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Monthly E-Newsletter

BSC BEACON

TAX & REGULATORY INSIGHTS

WHAT'S INSIDE

I. Direct Taxation	01
A. Corporate Tax	01
B. International Taxation	06
II. Transfer Pricing	08
III. Important Circulars and Notification	12
IV. Regulatory updates	13
V. Goods and Service Tax Updates	21
VII. Compliance Calendar for June 2025	23
Glossary	26

I. DIRECT TAXATION: A. CORPORATE TAX

1. Additions cannot be sustained during reassessment proceedings in the absence of any incriminating material found during the course of search.

The Assessee is engaged in the manufacture of kraft and brown paper. The Assessee filed its ROI for the AY 2009-10. During the assessment proceedings, the AO enquired about the issue of shares and receipt of share premium, verified the details / documents furnished by the Assessee and accepted the same. Subsequently, pursuant to a search conducted under Section 132 of the Act on the Assessee group based on information received from the Investigation wing, a notice under Section 148 of the Act was issued. The Assessee furnished all the relevant details during the course of reassessment proceedings. However, an assessment order under Section 147 was passed after making addition under Section 68 of the Act in respect of unexplained share capital and share premium received during the year. The Assessee challenged the validity of reassessment proceedings and the addition made by the AO. The CIT(A) held the reassessment proceedings to be void-ab-initio, on the basis that the reasons recorded were vague, generic, and not supported by any tangible material or confronted to the Assessee. Aggrieved by the order of the CIT(A), the tax authorities filed an appeal before the Hon'ble Delhi ITAT. The Hon'ble ITAT upheld the order of the CIT(A) as the AO had not brought any material on record to controvert the findings of the CIT(A).

On further appeal, the Hon'ble Delhi HC noted the findings mentioned in the orders of CIT(A) and Hon'ble ITAT. In the order of the ITAT, it was noted that there was no incriminating material found during the search based on which addition could have been sustained. Further, it was observed that the only information which was available with the AO was that the shares were issued at a premium for AY 2009-10. Also, the AO did not have any specific details regarding the income that was alleged to have escaped assessment. Further, the Hon'ble ITAT has observed that no explanation was recorded as to how the Assessee failed to make full, true and all material disclosure of all the facts. The issue pertaining to the share capital was already a subject matter of scrutiny in the original assessment and hence, no addition could be made under reassessment proceedings without any tangible material obtained during the search. Accordingly, the appeal of tax authorities was dismissed.

Pr. Commissioner of Income Tax (Central)-2 v. M/s. K.R. Pulp and Papers Ltd. [TS-700-HC-2025(DEL)]

2. Shares received in exchange for shares in a not-for-profit organization cannot be termed as perquisite under Section 2(24)(iv) of Act

The Assessee, a leading cardiac surgeon affiliated with Escorts Heart Institute and Research Centre (EHIRC), has received 10% shares of Escorts Heart Institute and Research Centre Limited (EHIRCL) for INR 0.20 Crores [FV: INR 10 per share] in lieu of his shareholding in EHIRC. The Assessee was a director of EHIRCL and filed his ROI for AY 2001-02 which was processed under Section 143(1) of the Act. Subsequently, the AO accepted the returned income vide assessment order dated 28.02.2003.

Thereafter, the JAO received a communication from the AO of the M/s Escorts Limited (EL) that EHIRC was taken over by EHIRCL and shares of EHIRCL was acquired by EL (80%) and Assessee (10%) at FV. However, the book value of shares was INR 110.14 Crores [INR 550 per share]. Accordingly, an addition of INR 88.11 Crores was made in case of EL. Based on this communication, the JAO initiated the reassessment proceedings and attributed an intrinsic value of INR 11.01 Crore to the Assessee's shareholding and made an addition of INR 10.80 Crores (i.e., INR 11.01 Crores less INR 0.20 Crores) by considering it as perquisite taxable under Section 2(24)(iv) of the Act. Aggrieved, the Assessee filed an appeal before the CIT(A) who not only upheld the addition made by the JAO but also enhanced the same by INR 3.90 Crores on the basis that the book value of the shares in question was INR 745/- per share and not INR 550/- per share.



Upon further appeal, the Hon'ble Delhi ITAT rejected the Assessee's challenge to the reopening of the assessment. Further, the Hon'ble ITAT noted the decision of co-ordinate bench in case of EL, wherein the addition was deleted on the basis that shares of EHIRCL were given to EL in lieu of its shareholding in EHIRC. Citing the similarity between the case of EL and the Assessee, the Hon'ble ITAT noted that the Assessee had received the shares in exchange of his interest in EHIRC (a not-for-profit organisation) and therefore, there could not be any profit at the time of acquisition of the shares. Consequently, the value of the shares could not be added as a perquisite. Hence, the Hon'ble ITAT held that the Section 2(24)(iv) of the Act was not applicable in case of the Assessee.

Aggrieved by the order of the Hon'ble ITAT, the tax authorities filed an appeal before the Hon'ble Delhi HC. The Hon'ble Delhi HC noted that the additional affidavit filed by the Assessee confirming that the said shares were sold during the AY 2008-09 and the corresponding capital gains was duly offered to tax. Further, during the assessment proceedings for AY 2008-09, the LTCG on sale of shares was accepted by the AO. The Hon'ble HC held that after accepting the cost of acquisition at INR 10 per share and the resultant LTCG therefrom, the tax authorities cannot now take a stand that the cost of the shares in the hands of the Assessee was required to be computed based on their intrinsic value. The Hon'ble HC upheld the order of the Hon'ble ITAT and dismissed the appeal of the tax authorities.

Naresh K Trehan [TS-697-HC-2025(DEL)]

3. Proportionate addition under Section 69A of the Act in respect of unexplained money sustained in case of an Assessee being the co-owner of a house property, based on incriminating material for sale of property seized during search.

A search action under Section 132 of the Act was conducted in the case of Navneet Dawar & others Group on 03.01.2018. The residences and business premises of various persons including Anil Narang and Gurvinder Singh Duggal were covered. During the search at the premises of Gurvinder Singh Duggal, certain documents belonging to Upkar Mani was found and seized. Based on a receipt of INR 1.485 Crores in respect of sale of a house property (co-owned by Gurvinder Singh Duggal [50%], Ravi Narang [25%] and the Assessee [25%]) seized during the search, the AO found that the Assessee (along with the other co-owners) received cash of INR 1.305 Crores and balance INR 0.18 Crores by way of RTGS on sale of the property. Accordingly, the AO made the proportionate addition of 25% - INR 32.62 Lakhs [being Assessee's share in the said property] as unexplained money under Section 69A of the Act. Being aggrieved by the said order, the Assessee filed an appeal before the CIT(A).

The CIT(A) noted that the accounting entries recorded in the seized document was either correct or not correct but it could not be partially incorrect, and the Assessee could not selectively choose the entries in the account to be correct or incorrect. Further, the CIT(A) relying on the presumption under the provisions of Section 132(4A) and 292C of the Act, upheld the order of the AO and sustained the addition made under Section 69A of the Act. Aggrieved by the order of the CIT(A), the Assessee filed an appeal before the Hon'ble Delhi ITAT.

Before the Hon'ble ITAT, the Assessee contended that seized document was undated and unsigned. Further, all the parties to the sale transaction have denied about the cash transaction. Also, the presumption under Section 132(4A) and Section 292C of the Act applies on the 'person searched' and not on the 'other person'. Moreover, no opportunity of cross-examination was provided to the Assessee. The loose sheet found during the search of third person cannot form the basis of addition in case of Assessee, without any corroborative evidence. The Assessee also challenged the validity of satisfaction note recorded by AO. Moreover, the Assessee also contended that deal finally did not take place and amount received through RTGS was returned. Per contra, the tax authorities relied on decision of Hon'ble Delhi HC in case of Indian National Congress¹ wherein it was held that a composite satisfaction note would suffice the requirements of Section 153C of the Act provided it embodies the



details of materials gathered in course of search and pertains towards AYs forming part of the block as a whole. Hence, the tax authorities contended that recording of a single and combined satisfaction will be legally valid. Also, the Assessee was not a third party as the search had taken place at the premises of partner of Assessee, and hence, the Assessee was considered to be the party against whom the search was conducted. Therefore, the action of the AO in invoking the provisions of Section 132(4A) and Section 292C of the Act is correct. Further, the payment of INR 18 lakhs received through banking channels were completely matching with the date wise / amount wise entries in the seized document.

The Hon'ble Delhi ITAT relied on the decision of Indian National Congress (supra) and held that satisfaction note recorded by AO is valid. The Hon'ble ITAT also noted that Assessee is to be considered as 'person searched'. It negated the view of the Assessee that the seized document was a "dumb document" and held that the seized document contained accurate details of the property, containing the names of the three co-owners and payment details which reconciled with the bank statements. Since the receipts were accepted by the sellers, the document was considered verifiable evidence. Even though the amount received through RTGS was returned, there was no mention of cash. Therefore, the cancellation of deal will not alter the receipt of undisclosed cash amounting to INR 32.62 Lakhs in the hands of Assessee. Further, the Hon'ble ITAT stated that there is no need for cross-examination as no reason / ground for the same was mentioned. Accordingly, the addition under Section 69A of the Act, as confirmed by CIT(A) is justified and the appeal of the Assessee is dismissed.

