple years could lead to confusion and hinder a proper defense, violating the taxpayer's right to due process.

Key Takeaways from Judicial Precedents:

- Natural Justice: Courts have consistently emphasized that taxpayers must be given a fair opportunity to contest each allegation separately. Clubbing SCNs can compromise the right to a fair hearing.
- Limitation Period: Each tax period under Section 73 has a distinct limitation period. The courts have affirmed that clubbing notices for different periods violates this provision.
- Clarity in Proceedings: The legal requirement for clear, detailed notices is paramount. Clubbing SCNs for multiple years without clear demarcation can lead to confusion, hindering taxpayers' ability to respond adequately.

Legislative Clarity and the Need for Amendments

While the CGST Act provides provisions for issuing SCNs, it does not explicitly address whether these notices can be consolidated across multiple tax periods. This gap has led to judicial interventions in several cases. To avoid further ambiguity, the GST Council should consider clarifications or amendments to explicitly address the issue of clubbing SCNs. These amendments could:

- Clarify Permissibility: Define when and under what circumstances SCNs for different periods or contraventions can be clubbed.
- Ensure Taxpayer Rights: Protect the right of taxpayers to defend each period separately and avoid confusion arising from consolidated notices.
- Align with Procedural Fairness: Ensure that the limitation periods for each year are respected and upheld.

Conclusion

The Bangalore Golf Club and Titan Company Ltd. rulings have provided crucial guidance on the legality of clubbing SCNs under GST. The judgments underscore the importance of treating each assessment period separately, respecting limitation periods, and upholding taxpayers' rights to a fair hearing. While the CGST Act lacks clear provisions on clubbing SCNs, recent case law has made it clear that such practices can undermine the principles of fairness and natural justice. To ensure procedural consistency, the GST Council should consider introducing clearer guidelines or amendments that explicitly govern the practice of clubbing SCNs. This will help provide certainty for taxpayers and streamline the administrative process while safeguarding their rights.

INDUSTRY PERSPECTIVE

MANOJ AGRAWAL

Chief Financial Officer,
Gujarat Fluorochemicals Limited

01 With 2024 drawing to a close and the Budget 2025 being only a few months away, what are your expectations from the Budget?

As we all know any Government focuses on two critical aspects such Expenditures i.e., defense funding, public welfare programs, pensions, interest on debts, and imports and Revenues i.e., tax collections, public sector business operations, borrowings (e.g., government bonds), etc. Therefore. It will be interesting to see how the Government balances both these sides in the upcoming budget.

Well, given the vision of the Government of India of making Bharat Atmanirbhar and Viksit i.e. developed, it is expected that the Government would be rolling out an investor and economy friendly budget. The focus may lean towards industries which aid long- term growth and generate employment such as infrastructure, domestic manufacturing and service industries.

When it comes to GST, the industry as a whole is anticipating the implementation of the amnesty scheme brought under the Finance Act, 2023 by inserting Section 128A in the GST Act. Similar to Budget 2023, it is expected that the Government will deliver a well-balanced and growth-oriented budget .

02 What implication does the landmark judgement of the Hon'ble Supreme Court in Safari Retreat on the Constitutional validity of Section 17(5)(c) and Section 17(5)(c) and the interpretation of 'plant or machinery' versus 'plant And machinery' qua the availability of ITC of immovable property used as have on your industry?

The Judgment has laid down great emphasis on the need to apply the Functionality Test for determining whether a building is a plant. Whilst it hands discretion to the officers to determine the nature of a building qua plant so as to allow a taxpayer its credit, it is still a silver lining over absolute restrictions that prevailed earlier.

However, the resultant remand of such matters for application of functionality tests is an additional burden of another round of litigation, which leaves bonafide taxpayers right where they began in spite of

securing relief from the Supreme Court. However, as we all know - Equity and Taxation are strangers! Besides the news is, the GST council may mull a retrospective amendment to overcome Safari Retreat Judgement.

03 What is your view on levy of GST under the Reverse Charge Mechanism (RCM) on commercial premises rented by unregistered suppliers?

The CBIC Notification No. 9/2024-Central Tax dated October 8, 2024 mandates that renting of any property, excluding residential dwellings, by an unregistered person to a registered person will now be subject to RCM effective October 10, 2024. Consequently, the registered recipient will be responsible for paying GST at a rate of 18%.

This has considerable impact on the working capital of the taxpayers who are required to pay GST under RCM on subject services in cash. Further, it also results in additional costs to taxpayers who are involved in making exempt supplies such as electricity generation/distributors, Healthcare service providers, food products related suppliers and so on, as ITC is not available to them.

04 The tax landscape has been rapidly evolving in recent years. What effects have these changes had on the economy and the service sector? Do you think these changes support broader long-term growth goals ?

Changes to tax laws have the power to drastically change the business climate by influencing site selection, firm structures, and investment decisions. Tax adjustments are known to directly affect demand and revenue in a number of different businesses. For example, while lower taxes might raise demand and improve supplier revenue, higher taxes on some goods or services may decrease demand. Furthermore, the requirement for increased compliance may put a burden on administrative resources, which could affect profitability and operational effectiveness. Overall, depending on the particular situation, tax adjustments can have a wide range of repercussions that affect not only the economics of our nation but also the economy of the world. Therefore, to ascertain how effectively tax adjustments match with long-term economic objectives, a thorough review of numerous elements is necessary.

05 What is your perspective on digitization, and how can it enhance corporate governance and compliance?

The goal of the Government of India's flagship "Digital India" initiative is to make the nation a digitally enabled society. As a result, the shift to digital tax compliance in India has been expected. However, in order to reduce tax evasion and increase taxpayer trust in the national tax system, it is imperative that these procedures be transparent. Given this, digitization becomes a key component in enhancing governance and compliance, offering improved security, transparency, and operational efficiency, notably in relation to taxation. Nationwide, there is strong support from a variety of sectors for the government's ongoing efforts to digitize the tax system. These procedures are now much more transparent thanks to changes made to compliance measures like the introduction of e-way bills, e-invoicing, and the tagging of IT return defaulters.

However, these changes, however, also place a significant burden on taxpayers, necessitating timely and

precise filing of monthly and annual tax returns, effective training and coordination of on-ground personnel, and preparedness in IT systems. Therefore, in order to promote increased tax system involvement and reduce the possibility of tax avoidance due to practical problems, the government must recognize these challenges.

06 How do you utilize technology to enhance tax compliance and reporting within your organization?

Technology is essential to our organization's efforts to improve tax reporting and compliance. All tax-related tasks are now centralized on a single platform thanks to the implementation of our integrated tax management system. By automating tax return preparation and submission, this technology reduces the need for human intervention and the possibility of mistakes. Additionally, we use sophisticated data analytics to track compliance in real time, giving us insights that enable us to proactively handle possible problems. Additionally, the technology makes it easier to manage documents electronically, guaranteeing that all tax records are safely kept and readily available. Through a dedication to ongoing enhancement and staying abreast of technical developments, we guarantee that our tax compliance procedures are effective, precise, and up to date.

Hon'ble SC dismisses Revenue's SLP on the issue of validity of jurisdiction under Section 153C of the IT Act

Himalaya Drug Company

Petition for Special Leave to Appeal (C) No. 8108/2022

The Assessee had preferred an appeal before the Hon'ble HC against the order of the Tribunal over assessments made under Section 153C of the IT Act for AYs 2003-04 to 2008-09 and raised an additional substantial question of law on the validity of notice issued under Section 153C of the IT Act which would render the subsequent assessments void ab initio.

The Hon'ble HC had admitted the additional question and noted that the notice under Section 153C of the IT Act was issued on May 11, 2009 by the DCIT whereas the Assessee's case was transferred to the said officer by CIT's order under Section 127(2) of the IT Act dated July 20, 2009 and date of transfer of files was found to be August 19, 2009

Further, placing reliance on a catena of judgments, the Hon'ble HC observed that the AO was required to serve notice upon the Assessee calling upon him to furnish a return and where such notice was not issued by the AO having jurisdiction, all the subsequent proceedings were without authority of law.

Moreover, the amendment to Section 124(3)(c) of the IT Act which limited the time to one month for objecting to Revenue's jurisdiction in cases under Section 153C of the IT Act had come into effect prospectively from June 1, 2016 and therefore it could not be treated as declaratory/statutory or curative in nature and the said amendment was not applicable to the present case as it was enacted after the relevant AYs.

Accordingly, holding the assessment on the Assessee as invalid as the notice under Section 153C of the IT Act was issued by the AO before conferment of jurisdiction under Section 127 of the IT Act, the Hon'ble HC allowed the Assessee's appeal, finding the notice under Section 153C of the IT Act to be without jurisdiction and hence invalid, thereby making all subsequent proceedings void ab initio.

Aggrieved by this decision of the Hon'ble HC, the Revenue filed an SLP before the Hon'ble SC challenging the order passed by the Hon'ble HC, however, the Hon'ble SC upheld the findings of the Hon'ble HC and accordingly dismissed the Revenue's SLP.

Hon'ble SC dismisses Revenue's SLP for invocation of penalty against SBI, affirms the decision of the Hon'ble Karnataka HC in Manjunatha Cotton

State Bank of India

Petition for Special Leave to Appeal (C) No. 29581/2018

The Revenue had filed an SLP before the Hon'ble SC for invocation of penalty against the Assessee, challenging the order of the Hon'ble Karnataka HC wherein the Hon'ble Karnataka HC had dismissed the Revenue's appeal, on the issue of invocation of penalty under Section 271(1)(c) of the IT Act on the

Assessee by placing reliance on its own ruling in **Manjunatha Cotton and Ginning Factory [2013-TIOL-536 -HC-KAR-IT].**

Before the Hon'ble SC, the Revenue contended that the reliance placed by the Hon'ble Karnataka HC in **Manjunatha Cotton and Ginning Factory [supra]** was contrary to the Hon'ble SC's decisions in a plethora of cases.

