JAN 2025

EDITION 51

A TREASURY OF KEY TAX & REGULATORY DEVELOPMENTS!

EDITORIAL

Happy New Year 2025...

As we embrace the new year with hopes and optimism, we take note of the substantial legislative and judicial advancements in the tax domain that have taken place in December, 2024.

On the Direct tax front, the High Court's ruling that upheld the concurrent jurisdiction of both JAO and FAO under Section 147 of the IT Act, is one of the subject matters captured in this edition. We also examine the Tribunal's rulings on the recognition of capital gains for crypto sales that occurred prior to April 1, 2022, the permissibility of bad debts written off for deduction under Section 36(1)(vii) and Section 36(2) of the IT Act, and other significant rulings. Additionally, we have inter-alia covered notifications and circulars issued by CBDT, including the approval of the Permanent Account Number 2.0 project, the modification and issuance of FAQs on the Vivad-se-Vishwas Scheme, and the extension of the applicability of Safe Harbor rules to AY 2024-25.

In the realm of Indirect tax, we have selected significant judgments pronounced by various Hon'ble High Courts on a variety of topics, including the non-applicability of the limitation period to refunds for voluntary payments, the summary of SCN in FORM GST DRC-01 cannot replace the mandatory SCN under Section 73(1), and much more. Also, we have captured circulars issued in line with the recommendations of the 55th GST Council Meeting.

Moreover, we have covered significant judicial and legislative developments in areas of Regulatory, Customs, FTP, and Transfer Pricing.

This edition also contains an in-depth article on the significant judgment by the Hon'ble Supreme Court of India, which resolves the dilemma in the telecommunications sector qua whether mobile towers should be regarded immovable property. A significant decision qua levy of GST on long-term leases of land and its lack of applicability has also been taken-up in a separate piece.

We, the entire team at TIOL, in collaboration with **Taxcraft Advisors LLP**, **GLS Corporate Advisors LLP**, and **VMGG & Associates**, are pleased to present the **51st edition** of our exclusive monthly magazine, 'VISION 360'. We also take this opportunity to wish a happy and prosperous new year to all our readers! As always, we do hope that you find this edition informative and engaging. We welcome your feedback, suggestions, and insights to help us to serve you better!

Thank you!

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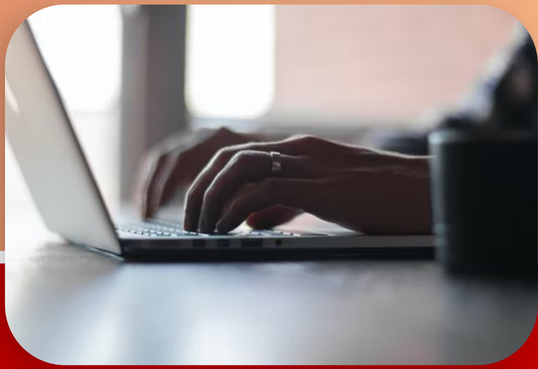

NO GST ON ASSIGNMENT OF LEASEHOLD RIGHTS! GUJARAT HC COMES TO THE RESCUE OF TAXPAYERS

The Hon'ble Gujarat High Court in the landmark decision of **Gujarat Chamber of Commerce and Industry & Ors. v. Union of India & Ors. [R/Special Civil Application No. 11345 of 2023]** held that assignment of leasehold rights does not qualify as a taxable "supply of services" under the GST framework and as such is not liable for payment of GST. This decision offers much-needed legal stability in an intricate area of law by reinforcing fundamental principles which govern the taxation of immovable property. GIDC used to assign plots of land for industrial use under long-term leases, which usually lasted 99 years. Lessees were allowed to make renovations and develop new structures. When Lessees transferred these leasehold rights—including developed buildings—to third parties a question arose as to whether these assignments qualified as a taxable "supply of services". It is pertinent to note that lease and renting of immovable property qualify as 'supply' under the framework of GST. However, an exception is carved out for sale of land and buildings whereby the same does not attract GST. The Hon'ble Court highlighted the principles of strict interpretation of taxing statutes and observed that it is necessary to adhere to such well established principle in arriving at the correct intention of the legislature. Further, in order to understand whether GST will be applicable to the said transaction the Court observed that it would be necessary to understand the nature of transaction.

The Hon'ble Court observed that leasehold rights constitute a transfer of significant interest in immovable property. As such, the said assignment of all rights and liabilities, read with the long-term nature of the lease and the sanction to the lessee to make significant improvements on the property, was indicative of the fact indicated that the said assignment of rights was in fact in the nature of it was a property transfer, rather than a mere service provision. As such, the Court was of the opinion that levying GST on leasehold assignments while exempting the sale of land from GST, under Schedule III, would create inconsistencies and arbitrary differential treatment of the same nature of transfer. It also observed that long-term leases (of 30 years or more) provided by government entities were exempted form payment of GST as per Notification No. 12/2017. Therefore, the Hon'ble Court held that levying GST on assignment of leasehold rights while exempting initial lease would lead to inequitable tax treatment of taxpayers.

Notably, a similar issue involving levy of GST on long term lease was decided by the Hon'ble Bombay High Court in the case of **Builders Association of Navi Mumbai [W.P. No. 12194 of 2017]**. The bench of Justice SC Dharmadhikari and Justice PD Naik in the said matter had turned down similar arguments and noted that any lease or letting out of a building, including commercial, industrial or residential complex for business, either wholly or partly is a supply of service in view of Sr. No. 2 of Schedule II of the CGST Act. The Gujarat High Court's ratio that such assignments do not qualify as a taxable "supply of services" under GST has also given people and businesses involved in leasehold agreements a clearer legal framework to adhere to. Further, in addition with the clear legal framework a much welcome relief is that non-payment of 18% GST which resultantly lowers transaction costs, improves industrial estate investment options, and makes tax compliance easier.

This will also lead to a more favourable environment for growth and development of the industry by removing one of the main tax-related barriers, which stimulates economic activity and industrial investment. However, what remains to be seen is the outcome of a potential appeal to the Supreme Court which will render finality to how GST is interpreted in relation to leasehold transfers.

INDUSTRY PERSPECTIVE

Mr. Amit Jain

Chief Financial Officer

Socomec Group

01 How have you leveraged ERP systems or other digital tools to ensure compliance accuracy?

We have effectively leveraged ERP systems to automate and streamline compliance processes, ensuring accuracy and timeliness in areas such as GST filings, TDS deductions, and e-invoicing. The integration of vendor compliance management within our ERP enables seamless tracking of GST compliance and documentation, reducing risks across the supply chain. Additionally, advanced data analytics tools help us monitor trends, flag discrepancies, and provide real-time dashboards for better decision-making. Regular system updates are aligned with evolving regulations, while comprehensive employee training ensures optimal use of these digital tools. This approach has significantly enhanced compliance accuracy and operational efficiency.

02 What role does data analytics play in identifying and resolving compliance gaps within your organization?

Data analytics plays a crucial role in enhancing the efficiency and transparency of our compliance processes. By aggregating data from various business units, we can identify inefficiencies, detect errors, track trends, and pinpoint bottlenecks in the workflow, allowing us to optimize compliance operations. Analytics also aids in improving our auditing process by providing a detailed examination of compliance data, ensuring better transparency and control. Through the identification of compliance trends across departments, we can tailor our approach to address specific challenges, such as resource limitations or process delays. Additionally, data analytics strengthens internal controls by revealing weaknesses and enabling data-driven adjustments, ensuring our compliance framework remains robust and adaptable to evolving regulatory requirements.

03 What steps do you take to align your financial reporting with mandatory corporate governance practices?

Aligning our financial reporting with mandatory corporate governance practices is a key priority to ensure compliance and transparency. We strictly adhere to financial reporting standards, and local regulations, to maintain accuracy and consistency in our financial statements. Regular internal audits and reviews are conducted to verify the integrity of financial data and ensure alignment with corporate governance policies. We also maintain a robust approval process for financial reports, ensuring that all figures are reviewed and validated by senior management and the board before submission. There is continued training programs, where our teams are trained on the latest governance practices and regulatory updates, ensuring that our reporting practices evolve in line with industry best practices. Additionally, we prioritize transparency by providing clear, comprehensive disclosures in our financial reports, which helps stakeholders make informed decisions and reinforces trust in our governance framework.

04 How do you engage with industry associations or government bodies to address shared compliance issues in the electrical components sector?

We engage with industry associations and government bodies through regular participation in conferences, workshops, and roundtables focused on compliance challenges within the electrical components sector. By collaborating with other industry leaders, we share insights and best practices on adhering to evolving regulatory frameworks. These interactions not only help us stay updated on regulatory changes but also provide an opportunity to advocate for policies that support industry growth while ensuring compliance. We also maintain a proactive relationship with government agencies to discuss potential compliance issues and contribute to the development of regulations that benefit the entire sector. This collaborative approach ensures we address common challenges effectively and stay ahead of emerging compliance requirements.

05 What steps do you take to identify and mitigate risks associated with non-compliance in your organization?

Risk mitigation is through a structured risk management framework that involves both proactive and reactive strategies. Initially, we identify compliance risks by conducting detailed assessments across all departments and functions, with input from legal and compliance experts. Based on these assessments, we prioritize risks and implement appropriate controls such as policy updates, stricter oversight, and automated tracking systems to ensure that compliance is maintained. Regular audits and compliance reviews are built into our operational processes, and we conduct refresher training for employees to keep them updated on the latest regulations. Our approach ensures that we minimize the likelihood of non-compliance and can swiftly respond to any potential violations.

06 What measures have you implemented to manage the impact of GST rate changes on operational cash flow?

To manage the impact of GST rate changes on our operational cash flow, we focus on strategic inventory management and optimizing payment cycles. The organization has defined re-order levels. We reassess the inventory levels before rate changes to avoid unnecessary purchases at higher GST rates and maintain optimal stock levels. We also negotiated extended payment terms with suppliers to delay outflows, while improving receivables management to ensure quicker payment turnovers. Our ERP system plays a crucial role by automating GST adjustments and providing real-time insights into cash flow, allowing us to make quick adjustments to procurement and payment strategies to maintain liquidity

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Hon’ble HC holds JAO, FAO have concurrent jurisdiction, procedural, 'curable' error cannot vitiate proceedings

Mark Studio India Private Limited

W.P. Nos. 25223 & 25227 of 2024

The Assessee had filed writ petitions before the Hon’ble HC against the orders of the IT Department contending that notices under Section 148 or 148A of the IT Act could be issued only by the NaFAC and as the impugned notices were issued by the JAO, by mentioning the JAO’s name, they were issued without any jurisdiction and were liable to be quashed. Further, the Assessee also contended before the Hon’ble HC, that there was no concurrent jurisdiction for the JAO as well as the FAO for issuance of notice under Section 148 or 148A of the IT Act for making assessment under Section 147 of the IT Act and only the FAO had the authority to issue such a notice in a faceless manner. Per contra, the Revenue contended that notices were not served physically and that the cases were selected by the Directorate of Income Tax (Systems) through an Automated Allocation System based on the risk management strategy formulated under Section 148 of the IT Act and thereafter, the same was forwarded to the JAO based on the Permanent Account Number card jurisdiction and the said JAO had no role to play in selection of cases. Subsequently, the notices had been sent to the e-mail id of the registered account of the Assessee through the web portal of ITBA. Hence, the impugned notices had been sent by the Respondents in a faceless manner.