Upkar Mani [TS-738-ITAT-2025(DEL)]

4. Disallowance under Section 11 of the Act ought to be restricted only to the amount diverted or applied in violation of Section 13(1)(c) or 13(2) of the Act

During the AY 2010-11, the Assessee trust granted INR. 4.23 Lakhs as interest-free deposits to its two trustees for the usage of premises for education purpose. In the assessment proceedings, the AO contended that trustees are covered under the ambit of "specified persons" as per Section 13(3) of the Act. Accordingly, the part of income of the Assessee was applied for the benefit of specified persons and hence, the Assessee violated the provisions of Section 13(1)(c)

of the Act. Consequently, the AO denied the entire exemption claimed by the Assessee under Section 11 of the Act.

Aggrieved, the Assessee filed an appeal before the CIT(A) who upheld the assessment order of the AO. The Assessee filed an appeal before the Hon'ble Mumbai ITAT. Before the Hon'ble ITAT, the Assessee raised an alternative plea that the disallowance in respect of exemption under Section 11 of the Act ought to be restricted only to the extent of amount diverted / applied in violation of Section 13(1)(c) of the Act.

The Hon'ble ITAT noted that amendment to Section 13(1)(c) to restrict the disallowance of exemption to the extent of diversion / application of income towards specified person was made w.e.f. 01.04.2023 and applicable from AY 2023-24. However, for the period prior to the AY 2023-24, the Hon'ble ITAT relied on the Jurisdictional HC decision in case of *Audyogika Shikshan Mandal*². The Hon'ble HC in the said decision held that in case of violation under Section 13 of the Act, denial of exemption under Section 11 should be restricted to the quantum of funds diverted to the person specified under Section 13(3) of the Act. Thus, the Hon'ble ITAT remanded the matter back to the AO with a direction to re-examine the exemption under Section 11 of the Act and restrict the disallowance of exemption to the quantum of funds diverted to / applied for the benefit of specified person under Section 13(3) of the Act after granting a reasonable opportunity of hearing to the Assessee. Accordingly, the Hon'ble ITAT partly allowed the appeal for statistical purposes.

Anthayya Education Foundation Trust [TS-696-ITAT-2025(Mum)]



¹ *Indian National Congress vs DCIT [TS-212-HC-2024(DEL)]*

² *Audyogika Shikshan Mandal [TS-7281-HC-2018(Bombay)-O]*

5. Genuineness of trust activities is a determinant factor for granting registration under Section 12AB of the Act.

The Assessee is a trust engaged in charitable activities including providing medical aid to the under-privileged sections of the society. The said activities are covered under Section 2(15) of the Act. The Assessee was registered as a public trust on 28.06.2023 and it obtained provisional registration in Form 10AC on 21.07.2024. Further, the Assessee has also applied for permanent registration under Section 12A(1)(ac)(iii) of the Act.

The CIT(E) referred the matter to the JAO who declined the registration to the Assessee after noting that the Assessee had spent only 13% of the total general donation on medical aid and had invested the balance amount in FDs. Further, the CIT(E) observed that the Assessee neither made any expenditure towards the objects nor submitted any proof or evidence of activities. Accordingly, the CIT(E) held that the Assessee has not commenced its activities towards the attainment of the object. Accordingly, the CIT(E) rejected the application. Aggrieved, the Assessee filed an appeal before the Hon'ble Bangalore ITAT.

The Hon'ble ITAT noted that Assessee trust was registered as public trust only on 28.06.2023. Further, the Hon'ble ITAT did not agree with the contention of the CIT(E) that the Assessee had not commenced its activity towards the attainment of the objects. The Hon'ble ITAT also accepted that since it was the first year of operation, the Assessee could not spend towards the large-scale activity and therefore, it had invested the balance donations received in the FDs as per the prescribed modes for future application.

In view of the above facts and following the judgement of Hon'ble Apex Court in case of **Ananda Social & Educational Trust³**, the Hon'ble ITAT held that the purpose of Section 12AB of the Act is to enable the registration to such trust or institution whose objects and activities are genuine. Further, the Hon'ble ITAT also observed that the Assessee filed Form 10 for accumulation of unspent donation for the purpose of "project vision and educational support", a proposed activity in line with the objects of the Assessee. The Hon'ble ITAT held that the CIT(E) has erred in not granting the registration merely on basis of not incurring the substantial amount of expenditure. Accordingly, the Hon'ble ITAT allowed the appeal of the Assessee and directed the Ld. CIT(E) to grant registration under Section 12AB of the Act.

Dhwani Shristi Foundation [TS-760-ITAT-2025(Bang)]



6. Amendment in Section 10(10D) by Finance Act 2013 applies prospectively.

The Assessee, a director of M/s Uma Polymers Ltd filed his ROI for AY 2021-22 after claiming exemption under Section 10(10D) of the Act in respect of the maturity proceeds received from the Keyman Life Insurance Policy (KIP) treating it as a regular life insurance policy post assignment in favour of the Assessee. During the assessment proceedings, the AO treated it as KIP, citing that the tax was deducted by LIC. LIC made the tax deduction on the premise that the said maturity proceeds do not fall under the exemption under Section 10(10D) of the Act. The AO disallowed the exemption claim under Section 10(10D) in the assessment order. Additionally, the cash deposit made in Bank account of the Assessee was treated as unexplained and addition was made under Section 69 of the Act. Aggrieved, the Assessee filed an appeal before the CIT(A) who upheld the findings of AO on both the above issues. Aggrieved, the Assessee filed an appeal before the Hon'ble Mumbai ITAT.

Before the Hon'ble ITAT, the Assessee contended that the policy was assigned to him upon payment of surrender value of the policy and accordingly, the said policy got converted into regular policy eligible for claiming exemption under Section 10(10D) of the Act as it loses its nature of being KIP. Also, the amendment to the definition of KIP, by Finance Act 2013 to include the assignments made during the term of the policy is effective from 01.04.2014 but the policy of the Assessee was assigned in 2011. Thus, the maturity proceeds were eligible for the exemption under Section 10(10D) of the Act. Per contra, the tax authorities relied on letter issued by the LIC stating that policy did not qualify for exemption under Section 10(10D) of the Act and TDS was accordingly, deducted. Also, that tax

³ *Ananda Social & Educational Trust v. CIT [TS-109-SC-2020]*

authorities contended that LIC did not acknowledge the assignment of the policy, and the endorsement produced was an afterthought or subsequent manipulation.

With respect to cash deposits, the Assessee contended that the said cash was sourced from the earlier cash withdrawals for his son's wedding which was postponed due to outbreak of COVID-19 pandemic. However, the tax authorities contended that Assessee failed to substantiate the source of household withdrawals for the period between the cash withdrawals made earlier and subsequent cash deposit. Further, no satisfactory explanation was furnished by the Assessee to justify the cash deposit, and the source of cash deposit remains unexplained in absence of credible and corroborative evidence.

The Hon'ble ITAT allowed the Assessee's appeal for statistical purpose, by setting aside the findings of the CIT(A) and restoring the file back to the AO. The Hon'ble ITAT directed the AO to verify whether the policy was validly assigned in 2011 along with other supporting documents. The Hon'ble ITAT also directed the AO to verify the cash utilization and withdrawal patterns in connection with cash deposit and determine the sufficiency of unutilised cash on hand to justify the cash deposit.

Shripal Raj Lodha v. DCIT, 17(1), Mumbai, NFAC, Delhi [TS-701-ITAT-2025(Mum)]



7. Assessee entitled to claim refund of DDT paid on dividend distributed to IFC

Polycab India Ltd, is a public listed company engaged in manufacturing and selling of cables, wires and fast-moving electrical goods. One of the shareholders of the assessee company was IFC, an arm of the World Bank Group focused on supporting private-sector

development in emerging economies. Between AY 2018–19 to AY 2020–21, IFC held a 9.48%–15% stake in Polycab. During these years, Polycab declared dividends and as per the laws in force then, paid DDT under Section 115-O of the Act, on the entire dividend amount, including the portion paid to IFC. It would be pertinent to note that IFC enjoys complete tax immunity in India under the International Finance Corporation (Status, Immunities and Privileges) Act, 1958, which overrides all other Indian laws. Specifically, Section 9 of Article VI of the IFC Act grants immunity to IFC from levy of any form of tax in India on its assets, property, income, operations and transaction undertaken by IFC. On this basis, Polycab filed a claim for a refund of DDT paid on the portion of dividends paid to IFC, arguing that taxing a transaction involving a tax-immune body goes against the very spirit of the law. But both the AO and the CIT(A) rejected the claim, reasoning that DDT is a tax on the company and not the shareholder of the company hence IFC's exemption should not apply

The Hon'ble ITAT confirmed that immunity under the IFC Act prevails even over later laws like the Income-tax Act, 1961. So any form of taxation, whether direct or indirect on transactions involving IFC is not permissible. Even though DDT is technically a company's liability and the event that triggers it is the payment of dividend to its shareholders, taxing that event indirectly taxes IFC, violating its immunity and the very purpose of law. The Hon'ble ITAT referred Section 115-O(1A) of the Act, which allows reduction of dividends paid to tax-exempt entities like the New Pension System (NPS). It logically extended the same principle to IFC, stating that entities granted full immunity (like IFC) deserve equal treatment, even if not explicitly mentioned. Ignoring IFC's immunity would mean companies are penalized for paying dividends to exempt entities, which would be against domestic and international commitments. The Hon'ble ITAT also emphasized that IFC's immunity doesn't need to be stated in the Income-tax Act, it is fully enforceable as per the sovereign obligation enshrined in the IFC Act.