Noting that the Hon'ble Karnataka HC in **Manjunatha Cotton and Ginning Factory [supra]** had observed that a mere statement in the assessment order that penalty proceedings were being initiated, would not constitute a 'direction' for initiation of penalty and notice under Section 274 of the IT Act as the Revenue was required to specifically state the ground for initiation of proceedings.

The Hon'ble SC placing reliance on a catena of its own judgements observed that the notice issued under Section 274 of the IT Act read with Section 271(1)(c) of the IT Act to the Assessee was bad in law as it did not specify under which limb of Section 271(1)(c) of the IT Act, the penalty proceedings were to be initiated against the Assessee.

Thus, dismissing the Revenue's SLP, the Hon'ble SC affirmed the order of the Hon'ble Karnataka HC and thereby the judgment of the Hon'ble Karnataka HC in **Manjunatha Cotton and Ginning Factory [supra]** and refused to interfere with the order of the Hon'ble Karnataka HC which placing reliance on **Manjunatha Cotton and Ginning Factory [supra]** had dismissed the Revenue's appeal for invocation of penalty against the Assessee.

Hon'ble SC quashes reassessment proceedings stemming from sale-cum-gift between mother & son, holds Section 50C of the IT Act inapplicable

Mahendra Gala

Petition for Special Leave to Appeal (C) No. 8328/2024

The Assessee had approached the Hon'ble SC against the order of the Hon'ble HC which denied the Assessee the right to exercise writ jurisdiction against the reassessment proceedings initiated with respect to a sale-cum-gift received by the Assessee from his mother who later passed away.

Before the Hon'ble SC, the Assessee contended that the impugned reassessment notices were issued despite the fact that the relationship between the vendor and vendee was that of mother and son, therefore, the reference to the circle rate for the purpose of execution of a sale deed/ gift deed had no relevance to invoke Section 50C of the IT Act.

Noting that the Revenue had no objection to the quashing of the impugned reassessment notices as the transaction in question was between a mother and son, therefore, Section 50C of the IT Act was inapplicable in the present case and that it was in fact the Hon'ble HC that had disposed of the Assessee's writ petition by directing the Assessee to raise the grounds challenging the reassessment proceedings before the Revenue and also directed the Revenue to grant personal hearing, the Hon'ble SC allowing the Assessee's appeal, set aside the order of the Hon'ble HC and quashed the reassessment notices and proceedings, holding that the writ petition filed by the Assessee shall be treated as allowed.

Hon'ble HC holds compensation for land acquisition under State law, not tax exempt under Central law, enacted subsequently

Tushira Industries

Writ Appeal No.100568/2023 and 4 connected

The Revenue had filed writ appeals before the Division Bench of the Hon'ble HC against the order of the Single Judge which relieved the Assessee from the levy of income-tax on the compensation received towards compulsory acquisition under Karnataka Highways Act, 1964, (Act of 1964), in view of Section 96 of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act of 2013)

Noting that the acquisition was initiated through a Notification dated September 10, 2012, and the Act of 2013 was enacted with effect from January 1, 2014, the Hon'ble HC observed that merely because the awards came to be passed after the Act of 2013 came into force, its provisions ipse jure did not become applicable to the acquisition in question. Moreover, perusing Section 96 of the Act of 2013, the Hon'ble HC observed that the said Section applied only to the awards or agreements made under the provisions of the said Act, which became apparent by the term 'made under this Act' consciously employed by the Parliament, as, if the Parliament intended to exempt compensation from income-tax, even when acquisition was made or awards were passed under "any law whichsoever", it would have structured Section 96 with a different text.

Further, the two legislations dealt with separate and distinct matters, though of cognate & allied character, it could not be said that one had already occupied the field and therefore the other could not have been enacted, Moreover, Section 96 of the Act of 2013 (providing exemption from income- tax on compensations for compulsory acquisition) could not be read down to include land acquisitions under all other statutes in general and the Act of 1964 in particular and the Assessees' contention that the Revenue was liable to refund TDS amount to them was baseless since compulsory acquisition of property under any law was included in the definition of "transfer" under Section 2(47) of the IT Act and therefore, any profit or gain arising from such transfer attracted income tax under the head "Capital Gains" and exemption from levy of income-tax could not be claimed on the ground that the State Government had agreed to reimburse the same.

Thus, holding that whether it was construed as an exemption or a non-levy, Section 96 of the Act of 2013 would still not benefit the land-losers in acquisition notified prior to coming into force and that too when it was done under a State Legislation, (i.e., the Act of 1964), as the subject matter of Act of 2013 and that of the Act of 1964 was not in pith and substance, the Hon'ble HC allowed the Revenue's writ appeals.

DIRECT TAX
From the Legislature

Circulars/Guidelines

Circulars/ Guidelines	Key Updates
Circular No. 13/2024 dated October 26, 2024	**CBDT extends due date for filing of return of income for Assessees requiring audit to November 15, 2024 for AY 2024-25** The CBDT extends the due date for furnishing return of income for AY 2024-25 to November 15, 2024, from October 31, 2024, for a company, a person or partner of a firm whose accounts are required to be audited. This extension comes in the backdrop of umpteen requests made by many professional bodies, including tax practitioners and chartered accountants, urging the CBDT to extend the due date, citing the workload associated with completing tax audits within the original timeline and is primarily a relief to businesses that are required by law to have their accounts audited under Section 139 of the IT Act. By extending the due date, the government is giving companies or persons requiring audit, extra time to complete all necessary steps, reducing the chance of mistakes and ensuring avoidance of possible penalties.
CBDT website update dated October 27, 2024	**CBDT releases updated timelines for issuance of tax notices and completion of assessments** The CBDT releases a new tax chart on its website in consonance with the changes proposed in the Union Budget 2024, which were ratified through the Finance (No. 2) Act, 2024, that outlines the timelines for sending different income tax notices. This chart also specifies the sections under which each notice may be issued if tax provisions are violated and details the timelines and procedures for assessments and reassessments under various sections of the IT Act. The tax chart released by the CBDT provides taxpayers with a clear understanding of when they might receive notices and how long the department has, to complete the necessary assessments.
Circular No. 14/2024 dated October 30, 2024	**CBDT condones delay in filing return of income for deductions under Section 80P of the IT Act for AY 2023-24** The CBDT had earlier through Circular No. 13/2023 dated July 26, 2023, condoned the delay in filing of return of income for deductions under Section 80P of the IT Act for AY 2018-19 to AY 2022-23. Given this backdrop, taking cognizance of the applications received from the co -operative societies claiming deduction under Section 80P of the IT Act, requesting condonation of delay in filing return of income for even AY 2023-24 and allowing the return of income to be treated as submitted on time due to delay in getting their accounts audited as per respective State Laws, the CBDT in order to alleviate the hardships faced by the Assessees, extends the applicability of the aforementioned Circular No. 13/2023 to AY 2023-24, in accordance with the conditions outlined therein.

<table>
<tr><th>Circulars/ Guidelines</th><th>Key Updates</th></tr>
<tr><td>Circular No. 15/2024 dated November 04, 2024</td><td>
<h3>CBDT sets monetary limits for reduction or waiver of interest under Section 220(2) of the IT Act</h3>
Section 220(2) of the IT Act deals with the consequences of non-payment of Income-tax by a taxpayer. As per Section 220(2) of the IT Act, if a taxpayer fails to pay the amount specified in any notice of demand under Section 156 of the IT Act, s/he shall be liable to pay simple interest at the rate of 1% per month or part of the month for the period of delay in making the payment.
Further, Section 220(2A) of the IT Act empowers the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner of Income-tax for reduction or waiver of the amount paid or payable under Section 220(2) of the IT Act in the circumstances specified therein.
Given this backdrop, the CBDT specifies the limits for reduction or waiver of the interest paid or payable under Section 220(2) of the IT Act as follows: -
<table>
<tr><th>Sl.No.</th><th>Income-tax Authority</th><th>Monetary Limit (INR)</th></tr>
<tr><td>1</td><td>Principal Commissioner/Commissioner of Income-tax</td><td>Upto 50 Lakhs</td></tr>
<tr><td>2</td><td>Chief Commissioner of Income-tax/ Directorate General of Income-tax</td><td>Above 50 Lakhs and upto 1.5 Crores</td></tr>
<tr><td>3</td><td>Principal Chief Commissioner of Income-tax</td><td>Above 1.5 Crores</td></tr>
</table>
However, the CBDT states that the above limits shall be subject to the satisfaction of the following conditions outlined under Section 220(2A) of the IT Act: -

Payment of such amount has caused or would cause genuine hardship to the Assessee.
Default in payment was due to circumstances beyond the control of the Assessee.
Co-operation of the Assessee in inquiries related to assessments or recovery proceedings for the recovery of the amounts due from him.