Noting that the central issue that arose for consideration was regards to who was the appropriate authority to issue notice under Section 148 of the IT Act after the introduction of the e-Assessment of Income Escaping Assessment Scheme, 2022 and Faceless Jurisdiction of the Income-tax Authorities Scheme, 2022, the Hon’ble HC observed that as all the 3 main conditions for issuing notice in a faceless manner had been complied with by the IT Department, especially the automatic selection of the Assessee's case by the Automated Allocation System and the consequent sending of notice to the Assessee electronically from the web portal of ITBA through the e-proceeding facilities, as far as the assessment, re-assessment or re-computation in terms of the provisions of Section 147 of the IT Act was concerned, both the FAO as well as the JAO had concurrent jurisdiction, however, as far as the issuance of notice under Section 148 of the IT Act was concerned, only the JAO would have exclusive jurisdiction, therefore, the NaFAC would have no role to play in issuance of notice under Section 148 of the IT Act and to get prior approval from higher authorities in terms of Section 151 of the IT Act. Thus, acknowledging that the JAO’s name ought not to have been mentioned in the notice, the Hon’ble HC finding the same to be a mere procedural error which would not vitiate the entire initiation of the proceedings, dismissed the writ petitions filed by the Assessee.

Tribunal holds gains from crypto sale prior to April 1, 2022 taxable as capital-gains, eligible for exemption under Section 54F of the IT Act

Raunaq Prakash Jain

ITA No. 01/Jodh/2024

The Assessee had filed its return of income on December 30, 2021, declaring total income of INR 1.74 Crores, which included income earned from sale of Bitcoin. During scrutiny assessment, it was observed that the Assessee had purchased Bitcoin during FY 2015-16 amounting to INR 5.05 Lakhs and sold it during FY 2020-21 at INR 6.69 Crores and claimed indexed cost of purchase of Bitcoin of INR 5.73 Lakhs, and consequently claimed exemption of long term capital gain of INR 1.66 Crores under Section 54F of the IT Act.

The AO, however denied the Assessee's claim of exemption under Section 54F of the IT Act and proposed to tax the net gains as 'Income from other sources' on the ground that Bitcoin was not considered as a capital asset under Section 2(14) of the IT Act and further highlighted that the Finance Act, 2022 recognized that there was no specific provision in the Statute to tax profits/gains from transactions in virtual digital assets and accordingly introduced Section 2(47A) of the IT Act to define virtual digital assets, Section 116BBH of the IT Act for the rate of taxation of gains arising from virtual digital assets and its computation, amended explanation to Section 56(2)(x) of the IT Act and introduced a new section 194S of the IT Act for TDS on transactions involving virtual digital assets.

Aggrieved, the Assessee approached the Tribunal which on the perusal of the relevant provisions, observed that though cryptocurrency/virtual digital asset was not a currency but it was also not an asset within the meaning of Section 2(14) of the IT Act. Moreover, as the meaning of virtual digital asset was assigned by Section 2(47A) of the IT Act introduced by Finance Act, 2022 with effect from April 1, 2022 and included underlying assets including Bitcoins, even the legislature had clarified that virtual digital asset may be a capital asset and income arising from such assets required to be taxed at a special rate.

Further, the Tribunal observed that Section 45(1) of the IT Act stipulated that any profit or gain arising from transfer of capital assets shall be chargeable to tax as capital gains and although cryptocurrency was specifically incorporated in the Statute as an asset through the Finance Act, 2022, it was an asset even prior to April 1, 2022 and therefore the gains arising on sale of cryptocurrency was required to be taxed under the head 'capital gain' and not under 'Income from other sources'. Moreover, as the Assessee's profile showcased that he was not regularly dealing with purchase/sale of shares/cryptocurrency and his intention was to hold it and earn long term capital gain, the Tribunal found that the gains arising from sale of Bitcoin prior to AY 2022-23 was chargeable to tax as capital gain and accordingly, held that the Assessee was eligible for the exemption claimed by him under Section 54F of the IT Act.

Tribunal allows Assessee's claim for foreign tax credit, holds denying foreign tax credit for belated filing of requisite Form-67 'not justified'

Rahul Anand

ITA No. 1497/Kol/2024

The Assessee had filed Form No. 67 for claiming foreign tax credit belatedly, after the return of income was filed and an intimation under Section 143(1) of the IT Act was issued to the Assessee. The Revenue holding that as per Rule 128 of the IT Rules which related to claiming foreign tax credit, Form No. 67 was to be filed within the due date of filing return of income for claiming credit of taxes paid outside India, accordingly, disallowed the Assessee's claim for foreign tax credit.

Aggrieved, the Assessee approached the Tribunal which placing reliance on a plethora of its rulings observed that the filing of Form No. 67 for foreign tax credit in terms of Rule 128 of the IT Rules was only directory in nature and the foreign tax credit could not be disallowed for non-compliance with any procedural requirement. Moreover, Article 23 of India-Thailand DTAA provided that if a resident of India derived income which may be taxed in Thailand, India shall allow as a deduction from the tax on the income of that resident, an amount equal to the tax paid in Thailand and since the provision of the DTAA overrode the provision of Section 90 of the IT Act as they were more beneficial to the Assessee, in view of the judicial pronouncements in this regard and also as Rule 128(a) of the IT Rules did not preclude the Assessee from claiming credit for foreign tax in case of delay in filing the requisite Form No. 67 as the credit for foreign tax was a vested right of the Assessee and the requisite Form No. 67 had been filed by the Assessee though belatedly, therefore, there was no justification for not allowing the credit for foreign tax credit to the Assessee. Accordingly, directing the Revenue to allow the Assessee's claim for foreign tax credit, the Tribunal allowed the Assessee's appeal.

Tribunal holds bad debts written-off as 'irrecoverable' allowable for deduction under Section 36(1)(vii) read with Section 36(2) of the IT Act

Nuevosol Energy Private Limited

ITA No.958/Hyd/2024

The Assessee was engaged in the manufacturing and installation of solar module mounting structures that had filed its return for AY 2018-19 on October 31, 2018, and subsequently filed a revised return on the same day. During scrutiny assessment, the Revenue observed that the Assessee had debited a sum towards bad debts receivables written off in its Profit & Loss account, but was unable to substantiate it with any evidence that the said receivables were bad debts and that attempts had been made to recover such debts, therefore, the Revenue disallowed the Assessee's claim for deduction of bad debts under Section 36 (1)(vii) of the IT Act read with Section 36(2) of the IT Act.

Aggrieved, the Assessee approached the Tribunal which noted that Section 36(1)(vii) of the IT Act dealt with deduction towards bad and doubtful debts written off as irrecoverable and such debts were an allowable deduction for which the only condition mentioned under Section 36(2) of the IT Act was the write off of bad debts in the books of accounts by debiting and crediting the bad debts to the respective debtors account. Further placing reliance on a catena of judgments of the Hon'ble SC, the Tribunal noted that it was a clear precedent that the only requirement for claiming deduction towards bad and doubtful debts was the actual write off of bad debt or part thereof in the Assessee's books of accounts and the Assessee was not required to establish that the debt in fact had become irrecoverable as it was enough if a bad debt was written off as irrecoverable in the books. Moreover, the CBDT Circular No.12/2016 dated May 30, 2016, had already instructed the field officers to allow claim for deduction towards bad debts where it was written off as irrecoverable in the books of accounts.

In addition to the above, the Tribunal also noted that there was no dispute with regard to the fact that the Assessee had written off bad debts as irrecoverable in the books of accounts by debiting bad debts in Profit & Loss account and crediting to respective debtors account in Assessee's books of accounts and the Revenue also never disputed this fact and yet disallowed the claim of deduction towards bad debt for lack of evidence. Accordingly, rendering that the Revenue had erred in disallowance of the bad debts, the Tribunal held that the Assessee was eligible for the deduction for bad debts written off, as the Assessee satisfied the conditions provided under Section 36(1)(vii) of the IT Act read with Section 36(2) of the IT Act and accordingly, set aside the order of the Revenue while directing the Revenue to allow the Assesee's claim for deduction made towards the bad debts written off.

DIRECT TAX
From the Legislature

NOTIFICATIONS

Sr No	Notification/ Circular	Summary
1	Notification No. 123/2024 dated November 28, 2024	**CBDT notifies exemption to Foreign Representations, like Diplomatic Missions, United Nations agencies etc. from the applicability of Section 194N of the IT Act** Section 194N of the IT Act mandates that tax will be deducted if cash withdrawals in a given financial year exceeds INR 20 Lakhs (in the event that no income-tax returns have been filed for all three previous AYs) or INR 1 Crore (in the event that income-tax returns have been filed for all or any one of the three previous AYs) by any person excluding any government body, any bank, including co-operative banks, any business correspondent of a banking company (including co-operative banks), any white label ATM operator of any bank (including co-operative banks), a trader of an Agriculture Produce Market Committee paying to the farmers or any other person notified by the Government of India. Given this backdrop, after consultation with the Reserve Bank of India, the CBDT, notifies that Section 194N of the IT Act shall not apply to Foreign Representations duly approved by the Ministry of External Affairs of the Government of India including Diplomatic Missions, agencies of the United Nations, International Organizations, Consulates and Offices of Honorary Consuls which are exempt from paying taxes in India as per the Diplomatic Relations (Vienna Convention) Act 1972 and the United Nations (Privileges and Immunities) Act 1947. The Notification shall be effective from December 1, 2024.
2	Notification No. 124/2024 dated November 29, 2024	**CBDT extends the applicability of safe harbor rules to AY 2024-25** The CBDT, notifies the Income-tax (Tenth Amendment) Rules, 2024, to extend the applicability of the safe harbour rules to AY 2024-25.The term "safe harbour" has been defined in the explanation to Section 92CB of the IT Act, to mean circumstances in which the income-tax authorities shall accept the transfer price or income, deemed to accrue or arise under clause (i) of sub-section (1) of Section 9 of the IT Act as the case may be, declared by the Assessee.Through the Notification, the CBDT among other things, introduces a safe harbour of 4% of gross receipts for foreign companies engaged in selling of raw diamonds in any notified special zone and also introduces a new Form No. 3CEFC for making an application for opting for safe harbour for income chargeable to tax under the head "Profits and gains of business or profession" under Section 9(1) of the IT Act.