The ITAT held that the dividends paid to IFC must be excluded from the taxable base while computing DDT liability. Therefore, Polycab is entitled to a refund of DDT paid on such dividends for all relevant assessment years.

Polycab India Limited v. ACIT [TS-778-ITAT-2025(Mum)]

B. INTERNATIONAL TAXATION

1. *NRI entitled to full TDS credit despite buyer's lapse in compliance procedure.*

Parag Keshav Bopardikar (“the Assessee”) is a NRI and a tax resident of USA. During the AY 2016-17, the Assessee sold a residential property located in Pune for INR 2 Crores. The buyers deducted TDS and deposited INR 18.68 lakh with the government and paid the balance amount to the Assessee. The Assessee computed the balance tax liability, deposited the same as advance tax and repatriated the balance amount to the USA but failed to file ROI for the same year. The buyer erroneously filed the TDS return under Form 26QB (applicable to resident sellers), instead of the filing correct Form 27Q (applicable for NRIs). The AO initiated reassessment proceedings and passed an order under Section 148A(d) of the Act considering it as a fit case for reassessment.

The Assessee submitted that he had discharged his entire tax liability, including advance tax, and that denial of TDS credit was solely due to the buyers' procedural lapse. Further, the Assessee also filed the ROI. The tax authorities admitted that while TDS had been deducted and deposited, their SOPs required buyers' consent and supporting documents, including an indemnity bond, to rectify the error. Aggrieved, the Assessee filed a writ petition before the Hon'ble Delhi HC.

The Hon'ble Delhi HC observed that the Assessee could not be penalized for a mistake committed by the buyers, especially when the tax has been duly deposited with the government. Accordingly, the Hon'ble HC directed the tax authorities to update the records, give full credit to the Assessee for the TDS deposited under Form 26QB from the date of deposit, and compute any refund due to the Assessee in accordance with law. Accordingly, the Hon'ble HC allowed the petition.

Parag Keshav Bopardikar [TS-727-HC-2025(DEL)]

2. *Only deduction of tax does not institute accrual of income, in absence of reasonable certainty of ultimate collection.*

Weir Mineral (India) Pvt. Ltd. (“the Assessee”), is a company engaged in the manufacturing and marketing of slurry pumps, valves, and related design support services. During the AY 2012-13, the Assessee entered into a sub-license agreement with The Indure Limited (TIL) for granting non-exclusive right to manufacture and sell a restricted range of Warman pumps and parts. TIL was required to pay royalty to the Assessee of INR 79.82 Lakhs for use of brand name. TIL



withheld tax @ 10% on the said amount and deposited during the AY 2012-13. However, TIL did not pay the royalty to the Assessee. The Assessee filed its ROI for AY 2012-13 declaring total income of INR 19.39 Crores. During the assessment proceedings, an addition of INR 79.82 lakhs was made on account of undisclosed royalty income on reconciliation in respect of TDS as per ROI vis-à-vis the Form 26AS.

The impugned addition was based on the fact that since TDS credit was claimed by the Assessee, the income should have been offered for tax. Aggrieved, the Assessee filed an appeal with the CIT(A). Before the Hon'ble CIT(A), the Assessee stated that the addition was made ignoring the fact that the ultimate collection of such royalty was uncertain and therefore, the same was not recognized by the Assessee in books of accounts in AY 2012-13.

The Hon'ble CIT(A) dismissed the appeal by merely stating that the TDS credit has been claimed by the Assessee and therefore the consequent income is required to be offered to tax. Aggrieved by the order of the CIT(A), the Assessee filed an appeal with Hon'ble Delhi ITAT.

Before the Hon'ble Delhi ITAT the Assessee contended that income was not recorded in books of the Assessee in line with AS-9 as there was uncertainty regarding its receipt and thus its accrual was deferred. Further, the royalty income was recorded in AY 2013-14, an invoice was raised upon TIL and a provision was created considering the uncertainty in ultimate collection of royalty. Since, the royalty income and its provision were grouped together in the financial statements, no royalty income was reflected on the financial statement

for the AY 2013-14. However, the Assessee never received the said royalty income. In the AY 2017-18, the Assessee has written off the receivable from TIL due to ultimate failure to realize the invoice value. The Assessee also stated that it is a well settled principle that Income tax is a levy on income and where there is no income, there is no tax. Accordingly, mere deduction of TDS cannot be the reason to sustain the royalty income. Assessee has placed reliance on various judgements⁴ in support of its contention. Per contra, the tax authorities contended that once the TDS credit is granted to the Assessee, income should be brought under the ambit of taxation under Section 199 of the Act read with Rule 37BA of the Rules.

The Hon'ble Delhi ITAT noted that unrealized income should not be brought to tax even when the TDS on such income was deducted on an accrual basis. As per Section 198 of the Act, tax deducted shall be deemed to be income received. Since the law does not allow complete withdrawal of a TDS claim, TDS of INR 7.98 lakhs must be added to the income of the Assessee. Accordingly, the Hon'ble ITAT partially allowed the appeal by granting net relief of INR 71.84 Lakhs (i.e. INR 79.82 Lakhs less INR 7.98 Lakhs) and considering an amount of INR 7.98 Lakhs as taxable income.

Weir Mineral (India) Pvt Ltd [TS-764-ITAT-2025(DEL)]



3. Transponder service charges cannot be construed as Royalty and consequently, no obligation to deduct tax under Section 195 on the Assessee.

United Home Entertainment Private Limited ("the Assessee") is part of Walt Disney group and an Indian Company engaged in broadcasting business. The Assessee had availed transponder services from Intelsat Global Sales and Marketing Limited (Intelsat), without acquiring any ownership or control over tangible assets. The Assessee filed an application under Section 195(2) of the Act seeking a NIL withholding certificate for payment towards transponder services on the basis that payments made to Intelsat were not taxable in India. However, the AO disposed of the application by treating the said payments as royalty under Section 9(1)(vi) of the Act and Article 13 of the India-UK DTAA. The AO relied on Explanation 6 to Section 9(1)(vi) of the Act, which deems satellite transmission as a "process" constituting royalty, and since "process" was not defined in the DTAA, the AO applied the interpretation of the Act. Aggrieved, the Assessee filed an appeal before the CIT(A) who ruled in favor of the Assessee, citing consistency with decisions from prior years wherein it was held that the Assessee is not liable to deduct tax at source under Section 195 of the Act.

Aggrieved by the same, the tax authorities challenged this before the Hon'ble Mumbai ITAT, which upheld the CIT(A)'s decision. The Hon'ble ITAT relied on landmark judgment of the Delhi HC in case of Asia Satellite Communications Ltd (ITA 131/2003) wherein it was held that, payment received by Intelsat is not taxable in India under the provisions of Indo-UK-DTAA and further reiterating that DTAA provisions are autonomous and cannot be overridden by retrospective amendments in domestic law unless the treaty itself is amended. The Hon'ble ITAT held that mere use of satellite transponder bandwidth does not amount to royalty under the DTAA and noted there was no PE or business connection in India.

Accordingly, the Hon'ble ITAT concluded that the Assessee was not liable to deduct tax at source and dismissed appeal filed by the tax authorities.

United Home Entertainment Pvt. Ltd [TS-703-ITAT-2025(Mum)]

⁴ CIT V. Shoorji Vallabdas & Co [TS-1-SC-1962], Godhra Electricity Co. Ltd v. CIT [TS-5046-SC-1997-O] & Vishwaroop Infotech Pvt Ltd v ACIT: [TS-577-ITAT-2020(Mum)]

II. TRANSFER PRICING

1. *Companies having turnover significantly higher than that of the Assessee, shall be excluded from the list of Comparable. Indian rupee-denominated borrowings cannot be benchmarked with masala bond rate (as the currency risk is borne by foreign investor in foreign currency)*

Electronic Arts Games India Pvt. Ltd. (Assessee) is a company engaged in developing, designing, publishing, and distributing application software, video game software and related digital content. During the assessment proceedings for the AY 2017-18, the matter was referred to the TPO to verify the ALP of the international transactions of the Assessee with its AE. The TPO proposed two adjustments: 1) Software Development Services (SDS) amounting to INR 2.16 Crores, and 2) INR 4.70 Lakhs on account of interest paid on Indian Rupee-denominated ECBs. The Assessee challenged the draft assessment order involving both the above TP adjustments before the Hon'ble DRP. The DRP reduced the SDS adjustment to INR 1.60 Crores, but it confirmed the interest-related adjustment. Aggrieved with the final assessment order, the Assessee filed an appeal before the Hon'ble Hyderabad ITAT.