</td></tr>
<tr><td>Press Release dated November 16, 2024</td><td>
<h3>CBDT notifies launch of compliance-cum-awareness campaign for AY 2024-25 to assist taxpayers in reporting foreign assets and income</h3>
The CBDT notifies the introduction of a compliance-cum-awareness campaign for AY 2024-25 to help taxpayers accurately fill out Schedule Foreign Assets and report any income from foreign sources in Schedule FSI in their ITR.
The completion of these schedules is mandatory under the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015, which requires the detailed disclosure of any foreign assets and related income by taxpayers.
</td></tr>
</table>

Circulars/ Guidelines	Key Updates
	The purpose of these messages is to remind taxpayers to thoroughly complete Schedule Foreign Assets, especially for cases involving substantial foreign assets, to ensure full and transparent compliance with their tax returns. The campaign aligns with the government's vision for Viksit Bharat (Developed India) using advanced technology to make compliance easier and reduce direct human interaction.
Circular No. 16/2024 dated November 18, 2024	**CBDT authorizes admission of applications for condonation in filing Form No. 9A/10/10B/10BB for AY 2018-19 and subsequent years** • In supersession of all earlier Circulars/Instructions issued by the CBDT from time to time to deal with the applications for condonation of delay in filing Form Nos. 9A/10/10B/10BB for AY 2018-19 and subsequent AYs, the CBDT authorizes the: - • Principal Commissioners/Commissioners of Income-tax to admit and deal with applications for condonation of delay in filing Form No. 9A/10/10B/10BB for AY 2018-19 and subsequent AYs where there is a delay of upto 365 days. Principal Chief Commissioners/Chief Commissioner/Director Generals of Income-tax to admit and deal with applications for condonation of delay in filing Form No. 9A/10/10B/10BB for AY 2018-19 and subsequent AYs where there is a delay of more than 365 days. Further, the CBDT inter-alia states that the above-mentioned authorities while entertaining such applications for condonation of delay in filing Form No. 9A/10/10B/10BB, shall satisfy themselves that the applicant was prevented by reasonable cause from filing such Forms before the expiry of the time allowed and the case is of genuine hardship on merits.

TRANSFER PRICING
From the Judiciary

Tribunal holds share-based compensation not operating expense for Amazon India

Amazon Seller Services Private Limited

IT(TP)A No. 762/Bang/2024

The Assessee was a private company which among other activities, was engaged in the business of online trading, online services for e-trading/commerce, marketing support services.

During the course of the assessment proceedings, the TPO allowed exclusion of share-based compensation expenses (relating to share/stock-based award/incentive announced for selected employees) from operating expenses, while the CIT-TP took the view that TPO failed to make necessary inquiry/verification. The CIT-TP also held that the TPO did not make adjustment with regards to the delivery/warranty expenses incurred by the Assessee, which ultimately created goodwill/marketing intangible for the Assessee.

Aggrieved, the Assessee approached the Tribunal which placed reliance on Assessee's own case for a previous year wherein the issue with respect to share-based compensation was decided in favour of the Assessee. However, the Tribunal also considered the amendment brought under the Income Tax Amendment Rule, 2017, whereunder, in Rule 10TA, share based compensation had been included in the definition of operating expenses and accordingly observed that as such amendment was not available or applicable in the earlier years, therefore there was every possibility that the Tribunal had taken a view holding share-based compensation as non-operating in nature as there existed no provision regarding the same under the statute.

Moreover, Rule 10T of the Income Tax Amendment Rule, 2017, was applicable only if the Assessee opted for Safe Harbour Rules, however as in the present case, the Assessee had not opted for such Rule, therefore, share-based compensation could not be treated as an operating expenses in the year under consideration in terms of such Rule.

Accordingly, holding that share-based compensation was not an operating expense for the Assessee, the Tribunal disposed of the matter.

Tribunal holds no negative working-capital adjustment for Cognizant Technology, being a captive service provider

Cognizant Technology Solutions India P. Ltd

ITA No.13/Hyd/2018

The Assessee was engaged in the business of back office, data creation, content development and support services in relation to analysis. During the assessment proceedings, the TPO made a negative working capital adjustment without appreciating the fact that the Assessee did not bear any working capital risk, being a captive service provider.

Aggrieved, the Assessee approached the Tribunal which noted that when no negative working capital

adjustment was made for a captive service provider, the international transactions in question would be at arm's length, since the Assessee had neither taken any loan nor incurred any expenses for meeting working capital requirement, and being captive service provider having no risk, negative working capital adjustment was not warranted in the case of the Assessee, accordingly, the Tribunal deleted the adjustment made by the TPO and following the coordinate bench ruling in Assessee's own case for a previous year, further directed the AO, to not make any negative working capital adjustment.

Tribunal applies corporate guarantee fee @ 0.5% as against TPO's 2%, follows earlier order

Tata Consumer Products Limited

ITA No. 372/Kol/2021

The Assessee was inter-alia engaged in the business of cultivation, manufacture and sale of tea and other beverages business whose AE to fund the acquisition in Russia, leveraged the Assessee's long association with a foreign bank that granted a loan to a related entity which loan was utilized by the related entity to make the said acquisition. The Assessee had also provided a guarantee for the loan to the foreign bank as part of shareholder service and had been indemnified unconditionally and irrevocably by the AE through a counter guarantee.

During the course of the assessment proceedings, the TPO to arrive at arm's length applied guarantee fee @ 2%, aggrieved by which, the Assessee approached the Tribunal which, following the Assessee's own case for previous years, wherein the AO was directed to compute corporate guarantee fee @ 0.5%, directed the AO to apply corporate guarantee fee @ 0.5% of the loan outstanding at year end as against 2% charged during the assessment proceedings.

ARTICLE

STRENGTHENING FINANCIAL OVERSIGHT: NFRA'S NEW AUDITING STANDARDS FOR LLPS

The National Financial Reporting Authority (NFRA) has long been a cornerstone of India's efforts to ensure transparency and integrity in financial reporting. Established as an independent audit regulator, NFRA's mission is to enhance the quality of audits, safeguard the reliability of financial statements, and instil confidence among investors and stakeholders. By upholding stringent standards, NFRA plays a pivotal role in maintaining the stability and credibility of India's financial markets.

A Commitment to Evolving Standards

NFRA's mandate extends beyond oversight. The authority continually reviews and updates auditing standards to address emerging challenges and complexities in financial reporting. This commitment to improvement ensures that Indian auditing practices align with global best practices, keeping pace with the dynamic economic environment. Regular revisions of standards also reflect NFRA's dedication to fostering a robust framework for financial reporting, one that adapts to the evolving needs of businesses and the economy.

Enhancing Audit Standards for LLPs

In a landmark move, NFRA held its 19th meeting on November 25, 2024, to finalize and recommend new auditing standards tailored for Limited Liability Partnerships (LLPs). These standards, proposed under Section 34A of the LLP (Amendment) Act 2021, aim to enhance transparency, accountability, and governance within LLPs, which have become increasingly popular due to their operational flexibility and lower compliance requirements.

NFRA has recommended 40 Standards on Auditing (SAs) and related Standards on Quality Management (SQMs) to the Central Government. Key standards include:

◊ SA 299: Facilitating coordination among auditors in joint audits.

◊ SA 600: Providing guidance on using the work of other auditors.

◊ SA 800: Addressing audits of financial statements prepared using special-purpose frameworks.

◊ SA 805: Governing audits of individual financial statements or specific financial elements.

◊ SA 810: Establishing standards for reporting on summary financial statements derived from audited data

These standards were initially developed for company audits during NFRA's 18th meeting. Following modifications, they are now set to address the unique requirements of LLPs, offering a comprehensive framework for improving the quality of financial audits.

Bridging the Gaps:

Prior to these initiatives, auditing LLPs was fraught with inconsistencies. The absence of stringent standards led to variability in audit quality, undermining stakeholder trust in financial statements. Insufficient governance practices further exposed LLPs to operational and financial risks, emphasizing the need for

rigorous audit protocols.

The implementation of these new standards marks a turning point. They promise to elevate transparency and accountability in financial reporting, aligning LLPs with the high standards applied to larger corporate entities. Additionally, uniform auditing practices will simplify audits, enhance reliability, and bolster confidence in LLPs' financial disclosures.

A Commitment to Evolving Standards

The NFRA meeting witnessed diverse perspectives from its eight members, including representatives from the Comptroller and Auditor General (CAG), Reserve Bank of India (RBI), independent experts, and academia. While the proposal garnered broad support, the Institute of Chartered Accountants of India (ICAI) expressed reservations regarding certain standards, particularly SQMs and SAs 299, 600, 800, 805, and 810. These concerns were consistent with feedback from earlier discussions and highlight the importance of continued dialogue to refine the standards.

Benefits and Implications

The adoption of these standards offers LLPs several advantages, including improved governance practices, enhanced compliance with regulatory requirements, and increased reliability of financial statements. This, in turn, facilitates access to capital, attracts investment, and reduces the risk of penalties and legal challenges.

This increased compliance inevitably means that LLPs will have to invest more time and resources into ensuring their financial statements meet these new standards. As a result, audit firms may need to allocate additional effort and expertise to conduct thorough audits, which can lead to an increase in audit fees. Higher audit fees are likely to reflect the enhanced quality and comprehensiveness of the audit services provided. While this might increase the financial burden on LLPs

The broader impact extends to India's financial ecosystem. By aligning LLP practices with global benchmarks, NFRA's initiative strengthens investor confidence and fosters a stable, transparent, and accountable business environment.

Looking Ahead

The proposed standards are expected to take effect from April 2026, following approval from the Central Government. This timeline offers LLPs a window to adapt to the new requirements, which will significantly reshape their financial reporting landscape.