CIRCULARS

Sr No	Notification/ Circular	Summary
1	Press Release dated November 25, 2024	**Cabinet approves Permanent Account Number 2.0 project of the Income-tax Department** The Cabinet Committee on Economic Affairs, chaired by the Prime Minister notifies, its approval for the Permanent Account Number 2.0 Project of the Income-tax Department with a financial outlay of INR 1,435 Crores. The Permanent Account Number 2.0 Project is an e-Governance project for re-engineering the business processes of taxpayer registration services through technology driven transformation of the Permanent Account Number/Tax Deduction and Collection Account Number services for enhanced digital experience of the taxpayers. This will be an upgrade of the current Permanent Account Number/Tax Deduction and Collection Account Number 1.0 eco-system consolidating the core and non-core Permanent Account Number/Tax Deduction and Collection Account Number activities as well as Permanent Account Number validation service. It enables technology driven transformation of taxpayer registration services and has significant benefits including: - • Ease of access and speedy service delivery with improved quality; • Single Source of Truth and data consistency; • Eco-friendly processes and cost optimization; and • Security and optimization of infrastructure for greater agility. By enabling the use of Permanent Account Number as a common identifier for all digital systems of specified government agencies, the Permanent Account Number 2.0 Project resonates with the vision of the Government enshrined in Digital India.
2	Circular No. 18/2024 dated November 30, 2024	**CBDT extends the due date for furnishing return of income for TP -report filers under Section 92E of the IT Act for AY 2024-25** The CBDT extends the due date for furnishing the return of income under Section 139(1) of the IT Act for AY 2024-25 from November 30, 2024 to December 15, 2024.This extension applies to taxpayers who are required to submit a report under Section 92E of the IT Act, which pertains to transfer pricing documentation for international and specified domestic transactions. Initially, the due date for these taxpayers was set to November 30, 2024, in line with clause (aa) of Explanation 2 to sub-section (1) of Section 139 of the IT Act, however, the deadline has now been extended by 15 days.

CIRCULARS

Sr No	Notification/ Circular	Summary
3	Circular No. 19/2024 dated December 16, 2024	**CBDT modifies and issues new FAQs on the Direct Tax Vivad se Vishwas Scheme** The Finance (No. 2) Act 2024 reintroduced the Direct Tax Vivad Se Vishwas Scheme 2024 to expedite the resolution of income-tax disputes, specifically targeting the large volume of pending appeals. The scheme aims to streamline dispute settlements for appeals pending as of July 22, 2024. To facilitate the various queries raised by the stakeholders following the enactment of the Scheme, the CBDT had earlier issued Guidance Note 1/2024, dated October 15, 2024, in the form of Frequently Asked Questions. These Frequently Asked Questions were designed to provide clarity and assist taxpayers in better understanding the scheme's provisions. Given this backdrop, the CBDT notifies the issuance of Guidance Note 2/2024 to modify the earlier issued Frequently Asked Questions on the eligibility cases and various Frequently Asked Questions on set-aside appeal, prosecution, computation of amount payable, disputed penalty, APA/MAP cases, taxes paid before filing declaration, tax deducted at source-related queries have also been incorporated through the Guidance Note 2/2024. A few key clarifications issued by the CBDT are as follows: • The benefit of the Scheme is available if an appeal is disposed of before filing the declaration. • Appeal filed against Intimation under Section 143(1) of the IT Act is eligible under the scheme. • Appeals set-aside entirely to ITA TICIT(A)/DRP, are eligible for settlement. • Scheme is not eligible for disputes pertaining to non-APA/MAP adjustments. • If the scheme is availed for transfer pricing adjustments, Section 92CE provisions are applicable separately.
4	Press Release dated December 17, 2024	**CBDT notifies launch of electronic campaign to address income and transaction mismatches for FY 2023-24 and FY 2021-22** The CBDT notifies the launch of an electronic campaign to assist taxpayers in resolving mismatches between the income and transactions reported in the Annual Information Statement and those disclosed in Income Tax Returns for the FY 2023-24 and FY 2021-22. The campaign also targets individuals having taxable income or significant high value transactions reported in their AIS but have not filed ITRs for the respective FYs. This initiative is part of the implementation of the e-Verification Scheme, 2021.

CIRCULARS

Sr No	Notification/ Circular	Summary
		As part of the campaign, informational messages shall be sent via SMS and email to taxpayers and non-filers where mismatches have been identified between transactions reported in AIS and the ITRs filed. The purpose of these messages is to remind and guide individuals who may not have fully disclosed their income in their ITRs to take this opportunity to file revised or belated ITRs for FY 2023-24. The last date to file these revised or belated ITRs for FY 2023-24 is December 31, 2024, whereas for cases pertaining to FY 2021-22, taxpayers can file updated ITRs by the limitation date of March 31, 2025. Taxpayers can also provide their feedback, including disagreeing with the information reported in the AIS, through the AIS portal accessible via the e-filing website. This initiative not only supports the government's vision for a developed India but also promotes a culture of transparency, accountability, and voluntary compliance. By utilising third-party data, the department aims to create a more efficient, taxpayer-friendly system that aligns with its vision of a *Viksit*

Hon’ble HC sets aside DRP and AO’s orders, directs TPO to consider advance pricing agreement resolution entered into by the Assessee

Steelcase Asia Pacific Holdings India Private Limited

W.P.(C) No. 17023/2024

The Assessee had filed its return for AY 2021-22 disclosing certain international transactions. The said return was picked up for scrutiny and a reference was made to the TPO for determination of the ALP in respect of the international transactions. The TPO passed an order directing an upward adjustment on account of the determination of ALP in respect of the international transactions.

Taking into account the directions issued by the TPO, the AO passed a draft assessment order, which included making an upward revision on account of the TP adjustment as directed by the TPO.

Aggrieved, the Assessee filed its objections to the draft assessment order before the DRP and subsequently entered into an advance pricing agreement, undisputedly the Assessee’s return was therefore required to be modified based on the advance pricing agreement and accordingly, the Assessee sent a letter to the DRP requesting that the return as modified be considered in view of the advance pricing agreement.

However, the DRP did not consider the request of the Assessee and passed an order to that effect. Subsequently, the AO passed the final assessment order and also issued an intimation under Section 156 of the IT Act.

Aggrieved, the Assessee preferred a writ petition before the Hon’ble HC against the final assessment order and the intimation whereby the refund due to the Assessee in respect of AY 2024-25 was proposed to be adjusted against a demand raised in respect of AY 2020-21 and AY 2021-22.

Before the Hon’ble HC, the Revenue submitted that the Assessee’s modified return was required to be considered since it had entered into an advance pricing agreement and therefore requested the matter be remanded to the concerned authorities for deciding afresh.

Accordingly, setting aside the orders of both the DRP and the AO, the Hon’ble HC remanded the matter back to the TPO for considering afresh in light of the advance pricing agreement entered into by the Assessee, further holding that since the final assessment order had been set aside, there was no question of adjusting any refund against the demand for AY 2020-21 and AY 2021-22 at the present stage.

Hon’ble HC sets aside final assessment order passed while objections pending before DRP

Jackson Square Aviation Ireland Limited

2024-TIOL-2136-HC-DEL-IT

The Assessee had preferred a writ petition against the final assessment order passed by the AO, contending that the said final assessment was passed by the AO without taking into consideration the objections of the Assessee that were pending before the DRP.

Noting that despite the fact that the Assessee's objections were pending before the DRP, the AO had passed the impugned final assessment order, re-computing the Assessee's income on the basis that the Assessee had underreported its income and also placing reliance on a catena of judgments where on an identical issue, the Hon'ble HC had remitted the matter to the DRP for consideration as per the procedure laid out in terms of Section 144C of the IT Act, the Hon'ble HC observed that it was an admitted position that, notwithstanding the lack of information with the AO, if an objection had been filed and was pending before the DRP, the assessment order so passed in ignorance of the said objections, was required to be set -aside.

Accordingly, as the final assessment order was not passed as per the procedure laid out under Section 144C of the IT Act, the Hon'ble HC finding it not necessary to examine the present controversy, set aside the final assessment order and allowed the writ petition filed by the Assessee.

Tribunal rejects Revenue's treatment of corporate-guarantee invoked by third-party bank as loan

JE Energy Ventures Private Limited

ITA No. 1450/Del/2022

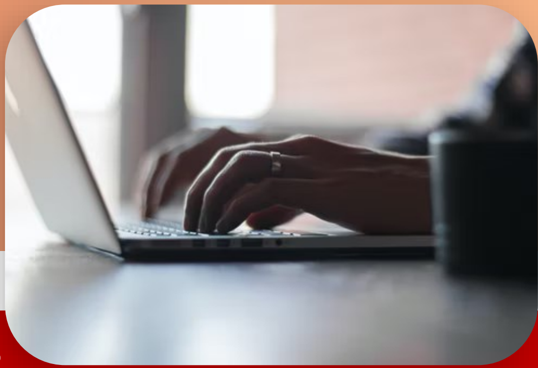
The Assessee was engaged in the provision of business, marketing and technical support related to oil and gas services and power and infrastructure services that had provided two loan arrangements through corporate guarantee (provided in favor of the EXIM Bank) for its AEs, which were defaulted by the AEs, subsequent to which, the EXIM Bank served a notice of revocation of the two corporate guarantees as well as counter corporate guarantees, and called upon the Assessee to make the requisite payment. During the assessment proceedings, the Revenue took the view that on invocation of corporate guarantee, the same became a loan, and considering it to be an international transaction, proposed a TP-adjustment by imputing fee/interest @ 7.36%. Aggrieved, the Assessee approached the Tribunal contending that the invocation of the corporate guarantee was a transaction between the Assessee and an unrelated entity i.e. EXIM Bank and hence, the provision of Section 92A of the IT Act could not be invoked.

The Tribunal noted that although the EXIM Bank had invoked the corporate guarantee, the Assessee had not incurred any expenditure on account of the two bank guarantees during the year under consideration and also referring to the Assessee's own case for a previous year, wherein it was categorically observed that once the international transaction arising out of the guarantee given for the benefit of the AE was gone, then what was left was a transaction between the Assessee and the EXIM Bank only, which were unrelated parties and a vital constituent of any international transaction was that the same should be between AEs.