Before the Hon'ble ITAT, the Assessee contended that the TPO has considered the companies with substantially high turnover (like Infosys, Wipro, L & T Infotech, Tata Elxsi and Mindtree) for determining the ALP. The Assessee stated that these companies were not suitable for benchmarking a medium-sized company like that of Assessee. Further, with respect to interest adjustment, the Assessee contended that the SBI-PLR rate was more appropriate for benchmarking the Rupee-denominated ECBs than Masala bond rate under the CUP method based on judicial precedents in case of Adama India Private Limited⁵ and Invesco (India) Private Limited⁶. Per contra, the tax authorities relied on final assessment order. Further, the tax authorities contended that since ECB was denominated in INR, it was factually a 'Masala Bond' transaction and CUP was the MAM for benchmarking purpose.

⁵ *Adama India Private Limited vs. ITO [TS-9016-ITAT-2019(Hyderabad)-O]*

⁶ *Invesco (India) Private Limited vs. DCIT, [TS-5535-ITAT-2025(Hyderabad)-O]*

⁷ *CIT vs. Pentair Water India (P) Ltd [TS-5601-HC-2015(Bombay)-O], Principal Commissioner of Income Tax vs. Equant Solutions India (P.) Ltd [TS-6103-HC-2019(Punjab & Haryana)-O], Principal Commissioner of Income Tax vs. Freescale Semiconductor India (P.) Ltd [TS-6601-HC-2024(Delhi)-O], Infor (India) Private Limited vs. DCIT [TS-630-ITAT-2023(HYD)-TP], Tektronix India (P.) Ltd vs. ACIT [TS-271-ITAT-2023(Bang)-TP] & IG Infotech (India) (P.) Ltd vs. ACIT [TS-8468-ITAT-2023(Bangalore)-O]*

The Hon'ble Hyderabad ITAT held that the five high-turnover companies selected by the TPO were not suitable comparables for benchmarking the SDS of the Assessee, given their significantly larger size, brand value, and scale. The Hon'ble ITAT relied on various case laws⁷ while stating the same. The Hon'ble ITAT emphasized the importance of applying a proper turnover filter and directed the TPO to exclude these companies and conduct a fresh benchmarking analysis using appropriate comparables with range of turnover filter at ten times on both the ends to arrive at a plausible view. Further, the Hon'ble ITAT held that the Assessee was right in benchmarking the ECB transaction using the SBI-PLR and rejected the TPO's use of Masala Bond rates. The Hon'ble ITAT concluded that since the loan was denominated and repayable in INR, the borrower did not bear any foreign currency risk—unlike in Masala Bond transactions. Accordingly, the Hon'ble ITAT allowed the appeal of the Assessee.

Electronics Arts Games (India) Private Limited [TS-334-ITAT-2025(HYD)-TP]



2. *TP adjustment on account of commission on corporate guarantee advanced to the AE restricted at 0.5 % by following Everest Kanto judgement*

United Phosphorous Ltd. ("Assessee") has undertaken international transaction with its AE during the AY 2003–04. During the assessment proceedings, the TPO made an addition under Section 92C(4) of the Act in respect of commission on the corporate financial guarantee issued by the Assessee to its AE computed at INR 45 Lakhs [0.6% of INR 7,511.60 Lakhs].

The TPO stated that the Assessee has undertaken a substantial risk by providing guarantee on behalf of its AE. Aggrieved, the Assessee challenged the assessment order before the CIT(A) who confirmed the addition. Aggrieved by the order of the CIT(A), the Assessee filed an appeal before the Hon'ble Mumbai ITAT.

Before the Hon'ble ITAT, the Assessee contended that extending corporate guarantee is not an international transaction. However, to avoid future litigation, the TPO may be directed to re-compute addition at 0.3% on the value of corporate financial guarantee. Per contra, the tax authorities relied on the assessment order.

The Hon'ble ITAT noted that difference is only on account of percentage of addition on corporate financial guarantee. In this context, the Hon'ble ITAT followed the decision of the Jurisdictional HC in case of Everest Kanto Cylinder Ltd.⁸ and directed that the TP adjustment be recomputed at a reduced rate of 0.5% instead of 0.6%, thereby granting partial relief to the Assessee.

United Phosphorous Ltd [TS-308-ITAT-2025(Mum)-TP]

3. Hon'ble Mumbai ITAT remands TP Adjustment on loan interest and directs AO to examine loan repayment currency

Gemini Property Developers India LLP (the "Assessee") is engaged in the business of development of residential and commercial complexes. In the AY 2017-18, the Assessee filed its ROI declaring total income of INR 20,110/-. During the relevant year, the Assessee had advanced a loan to its AE based out of Dubai and denominated in UAE Dirhams (AED) carrying interest rate of 3.8% p.a. (i.e., LIBOR + 2.5%). The AO concluded the assessment proceedings by accepting the returned income. However, since the AO completed the assessment without making a reference to the TPO, the PCIT invoked jurisdiction under Section 263 and directed the AO to make a reference to the TPO in respect of international transaction reflected in Form 3CEB of the Assessee. The TPO noted that the loan was extended in INR and applied an interest rate of 11%, (based on the SBI-PLR), leading to a TP adjustment of INR 67.20 Lakhs. The AO passed a draft assessment order after incorporating the said TP adjustment. Aggrieved, the Assessee filed its objections before the Hon'ble DRP which confirmed the TP adjustment. The Assessee filed an appeal before the Hon'ble Mumbai ITAT.

⁸ CIT vs. Everest Kanto Cylinder Ltd [TS-26-HC-2025(BOM)-TP]

⁹ CIT v. Cotton Naturals (I) (P) Ltd [TS-6032-HC-2015(Delhi)-O]

Before the Hon'ble ITAT, the Assessee contended that loan was advanced to AE in AED terms. Also, the loan amount was reflected in INR terms for the purpose of reporting the international transaction in Form 3CEB and the remittance was also made in AED. It was further stated that LIBOR has been accepted as the most suitable benchmark for determining ALP in case of a foreign currency loan. However, the tax authorities contended that since the transaction originated from India, the Indian domestic interest rate must apply. Also, the loan agreement was governed by Indian laws.

The Hon'ble ITAT noted that primary dispute was regarding the benchmarking of the interest rate - Indian lending rates (since the lender was an Indian entity) or international LIBOR rate (as per the currency of the loan). In this context, the Hon'ble ITAT relied on the decision of Hon'ble Delhi HC in case of Cotton Naturals India Pvt. Ltd.⁹, wherein it was held that the applicable interest rate should align with the currency of the loan, not the residence of the lender. Since the records of the Assessee did not clearly establish whether there was a specific agreement on the currency of repayment between the Assessee and its Dubai-based AE, the Hon'ble ITAT directed the Assessee to furnish relevant documents to establish the currency of loan repayment. Accordingly, the Hon'ble ITAT remitted the issue to AO/TPO for denovo consideration and partly allowed the appeal for statistical purposes.

Gemini Property Developers India LLP [TS-340-ITAT-2025(Mum)-TP]



4. Restrictions under Section 94B of the Act cannot be considered as 'Other Method' for benchmarking the transaction of interest on NCDs. Unclaimed interest expenditure does not fall within the scope of disallowance under Section 94B of the Act.

The Assessee is engaged in the business of development and construction of townships, residential and commercial premises, buildings and development of land. The Assessee issued NCD to AE for which it paid an interest amount of INR 32.40 Crores. Out of total interest, the Assessee capitalized interest of INR 14.60 Crores to WIP inventory and did not claim it as deduction. Further, the Assessee suo moto disallowed the interest expenditure in excess of 30% of EBITDA as per Section 94B of the Act - INR 16.83 Crores (17.79 Crores-0.96 Crores).

During the assessment proceedings, the TPO considered the limits mentioned in Section 94B as basis of benchmarking the interest rate under Other Method. The TPO disallowed the entire interest expense in excess of 30% of EBITDA amounting to INR 31.44 Crores (i.e., INR 32.40 Crores less INR 0.96 Crores) as TP adjustment. The AO incorporated the TP adjustment in draft assessment order. The Assessee filed its objections before the Hon'ble DRP on the following grounds:

1. The disallowance made by the TPO resulted into double disallowance of the interest expense calculated under Section 94B which was not claimed and suo motu disallowed by the Assessee in its ROI.
2. The interest expense which is not debited to Profit & Loss Account and not claimed as deduction cannot be subjected to provisions of Section 94B of the Act.

The Hon'ble DRP upheld the decision of the TPO to disallow the entire interest expense in excess of Section 94B of the Act and granted partial relief in respect of voluntary disallowance already made by the Assessee. However, the AO passed the final assessment order without considering the directions of the DRP and did not consider the voluntary disallowance of the interest expense by the Assessee.