As regulatory scrutiny of LLPs increases, this initiative is timely. Recent government measures, such as mandating disclosures of "beneficial interest" in partner contributions, underscore a broader trend toward transparency. The proposed auditing standards complement these efforts, ensuring LLPs are well-equipped to meet evolving compliance expectations.

Conclusion

NFRA's proposal to implement robust auditing standards for LLPs is a significant step toward improving financial oversight in India. By addressing historical gaps and setting a high benchmark for auditing practices, these standards will bolster the credibility of LLPs' financial statements, enhance governance, and align them with global best practices. This initiative not only reinforces NFRA's commitment to quality and transparency but also supports sustainable growth and stability in India's business ecosystem.

GOODS & SERVICES TAX
From the Judiciary

HC: Pre-deposit can be made through Electronic Credit Ledger

Ford India Private Limited

WP(5) No.24025 of 2024

The Petitioner challenged the direction by the Department that the pre-deposit for filing an appeal under Section 107(6) of the CGST Act, could only be paid through the Electronic Cash Ledger, not the Electronic Credit Ledger. The Petitioners argued that they should be allowed to pay the 10% pre-deposit from their Electronic Credit Ledger, which contains the available ITC.

The Court observed that under Section 49(4) of the CGST Act, the amount in the Electronic Credit Ledger can be used to pay output tax, including taxes arising from GST proceedings. The Court referred to a CBIC n Circular No.172/04/2022-GST, dated 06.07.2022, which allowed the use of ITC for payments related to taxes payable due to proceedings, not just self-assessed output tax. Additionally, the statutory appeal form (APL-01) allows pre-deposit through the Electronic Credit Ledger. The Court concluded that since the pre-deposit serves as payment towards output tax, it could be paid using the Electronic Credit Ledger. Consequently, the Department were directed to accept the appeals, even if they had been dismissed earlier solely due to the mode of pre-deposit payment.

HC: Pending Show Cause Notice Cannot Prevent Petitioner from Claiming CENVAT Credit Transition under GST

KCL Limited

WP(C) No. 26636/2023

The petitioner had transitioned their CENVAT credit under the Central Excise Act, to the GST regime. However, a SCN was issued, challenging the eligibility of part of the total CENVAT credit carried forward. The authorities later passed an order, disallowing the transitioning of the disputed CENVAT credit, and demanded repayment of the amount along with interest and penalty. The key issue before the Court was whether the petitioner was entitled to transition the disputed CENVAT credit to the GST regime under Section 140(1) of the CGST Act, 2017, even though the Show Cause Notice (SCN) regarding the eligibility of the credit was still pending.

The Court held that the mere pendency of a show-cause notice regarding the eligibility of CENVAT credit could not disqualify the petitioner from transitioning the available credit as on June 30, 2017, to the GST regime under Section 140(1) of the CGST Act. The Petitioner was entitled to utilize the CENVAT credit during the pendency of the proceedings. The Court emphasized that the transition of the credit was valid as of the date of migration to the GST regime. Furthermore, the issuance of a show-cause notice, which was later kept in abeyance, could not prevent the petitioner from claiming the transition of CENVAT credit. However, the Court clarified that this order should not be interpreted as a final decision on the ultimate eligibility of the petitioner to claim the CENVAT credit. The proceedings under the show-cause notice would continue independently without being influenced by the Court's decision on the transition. The writ petition was disposed of accordingly.

HC has the power to condone the delay in filing appeals

Vasudeva Engineering

WP(C) No. 27468 of 2023

The HC heard a batch of Writ Petitions where the petitioners had filed appeals under the GST Act beyond the statutory limitation period and also beyond the additional 30 days allowed for condonation of delay. The Appellate Authority had rejected these appeals due to the delay in filing. The issue is whether the Appellate Authority was legally correct in rejecting the appeals filed beyond the limitation period and the additional condonation period of 30 days under Section 107 of the CGST Act.

The Court observed that while the provisions of the GST Act concerning the limitation period are binding on the Appellate Authority, the High Court has the power, under Article 226 of the Constitution, to condone the delay in filing appeals. The HC noted that the purpose of the GST Act is to provide relief to businesses and that rejecting appeals solely on the grounds of delay could leave businesses remediless. Therefore, the HC exercised its jurisdiction under Article 226 to condone the delay, considering the facts and circumstances of each case. It directed the Appellate Authority to hear and decide the appeals on merit, without considering the delay or limitation. The High Court allowed the writ petitions, condoned the delay in filing the appeals, and directed the Appellate Authority to proceed with hearing the appeals on merits, without further delay or limitation issues.

HC: Minor lapse do not warrant for severe penalty

Dynamic Rubbers Private Limited

R/SPECIAL CIVIL APPLICATION NO. 17738 of 2023

The Petitioner, engaged in manufacturing rubber products, imported goods from China and paid IGST. While transporting the goods to its manufacturing facility, the petitioner was unable to generate Part-B of the e-way bill due to a technical glitch. The goods were intercepted by the authorities, and a penalty was imposed for non-compliance with e-way bill requirements under Section 129(1) of the CGST Act. Whether the levy of a hefty penalty under Section 129(1) of the CGST Act was justified when the petitioner failed to generate Part-B of the e-way bill due to a technical glitch.

The Court held that the petitioner had no intention to evade tax, as the goods had already been cleared through customs and IGST had been paid. The failure to generate Part-B of the e-way bill was a minor lapse, attributable to a technical glitch, and did not amount to a significant violation warranting a severe penalty. The Court noted that the contravention was technical and venial in nature, and in such cases, the penalty under Section 129(1)(a) should be limited to Rs. 25,000 rather than the excessive penalty initially imposed by the authorities. The Court modified the impugned order, reducing the penalty to Rs. 25,000, and allowed the petition.

HC: Mismatch in GSTR-3B and GSTR-1 Does Not Justify Invocation of Section 74

Xiaomi Technology India Private Limited

WP(C) No. 15297 OF 2024

The Petitioner challenged the SCN issued by the respondents alleging a mismatch between the tax liability declared in GSTR-3B and GSTR-1. The SCN invoked Section 74 of the CGST Act, which deals with cases of

fraud, wilful misstatement, or suppression of facts. The Petitioner contended that the mismatch between GSTR-3B and GSTR-1 did not constitute fraud or wilful misstatement, and therefore, Section 74 should not be applicable.

The court expresses doubt about the invocation of Section 74 of the CGST Act, 2017, based solely on a mismatch between GSTR-3B and GSTR-1. Section 74 typically applies if there is an case of fraud, wilful misstatement, or suppression of facts is proven, which the court feels may not be evident in this case. The Court noted that the matter required further consideration and allowed the respondents to proceed with the SCN. However, it directed that no final orders should be passed or given effect to until the next hearing date. The petition was disposed of with this direction.

HC: No GST Payable on Personal Guarantee and Loan Transactions between Related Parties

Manappuram Finance Limited

WP(C) No. 24617 OF 2022

The petitioner challenged the GST liability on two issues:

1. The liability of GST on the activity of the Managing Director (MD) providing a personal guarantee to secure loans for the company.
2. The GST liability on the supply of services by the petitioner-company in extending loans to its subsidiary.

The Court observed that, according to the CBIC Circular No. 204/16/2023-GST, the provision of a personal guarantee by the MD, even if made without consideration, is treated as a supply of service. However, since the RBI mandates that no consideration is paid for such guarantees, the open market value of the transaction is zero, and therefore no GST is payable.

Regarding the supply of loans to the subsidiary, the Court referred to Circular No. 218/12/2024-GST, which clarifies that while providing loans/credit to related parties is a supply under GST, it is exempt from GST if the consideration is in the form of interest or discount. If no other consideration is charged, there is no supply in terms of loan processing, and hence, no GST is payable.

Thus, the Court ruled in favor of the petitioner, allowing the writ petition and relieving the company from GST liability in these transactions.

GOODS & SERVICES TAX

From the Legislature

Sr. No.	Notification/ Circular	Summary
1	**Notification No. S.O. 5063(E) dated November 26, 2024**	**Notification on Territorial Jurisdiction Amendments for GSTAT State Benches Issued** The Central Government has issued a notification, amending the territorial jurisdiction of the State Benches of the Goods and Services Tax Appellate Tribunal (GSTAT). These amendments redefine the jurisdictional boundaries of GSTAT benches across various states and union territories to improve the efficiency and clarity in handling GST-related disputes. The notification includes detailed allocation of districts under the purview of each state bench, aiming to streamline the appeals process and ensure smoother functioning of GSTAT. This move aligns with the government's broader objective of strengthening dispute resolution mechanisms under the GST framework.
2	**Advisory dated November 05, 2024**	**Advisory on New GST Form DRC-03A for Demand Payment Adjustments** The Advisory on New GST Form DRC-03A for Demand Payment Adjustments, issued to streamline the reconciliation of payments made for GST demands, introduces an updated mechanism for taxpayers to adjust payments against unresolved demands in their Electronic Liability Register. Form DRC-03A allows taxpayers to allocate payments previously made under Form DRC-03 towards specific demands raised in notices like DRC-07, DRC-08, or MOV-09. This is particularly useful when taxpayers inadvertently made payments under the "Voluntary" or "Others" categories without linking them to a specific demand. The advisory details the eligibility, process, and flexibility offered by the new form, such as enabling adjustments for multiple demands using a single payment or vice versa. It also serves as proof of pre-deposit during appeals. Taxpayers are advised to exercise caution while providing information in Form DRC-03A, as incorrect details may attract penalties under Section 122(1)(x) of the CGST Act. This initiative addresses lingering portal-related issues and facilitates smoother resolution of GST demands.