Moreover, considering Section 92B (2) of the IT Act, whereunder a transaction between two persons would be deemed to be between AEs, the Assessee's transaction with the EXIM Bank was, no doubt, the outcome of a prior agreement in relation to the relevant transaction of guarantee, wherein the Assessee was referred to as the guarantor and the AE as the borrower and the question of it being a deemed loan was dependent on the discharge of debt of the AE towards the EXIM Bank after any payment was made by the Assessee or any recovery was enforced by the EXIM Bank by any other mode of recovery of the guarantee amount, and as the AE for whom the Assessee entered into bank guarantee had not been benefitted by discharge of its debt and liability and the same still stood, so far there was no crystallized liability of the Assessee and no cost or expense had been allocated or apportioned by the Assessee in the books on account of the invocation of the guarantee such that it in any way had the effect of reducing the income chargeable to tax or increasing any loss.

Accordingly, finding that the Revenue had erred in proceeding on the basis that the guarantee once invoked by the EXIM Bank became a debt towards the EXIM Bank on account of the AE, so as to treat the same as loan to the AE and to charge an arm's length interest on the same, the Tribunal deleted the TP-adjustment made by the Revenue, rejecting the Revenue's treatment of invocation of corporate guarantee by a third party as a loan and allowed the Assessee's appeal.

ARTICLE



THE TAXATION DILEMMA: MOVABLE VS IMMOVABLE PROPERTY IN THE CONTEXT OF CENVAT CREDIT

The distinction between movable and immovable property has long been a complex issue in indirect tax laws in India, particularly regarding the eligibility for claiming CENVAT credit. This classification significantly impacts businesses, determining whether substantial investments in capital assets qualify for tax benefits. The recent Supreme Court judgment in **Bharti Airtel Ltd. vs. Commissioner of Central Excise, Pune [2024-TIOL-121-SC-CX]** has clarified some of these complexities, particularly for industries reliant on modular or semi-permanent infrastructure. Here's an analysis of the judgment, its implications, and its lessons for businesses.

CASE SUMMARY

Facts of the Case : Bharti Airtel Limited, a leading telecom company, sought CENVAT credit on telecom towers and PFBs used in their operations. These structures were affixed to the ground for stability and operational efficiency. The tax authorities contended that these assets were immovable properties, rendering them ineligible for CENVAT credit under the CENVAT Credit Rules, 2004. Bharti Airtel argued that the towers and PFBs were movable and essential to their telecom services, qualifying them as capital goods eligible for credit.

Supreme Court's Ruling : The Supreme Court ruled in favor of Bharti Airtel, holding that telecom towers and prefabricated shelters, though temporarily affixed to the ground, were movable property. The Court applied various tests to determine the classification, emphasizing the functionality, marketability, and intent behind the attachment of the assets. As movable goods, these assets qualified for CENVAT credit under the relevant rules.

UNDERSTANDING THE BASICS: MOVABLE VS IMMOVABLE PROPERTY

The distinction between movable and immovable property has wide-ranging implications in taxation. Under the General Clauses Act, 1897, immovable property includes land, benefits arising from land, and things permanently attached to the earth. Movable property, on the other hand, includes everything else.

In the context of CENVAT credit, businesses can claim credit on capital goods, which are generally movable. Immovable property, unless it falls under specific exceptions like plant and machinery, does not qualify for such benefits. This classification can significantly affect industries that rely on large-scale infrastructure.

TESTS TO DETERMINE THE NATURE OF PROPERTY

The Supreme Court's ruling in the Bharti Airtel case reiterated the following key tests to classify property as movable or immovable:

1. TEST OF PERMANENCY:

- If an asset can be dismantled and relocated without damage to its core structure or functionality, it is classified as movable.
- In this case, telecom towers and prefabricated shelters were deemed movable because they could be dismantled and reassembled elsewhere.

2. OBJECT OF ANNEXATION:

- If the purpose of attachment is to enhance the functioning of the item itself, it is movable. However, if the attachment is meant for the permanent enjoyment of the land, it is immovable.
- The court found that the attachment of telecom towers and shelters was operational rather than for permanent enjoyment of the land.

3. **MARKETABILITY:**

- Items that can be sold, transferred, or moved in the market are considered movable.
- The judgment emphasized the marketability of telecom towers and prefabricated shelters.

4**. FUNCTIONAL INTEGRATION:**

- If an item becomes an integral part of a larger immovable structure, it may be classified as immovable. Conversely, if it retains its independent identity, it remains movable.

IMPLICATIONS FOR BUSINESSES

The Bharti Airtel judgment provides clarity and guidance for industries grappling with the movable vs immovable property distinction. Below are some practical implications:

1. ELIGIBILITY FOR CENVAT CREDIT

The judgment ensures that assets like telecom towers and prefabricated shelters, which are essential to business operations, qualify for CENVAT credit as movable goods. This reduces operational costs and incentivizes investment in critical infrastructure.

2. CLARITY FOR INFRASTRUCTURE AND MANUFACTURING INDUSTRIES

- Telecom and infrastructure companies can now confidently classify similar modular structures as movable property.
- Manufacturers using modular machinery or structures for operational purposes can also leverage this precedent for tax benefits.

3. IMPORTANCE OF DOCUMENTATION

Businesses must maintain comprehensive documentation to prove the movable nature of their assets. This includes technical specifications, installation and dismantling records, and invoices.

4. Precedent for Future Disputes

The Supreme Court's ruling provides a roadmap for resolving disputes over movable vs immovable property in other industries, ensuring greater predictability and fairness in tax administration.

MOVABLE VS IMMOVABLE PROPERTY IN GST

Under the GST regime, the classification of movable and immovable property continues to play a critical role in determining ITC and machinery used in business operations. For movable property, ITC is generally allowed provided the goods or services are used for taxable supplies.

The Bharti Airtel case, while addressing the issue under the CENVAT Credit Rules, also provides guidance for interpreting similar disputes under GST. Assets like telecom towers and prefabricated shelters could be classified as movable property under GST as well, making them eligible for ITC. However, businesses must ensure compliance with GST-specific provisions, including Section 17(5) of the CGST Act, which restricts ITC claims on certain types of immovable property.

Recently the Hon'ble Supreme Court decided the scope of the term 'Plant' under Section 17(5)(c) and (d) to inter alia include immovable structures as well. It enabled many taxpayers to avail credit on immovable structures that also qualify as 'Plant'. The aspect of immovability as decided in Bharati Airtel is an antecedent to whether the structure amounts to 'Plant', a taxpayer may have a second chance even if the structure is decided as immovable but qualifies as 'Plant'.

Having said this, the GST Council has recommended to bring in a retrospective amendment to nullify the effect of decision I Safari retreat, it would be worthwhile to see if the amendment is indeed retrospective and whether it allows the taxpayers to retain the benefits on 'as is where is basis' as it did in few of the ITC related ambiguities earlier.

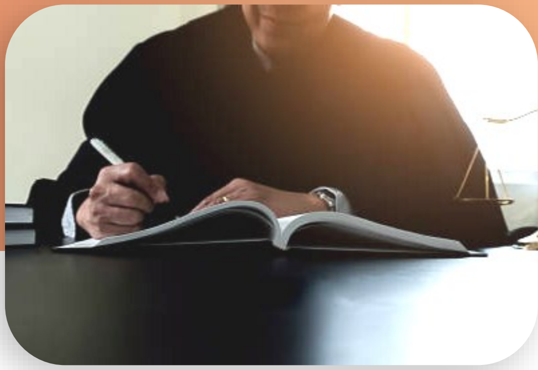
This judgment is likely to serve as a persuasive precedent in GST disputes involving modular infrastructure or semi-permanent installations.

A NEW PARADIGM FOR TAX LAWS

The Bharti Airtel case highlights the evolving nature of tax laws in India. By recognizing telecom towers and prefabricated shelters as movable goods, the Supreme Court reinforced the principle that functionality, intent, and marketability are more significant than physical characteristics in classifying property. This pragmatic interpretation aligns tax laws with modern business realities, where modular and mobile infrastructure is increasingly common. This judgment also sends a clear message to tax authorities and taxpayers: procedural technicalities should not hinder substantive benefits like CENVAT credit or ITC. Instead, a fair and balanced approach should prevail, fostering ease of doing business and reducing litigation.

CONCLUSION

The distinction between movable and immovable property is not merely a legal technicality but a critical factor affecting tax compliance and business strategy. The Supreme Court's decision in the Bharti Airtel case provides much-needed clarity, ensuring that businesses can claim tax benefits on assets integral to their operations. As industries continue to innovate and adapt to changing market dynamics, the classification of assets will remain a cornerstone of effective tax planning. Businesses should leverage the principles outlined in this landmark judgment to align their tax strategies with regulatory frameworks, ensuring both compliance and efficiency.



HC: Limitation Period Does Not Apply to Refunds for Voluntary Payments

Messrs Aalidhra Texcraft Engineers & Anr.

R/Special Civil Application No. 14554 of 2024

The Petitioner voluntarily deposited a GST amount in 2020 due to a mismatch between GSTR-2A and GSTR-3B, believing it had availed excess ITC. Thereafter, the Petitioner applied for a refund of the amount, which was rejected by the authorities citing the limitation period under Section 54(1) of the CGST Act. The Department argued that the refund claim was filed after the statutory period of two years and was therefore time-barred. Aggrieved the Petitioner preferred a writ before the Gujarat HC.

The Hon'ble HC held that the limitation period under Section 54(1) of the CGST Act, does not apply to refunds of amounts voluntarily paid by mistake, as such payments are not related to tax, interest, or penalty liabilities. In this case, the petitioner mistakenly deposited an amount in 2020 due to a mismatch in GST returns and applied for a refund in 2024, which was rejected on grounds of limitation. The Court ruled that retaining mistakenly paid amounts would be unconstitutional, quashed the rejection order, and directed the authorities to refund the amount. The petition was allowed.

HC: ITC Allowed on Telecommunication Towers

Bharti Airtel Limited

TS-839-HC(DEL)-2024-GST

The Petitioner, a leading telecom service provider, installed telecommunication towers essential for its operations. The company claimed ITC on these towers, asserting they are movable property. Tax authorities denied the claim, contending that the towers are immovable property and thus ineligible for ITC under Section 17(5) of the CGST Act, which restricts ITC on goods and services used in constructing immovable property. The Company contended that the towers were movable property and hence eligible for ITC under the provisions of the CGST Act.