On further appeal, the Hon'ble Mumbai ITAT relying on various judicial precedents, held that since the directions issued by the Hon'ble DRP was not given effect in the Assessment Order, the order passed by the AO is bad in law. Further, the Hon'ble ITAT held that conditions mentioned in Section 94B of the Act cannot be used as a basis for benchmarking using 'other method' as the said provision is applicable for transactions between two AEs. On the other hand, Rule



10AB of the Rules specifies the price for determining ALP has to be with or between non-AEs. The Hon'ble ITAT further held that the expenses not debited to the P&L account will not be subjected to provisions of Section 94B of the Act and that such unclaimed expenses cannot be disallowed. Accordingly, the Hon'ble ITAT deleted the adjustment made in respect to the interest expenditure.

Beauty Etoile Private Limited [TS-312-ITAT-2025(Mum)-TP]

5. For benchmarking the transaction under RPM, operational comparability is to be seen over product similarity.

The Assessee is a subsidiary of a US-based company and engaged in the business of trading of speciality chemicals, additives, etc., in India. The Assessee imported chemical products from its foreign AE for distribution in India and returned certain products which were not meeting the quality standards. The Assessee benchmarked the purchase transaction and purchase return using RPM as the MAM and considered itself as the tested party. The Assessee calculated the arm's length gross margin range of 4.18% to 8.21% by selecting 22 comparable companies with a median of 6.8%. The Assessee earned 4.58% GP margin which was claimed to be at arm's length based on the TP benchmarking analysis. However, the TPO rejected 13 comparables selected by the Assessee on the grounds of difference in products

of the comparables. Those 13 comparables were in the business of trading in bulk chemicals whereas the business of the Assessee was trading in sale of speciality chemicals. Accordingly, the TPO recalculated the arm's length gross margin range of the remaining companies and proposed the TP adjustment on the purchase transaction. The AO passed the draft assessment order considering the said TP adjustment. The Assessee filed its objections before the Hon'ble DRP which rejected the objections based on dissimilarity of products between the Assessee and the comparables. Hence, the DRP upheld the assessment order. Thereafter, the AO passed the final assessment order.

On appeal before the Hon'ble Mumbai ITAT, the Hon'ble ITAT held that in RPM product similarity is not a vital aspect for carrying out comparability analysis, but operational comparability is to be seen. Therefore, product differentiation does not materially affect the GP margin. The Hon'ble ITAT noted that Rule 10B(1)(b) of the Act does not require strict product similarity for benchmarking the international transaction. The Hon'ble Mumbai ITAT relying on the decision of coordinate bench in the case of *Mattel Toys (I) (P) Ltd*¹⁰ observed that GP margin earned by the independent enterprise in comparable uncontrolled transactions is a guidance factor while benchmarking the transactions using RPM. The product differentiation does not materially affect the GP margin as it represents gross compensation after the cost of sales for specific function performed. Thus, the focus is more on same or similar nature of properties or services rather than similarity of products. Considering the functional attributes as a primary factor while undertaking the comparability under RPM, the Hon'ble ITAT accepted the comparable companies selected by the Assessee and allowed the appeal.

Troy Chemicals India Pvt. Ltd [TS-298-ITAT-2025(Mum)-TP]

6. Since ITAT has concluded that the TPO did not invoke DAPE provisions on the transaction of Indian Company with its foreign AE, the matter cannot be set aside to the AO/TPO for fresh adjudication.

The Assessee is a foreign company having a subsidiary in India. The Assessee supplied software to its Indian subsidiary, the payment for which was made after deduction of taxes. At the time of assessment, the AO held that the Indian subsidiary constituted DAPE and attributed income to the Assessee in India. On filing objection before the Hon'ble DRP, the finding of the AO

was upheld. On appeal before the Hon'ble Bangalore ITAT, the ITAT held that the transactions between the Assessee and its Indian subsidiary was subject to TP provisions and the TPO has accepted the transaction as purchase and sale transaction without applying DAPE provisions. Therefore, the question of treating the Indian subsidiary as DAPE will not arise. However, the Hon'ble ITAT set aside the matter to the AO/TPO for fresh adjudication.

The Assessee has now filed a MA before the Hon'ble ITAT for seeking modification in its earlier order to restrict the scope of the AO's proceeding at the time of fresh adjudication since the remitting the case back to the AO was not required, given that the Hon'ble ITAT concluded the Indian subsidiary does not constitute DAPE.

The Hon'ble ITAT allowed the MA filed by the Assessee and accordingly restricted the scope of the AO.

QlikTech International AB C/o QlikTech India Pvt Ltd [TS-279-ITAT-2025(Bang)-TP]



¹⁰ *Mattel Toys (I) (P) Ltd. vs. DCIT, reported in [TS-5803-ITAT-2013(Mumbai)-O]*

III. IMPORTANT CIRCULARS AND NOTIFICATIONS

1. CBDT extends the due date of filing of ITRs which were due for filing by 31.07.2025 to 15.09.2025

The CBDT has extended the due date for filing ITR for AY 2025-26 from 31.07.2025 to 15.09.2025 vide a Press Release dated 27.05.2025. This extension facilitates significant changes in the ITR forms, which require additional time for system updates and utility rollout. It also considers delays in the availability of TDS credits, expected to reflect from early June 2025. The move aims to ensure accurate filing and ease compliance for taxpayers. A formal notification will be issued separately.

2. CBDT extends deadline to process ITRs for AY 2023-24 under Section 143(1) until November 2025

The CBDT exercising its powers under Section

119(2)(a) of the Act, has relaxed the time limit specified in the second proviso to Section 143(1) of the Act. It has directed that valid electronically filed returns for AY 2023-24 under Section 139, which could not be processed due to the expiry of the prescribed timeline, shall now be processed. Intimations under Section 143(1) will be issued to the concerned taxpayers by 30.11.2025

However, this relaxation will **not** apply to:

- Returns selected for scrutiny;
- Returns pending processing due to reasons attributable to the taxpayer.

Additionally, in cases where PAN is not linked with Aadhaar, no tax refunds shall be issued, in line with Circular No. 03/2023 dated 28.03.2023 (F. No. 370142/14/2022-TPL)

3. TDS exemption for payments made to IFSC Units

In a significant step towards promoting ease of doing business within GIFT City, the Ministry of Finance has announced a broad TDS exemption for eligible units operating in the IFSC. No tax will be deducted at source on a wide range of payments made to these units. The said exemption shall be effective from 01.07.2025.

To avail this exemption, the IFSC unit must furnish a statement-cum-declaration in Form No. 1 to the payer,

specifying the 10 consecutive AYs during which it is claiming the tax holiday under Section 80LA of the Act. After receiving the said declaration, the payer shall not deduct TDS on eligible payments and will need to report these in their quarterly TDS returns. The exemption applies only during the selected 10-year period, after which regular TDS provisions will resume.

Exemption will cover payments under several categories that are as follows -

Sr. No.	International Financial Services Centre (IFSC Unit) (Payee)	Nature of receipt (Payment)	Relevant provisions relating to deduction of Tax at source under the Act
(1)	(2)	(3)	(4)
01	BATF Service provider	Professional or Consulting or Advisory fees	194J
02	Broker-Dealers	Payment made by Recognised Stock Exchanges	194J
		Commission Incentives	194H or 194C
03	Finance Company	Interest on account of lease	194A
		Freight Charges or Hire Charges	194C
04	Fund Management Entity	Portfolio management fees	194J
		Investment advisory fees	194J
		Management Fees	194J
		Performance Fees	194J
05	Recognised Clearing Corporation	Professional or Technical Services Fees	194J
		Interest Income	194A
		Penalty levied on clearing members	194J

Sr. No.	International Financial Services Centre (IFSC Unit) (Payee)	Nature of receipt (Payment)	Relevant provisions relating to deduction of Tax at source under the Act
(1)	(2)	(3)	(4)
06	Recognised Depository	Professional or Technical or Contractual fees	194J or 194C
07	Recognised Stock Exchange	Professional or Technical Services Fees	194J
		Rent for Data Centers	194I
		Interest Income	194A
		Penalty levied on Members by Stock Exchange	194J

IV. REGULATORY UPDATES

1. India on the Rise: A New Era of Economic Power & Innovation

India is rapidly ascending the global economic hierarchy, demonstrating a robust commitment to self-reliance and technological advancement. The nation is actively reshaping its economic landscape, driven by strategic policy shifts and a burgeoning innovation ecosystem.

Economic Milestones: India's Powerful Ascent

India's economic trajectory is nothing short of phenomenal. The nation is achieving significant milestones across key sectors, showcasing its rapid growth and strategic diversification.

Key Economic Highlights:

Metric	Current Status	Future Outlook	Significance
Global Economy Rank	10th in 2014, 4th in 2025 (IMF, Forbes India)	3rd by 2027 , surpassing Germany (IMF, NITI Aayog)	Remarkable climb: India's GDP grew from ~\$2.04 trillion in 2014 to ~\$4.19 trillion in 2025.
Renewable Energy	World's 3rd largest generator of electricity from wind and solar in 2024 (Ember)	Continued leadership in green energy transition.	Strong commitment to sustainable energy, contributing 10% of India's total electricity in 2024.
Defence Production	₹1.27 lakh crore in FY 2023-24 (Ministry of Defence)	Decreased import dependency; increased self-reliance.	174% rise from ₹46,429 crore in 2014-15. 65% of defence equipment now manufactured domestically.