Dismissal of CVD Refund claim due to limitation and Unjust Enrichment

B. L. Goyal

2024-VIL-1253-CESTAT-DEL-CU

In the instant case, the appellant sought a refund of CVD paid on goods imported under Bills of Entry filed between 2011 and 2014. The goods, declared as "Natural Gum," were believed to qualify for exemption under a CBEC clarification from 2007, which applies only to Gum Arabic. However, the appellant failed to prove that the goods were indeed Gum Arabic, thus disqualifying them from the exemption.

Additionally, the refund claim was rejected on two primary grounds: limitation and unjust enrichment. The Customs Act mandates that refund claims be filed within one year of duty payment under Section 27, unless the duty was paid under protest. While the appellant argued that the payment was made under protest, this was found to be unsubstantiated since no protest was raised at the time of self assessment when the Bills of Entry were filed. Thus, the Furthermore, limitation the period principle of applied. unjust enrichment was invoked because there was no evidence that the burden of CVD had not been passed on to consumers, as the duty was included in the cost of goods sold.

The Tribunal upheld the rejection of the refund claim, concluding that the appellant failed to modify the self-assessment as required for a refund and did not provide sufficient proof to counter the unjust enrichment argument. The appeal was accordingly dismissed.

Extinguishment of customs duty demand due to CIRP approval

Patanjali Foods Limited

2024-VIL-1085-KAR-CU

The Hon'ble Karnataka High Court in its ruling in the instant case addressed the issue of whether a customs duty demand against a company, which was not included in an approved resolution plan under the IBC, stood extinguished. The appellant, was engaged in the import of crude palm oil and had faced a customs duty demand, which was confirmed by the Commissioner. However, during the pendency of the appeal, the company underwent CIRP under the IBC, and a resolution plan was approved by the NCLT.

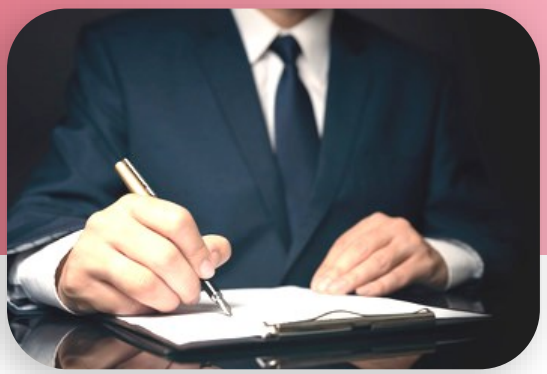
The core issue was whether the customs duty liability, which was not part of the approved resolution plan, had been extinguished following the provisions of the IBC. Referring to the Supreme Court's judgment in Ghanshyam Mishra and the Ruchi Soya case, the court concluded that once a resolution plan is approved, any claims not included in the plan, including the customs duty demand, are extinguished. As the revenue did not make any claim before the Resolution Professional during the CIRP, the court ruled that the demand for Rs. 19,40,00,646 stood extinguished, and no proceedings could be continued. The Tribunal's reliance on Rule 22 of the CESTAT Procedure Rules, which states that appeals abate in cases of insolvency, was deemed erroneous as the IBC's provisions prevailed in such circumstances.

Thus, the High Court set aside the Tribunal's order and held that the customs duty demand was extinguished under the resolution plan, allowing the appeal in favor of the appellant.

CUSTOMS & FTP
From the Legislature

Sr.	Notification/	Summary
1	**Notification No. 74/2024-Customs (N.T.)**	**CBIC revises compliance deadlines in Sea Cargo Manifest and Transshipment Regulations** CBIC amends the Sea Cargo Manifest and Transshipment Regulations, 2018. It revises the submission deadlines for entries in the Sea Cargo Manifest table. Deadlines for Sr. No. 4, Sr. No. 5, and Sr. No. 6 have been updated to November 15, 2024, November 30, 2024, and January 15, 2025, respectively. These changes come into effect immediately upon
2	**Instruction No. 23/2024-Customs dated November 21, 2024**	**CBIC clarifies origin procedures under FTAs amid third-party invoicing issues** Vide this Instruction, CBIC has addressed the challenges related to third -party invoicing under Free Trade Agreements (FTAs), particularly the ASEAN-India FTA (AIFTA). Concerns had emerged over discrepancies between values in Certificates of Origin (CoO) and third-party invoices, leading to denied preferential claims without proper verification. The instruction states that third-party invoicing is a recognized practice under several FTAs. While COOs validate product origin, third-party invoices are used for customs valuation. Customs officers may seek additional documents to verify origin but cannot demand commercially confidential information from importers. If discrepancies arise, CAROTAR, 2020, provides a verification process, but its provisions defer to the respective trade agreement where conflicts exist. CBIC also highlights that claims cannot be rejected outright without proper verification and evidence. Decisions must adhere to natural justice principles and specific obligations under FTAs.
3	**Instruction No. 24/2024-Customs dated 22nd October, 2024**	**CBIC issues guidelines for Equipment Type Approval (ETA) for License - Exempt Wireless Devices** CBIC through this instruction, simplified the Equipment Type Approval (ETA) process for license-exempt wireless devices. This initiative was to enhance the ease of doing business in the telecom sector along with the the Department of Telecommunications' Office Memorandum dated September 9, 2024. Applicants can now secure ETAs on a self declaration basis through the SARAL Sanchar portal by submitting requisite documents and fees. Approved certificates can be directly downloaded from the portal. ETA holders must also obtain No Objection Certificates or relevant clearances from DGFT prior to importing equipment, ensuring compliance with import regulations.

REGULATORY
From the Judiciary



NCLAT overturns NCLT's order, holds security deposit an "operational debt" absent 'time value of money

Corob India Pvt. Ltd vs. Mr. Birendra Kumar Agrawal, Resolution Professional

Company Appeal (AT) (Insolvency) No. 749 of 2024

The Appellant had filed an appeal before the Hon'ble NCLAT challenging the order of the NCLT which allowed the classification of the Appellant as an "other creditor" by the Resolution Professional in the CIRP of the Corporate Debtor.

Noting that for a debt to be classified as an 'operational debt', it must bear some nexus with the provision of goods or services, without specifying who was to be the supplier or the receiver of such goods or services, therefore, the payment of security deposit by the Appellant as advance for use of the leased premises was clearly included in the "provision of services" and it fell within the purview of operational debt, the NCLAT observed that the claim did not meet the criteria for "financial debt", since it was bereft of all elements of commercial borrowing and was an interest free payment, and therefore as the essential elements in the principal clause of Section 5(8) of the IBC pertaining to financial debt was not satisfied, the present transaction clearly was not disbursement for time value of money.

Further, placing reliance on a catena of SC judgments, the NCLAT observed that the security deposit was intended as a refundable sum upon lease termination, lacking the "disbursement for time value of money" element crucial to "financial debt". Moreover, the Appellant qualified as an "operational creditor" and an "operational debt" was owed to the Appellant which encompassed claims linked to the supply of goods or services and the security deposit, paid in advance for the future use of leased premises, could be interpreted as an advance for services, therefore falling within the scope of "operational debt".

Accordingly, holding that the security deposit was an "operational debt," and thereby classifying the Appellant as an "operational creditor" under the IBC, the NCLAT overturned the order of the NCLT and consequently directed the Resolution Professional to acknowledge the Appellant as an operational creditor.

Hon'ble HC holds company can still recover dues on striking-off from register by Registrar of Companies, mere striking-off doesn't automatically invalidate company's civil suit

M/s A.B. Creations & Anr. vs. M/s Bhan Textiles Pvt. Ltd.

C.R.P. 151/2023 and CM APPL. 30530 & 30531/2023

The Petitioner had filed a revision petition in a civil suit before the Hon'ble HC, challenging the Trial Court's order that had dismissed the Petitioner's application seeking rejection of a struck-off company's (Respondent) plaint under CPC on the ground that since the Respondent's name had been struck-off by the Registrar of Companies, it could not seek recovery of dues from the Petitioner.

Before the Hon'ble HC, the Respondent submitted that the civil suit was filed in the year 2016, much prior to the issuance of notification by the Registrar of Companies striking-off the name of the company and also

that Section 250 of the Companies Act, 2013, protected its right to continue the civil proceedings despite its name having been struck-off, per contra, the Petitioner submitted that since the Respondent was a 'juristic person' which had ceased to have a legal and distinct status, it could not pursue the pending civil proceedings under CPC against the Petitioner because under Section 250 of the Companies Act, 2013, "amount due" only meant that amount which was crystallized or had become legally recoverable.

Noting, however, that the Trial Court had rightly held that the continuance of the suit was not affected by striking-off, in view of the provisions of Section 250 of the Companies Act, 2013, and upholding the dismissal of the Petitioner's application imposing INR 10,000 as costs, the Hon'ble HC observed that on a careful reading of the words in Section 250 of the Companies Act, 2013, it could be inferred that even if the name of a company was struck off from the register, the company not only remained operational in so far as it could pursue legal remedies for realization of the "dues" of the said company against its debtors, which had either crystallized or remain uncrystallized, arising from any liability or obligation of its debtors to the company, but even the creditors could pursue legal remedies against the said company for the payment and discharge of its liabilities or obligations arising from any contract or statutory implications.

Moreover, although the Respondent stood dissolved, however, it remained alive for realization of its dues from debtors and payment or discharge of its liabilities and the mere striking-off of the name of the Respondent from the register by the Registrar of Companies did not automatically invalidate or render flawed the civil suit filed by the Respondent.