The Hon'ble SC examined the nature of telecommunication towers, focusing on their installation and mobility aspects. It noted that these towers are assembled from prefabricated components and anchored to a foundation primarily for stability. Significantly, the towers can be dismantled, relocated, and reassembled without substantial damage, indicating a lack of permanent attachment to the earth. The court applied the "test of permanency," which assesses whether an item's attachment to the earth is intended to be permanent or temporary. Since the towers are designed for potential relocation and are not permanently affixed, they do not meet the criteria for immovable property. Additionally, the Hon'ble SC referenced precedents, including the Hon'ble SC's judgment in **Bharti Airtel Ltd. v. The Commissioner of Central Excise, Pune** , which held that merely because certain articles are attached to the earth, it does not ipso facto render them immovable properties. If such attachment is not intended to be permanent but for providing support to the goods concerned and making their functioning more effective, and if such items can be dismantled without damage and moved, they cannot be considered immovable.

Consequently, the Delhi HC concluded that telecommunication towers are movable property and thus qualify as "goods" under the CGST Act. Consequently, the Company is entitled to claim ITC on these towers.

The court's decision provides clarity on the classification of telecommunication infrastructure, affirming that such towers are eligible for ITC, which is significant for the telecom industry.

Delhi HC admits petition challenging ITC restriction on leasing/ sub-leasing of residential properties

NRM International Private Limited

W.P.(C) 15390/2024

The Delhi HC entertained a writ petition questioning the validity of Notification No. 05/2022, which mandates GST payment through the RCM for registered tenants, as well as the property-based classification of services under Notification No. 01/2017 - CGST (Rate).

The Petitioner, involved in subleasing residential spaces to corporate entities, claimed that distinguishing between residential and non-residential properties unfairly burdens similar transactions, causing double taxation and the inability to claim ITC. It was argued that disallowing ITC on GST paid via RCM, as prescribed by Sections 17(2) and 17(3) of the CGST Act, undermines the principle of seamless credit flow and places an excessive financial strain, infringing upon rights under Article 19(1) of the Constitution. The Petitioner further challenged the taxation framework, asserting that focusing on the type of property instead of the transaction's purpose results in compounding taxes and increased operational costs. Acknowledging the arguments, the Hon'ble HC issued notice, recorded the Petitioner's communication to the GST Council, and set the next hearing for February 3, 2025.

Summary of SCN in Form GST DRC-01 Cannot Substitute the Statutory Requirement of SCN

Construction Catalysers Private

WP(C)/3912/2024

The Petitioners challenged the validity of the proceedings initiated under Section 73(1) of the CGST Act. The Proper Officer issued a Summary of the SCN in GST DRC-01 instead of a detailed SCN under Section 73(1) of the CGST Act. The Petitioners contended that the Summary of SCN in GST DRC-01 could not substitute the requirement of a proper SCN, as mandated under Section 73(1) of the CGST Act. Additionally, the Petitioners were not granted an opportunity for a hearing, even though some explicitly requested it, which violated the principles of natural justice under Section 75(4) of the CGST Act. Aggrieved, the Petitioner preferred a writ before the Gauhati HC.

The Hon'ble HC emphasized that the Summary of SCN in GST DRC-01 is merely an ancillary document and does not fulfill the statutory requirement of a proper SCN under Section 73(1) of the CGST Act. The Hon'ble HC held that DRC-01 cannot replace the mandatory requirement of a proper SCN under Section 73(1) of the CGST Act. It emphasized that the issuance of a proper SCN is a statutory prerequisite to initiate proceedings under Section 73, and the determination of tax attached to the Summary of SCN in GST DRC-01 cannot be treated as a valid substitute. Additionally, the Hon'ble HC observed that the impugned order also violated Section 75(4) of the CGST Act, as no opportunity of hearing was granted to the Petitioners, despite some of them explicitly requesting it. The Hon'ble HC ruled that when a hearing is mandated by the statute, it cannot be dispensed with under any circumstances. Accordingly, the Court quashed and set aside the impugned order.

GOODS & SERVICES TAX

From the Legislature

<table>
<tr><th>Sr No</th><th>Notification/ Circular</th><th>Summary</th></tr>
<tr><td>1</td><td>Circular No. 239/33/2024-GST dated December 4, 2024</td><td>Adjudication of Show Cause Notices Issued by DGGI

CBIC has introduced changes to the adjudication process for show cause notices issued by Directorate General of GST Intelligence. This amendment empowers Additional and Joint Commissioners of specified Commissionerates with all-India jurisdiction to adjudicate such SCNs, streamlining the process and ensuring consistency across jurisdictions.</td></tr>
<tr><td>2</td><td>Circular No. 243/37/2024-GST, dated December 31, 2024</td><td>Clarification on GST Treatment of Vouchers

CBIC has provided clarifications on various issues related to the GST treatment of vouchers.

• Classification of Vouchers: Vouchers recognized as "money" under RBI guidelines are excluded from GST and are neither goods nor services. Non -monetary vouchers may qualify as actionable claims, which are exempt from GST unless specified otherwise.

• Transaction Types: If vouchers represent goods or services promised in the future, they are treated as actionable claims and are not considered taxable supplies. However, the redemption of such vouchers for goods or services is subject to GST.

• Distribution Practices: In a principal-to-principal arrangement, the trading of vouchers by distributors is not taxable under GST. However, if distributors act on behalf of issuers, their commission is taxed as a supply of services.

• Breakage or Unredeemed Vouchers: The value of vouchers that remain unredeemed after expiry is not taxable since no supply of goods or services occurs.

• Associated Services: Services like marketing, co-branding, and customization provided to voucher issuers attract GST.</td></tr>
</table>

Sr No	Notification/ Circular	Summary
3	Circular No. 242/36/2024-GST dated December 31, 2024	**Circular clarifying Place of Supply for Supply of Online Services to Unregistered Recipients** The circular emphasizes the need for accurate reporting of the place of supply for online and digital services provided to unregistered recipients: • **Mandatory State Recording**: Suppliers must record the recipient's state name on invoices, regardless of the value of the transaction, to comply with GST provisions. • **Place of Supply Rules**: As per the IGST Act, the recipient's state name is treated as their location and used to determine the place of supply. • **Supplier Responsibility**: Suppliers must implement systems to collect and document recipient information before supplying services. • **Penalties for Non-Compliance**: Failure to record the required details may result in penalties under GST laws. • **Reporting Requirements**: Suppliers must accurately report the recipient's state as the place of supply in GST returns.
4	Circular No. 241/35/2024-GST dated December 31, 2024	**Clarification on the Availability of ITC as per Section 16(2)(b) in respect of goods which have been delivered by the supplier at his place of business under Ex-Works Contract** • **Deemed Receipt of Goods**: Goods are considered "received" when handed over to the transporter at the supplier's location, as per the terms of the contract. Ownership transfer at this point suffices for ITC eligibility. • **Business Use Compliance**: ITC can only be claimed for goods used in business operations. If goods are lost, destroyed, or used for personal purposes, ITC is not allowed. • **No Physical Delivery Requirement**: Unlike previous excise laws, physical receipt of goods at the business premises is not mandatory for ITC claims under GST. • **Implications**: This clarification eliminates disputes over ITC claims for goods in transit and ensures compliance with other ITC provisions under GST laws.

Sr No	Notification/ Circular	Summary
5	Circular No. 240/34/2024-GST dated December 31, 2024	**Clarification in respect of input tax credit availed by ECOs where services specified under Section 9(5) of CGST Act are supplied through their platform** These circular addresses ITC and tax payment obligations for ECOs under Section 9(5) of the CGST Act: • No ITC Reversal: ECOs are not required to reverse ITC for inputs or services related to supplies where they pay tax under Section 9(5). • Cash Payment Requirement: Tax liabilities under Section 9(5) must be paid entirely in cash, and ITC cannot be utilized for this purpose. • ITC Usage: ECOs can utilize ITC for tax liabilities on their own services, such as platform fees and commissions, but not for Section 9(5) liabilities. • Expanded Scope: These principles now apply to all services notified under Section 9(5), not just restaurant services.

No confiscation of goods under Section 111(m) of Customs Act in case of missclassification

Philips India Limited

2024-VIL-1531-CESTAT-MUM-CU

In the instant case before the Hon'ble CESTAT, Mumbai, the Appellants challenged the classification of imported LCD monitors used with medical devices such as ultrasound and CT machines. The appellants classified these monitors under CTH 8528 5200 as 'computer monitors' and paid IGST at 18%, as specified under NN. 01/2017-Integrated Tax (Rate). The Respondent, contested this classification, asserting that the monitors, being designed for medical use, fell under CTH 8528 5900 as 'other monitors', attracting a higher IGST rate of 28%.

The Tribunal analyzed the monitors' specifications, including their compatibility with automatic data processing (ADP) machines via standard input ports such as DVI D and VGA. The appellants argued that the monitors' capability to connect to ADP machines defined their classification, regardless of their specific application with medical devices. The Tribunal concurred, that classification under CTH 8528 5200 depended on the technical capability to connect with ADP machines and not the specific end-use. It further noted that the appellants had adhered to trade parlance and statutory definitions in determining the classification.

Regarding the respondent's demand for penalties and interest on differential IGST, the Tribunal ruled in favour of the appellants, stating that neither the Customs Tariff Act nor the Finance Act provides for such levies on IGST. Consequently, the Tribunal set aside the impugned order, upheld the appellants' classification under CTH 8528 5200 and confirmed the applicable IGST rate of 18%.

Hon'ble SC clarifies DRI Officers' jurisdiction as Proper Officers

Canon India Private Limited

2021-VIL-34-SC-CU

The Hon'ble SC revisited the question of whether officers of the Directorate of Revenue Intelligence (DRI) qualify as "proper officers" under Section 28 of the Customs Act, 1962, capable of issuing show cause notices. In its earlier decision in **Canon India Pvt. Ltd. v. Commissioner of Customs**, the Court held that DRI officers were not proper officers for such purposes, as they were not involved in the assessment or reassessment of goods. This review petition sought reconsideration of that judgment.

The Hon'ble SC held that the **Canon India** judgment did not adequately consider critical legislative amendments and notifications. It noted that Notification No. 44/2011 dated June 06, 2011 explicitly empowered DRI officers to act as proper officers under Sections 17 and 28 of the Customs Act. Furthermore, the introduction of self-assessment through the Finance Act, 2011, differentiated the roles of assessment under Section 17 and recovery of duties under Section 28, emphasizing that recovery actions do not necessarily require the officer to have conducted the original assessment.

The Hon'ble SC also upheld the constitutional validity of Section 28(11) of the Customs (Amendment and Validation) Act, 2011, and Section 97 of the Finance Act, 2022. These provisions retrospectively validated show cause notices issued by DRI officers and other non assessment officers. The Hon'ble SC determined that the Mangali Impex decision of the Delhi High Court, which had invalidated Section 28(11), was incorrect, while the Bombay HC's judgment in Sunil Gupta, which upheld the provision, was correct.