Bharat's Internal Economy Policy: Catalyzing High-Tech Manufacturing

India's economic resurgence is powered by far-reaching policy reforms, especially within its Special Economic Zones (SEZs), designed to establish India as a global hub for high-tech manufacturing, particularly in semiconductors and electronics.

SEZ Reforms: A Strategic Leap in High-Tech Manufacturing

The **Special Economic Zones (Amendment) Rules, 2025**, effective 03.06.2025 (Ministry of Commerce and Industry), introduce critical changes:

Reform Area	Previous Norms	New Norms (Effective June 3, 2025)	Impact & Significance
Minimum Land Area	50 hectares (General SEZs)	10 hectares for semiconductor & electronics SEZs. Further reduced to 4 hectares for certain SEZs.	Lowers entry barrier for MSMEs and startups. Promotes smaller, specialized units. Focuses on semiconductors, display modules, PCBs, Li-ion cells, mobile/IT hardware, wearables, and wearables.
Use of Encumbered Land	Land had to be free of legal claims/debts.	Allowed if mortgaged/leased to Central/State Govt. or authorized agencies (with written justification).	Addresses land acquisition challenges, especially in urban areas. Provides greater flexibility for developers.
Finished Goods Movement	Limited options for inventory management.	Increased flexibility: Export directly, move to Customs Bonded Warehouse, sell to DTA (with duties), or transfer to FTWZ within same/different SEZ.	Enhances ease of doing business, providing businesses with more dynamic inventory and market access strategies.
Foreign Exchange Earnings	Calculation methods not always explicit for certain services.	Value of both received and supplied goods (even free-of-cost) must be included, using customs valuation methods.	Ensures clear and accurate calculation of net foreign exchange earnings, a key requirement for SEZ units.

Why These Reforms Matter for MSMEs & Startups:

These revised SEZ norms are designed to:

- **Accelerate Setup:** Facilitate faster establishment of fabless units and component plants.
- **Reduce Capital Barrier:** Lower capital entry hurdles for new and emerging businesses.
- **Increase Participation:** Boost involvement in strategic high-tech sectors.
- **Improve Access:** Provide better access to infrastructure and export incentives, empowering India's micro, small, and medium enterprises.

Alignment with National Goals:

These policy overhauls resonate with India's broader missions:

- **Atmanirbhar Bharat** (Self-Reliant India)

- **Make in India**
- **Design in India to Make in India**
- **PLI Scheme for Semiconductors and Electronics**



Global Manufacturing Shift: India as the Cost-Effective Leader

India has quietly achieved a significant coup in the global economic arena, becoming the world's most cost-effective manufacturing destination, a position historically held by China.

Cost-Effective Manufacturing: India Leads the Way

Country	Global Cost-Effectiveness Ranking (World of Statistics, US News & World Report)	Manufacturing PMI (JP Morgan, April 2025)	Services PMI (JP Morgan, April 2025)
India	#1	58.2 (Strong Expansion)	58.7 (Strong Expansion)

Followed by China, Vietnam and Others (Thailand, Philippines, Bangladesh) forming Top 5 Cost-Effective Manufacturing Locations of the world.

Impact of This Shift:

- **Increased FDI:** Strengthens India's appeal for companies diversifying away from China, potentially leading to a surge in foreign direct investment.
- **Reshaped Trade Flows:** May reconfigure global trade

patterns and investment, as India emerges as a credible alternative for manufacturing.

- **Beyond Cost:** Driven by demographics, digital readiness, policy reforms, and supply chain resilience.

Outlook: While China remains a major force, India's upward momentum is clear, signalling a broader transformation in global manufacturing priorities

Bharat's Monetary Policy: Steering Towards Stability and Growth

The Reserve Bank of India (RBI) plays a pivotal role in guiding India's economic trajectory through its monetary policy.

Policy Rate	Change	New Rate	Significance
Policy Repo Rate	-50 bps	5.50%	Supports domestic demand amidst global volatility; aligns with inflation moderation.
Standing Deposit Facility (SDF)	-	5.25%	Part of a shift from "accommodative" to "neutral" monetary policy stance.
Marginal Standing Facility (MSF) & Bank Rate	-	5.75%	Reflects a more balanced and data-driven policy approach. Cumulative 100 bps cut since Feb 2025.

Latest RBI Monetary Policy (MPC Decisions)

Policy on Cryptocurrency (Tentative - July 2025):

- **Discussion Paper:** Indian government is expected to release a discussion paper exploring policy options for crypto assets.
- **Inputs:** Will draw the inputs from IMF/FSB report and global regulatory approaches.
- **RBI Stance:** RBI has raised concerns about crypto misuse (money laundering, terror financing) and is working on its own Central Bank Digital Currency (CBDC) as a safer alternative.

proactive approach to global economic shifts.

- **Inclusive High-Tech Growth:** SEZ reforms simplify infrastructure access, invite new-age entrepreneurs, and enhance global investor confidence.
- **Foundational Role of MSMEs:** As India rolls out major chip fabrication plants, display units, and component ecosystems, MSMEs and startups will play a foundational role in value creation.
- **Global Destination:** With strategic guidance and robust policy support, India is well on its way to becoming the next global destination for semiconductor and electronics manufacturing.

The Road Ahead: India's Transformative Journey

India's journey is one of dynamic policy initiatives and a

India is not just growing; it is redefining its economic identity as a powerhouse of innovation, efficiency, and self-reliance.

2. Functioning and Performance of the Insolvency and Bankruptcy Code (IBC): Lessons from the JSW-BPSL Case and the Road Ahead

I. Introduction and Evolution of the Insolvency and Bankruptcy Code (IBC)

Since its enactment in 2016, the Insolvency and Bankruptcy Code (IBC) has emerged as a landmark reform in India's financial and corporate governance framework. It was introduced against the backdrop of a severe non-performing asset (NPA) crisis, with the objective of creating a streamlined, time-bound mechanism for resolving insolvencies and maximizing the value of distressed assets. The IBC consolidated various fragmented laws into a unified legal framework, aiming to improve credit discipline and financial stability.

The Code's key objectives include maximizing asset value, promoting entrepreneurship, improving credit availability, and ensuring an equitable balance of interests among stakeholders. It also marked a fundamental shift to a creditor-in-control regime, replacing the earlier debtor-driven processes. A pivotal moment in its early implementation came with the 2017 amendment to the Banking Regulation Act, which empowered the Reserve Bank of India (RBI) to compel banks to initiate Corporate Insolvency Resolution Processes (CIRPs) for major defaulters. This led to the identification of the "dirty dozen" accounts, large corporate defaulters such as Bhushan Power & Steel Ltd. (BPSL), that together comprised nearly 25% of India's total NPAs.

II. Progress and Impact of the IBC

Statistical Overview of CIRP Outcomes

CIRP cases till 31.03.2025	Number	Percentage
Admitted	8,308	100%
Closure:		
Withdrawn under section 12A	1,154	13.89%
Closed on appeal or review or settled	1,276	15.36%
Resolution plans approved	1,194	14.37%
Liquidation orders passed	2,758	33.20%
Ongoing CIRP cases	1,926	23.18%

Source: IBBI Quarterly Newsletter 31st March, 2025

Over eight years since its enactment, the IBC has demonstrated significant success in achieving its core objectives, leading to broad economic benefits:

a. Improving Financial Health and Credit Discipline

The IBC has markedly improved credit discipline. Scheduled Commercial Banks (SCBs) have witnessed their gross NPA ratio fall to a 12-year low of 2.6% by September 2024. The credible threat of insolvency proceedings has encouraged borrowers to settle dues or undergo pre-emptive restructuring.

b. Enhancing Corporate Performance and Employment

Post-resolution, companies have demonstrated robust financial recovery. A study by IIM Ahmedabad showed significant gains for resolved entities: a 76% increase in average sales, a 130% rise in capital expenditure, and over 50% growth in total assets. Liquidity improved by 80%, and average employee expenses rose by 50%, indicating both job retention and creation.

c. Resolutions and Recoveries

By March 2025, 1,194 companies were rescued via approved resolution plans. Creditors recovered Rs. 3.89 lakh crore, equating to over 170.1% of liquidation value and 93.41% of fair value. Though creditors faced an average haircut of about 67% on admitted claims, the realization levels relative to liquidation outcomes were significantly superior.

d. Ease of Doing Business Improvements

India's global standing improved sharply following IBC implementation. The World Bank's Ease of Doing Business Report ranked India's resolving insolvency metric at 52 in 2020 (up from 136 in 2017). The time taken for resolution dropped from 4.3 years to 1.6 years.