Accordingly, holding that the Respondent could pursue its remedies in law even after its name being struck-off from the register, the Hon'ble HC rejected the revision petition filed by the Petitioner.

SEBI penalizes company, top brass for misrepresenting financial statements, dismisses "auditor's negligence" defence

In the matter of Salasar Exteriors and Contour Limited

Adjudication Order No. Order/NH/YK/2024-25/30951-30953

The company was listed on the SME platform of the National Stock Exchange of India Ltd which had sent an examination report to SEBI alleging irregularities in the financial statements of the company for FYs 2019-20, 2020-21, and 2021-22. Thereafter, SEBI conducted an investigation into the matter.

Pursuant to the investigation, SEBI observed that the company had failed to prepare and publish its financial statements as per the Generally Accepted Accounting Principles in India and the Accounting Standards, which had led to misrepresentation and misstatement in its financial statements for the FYs 2019-20, 2020-21, and 2021-22.

Further, the Managing Director of the company and the Executive Director and Chief Financial Officer of the company (top brass), were responsible for the day-to-day affairs of the company and by virtue of their position on the company's board, they were responsible for the acts, omissions and conduct of the company, therefore, the misrepresentation and misstatement in the company's financial statements were attributable to them. Moreover, the Managing Director had furnished false certification to the Board of Directors stating that the financial statements present a true and fair view leading to material misstatement and the top brass contended that the misrepresentation in the financial statements was due to the negligence of the statutory auditor.

Accordingly, rejecting the contention of the top brass, SEBI observed that the top brass and the company could not absolve themselves of their responsibilities by simply stating that the misrepresentation in the financial statements was due to the negligence of the statutory auditor as the responsibility for the

preparation of the financial statements that give a true and fair view of the financial position, financial performance, and cash flows of the company in accordance with the accounting principles generally accepted in India, including accounting standards, lies with the company and its management. Moreover, a company's financial statements, comprising financial performance, financial position, cash flows, accounting principles adopted, and other material information about the company, must reflect a true and fair view and should be free from any material misstatement.

Thus, for failing to prepare and publish its financial statements as per the Generally Accepted Accounting Principles in India and the Accounting Standards, which led to misrepresentation and misstatement in its financial statements for the FYs 2019-20, 2020-21, and 2021-22 and thereby led to the violation of various provisions of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, SEBI imposed a penalty of INR 11 Lakhs on the company and its top brass.

Hon'ble SC upholds remand to Trial Court in partnership dispute, to safeguard procedural fairness

M/s Crystal Transport Private Limited vs. A Fathima Fareedunisa

Civil Appeal Nos.7709–7710 of 2023

The Appellant was a limited company formed from the assets of a dissolved partnership firm that had filed an appeal before the Hon'ble SC challenging the decision of the Hon'ble HC to remand the matter to the Trial Court in a partnership dispute.

Before the Hon'ble SC, the Appellant submitted that the assets were justly procured and utilized, per contra, The Respondent (who was an outgoing partner) contended that the other partners unjustly took over the dissolved firm's assets and profited from them without adequately compensating her.

Noting that the Trial Court erred by relying on unreliable reports and inadmissible documents as the basis for its judgment, and by denying the parties the right to cross-examine the authors of those documents, which constituted a fundamental violation of due process, the Hon'ble SC observed that under Section 37 of the Indian Partnership Act, 1932, the Respondent, as an outgoing partner, had the right to claim profits derived from her share of the dissolved partnership firm's assets until a final settlement of accounts was reached, and this entitlement stemmed from the fact that the Appellant acquired the firm's assets and continued its business operations, essentially stepping into the shoes of the former partner.

Thus, upholding the Hon'ble HC's decision to remand the matter to the Trial Court, emphasizing the importance of ensuring procedural fairness and a just outcome, the Hon'ble SC disposed of the appeal filed by the Appellant.

SEBI slaps penalty of INR 59 Lakhs on company and its promoters for delayed disclosures, violation of open-offer norms

In the matter of Jagjanani Textiles Limited

Adjudication Order No. Order/BM/RK/2024-25/30983-30989

SEBI had conducted an examination basis the draft letter of offer filed by an entity for the acquisition of the equity shares of the company to ascertain whether there was any violation of the provisions of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 and SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, by certain entities.

During the course of the examination, SEBI observed that the company and its promoters had filed wrong shareholding pattern and also complied with various SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 requirements belatedly, like delay in giving prior intimation to stock exchange about the meeting of the board of directors for the financial results, delayed submission of compliance certificate to stock exchanges, delay in submitting statements on pending investor complaints and secretarial compliance report, as also delayed disclosure of related party transactions.
Further, the promoters of the company had acquired more than 5% of the voting right and were accordingly required to make an open offer under the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 which was not done by the said promoters.

Accordingly, SEBI stated that the primary objective of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 was to provide an exit route to the public shareholders when there was acquisition of shares beyond the regulatory limit which was an invaluable right that the shareholders could not be deprived of and the main objective of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 was to afford fair treatment to investors by inter-alia mandating timely disclosures of adequate information to enable investors to make an informed decision and ensuring that there was a fair and informed market, which was utterly violated by the company and its promoters.

Thus, holding that correct and timely disclosures were an essential part of the proper functioning of the securities market and failure to do so resulted in preventing investors from taking well-informed decisions, SEBI slapped a total penalty of INR 59 Lakhs on the company and its promoters for failing to comply with disclosure requirements under the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 and open offer requirements under the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011.

NCLAT prioritizes company's sale "as going concern" over minority shareholder's arrangement scheme

Narottamka Trade and Vyapaar Pvt. Ltd. vs. SPP Insolvency Professionals LLP

Company Appeal (AT) (CH) (Ins) No. 305/2024

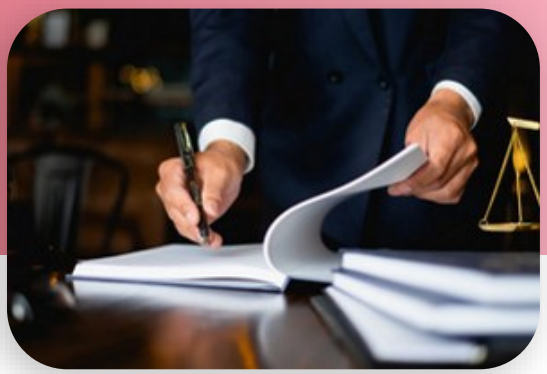
The Appellant was a minority shareholder that had filed an appeal before the NCLAT challenging the order of the NCLT which rejected the Appellant's scheme of arrangement and confirmed the sale of the Corporate Debtor to the winning bidder of an e-auction, contending that the Appellant's scheme of arrangement should have been considered before proceeding with the sale.
Noting that the order of the NCLT aligned with the IBC principles, prioritizing stakeholder value maximization and distressed business viability as the sale of the Corporate Debtor as a going concern, as per Regulation 32(e) and 32A of the IBBI (Liquidation Process) Regulations, 2016, took precedence over the consideration of a scheme of arrangement under Section 230 of the Companies Act, 2013 that aligned with the core objective of the IBC, which sought to ensure the continued operation of companies facing financial distress, the NCLAT rejected the Appellant's argument that its scheme of arrangement should have been considered before proceeding with the sale and pointed out that the Appellant's scheme was submitted after the 90-day time frame stipulated in Regulation 2B(1) of the IBBI (Liquidation Process) Regulations, 2016 and also, the Stakeholder's Consultation Committee had reviewed and rejected the scheme, citing its low valuation and unclear funding sources.

Further, the NCLAT noted the relationship between Section 230 of the Companies Act, 2013 and the provisions of the IBBI (Liquidation Process) Regulations, 2016 and observed that while Section 230 of the Companies Act, 2013 allowed for compromises and arrangements, it could not supersede the specific provisions designed for selling a distressed company as a going concern, as the IBC comprised of a comprehensive framework for CIRP and liquidation.

Moreover, as per Regulation 32A of the IBBI (Liquidation Process) Regulations, 2016, where the Committee of Creditors, had recommended the sale of the Corporate Debtor, under Clause (e) or (f) of the Regulation 32 or where the Liquidator was of the opinion that the sale of the Corporate Debtor under 32(e) or 32(f) would maximize the value of the Corporate Debtor, he was required to sell under such clauses and therefore, while taking action under Chapter 6 of the IBBI (Liquidation Process) Regulations, 2016, dealing with realizations of assets of the Corporate Debtor, selling the Corporate Debtor as a going concern, was required to be the first priority for the Liquidator.

Thus, as the consequence of conclusion of the e-auction process was that the winning bidder, was now in the helm of affairs of the Corporate Debtor and was operating the Corporate Debtor as a going concern, no cause as such prevailed for the purposes of the Appellant in the instant appeal and therefore, dismissing the said appeal, the NCLAT upheld the NCLT order.

REGULATORY
From the Legislature



RBI directs banks to use only Bureau of Indian Standards-certified Note Sorting Machines as per IS 18663:2024 standards for accuracy

Notification No. RBI/2024-2025/86 dated October 30, 2024

In collaboration with the Bureau of Indian Standards and other stakeholders, the RBI had earlier puts in place the standards documented in IS 18663: 2024 for Note Sorting Machines, as published in the Gazette of India on March 19, 2024 with an aim to enhance the banknote sorting infrastructure nationwide, following the previous circular from July 1, 2022, which set guidelines on authentication and sorting parameters for these machines.