The review petition was allowed, overturning the **Canon India** judgment regarding DRI officers' jurisdiction and affirming the validity of Section 28(11). The Court issued specific directions for pending matters:

1. High Courts hearing writ petitions challenging show cause notices must decide cases in line with this judgment, restoring notices for adjudication.
2. Appeals against High Court orders pending before the Supreme Court shall be resolved per this decision, with notices restored for adjudication.
3. Appeals against orders-in-original raising jurisdictional objections must now be filed with the CESTAT, with an eight-week window granted for compliance.
4. Matters before CESTAT or appeals in other courts on similar jurisdictional grounds must proceed based on the present ruling, ensuring adjudication on merits.

CUSTOMS & FTP
From the Legislature

CUSTOMS

Sr No	Notification/ Circular	Summary
1	Circular No. 27/2024 dated December 23, 2024	**Enabling Voluntary Payment Electronically on ICEGATE e-Payment Platform** This Circular introduces the Voluntary/Self-Initiated Payments system on the ICEGATE e-Payment Platform, replacing the manual TR-6 Challan process from 31st December 2024. The system allows users to generate and make electronic payments for voluntary contributions without requiring Customs officer approval. **Key Features:** • **Eligibility**: Accessible to registered ICEGATE users for past import/export-related payments; not applicable for live consignment duties. • **Payment Methods**: Payments can be made via Internet Banking (9 authorized banks), NEFT/RTGS, or Payment Aggregator, routed through the Electronic Cash Ledger for IEC holders and Customs Brokers. • **Verification**: Users must submit payment proofs to field formations; officers can verify payments on ICEGATE. • **Discontinuation of TR-6 Challan**: Manual payments are disallowed post-31st December 2024, except with prior approval from the Customs Commissioner.
2	Notification No. 48/2024-Custom dated December 13, 2024	**Customs Duty exemption expanded for Defense and Government** CBIC has amended Notification No. 50/2017-Customs through this notification which shall be effective November 14, 2024. The amendment allows direct duty-free procurement by armed forces under the Ministry of Defence and government departments, streamlining imports for defense and public use.

SEBI penalizes Company for financial misrepresentation and disclosure violations

In the matter of Asian Hotels (West) Limited

Adjudication Order No. Order/Bm/Jr/2024-25/31044

SEBI had received multiple complaints against the Company regarding mismanagement of the Company and violation of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, accordingly, SEBI initiated an investigation into the affairs of the Company.

During the course of the investigation, SEBI found that the Company had violated several provisions of the law, specifically, the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 by inter-alia misrepresenting disclosures made to stock exchange regarding delay in submission of financial results by the Company, non-disclosure of information with reference to default of payment, incomplete disclosure regarding resignation of the statutory auditor of the Company.

Accordingly, stating that in a disclosure based regime the essence was about timely and adequate disclosures which, if compromised with, would pose threat to orderly functioning of the securities markets and /or loss of investor confidence in the integrity of the securities market, SEBI imposed a penalty of INR 5 Lakhs on the Company and directed the Company to pay the penalty within 45 days, disposing of the matter.

SAT affirms SEBI's disgorgement order against Telegram-channel members for stock manipulation, but reduces penalty

Himanshu Mahendrabhai Patel and Ors. vs. SEBI

Appeal No. 622 of 2023

The Appellants had approached the SAT challenging the order of the SEBI that directed the disgorgement of INR 2.84 Crores for the alleged violations of PFUTP Regulations through manipulative trading practices by using a Telegram channel named '@bullrun2017' to artificially inflate the stock prices and thereby making illegal profits and debarred and imposed penalties on them for the aforesaid violations.

Noting that the Appellants inter-alia disseminated false and misleading information on the Telegram channel, falsely asserting expertise and claiming SEBI registration, manipulated stock prices by issuing buy recommendations on low-volume scrips that they had already purchased, induced subscribers to buy at inflated prices while they sold for unlawful profits, and conducted trades through accounts of family members to obscure their involvement while continuing to profit from their manipulative practices and also noting that the Appellants prevented two-way communication on their Telegram channel, thereby misleading subscribers and compromising transparency, the SAT observed that the recommendations made on the Telegram channel by the Appellants could not be held as for education purposes but for influencing the price/volumes of that very scrip, which the Appellants had already purchased, by influencing the trading behavior of the subscribers of the channel and the Appellants actually used the captive subscribers of their Telegram channel as a tool for inflating the price for the entire universe of investors by using a manipulative device.

Accordingly, the SAT affirmed the disgorgement order of SEBI against the Appellants, however, acknowledging the Appellants' arguments regarding double taxation, directed SEBI to verify the amount of income-tax paid by them on their unlawful profits, stating that SEBI should verify the amount of income-tax actually paid on the profits made by the Appellants and give credit for the same to the extent the same was not refunded by the Income-tax Department and issue a revised recovery notice and further, modified the penalty imposed on the Appellants and its structure, thereby reducing it to 100% of the aggregate unlawful profit made by them to reflect the degree of involvement of each Appellant.

SEBI directs Company to refund money of investors from its Initial Public Offering on the Small and Medium Enterprises Platform, uncovers mala-fides in object of issue

In the matter of Initial Public Offer of Trafiksol ITS Technologies Limited.

WTM/AB/CFD/CFD-SEC-1/31023/2024-25

The Company was engaged in the provision of intelligent transportation systems and automation solutions for traffic and toll management projects that had filed a Draft Red Herring Prospectus with the Bombay stock exchange, for its proposed Initial Public Offering of equity shares, which were proposed to be listed on the Small and Medium Enterprises Platform of the stock exchange.

The Initial Public Offering involved fresh issuance of 64.10 Lakhs equity shares which were oversubscribed 345.65 times, post the closure of the issue and allotment of shares, a complaint was received by SEBI and Bombay stock exchange from the Small Investors Welfare Association – SIREN (Complainant) in respect of the Initial Public Offering, alleging that the objects of issue of the Initial Public Offering included the purchase of a software valued at INR 17.70 Crores from a third-party vendor which had questionable financials and failed to file its annual financial statements with the MCA. In view of the above complaint, the Bombay stock exchange in consultation with SEBI deferred the listing of the shares of the Company and SEBI initiated an investigation.

During the course of the Investigation, SEBI scrutinized the credentials of the third-party vendor, whose quote was relied upon by the Company in the prospectus and found that the third-party vendor was a 'shell entity' and that the Company had conspicuously failed to provide a single credible justification for engaging such an entity in the first place. Moreover, the Company relied on a sham entity and participated in a cover-up when the credentials of the third-party vendor were being examined. Further, when confronted the Company took the defense that it merely forwarded documents provided by the third-party vendor to the Bombay stock exchange without verifying their authenticity.

Accordingly, rejecting the defense taken by the Company, SEBI found that the funds of the investors who had been allotted shares in the Initial Public Offering had remained locked-in for 3 months, hence, the most prudent course of action was to direct the Company to refund the money raised through the Initial Public Offering. Thus, directing the Bombay stock exchange to oversee the refund process, and the Company to take appropriate steps for cancelling the shares which had been transferred, SEBI directed the depositories to transfer the shares of the Company which had been allotted pursuant to the Initial Public Offering, to a separate demat account opened in the name of the Company, once the money was credited to the bank account of the applicants and disposed of the matter.

Hon’ble SC holds actual "default" inessential for 'debt' to exist, restores the status of certain banks as financial creditors in the CIRP

China Development Bank vs. Doha Bank Q.P.S.C. & Ors.

Civil Appeal No. 7298 of 2022

The Appellants had approached the Hon’ble SC against the order of the NCLAT that had reversed the decision of the NCLT and removed the Appellants from the status of financial creditors in the CIRP of the Corporate Debtor as they were not direct lenders to the Corporate Debtor. Before the Hon’ble SC, the Appellants submitted that clause 5(iii) the Deeds of Hypothecation contained a guarantee, obligating the Corporate Debtor to cover any shortfall in debt repayments by other related entities, thereby creating a financial liability. Moreover, the definition of financial debt under Section 5(8) the IBC was inclusive and extended to contingent liabilities, making the banks entitled to financial creditor status based on the guarantee provided, and as they had been treated as financial creditors throughout the CIRP and voted in favor of the resolution plan as such, therefore, changing their status at this stage was inappropriate.

Per contra, the Respondents submitted that the Deeds of Hypothecation was merely a hypothecation agreement designed to create a charge on property and lacked the essential elements of a guarantee, as it involved only 2 parties instead of the required 3 (guarantor, principal debtor, and creditor). Moreover, the Deeds of Hypothecation did not establish any promise by the Corporate Debtor to discharge the liability of third parties, and therefore, the banks should not be classified as financial creditors.

Noting that the NCLT initially classified the banks as Financial Creditors, however the NCLAT later reversed this decision, stating that the Deeds of Hypothecation did not constitute a guarantee and now, before SC, the core issue was whether the Appellants, who were not direct lenders to the Corporate Debtor, qualified as "financial creditors" under IBC during the CIRP of the Corporate Debtor and examining the Deeds of Hypothecation, the Hon’ble SC observed that the latter part of clause 5(iii) of the Deeds of Hypothecation indicated that the Corporate Debtor, who was not the borrower of the Appellants, agreed to discharge the liability of the third parties to the Appellants in the case of default, therefore, the latter part of clause 5(iii) of the Deeds of Hypothecation amounted to a guarantee provided by the Corporate Debtor to the Appellants in terms of Section 126 of the Contract Act.

Further, only because the title of the document contained the word hypothecation, it could not be concluded that the guarantee was not a part of this document and therefore, the name of the document could not be considered a decisive factor. Moreover, the Corporate Debtor's undertaking to pay the shortfall of other related entities was indeed a guarantee under Section 126 of Contract Act. Furthermore, for a claim to exist under Section 5(8) of the IBC, it was not necessary that there should be an actual "default" by the debtor as has been defined in Section 3(12) of the IBC, and a person to whom financial debt was owed qualified as a financial creditor even before a default had arisen. Thus, finding that the NCLAT erred in reversing NCLT's decision as it was the substance of an agreement, rather than its nomenclature, that determined its legal effect, the Hon’ble SC restored the financial creditor status of the banks, holding that the banks were entitled to participate in the CIRP of the Corporate Debtor as financial creditors.