III. Areas for Strengthening the IBC Framework

Despite its many achievements, several systemic gaps hinder the IBC's effectiveness:

a. Strict Adherence to Timelines:

Since its enactments, IBC has given the above stated economic benefits and achieved its objectives, however one of its core objectives of completing the resolution proceedings within the time bound manner, it has significantly failed over due to delay in the average time taken for resolution plans was 597 days, while liquidation cases took 508 days on average. Voluntary liquidations took 401 days to

conclude. Delay remains a critical issue. Courts and Tribunals must enforce the 330-day limit under Section 12 and restrict lenient extensions.

b. Underutilization of the Pre-Packaged Insolvency (PPIRP)

PPIRP was introduced as a faster, more cost-effective resolution mechanism for MSMEs. It allows debtor-in-possession with creditor oversight, enabling smoother operations. However, adoption remains limited. As of March 2025, only 14 cases had been admitted, with 8 plans approved, 1 withdrawn, and 5 still ongoing. While PPIRP has minimized disruption, its limited scale highlights the need for wider applicability and awareness.

c. Empowering and Monitoring Resolution Professionals (RPs):

RPs must be held accountable for due diligence, especially verifying eligibility under Section 29A, filing avoidance transaction applications, and maintaining compliance.

d. Reinforcing Committee of Creditors (CoC) Responsibilities:

CoC must exercise its commercial wisdom transparently and responsibly, focusing on asset value maximization and firm viability.

e. Preventing Misuse of the Process:

Legal loopholes should not enable strategic delays or manipulation by resolution applicants or CoC. Approved plans must be implemented unconditionally and promptly.

f. Institutional Capacity Building:

Increase the capacity of NCLT/NCLAT benches

and introduce specialized insolvency courts with trained judges.

g. Improving Transparency and Information Disclosure:

Mandate detailed disclosures in the Information Memorandum, including avoidance transactions and tax implications.

h. Finality of Resolution Plans:

Post-approval modifications must be restricted to preserve process integrity.

i. Strengthening Liquidation and Auction Processes:

Enforce transparent bidding, timely verification of eligibility, and stakeholder consultations.

j. Enhancing Stakeholder Representation:

Facilitate better participation by creditors, including land authorities and retail creditors, especially in real estate cases.

IV. The JSW-BPSL Ruling: A Wake-Up Call

In a landmark ruling dated 02.05.2025, the Supreme Court set aside the ₹19,700 crore resolution plan submitted by JSW Steel for Bhushan Power & Steel Ltd., which had been approved in 2019. Under the plan, JSW Steel had committed ₹19,350 crore towards settling dues of financial creditors, who were collectively owed ₹47,157.99 crore—reflecting a recovery rate of approximately 41%. Additionally, ₹350 crore was earmarked for operational creditors, resulting in a recovery of nearly 47.69% on their admitted claims of ₹621 crore.

Despite substantial payments made by JSW during 2021–2022, the Court ruled in favor of liquidation, citing severe and irreparable violations of the Insolvency and Bankruptcy Code (IBC). The judgment underscored serious procedural lapses, including delays in implementation, failure to ascertain the eligibility of stakeholders under Section 29A, and mala fide conduct by the Resolution Professional, Committee of Creditors (CoC), and the successful resolution applicant. The Court concluded that the integrity and sanctity of the IBC process had been fundamentally compromised.

Violation of Mandatory Timelines: The CIRP far exceeded the statutory deadline of 270 days without any formal extension, a grave procedural lapse under Section 12 of the IBC.

Negligence by the Resolution Professional: The RP failed to fulfil core obligations such as verifying



eligibility under Section 29A, filing avoidance applications, and ensuring the resolution plan met Section 30(2) conditions.

Ineffective Oversight by the Committee of Creditors:

The CoC approved a non-compliant plan while ignoring internal concerns, displayed inconsistency in its position, and supported delays caused by JSW.

Misconduct by JSW (Successful Resolution Applicant): JSW concealed key facts and delayed implementation for years by filing non-maintainable appeals and exploiting legal ambiguities.

Jurisdictional Overreach by NCLT/NCLAT: Both tribunals acted beyond their legal scope, especially by addressing PMLA issues and JSW's ineligible appeal, actions later invalidated by the Supreme Court.

While the judgment reinforces the necessity of strict compliance, it raises concern about liquidation being used as a punitive tool, potentially undermining value preservation — the Code's cornerstone. Even flawed resolution plans that yield significant recoveries (like JSW's payments to creditors) might be preferable to value-destructive liquidation.

V. Conclusion

The Insolvency and Bankruptcy Code has delivered measurable gains in India's corporate debt resolution ecosystem, improving recovery rates and creditor control. Yet, the BPSL ruling has revealed vulnerabilities that could undermine its credibility if not urgently addressed. The IBC has undoubtedly transformed India's insolvency regime, boosting creditor confidence, improving recovery rates, and preserving enterprise value. However, the JSW-BPSL case underscores the need for urgent reforms to safeguard its credibility. While enforcement must be stringent, there is also a need for pragmatic judicial interpretation that aligns with the Code's economic objectives.

The Supreme Court's judgment to quash the NCLT and NCLAT orders, reject JSW's resolution plan, and direct the liquidation of BPSL, undeniably underscores the paramount importance of strict adherence to IBC provisions and the integrity of the resolution process. The Court meticulously detailed "gross violations" by the Resolution Professional (RP), the Committee of Creditors (CoC), and the Successful Resolution Applicant (SRA) - JSW, including non-compliance with timelines, failure to verify eligibility, and "mala fide and dishonest" conduct. The strong condemnation of JSW's "misuse of process of law" and the CoC's "dubious role" is crucial for upholding the sanctity of the IBC.

However, one might express a mild disagreement

regarding the ultimate outcome of liquidation for BPSL, particularly when viewed against the IBC's primary objective of "maximisation of value of assets" and fostering "resolution" over dissolution. The judgment notes that resolution plans generally yield high realization rates-170.1% of liquidation value and 93.41% of fair value across all resolved cases. While JSW's conduct was egregious in delaying implementation, the CoC's statement recorded by the Court confirmed that JSW eventually made the upfront payment of Rs. 19,350 crores to financial creditors in March 2021, and payments to operational creditors by March 2022. This implies that the resolution plan, albeit significantly delayed and implemented under duress, did result in substantial realization for creditors.

The Supreme Court itself has emphasized that "rescuing a distressed company is a responsibility of significant social and economic value". Directing liquidation, even with the clarification that funds already paid by JSW would be subject to the outcome of the appeals, potentially leads to a lower overall value realization for the corporate debtor's assets compared to a fully implemented resolution plan, even a flawed one. While punishing non-compliance is critical, the punishment of liquidation may disproportionately affect all stakeholders, including employees and a broader economy that benefits from a company continuing as a going concern, for the malfeasance of a few parties involved in the process.

Scrapping the resolution plan after creditors received payments (2021-2022) harmed stakeholders. Instead, imposing heavy penalties on JSW (e.g., compensating creditors for delay) would align better with the IBC's value-preservation goal.



Perhaps an alternative approach, while still severely penalizing the defaulting SRA and negligent CoC members, could have been explored that would have ensured the continued operation and value maximization of the corporate debtor. This could involve significant financial penalties, disgorgement of unjust gains, or even a directive for the CoC to re-evaluate the most beneficial path forward with robust oversight, rather than defaulting to liquidation which effectively undoes the already achieved (albeit delayed) realization. The Court acknowledged the "fait accompli" situation presented by JSW's belated payments, but the fact of the payments being made, even if with ill intent, meant that the value preservation was, to some extent, achieved, which is a core tenet of the IBC.

The IBC remains India's most significant insolvency reform, but the Bhushan Power judgment underscores its fragile implementation. Without urgent fixes-strict timeline adherence, RP accountability, and operational creditor protection-the IBC risks becoming another well-intentioned but ineffective law. Judicial interpretation must balance legal rigor with pragmatic outcomes to preserve the Code's transformative potential.



3. SEBI Simplifies Pledge & Sale Process to Boost Efficiency and Investor Protection

SEBI has rolled out important updates to the margin pledge and sale process to reduce delays, improve efficiency, and safeguard investor interests. These changes mainly address concerns raised by brokers about operational difficulties in handling pledged securities.

Currently, when clients sell shares that are pledged as collateral (margin), brokers must go through multiple manual steps - first un-pledging the shares, then transferring them for settlement. This process is time-consuming and leads to delays and even unwanted

accumulation of client securities in broker accounts.

To fix this, SEBI has introduced an automated "single instruction" process in which when a client sells pledged securities, the pledge will be automatically released and the shares will be marked for early pay-in instantly - no manual instructions, physical signatures, or POA/DDPI required and this change applies to all margin-pledged stocks (including those under margin funding or CUSPA pledge).

In cases where the broker initiates the sale of pledged shares (known as invocation), the new system will ensure that such shares - except mutual fund units that are not traded on exchanges - are directly blocked for early settlement from the client's demat account. This helps prevent accumulation of securities in the broker's own account. For non-traded mutual fund units, SEBI has introduced an "invocation-cum-redemption" process. Here, once the units are invoked, they will be transferred to Client Securities Margin Pledge Account and go for auto redemption from the said account.

If a client's trading account is frozen, or if the client is marked as "Not permitted to trade" after a pledge has been created, the broker is permitted to sell the invoked shares under their proprietary code (in their own name). However, SEBI has made it clear that such sales must be settled on the same day as the invocation, to avoid unnecessary holding of client securities.