Given this backdrop, the RBI through a Notification now mandates that, starting May 1, 2025, banks must only utilize Note Sorting Machines models that comply with these new Indian Standards and have been certified by the Bureau of Indian Standards. This initiative is part of the RBI's broader efforts to ensure the integrity and efficiency of banknote processing in the country.

RBI makes sovereign green bonds eligible for investment by non-residents in government securities under fully accessible route

Notification No. RBI/2024-25/88 dated November 07, 2024

The RBI has announced that 10-year sovereign green bonds will now be included under the Fully Accessible Route (FAR) category, making them fully open to non-resident investors without restrictions, while remaining available to domestic investors as well.

According to experts, the inclusion of green bonds in the fully accessible route category has been done to pique investor interest. Since 2022-23, the Central Government has issued a total of INR 36,000 Crores in green bonds and intends to issue another INR 20,000 Crores worth in green bonds across four tranches during the second half of 2025. The auction for the 10-year green bond will take place in the last week of November. These green bonds are designed to facilitate the Central Government's funding for public sector projects that prioritize sustainability.

RBI issues framework for reclassification of foreign portfolio investments to foreign direct investments

Notification No. RBI/2024-25/90 dated November 11, 2024

The RBI introduces a streamlined operational framework to allow foreign portfolio investors to convert their investments to foreign direct investment when equity holdings in Indian companies surpass the prescribed 10% limit.

This regulatory shift addresses scenarios where a foreign portfolio investor, along with its investor group, inadvertently crosses the threshold, providing a structured path to retain the investment under India's foreign direct investment guidelines.

Under the current regulations, foreign portfolio investors can hold a maximum of 10% of an Indian company's total paid-up equity capital. Exceeding this cap previously left foreign portfolio investors with two choices: divesting the surplus shares or reclassifying them as foreign direct investment.

The RBI's new framework mandates that this reclassification be finalized within five trading days following the transaction that breaches the limit, subject to approvals from both the Indian government and the invested company. reclassification, however, will be barred in sectors where FDI is restricted.

For reclassification, the entire investment held by such foreign portfolio investor is required to be reported within the timelines as specified under the Foreign Exchange Management (Mode of Payment and Reporting of Non-Debt Instruments) Regulations, 2019.

Post completion of reporting, the foreign portfolio investor should approach its custodian with a request for transferring the equity instruments of the Indian company from its demat account maintained for holding foreign portfolio investments to its demat account maintained for holding foreign direct investments.

The operational framework announced by the RBI, therefore, essentially provides guidance to the foreign portfolio investors while opting for reclassification from foreign portfolio investments to foreign direct investments so that proper compliances are ensured without any dilution of the basic structure of the foreign direct investment scheme and rules prescribed in this regard. The framework becomes operational with immediate effect.

SEBI permits Indian mutual funds to invest in overseas funds with limit on exposure to Indian securities

Circular No. SEBI/HO/IMD/IMD-PoD-1/P/CIR/149 dated November 04, 2024

SEBI through a Circular, clarifies that Indian mutual fund schemes may also invest in overseas mutual funds/unit trusts that have exposure to Indian securities, provided that the total exposure to Indian securities by these overseas mutual funds/unit trusts shall not be more than 25% of their assets. While investing in overseas mutual funds/unit trusts that have exposure to Indian securities, the Indian mutual fund schemes shall ensure the following:

- Pooling: Contribution of all investors of the overseas mutual funds/unit trusts is pooled into a single investment vehicle, with no side-vehicles including segregated portfolios, sub-funds or protected calls, etc.
- Pari-passu and Pro-rata: Corpus of the overseas mutual funds/unit trusts is a blind pool (i.e. common portfolio) with no segregated portfolios. All investors in the overseas mutual funds/unit trusts have pari-passu and pro-rata rights in the fund, i.e. they receive a share of returns/gains from the fund in proportion to their contribution and have pari-passu rights.
- Independent investment manager/fund manager: The overseas mutual funds/unit trusts are managed by an independent investment manager/fund manager who is actively involved in making all investment decisions for the fund. This ensures that the investments are made autonomously by the investment manager/fund manager without influence, directly or indirectly, from any of the investors or from any other entity.
- Public disclosure: Such overseas mutual funds/unit trusts disclose their portfolios at least on a quarterly intervals to the public to maintain transparency.
- No advisory agreement: There shall not be any advisory agreements between Indian mutual funds and underlying overseas mutual funds/unit trusts, to prevent conflict of interest and avoid any undue advantage to either of the parties.

SEBI issues updated Master Circular on SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018

Circular No. SEBI/HO/CFD/PoD-1/P/CIR/2024/0154 dated November 11, 2024

SEBI issues a Master Circular on the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018. This Master Circular is applicable on all listed entities, merchant bankers, stock exchanges, depositories, and related intermediaries.

The updated Master Circular consolidates all relevant circulars issued under the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018 up to September 30, 2024, and supersedes the earlier Master Circular dated June 21, 2023, ensuring stakeholders have a single comprehensive reference for compliance with the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018.

Through the updated Master Circular, SEBI inter-alia introduces an online system for filings related to public issues, rights issues, institutional placement programme, schemes of arrangement, takeovers and buy backs, Moreover, all merchant bankers that are required to file the offer documents and related documents in physical form with SEBI are required simultaneously file the same online through SEBI Intermediary Portal at https://siportal.sebi.gov.in.

Further, recognized stock exchanges filing the draft scheme of arrangement and related documents in physical form with SEBI under the provisions of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 are now required to simultaneously file the same online through the SEBI Intermediary Portal among others.

SEBI issues updated Master Circular for compliance with the provisions of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 by listed entities

Circular No. SEBI/HO/CFD/PoD2/CIR/P/0155 dated November 11, 2024

SEBI releases an updated Master Circular for compliance with the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015. This Master Circular supersedes the July 2023 version and includes all relevant circulars issued up to September 30, 2024. It provides a consolidated chapter-wise framework for compliance with SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, with footnotes referencing corresponding circulars. The updated Master Circular also rescinds certain earlier circulars, but actions taken under those circulars remain valid.

Further, SEBI instructs recognized stock exchanges and depositories to ensure that the stakeholders are informed and also set up systems to monitor compliance. Through the updated Master Circular, SEBI inter-alia requires listed entities to provide the following information, for review of the audit committee for approval of a proposed related party transaction among others:

- Type, material terms and particulars of the proposed transaction;
- Name of the related party and its relationship with the listed entity or its subsidiary, including nature of its concern or interest (financial or otherwise);
- Tenure of the proposed transaction (particular tenure shall be specified);
- Value of the proposed transaction;

- The percentage of the listed entity's annual consolidated turnover, for the immediately preceding financial year, that is represented by the value of the proposed transaction (and for a related party transaction involving a subsidiary, such percentage calculated on the basis of the subsidiary's annual turnover on a standalone basis shall be additionally provided);
- Justification as to why the related party transaction is in the interest of the listed entity;
- Copy of the valuation or other external party report, if any such report has been relied upon;
- Percentage of the counter-party's annual consolidated turnover that is represented by the value of the proposed related party transaction on a voluntary basis.

The provisions of this Master Circular apply to listed entities, statutory auditors, depository participants, transfer agents, and other stakeholders involved in compliance of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015. This Master Circular, issued under the SEBI Act, 1992, aims to streamline and update the compliance process for all relevant parties.

SEBI withdraws Master Circular on issuance of No Objection Certificate for release of 1% of Issue amount

Circular No. SEBI/HO/CFD/CFD-PoD-2/P/CIR/2024/0161 dated November 21, 2024

SEBI notifies the withdrawal of the Master Circular on the issuance of a No Objection Certificate for the release of 1% of the issue amount. This follows the amendment to Regulation 38(1) of SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018, notified on May 17, 2024. The amendment eliminates the requirement for issuer companies to deposit 1% of the issue size with the designated stock exchange during public subscription. Consequently, the earlier Circular dated November 7, 2022, is no longer applicable.

Accordingly, stock exchanges have now been instructed to jointly establish a standard operating procedure for handling 1% security deposits made by issuers before the amendments. Exchanges are required to notify listed companies of this update, publish it on their websites, and amend their bye-laws, rules, and regulations as needed. This circular is effective immediately and aims to ease the compliance burden on issuers while ensuring regulatory clarity.

SEBI mandates market infrastructure institutions to resolve whistleblower complaints within 60 days

Circular No. SEBI/HO/MRD/POD-3/P/CIR/2024/0162 dated November 22, 2024

SEBI has introduced new governance and accountability guidelines for stock exchanges and MIIs, effective April 1, 2025. MIIs are now required to resolve whistleblower complaints within 60 days under the supervision of their audit committees, which must submit quarterly reports to the governing board. To enhance operational efficiency, MIIs must adopt systems for online document submission to reduce paperwork and generate alerts supporting regulatory objectives.

Transparency measures include mandatory disclosure of member information, such as resolved and pending investor grievances, and the reporting of significant regulatory non-compliance to other MIIs. MIIs are also tasked with implementing policies to manage risks associated with outsourcing back-office operations. Public Interest Directors are now responsible for addressing conflicts of interest, reviewing compliance, and overseeing key areas such as risk management and investor grievances through mandatory biannual meetings.

The guidelines require MIIs to establish standard operating procedures for disciplinary actions against key management personnel, with approval from their boards. Compliance Officers must submit quarterly reports on regulatory compliance and investor grievance redressal, while Chief Risk Officers are required to provide half-yearly risk management updates. Additionally, MIIs must publish agendas and minutes related to compliance, risk management, and grievances on their websites to promote transparency.