SAT reduces penalty, but upholds investment advisor's suspension over misconduct

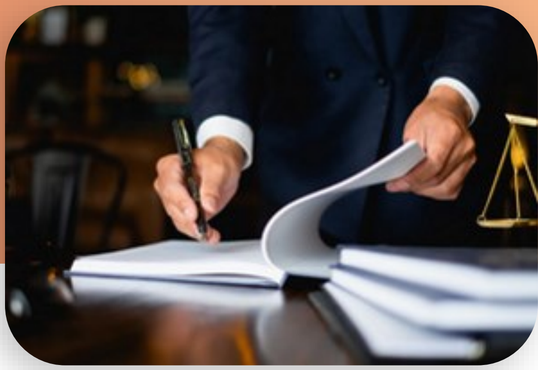
Mukesh Vishwakarma vs. SEBI

Appeal No.456 of 2023

The Appellant was a registered investment advisor that had approached the SAT challenging the orders of the SEBI which imposed a penalty of INR 19 Lakhs for violation of the SEBI regulations and suspended his registration for 2 years contending that it was not the Appellant but the employees of the Appellant that had acted independently and without his knowledge which led to the violation of the ethical obligations and trust expected of a registered investment advisor.

The SAT observed that the Appellant had failed to act in the best interests of clients, including charging excessive fees and failing to ensure transparency in dealing with clients, made misleading assurances of guaranteed returns and unrealistic promises to clients, thereby failing to uphold trust and integrity, misrepresented material facts related to investments and advisory services, misled clients about the risks and benefits of investments, and misused client demat accounts without proper authorization. Further, the SAT found the Appellant's contention that the employees acted independently and without his knowledge to be wholly untenable because when the investments were made based on such assurances, the direct beneficiary was the Appellant and not the employees.

Accordingly, upholding the 2-year suspension of the Appellant's registration, emphasizing the seriousness of the violations and their impact on market integrity, the SAT however, acknowledging the mitigating factors such as the Appellant's limited financial capacity, observed that while adherence to regulatory compliance was paramount, the penalty imposed by SEBI appeared disproportionate given the specific circumstances, and consequently, reduced the monetary penalty from INR 19 Lakhs to INR 7 Lakhs.



RBI notifies its decision to increase the interest rate ceiling on foreign currency non-resident bank deposits

Notification No. RBI/2024-25/94 dated December 06, 2024

Foreign currency non-resident bank deposits are accounts where non-resident Indians can hold their earnings in foreign currencies like USD or GBP, protecting them from exchange rate fluctuations. Previously, interest rates on foreign currency non-resident bank deposits were subject to ceilings of overnight alternative reference rate for the respective currency/swap, plus 250 basis points for deposits of 1 year to less than 3 years maturity and overnight alternative reference rate plus 350 basis points for deposits of 3 years and above and up to 5 years maturity.

Given this backdrop, in order to attract more capital inflows, the RBI through a Notification notifies its decision to raise the interest rate ceiling on foreign currency non-resident bank deposits. Accordingly, banks are now permitted to raise fresh foreign currency bank deposits of 1 year to less than 3 years maturity at rates not exceeding ARR plus 400 bps and deposits with maturity between 3 to 5 years at rates not exceeding ARR plus 500 bps with effect from December 06, 2024 till March 31, 2025.

RBI issues directions on maintenance of cash reserve ratio

Notification No. RBI/2024-25/95 dated December 06, 2024

The cash reserve ratio is the percentage of a bank's public deposits that it must maintain as cash reserves with the RBI. This ensures banks have enough funds to meet customer withdrawal demands and manage liquidity effectively. The cash reserve ratio plays a key role in controlling the economy's money supply and is a critical tool in the RBI's monetary policy. During periods of high inflation, the RBI increases the cash reserve ratio to limit the funds available for lending, which helps reduce excess liquidity and cool down prices. Conversely, during slow economic growth, the RBI lowers the cash reserve ratio, allowing banks to lend more freely, stimulating investment and boosting economic activity.

The RBI had earlier announced its decision to reduce the cash reserve ratio of all banks by 50 basis points in two equal tranches of 25 basis points each to 4.0 % of net demand and time liabilities in the Statement on Developmental and Regulatory Policies dated December 06, 2024.

Given this backdrop, the RBI through a Notification directs the banks to maintain the cash reserve ratio at 4.25 % of their net demand and time liabilities effective from the reporting fortnight beginning December 14, 2024 and 4.00 % of their net demand and time liabilities effective from fortnight beginning December 28, 2024.

This reduction in the cash reserve ratio aims to enhance credit flow and boost economic activity by increasing the funds available within the financial system and is expected to infuse INR 1.16 Lakh Crores into the banking system, offering much-needed support to lenders amidst current economic challenges and is aligned with the central bank's broader strategy to maintain adequate liquidity and stabilize interest rates.

SEBI issues updated Master Circular for depositories

Master Circular No. SEBI/HO/MRD/MRD-PoD-1/P/CIR/2024/168 dated December 03, 2024

SEBI issues an updated Master Circular for depositories which covers the relevant applicable Circulars/Communications pertaining to depositories issued by SEBI up to September 30, 2024. The Master Circular is effective from the date of its issuance, i.e., December 03, 2024 and enables the users to have access to all applicable Circulars/Directions at one place and comprises of four sections, i.e. (a) Beneficial Owner Accounts, (b) Depository Participants related, (c) Issuer related and (d) Depositories related.

In the Master Circular, SEBI states that efforts have been made to include provisions of circulars/ communications relevant to each sections. However, cross referencing of circulars/communications amongst the sections may exist and therefore the users may be required to refer to other sections also for compliance to provisions applicable to them.

SEBI introduces flexibility in pro-rata rights for investors of alternative investment funds

Circular No. SEBI/HO/AFD/AFD-POD-1/P/CIR/2024/175 dated December 13, 2024

SEBI through a Circular introduces significant changes regarding the pro-rata and pari-passu rights of investors in alternative investment funds.

The Circular inter-alia mandates that investors in an alternative investment fund scheme must have rights proportional to their commitment in each investment of the scheme, including in the distribution of proceeds. This means that the returns from investments will be distributed to investors based on the size of their contribution to the fund. However, there are specific exemptions:

- **Excused or Excluded Investors**: If an investor is excluded or excused from participating in a particular investment, they will not have pro-rata rights in that investment.
- **Defaulting Investors**: Investors who fail to meet their pro-rata contribution to an investment will not be entitled to pro-rata returns.
- **Manager or Sponsor's Share**: In cases where the manager or sponsor of the alternative investment fund receives a share of the returns (e.g., carried interest), these returns will not be distributed on a pro-rata basis.

Further, the Circular among others also introduces flexibility for certain entities to accept returns that are lower or share losses greater than their pro-rata rights. These entities may choose to subscribe to subordinate units that may have different risk-return characteristics compared to the senior units, thus allowing for more nuanced capital raising strategies. This applies to entities with different risk profiles, such as:

- Alternative investment fund managers or sponsors
- Bilateral and multilateral development financial institutions
- State-owned entities, including government-backed corporations and sovereign wealth funds

In addition to the above, to ensure compliance, the Circular also requires alternative investment funds to report details of any differential rights offered to investors. For existing alternative investment funds that have issued differential rights that are not in line with the new standards, managers will need to report these to SEBI and discontinue any rights found to be adverse to other investors.

Through this Circular, SEBI aims to improve transparency, provide flexibility, and protect the interests of investors within alternative investment funds, while also ensuring compliance with its broader regulatory framework.

SEBI tightens norms around issuance of offshore derivative instruments by foreign portfolio investors

Circular No. SEBI/HO/AFD/AFD-POD-3/P/CIR/2024/176 dated December 17, 2024

SEBI through a Circular issues measures to address regulatory arbitrage with respect to offshore derivative instruments and foreign portfolio investors with segregated portfolios vis-a-vis foreign portfolio investors.

Through the Circular, SEBI inter-alia updates its requirements related to offshore derivative instruments and segregated portfolios under the foreign portfolio investors related Master Circular dated May 30, 2024. Some of the key changes include (a) mandating separate foreign portfolio investor registrations for issuing offshore derivative instruments (with exceptions for government securities), (b) prohibiting offshore derivative instruments with derivatives as underlying and (c) requiring offshore derivative instruments to be fully hedged on a one-to-one basis.

Additionally, the Circular among others, introduces new disclosure norms for offshore derivative instruments subscribers exceeding specified thresholds, requiring a detailed look-through ownership up to natural persons and provides exemptions for government investors, public retail funds, and certain regulated entities.

Further, the Circular states that the detailed mechanism for independently validating conformance of the offshore derivative instruments subscribers with the conditions, exemptions and format for disclosures shall be spelt out in the standard operating procedure framed and adopted by depositories, designated depository participants/custodians and offshore derivative instruments issuing foreign portfolio investors in consultation with SEBI and the standard operating procedure for the same shall be made public and updated from time to time, in consultation with SEBI.

In addition to the above, the Circular among others also includes certain transitional measures such as a one-year period to redeem offshore derivative instruments with derivatives as underlying and allowing foreign portfolio investors to align with the updated requirements and states that the above-mentioned key changes shall be effective immediately, whereas the other changes shall take effect after five months and the earlier-mentioned standard operating procedure shall be issued within two months.

SEBI outlines the industry standards for the reporting of the business responsibility and sustainability report core