These reforms aim to strengthen governance frameworks, improve regulatory oversight, and ensure accountability across MIIs.

INTERNATIONAL DESK

UAE MOF Simplifies Tax Rules For Unincorporated Partnerships, Foreign Partnerships and Family Foundations

The Ministry of Finance ('**MoF**') has announced amendments to Ministerial Decision No. (261) of 2024 concerning Unincorporated Partnerships, Foreign Partnerships, and Family Foundations under Federal Decree-Law No. 47 of 2022 on Corporate and Business Taxation. Effective for tax periods beginning on or after 1 June 2023, the revised decision introduces administrative and tax relief measures. Key changes include the removal of the requirement for unincorporated partnerships to notify the Federal Tax Authority ('**FTA**') within 20 business days of any changes in partnership composition. It also clarifies that foreign partnerships will be considered tax-transparent in the UAE if their home jurisdiction treats them, similarly, streamlining compliance for individual partners. Furthermore, juridical persons within family foundations can now opt for tax-transparent status, aligning family foundation benefits with the UAE Corporate Tax framework.

Younis Haji AlKhoori, Under-Secretary of the Ministry of Finance, emphasized that these amendments demonstrate the UAE's commitment to a flexible and business-friendly Corporate Tax regime. By reducing compliance burdens and offering tax certainty, the changes aim to strengthen the UAE's position as a premier global hub for business and investment while fostering confidence in its competitive economic environment.

Canada's Digital Service Tax Overview

Canada's Digital Services Tax ('**DST**'), set to take effect in 2025, is unlikely to be repealed despite warnings from a United Nations official that it could be considered as an income tax and potentially violate tax treaty obligations. Canada has structured the DST to avoid this classification, implementing it through a separate law, the DST Act, rather than incorporating it into the IT Act. This ensures the DST operates independently from the income tax system, applying to the gross revenue of digital services without regard to profitability.

Unlike other countries, such as the UK and India, which have integrated their DST with income tax systems, Canada's DST applies equally to both residents and non-residents, without any credit against regular income tax liabilities. This may lead to fairness concerns, as Canadian residents may face both income taxes and DST. While opposition to the DST is strong, particularly from the US, which views it as discriminatory to US businesses, Canada's DST could strategically serve as a bargaining chip in future trade negotiations. Despite concerns, the Canadian government has kept the DST in place, though it may adjust its approach depending on future political dynamics.

Italian Lawmakers Push Back on Proposed Tax Increases and Digital Tax Expansion

Italian lawmakers from the ruling coalition are urging the government to reconsider proposed tax hikes on cryptocurrency capital gains and the expansion of the digital services tax. These proposals are part of over 300 "Priority Amendments" submitted to modify Prime Minister in 2024 budget, challenging her ability to manage lawmaker requests. Economy Minister had suggested raising the tax on cryptocurrency capital

gains from 26% to 42%, but some lawmakers, have proposed scaling it back to 28%. To address the internal dispute, the Economic Ministry has indicated a willingness to review and potentially adjust the tax approach.

In addition to the cryptocurrency tax issue, the co-ruling Forza Italia party, is pushing for an amendment to limit the scope of Italy's digital services tax. The current proposal seeks to apply the 3% levy on revenue from internet transactions to all digital companies, removing the existing revenue thresholds of €750 million in annual sales and € 5.5 million in Italy. Critics argue that extending the tax to smaller companies would disproportionately affect small and medium-sized enterprises ('**SMEs**'), and Forza Italia's amendment seeks to maintain these revenue floors.

The Economic Minister has stated that expanding the digital services tax could help avoid the complexities with the United States, which has criticized the tax for being unfairly targeted at U.S. tech giants like Meta, Google, and Amazon. If approved, Forza Italia's amendment would preserve the revenue conditions for applying the web tax, thus limiting its impact on smaller businesses. The ongoing debate reflects the challenges faced by the Italian government in balancing fiscal policy with the interests of various stakeholders, including lawmakers and international trade partners.

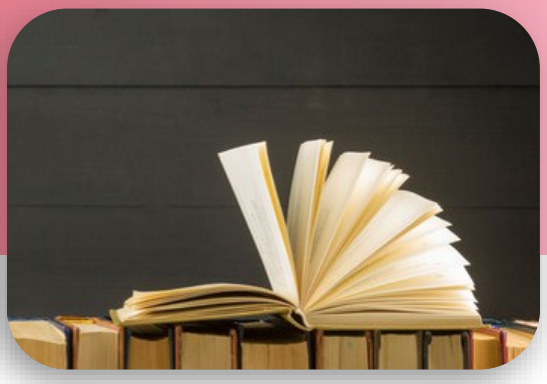
New Zealand's Approach to BEPS Compliance and Digital Services Tax for Multinationals

New Zealand's Inland Revenue has emphasized its commitment to assisting Multinational Enterprises ('**MNEs**') in complying with tax obligations, particularly concerning Base Erosion and Profit Shifting ('**BEPS**'). The government encourages MNEs to seek rulings and Advance Pricing Agreements to ensure compliance. In its September update, Inland Revenue highlighted its increasing reliance on data analytics for identifying high-risk areas, such as complex financing, intangible property transactions, and market support payments. The department also stressed the importance of accurate documentation, including intercompany agreements, industry analysis, and explanations for any abnormal changes in business performance.

The update outlines several key BEPS risks for MNEs operating in New Zealand, including the mispricing of intangibles, the adaptation of transfer pricing to local market conditions, and the avoidance of permanent establishment status. New Zealand has been proactive in implementing OECD BEPS recommendations, such as the Global Anti-base Erosion ('**GloBE**') rules and domestic anti-avoidance measures. The government has also focused on issues like thin capitalization, hybrid mismatch arrangements, and the misuse of low-tax jurisdictions.

Looking forward, the update also provides an overview of New Zealand's approach to the BEPS 2.0 program, including the implementation of GloBE rules under Pillar Two. While New Zealand has delayed the implementation of Pillar One, the draft legislation for a potential digital services tax remains pending. MNEs offering digital services in New Zealand should closely monitor the progress of the bill, as its first reading in Parliament could occur at any time, signaling further developments in New Zealand's tax landscape for the digital economy.

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
CIRP	Corporate Insolvency Resolution Process
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.

Website: **www.glsadvisors.com**

RAJAT CHHABRA

Founding Partner

rajatchhabra@taxcraftadvisors.com

+91 90119 03015

VISHAL GUPTA

Founding Partner

vishalgupta@taxcraftadvisors.com

+91 98185 06469

GANESH KUMAR

Founding Partner

ganesh.kumar@glsadvisors.com

+91 90042 52404

PUBLISHERS & AUTHORS

tiol®
ONE-STOP DESTINATION FOR TAXMAN AND TAXPAYER

Taxindiaonline.com ('TIOL'), is a reputed and FIRST Govt of India (Press Information Bureau) recognised ONLINE MEDIA and resource company providing business-critical information, analyses, expert viewpoints, editorials and related news on developments in fiscal, foreign trade, and monetary policy domains. It covers the entire spectrum of taxation and trade that includes ECONOMY, LEGAL INFRASTRUCTURE, CORPORATE, PUBLIC ADMINISTRATION, INTERNATIONAL TRADE, etc. TIOL's credibility and promptness in providing information with authenticity has made it the only tax-based portal recognized by the various arms of the Government. TIOL's audience includes the ranks of TOP POLICY MAKERS, MINISTERS, BUREAUCRATS, MDs, CEOs, COOs, CFOs, FINANCIAL CONTROLLERS, AUDITORS, DIRECTORS, VPs, GMs, LAWYERS, CAs, etc. It's growing audience and subscriber-base comprises of multinational and domestic corporations, large and premium service providers, governmental ministries and departments, officials connected to revenue, taxation, commerce and more. TIOL also has a huge gamut of various business organisations relying on the exclusivity of its information besides the authenticity and quality. TIOL's credibility in making available wide coverage of different segments of the economy along with its endeavour to constantly innovate makes it stand at the top of this market.

TCA TAXCRAFT ADVISORS

RAJAT CHHABRA
(Partner)
KETAN TADSARE
(Partner)
SAURABH CHAUDHARI
(Associate Director)
AMIT DADAPURE
(Associate Director)
CHIRAYU PANARKAR
(Manager)
RAGHAV PRASAD
(Senior Associate)
MADHURI KABRA
(Associate)
SHASHANK KUMAR SINGH
(Executive)

GLS

GANESH KUMAR
(Managing Partner)
BHAVIK THANAWALA
(Partner)
SAURAV DUBEY
(Senior Manager)
TEJAS LUHAR
(Associate Manager)
SINI ISSAC
(Associate)
KAJAL POKHARNA
(Associate)
HARSHIT MAHADIK
(Associate Trainee)
JASMIN SHAIKH
(Associate Trainee)

VMGG & ASSOCIATES

VISHAL GUPTA
(Partner)
SHAHRUKH KAMAL
(Associate Director)
PRASHANT SHARMA
(Manager)
PRATIKSHA JAIN
(Senior Associate)
SONAL PAUL
(Executive)
CHIRAG KATHURIA
(Executive)
SHIVAM RASTOGI
(Executive)
ASHMAN BRAR
(Executive)

TAXINDIAONLINE.COM

RICHA NIGAM, Marketing Head, TIOL Pvt. Ltd.

richa@tiol.in | +91 98739 83092

VISION 360

December 2024 | Edition 50