Circular No. SEBI/HO/CFD/CFD-PoD-1/P/CIR/2024/177 dated December 20, 2024

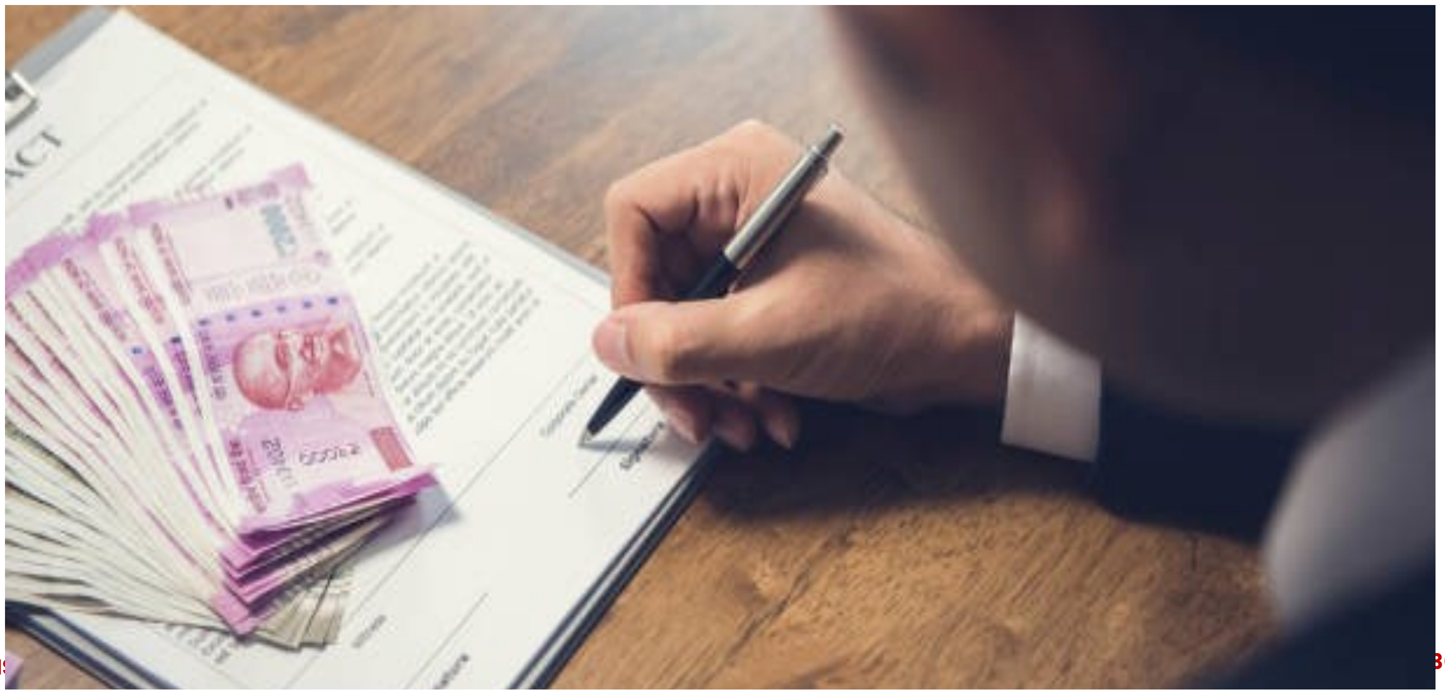
In order to facilitate ease of doing business and to bring about standardization in implementation, SEBI through a Circular outlines the industry standards for the reporting of the business responsibility and sustainability report core. The business responsibility and sustainability report core, introduced by SEBI in 2021, mandates listed companies to report their performance across several sustainability indicators, covering areas such as climate risk, resource use, stakeholder engagement, and governance practices.

These standards, developed by the Industry Standards Forum comprising of industry associations aim to facilitate the standardization and ease of implementation of business responsibility and sustainability report core disclosures under SEBI's LODR Regulations, simplifying the way companies report these parameters, ensuring consistency, comparability, and transparency in their environmental, social, and governance disclosures.

The guidelines are designed to help listed entities comply with requirements outlined in Regulation 34(2)(f) of the LODR Regulations, and will be applicable from FY 2024-25 onwards. Stock exchanges and industry associations will publish these standards on their websites, and listed entities are expected to adhere to them to ensure proper compliance. The Circular also mandates that stock exchanges notify their listed entities about these new requirements.

Listed companies in India will need to adapt to these new standards and update their internal processes for collecting, analyzing, and reporting sustainability data. The industry standards will help streamline the reporting process, making it easier for companies to meet SEBI's disclosure expectations. The standardized framework will also foster comparability between companies in terms of their environmental, social, and governance performance, which can be crucial for attracting sustainability-conscious investors.

Additionally, as the global investment community increasingly emphasizes sustainability, the enhanced environmental, social, and governance disclosures mandated by SEBI will likely boost investor confidence in Indian markets. Companies that effectively implement business responsibility and sustainability report core disclosures will be better positioned to attract long-term, responsible capital, which increasingly focusing on environmental, social, and governance performance as a critical factor in investment decisions. This is a significant step in creating a more sustainable and investor-friendly corporate ecosystem in India. For listed companies, adopting these standards will not only ensure regulatory compliance but also enhance their reputation as responsible corporate citizens in an increasingly eco-conscious global economy.



INTERNATIONAL DESK

EU Transfer Pricing Bill Must Clear Up Ambiguities to Succeed

The proposed EU Transfer Pricing Directive seeks to harmonize the application of transfer pricing principles across member states by introducing a binding framework rooted in the OECD guidelines. Aimed at reducing tax avoidance, compliance costs, and litigation, the directive would establish uniform rules and prioritize EU law over local regulations, potentially taking effect in January 2026. However, its success depends on resolving ambiguities in the OECD guidelines, such as the treatment of permanent establishments, and addressing dissent over the loss of legislative flexibility among member states.

While the directive's harmonization goals are promising, its binding nature has met resistance, with critics concerned about its impact on national autonomy. The directive also lacks explicit anti-abuse provisions, which could create an EU-specific interpretation of the arm's-length principle. The upcoming EU finance ministers' meeting on December 8 will determine whether the directive advances or if alternative measures, like a coordination platform, are pursued. Achieving true harmonization will require significant efforts to clarify ambiguities and balance legislative uniformity with member state sovereignty.

U.K. Considers Reviving Public CbC Reporting as Labour Eyes Global Leadership on Tax Transparency

In 2016, the U.K. government chose a cautious stance on public CbC reporting, opting not to implement it immediately but leaving the door open for future action by the Treasury. At the time, transparency was seen as beneficial, but businesses raised concerns over potential misinterpretation of the information and competitive disadvantages. The U.K. government emphasized that it preferred to wait for a multilateral approach before implementing public CbC reporting, aligning with its vision of a broader, standardized system. Since then, other countries like the EU and Australia have moved ahead with their own public CbC reporting regimes, while the U.K. has remained silent on the issue.

With the Labour Party now in charge, there is renewed speculation about whether the U.K. will push for public CbC reporting, especially given that the country no longer faces the risk of being a "first mover." While the international coordination initially sought by the U.K. remains incomplete, the Labour Party could seize this opportunity to advance public CbC reporting, setting a global example for standardized reporting. However, resistance remains, especially around the issue of requiring multinationals to disclose private CbC reports, which could face significant opposition. Despite these challenges, the U.K. could emerge as a leader in implementing a comprehensive public reporting framework, offering a model for other nations to follow.

Ministry of Finance announces amendments to the Corporate Tax Law

The UAE Ministry of Finance has announced key updates to its corporate taxation framework, including the introduction of a DMTT starting from financial years on or after January 1, 2025. This measure aligns with the OECD's Pillar Two rules, requiring large MNEs with global revenues of EUR 750 million or more to maintain a minimum effective tax rate of 15% in each jurisdiction they operate. The UAE's implementation of the DMTT underscores its commitment to global tax standards, with further details to be issued by the Ministry.

To foster economic growth and innovation, the Ministry is also considering tax incentives under Federal Decree-Law No. 47 of 2022. These include a proposed R&D Tax Incentive offering a 30-50% refundable tax credit on qualifying expenditures, expected to take effect from January 1, 2026. Additionally, a refundable tax credit for high-value employment activities, targeting senior executives and roles that add significant value to the UAE economy, is proposed to commence from January 1, 2025. Final implementation details will be provided following legislative approvals.

Qatar's cabinet amends provisions of Customs Law, eases procedures at ports

The Qatari Cabinet, chaired by Deputy Prime Minister and Minister of State for Defense Affairs HE Sheikh Saoud bin Abdulrahman Al Thani, convened its regular meeting at the Amiri Diwan. The session began with praise for the successful outcomes of the 45th GCC Supreme Council session held in Kuwait, which emphasized the importance of strengthening joint Gulf action and addressing regional and global developments.

During the meeting, the Cabinet approved several key legislative amendments, including changes to the Income Tax Law to align with OECD and G20 requirements for multinational companies. It also endorsed measures to streamline customs procedures and exempt certain Ministry of Defense imports from customs duties. Additionally, the Cabinet declared the Umm Al Sheif area a nature reserve to protect marine biodiversity and preserve pearl oyster habitats. Various memoranda of understanding, including agreements on political consultations and air services, were also approved to strengthen Qatar's international cooperation.

GLOSSARY

Abbreviation	Meaning
AA	Adjudicating Authority
AAAR	Appellate Authority for Advance Ruling
AAR	Authority for Advance Ruling
ACU	Asian Clearing Union
ADD	Anti-Dumping Duty
ADG	Additional Director General
AE	Associated Enterprises
AFA	Additional Factor of Authentication
AGM	Annual General Meeting
AICD	Agriculture Infrastructure and Development Cess
AIF	Alternative investment Fund
ALP	Arm's length price
AMCs	Assets Management Companies
AMP	Advertising, Marketing and Promotion
AMT	Alternate Minimum Tax
AO	Assessing Officer
AOP	Association of Persons
APAs	Advance Pricing Agreements
ARE	Alternate Reporting Entity
ASBA	Application Supported by Blocked Amount
AU	Assessment Unit
AY	Assessment Year
B2B	Business to Business
B2C	Business to Customer
BBT	Buy-Back Tax
BCD	Basic Customs Duty
BED	Basic Excise Duty
BEPS	Base Erosion and Profit Shift
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
CBIC	The Central Board of Indirect Taxes and Customs
CBLR	Custom Broker Licensing Regulations
CCIT	Chief Commissioner of Income tax
CG	Central Government
CGST Act	Central Goods and Services Act, 2017
CIMS	Centralized Information Management System
CIT	Commissioners of Income Tax
CIT(A)	Commissioner of Income-tax (Appeals)
CIT(J)	Commissioner of Income-tax (Judicial)
CJI	Chief Justice of India
CLB	Company Law Board
CoC	Committee of Creditors
CPC	Centralized Processing Centre

Abbreviation	Meaning
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
CVD	Countervailing Duty
DCIT	Deputy Commissioner of Income Tax
DDT	Dividend Distribution Tax
DGIT	Director General of Income Tax
DIT	Directorate of Income Tax
DMTT	Domestic Minimum Top-up 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
FAO	Faceless Assessment Officer
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
GCC	Gulf Cooperation Council
GST	Goods and Services Tax
GIDC	Gujarat Industrial Development Corporation
HC	High Court
IBBI	Insolvency and Bankruptcy Board of India
IBC	Insolvency and Bankruptcy Code
ICDR	Issue of Capital and Disclosure Requirements Regulations, 2009
ICFR	Internal Controls Over Financial Reporting
IFSC	International Financial System Code
IFSCA	International Financial Services Centres Authority Act, 2019
IGST	Integrated Goods and Services Tax
IMC	Indian Medical Council Act, 1956
Ind AS	Indian Accounting Standards
InvITs	Infrastructure Investment Trusts

GLOSSARY

Abbreviation	Meaning
IRP	Interim Resolution Professional
IT Act/ Act	The Income-tax Act, 1961
ITBA	Income Tax Business Application
JAO	Jurisdictional Assessing Officer
KPI	Key Performance Indicator
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
MNEs	Multinational Enterprises
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
PCIT	Principal Commissioners of Income Tax
PFUTP	Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market Regulations, 2003
PIV	Pooled Investment Vehicle
PLR	Prime Lending Rate
REITs	Real Estate Investment Trusts

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

FIRM INTRODUCTION

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

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

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

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

Website: **www.taxcraftadvisors.com**

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

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

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

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

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