These changes will come into effect from 05.09.2025, and detailed guidelines will be released by 01.07.2025. This move aims to ease operational burdens for brokers while protecting investor interests and maintaining a clean, efficient settlement system.

4. Consultation Paper on extending certain flexibilities under accreditation framework

The SEBI released a consultation paper on 17.06.2025, proposing reforms to enhance the Accredited Investor (AI) framework. The aim is to streamline investor onboarding and leverage existing regulatory infrastructure more efficiently.

Currently, only subsidiaries of stock exchanges and depositories (i.e., CVL and NDML) serve as accreditation agencies, both of which are also registered as KYC Registration Agencies (KRAs). SEBI proposes to expand eligibility criteria to allow all KRAs to function as accreditation agencies. This move is expected to increase competition, reduce costs, and simplify processes, as KRAs already manage investor KYC records.

Another major proposal is to allow Alternative Investment Funds (AIFs) to *provisionally onboard*

investors as accredited investors based on the AIF manager's due diligence, even before formal certification by an accreditation agency. However, strict conditions apply: such provisional investors' commitments cannot count towards the fund's corpus, funds cannot be accepted until accreditation is confirmed, and close-ended schemes cannot finalize contributions from unaccredited investors post final close.

The proposal aims to reduce turnaround time, cost, and administrative friction. SEBI also intends to enhance the accreditation framework's role in regulatory flexibility for angel investments and co-investment opportunities in unlisted securities.

SEBI has invited public comments on these proposals by 08.07.2025, through its online portal. These reforms, if adopted, are expected to support capital formation, improve investor experience, and strengthen the regulatory architecture underpinning sophisticated investor participation.

5. MCA Amendments for enhanced digital filing system

The MCA has introduced significant amendments effective from 14.07.2025 to enhance corporate transparency, governance, and accountability. The updates introduced by MCA are:

- New disclosure requirements regarding reporting on Sexual Harassment Complaints which would now include number of sexual harassment complaints received in the year, disposed off during the year and the number of cases pending for a period exceeding ninety days.
- Statement on Maternity Benefit Compliance via including reporting in the Director's Report.
- Initiated to digitalize and structure data filing, a shift from primary financial Statement to machine readable format. The rules have officially replaced references to "Form" with "e-Form" (e.g., "e-Form AOC-1," "e-Form AOC-2"), underscoring the MCA's commitment to a fully digital filing system.
- Amendments have been made to Rule 13(2) of the Companies Rules 2014 whereby it is mandated that the report shall now be submitted electronically using the Form ADT-4.
- Amendment to the Companies Rules, 2014 include the revision of Forms CRA-2 and CRA-4.
- Revised Form GNL-1 has been introduced, which shall be used for filing applications with the Registrar of Companies (ROC). The revised form

simplifies the application process for a range of purposes, including compounding of offences, requests for extension of annual general meetings, and submissions related to schemes of arrangement or amalgamation.

MCA amendments aim to streamline and modernize compliance procedures through enhanced digital filing systems.



6. SEBI Extends Additional Liquidation Period for VCFs Migrating to AIF Regulations

SEBI has announced an important update for Venture Capital Funds (VCFs) that are in the process of migrating to the SEBI (Alternative Investment Funds) Regulations, 2012. As per its earlier circular dated 19.08.2024, SEBI had laid out the process for this migration, including specific conditions for VCFs that had at least one scheme whose liquidation period had expired but hadn't yet been wound up. These funds were initially given an additional liquidation period until 19.07.2025.

Now, based on feedback from the industry and ongoing consultations, SEBI has decided to extend this additional liquidation window by one more year. VCFs that meet the conditions mentioned in the earlier circular and are migrating to the AIF regime will now have time until **19.07.2026** to complete the liquidation process for those schemes.

It's important to note that while the liquidation timeline has been extended, the last date for applying for migration to the AIF framework remains unchanged that deadline is still **19.07.2025**. All other provisions in SEBI's original circular from August 2024 continue to apply as they are.

This move is aimed at providing more flexibility to VCFs and supporting a smoother transition to the AIF structure.

7. SEBI Issues Comprehensive FAQs on Cybersecurity & Cloud Frameworks

SEBI has released a comprehensive set of FAQs aimed at providing greater clarity on the Cybersecurity and Cyber Resilience Framework (CSCRF) as well as the Framework for Adoption of Cloud Services by SEBI Regulated Entities (REs). Issued on **11.06.2025**, the FAQs respond to industry queries and consultations, covering a wide range of critical areas such as governance and CISO-related guidelines, asset inventory and classification of critical/non-critical systems, vulnerability assessment and patch management, cyber audit timelines, outsourcing norms and guidelines, cloud service providers and hostel services, and Security Operations Centre (SOC) requirements and much more. This initiative is expected to significantly aid REs in understanding and implementing the frameworks more effectively, addressing ambiguities, and ensuring better compliance.

Link to Access the FAQs:

https://www.sebi.gov.in/sebi_data/faqfiles/jun-2025/1749647139924.pdf

V. GOODS AND SERVICE TAX

1. Launch of New E-Way Bill 2.0 Portal:

The GSTN, in collaboration with NIC, will launch the new E-Way Bill 2.0 portal on 01.07.2025 to ensure smooth and uninterrupted services for taxpayers and transporters.

The new portal (<https://ewaybill2.gst.gov.in>) will operate alongside the existing E-Way Bill 1.0 portal and offer enhanced inter-operable features. Users will be able to carry out key functions on either portal, regardless of where the E-Way Bill was originally generated. The following additional services will be available under this new setup:

- Generation of E-Way Bills based on Part-A details entered by the supplier
- Creation of Consolidated E-Way Bills
- Extension of validity of E-Way Bills
- Updating of transporter details
- Retrieval of consolidated E-Way Bills

These are in addition to existing functionalities like E-Way Bill generation, vehicle detail updates, and printing.

Both portals will be interconnected in real-time, ensuring that any update made on one portal is instantly reflected on the other. If the E-Way Bill 1.0

portal is unavailable, users can continue operations on the 2.0 portal, including updating Part-B. All services will also be available via API, enabling easy integration into business and logistics systems. This upgrade enhances operational flexibility, ensures continuity, and supports smooth compliance even during system disruptions.

2. Deadline for Filing Pending GST Returns before expiry of three years

As per the provisions introduced through the Finance Act, 2023, the GST portal will restrict the filing of returns that are pending for more than three years from their respective due dates. Once the three-year period from the original due date has elapsed, the system will block the filing of such returns under Section 37 (Outward Supplies), Section 39 (Payment of Liability), Section 44 (Annual Return), and Section 52 (Tax Collected at Source).

This restriction applies to various GST return forms including **GSTR-1, GSTR-1A, GSTR-3B, GSTR-4, GSTR-5, GSTR-5A, GSTR-6, GSTR-7, GSTR-8, GSTR-9, and GSTR-9C**. The functionality to file these returns will be disabled on the portal once the prescribed time limit is exceeded.

3. CBIC Clarifies Post-Adjudication Jurisdiction for DGGI Matters

CBIC via circular officially designates the **Principal Commissioner or Commissioner of Central Tax**, under whom a Common Adjudicating Authority (CAA) operates, as the **Reviewing and Revisional Authority** for Orders-in-Original passed by the CAA under Sections 107 and 108 of the CGST Act. Appeals against such orders will lie before the **Commissioner (Appeals)** having jurisdiction over the same Commissionerate. Additionally, the circular empowers these officers to consult the relevant **DGGI formation** before proceeding, and confirms that departmental representation in appeals will be handled by the same administrative jurisdiction.

4. Sikkim HC upholds Petitioner's Right to Refund of unutilized ITC upon business closure

Background:

The petitioner, SICPA India Pvt. Ltd., was engaged in the business of manufacturing security inks and solutions, with a valid GST registration in the State of Sikkim. In January 2019, the company decided to discontinue its operations in Sikkim and, as part of the

closure process, sold all its machinery and manufacturing facilities between April 2019 and March 2020. At the time of asset sale, the petitioner duly reversed the Input Tax Credit (ITC) as per applicable provisions under GST law.

Despite the reversal of ITC on capital goods, a substantial amount of unutilized ITC remained in the petitioner's Electronic Credit Ledger. The company accordingly filed an application seeking a refund of this accumulated balance. However, the Adjudicating Authority rejected the refund claim, stating that the CGST Act does not permit refund of unutilized ITC on account of business closure.

The petitioner challenged this decision before the Appellate Authority, which upheld the rejection order. The appellate authority relied on Section 54(3) of the CGST Act, holding that refunds of unutilized ITC are permitted only in two specified cases: (i) zero-rated supplies without payment of tax, and (ii) inverted duty structure — neither of which applied in this case. Aggrieved by this decision, the petitioner approached the Sikkim HC by filing a writ petition.

HC Ruling:

The Sikkim HC carefully examined the provisions under the CGST Act along with relevant case law. It noted that Section 49(6) allows refund of the balance in the electronic cash or credit ledger after payment of dues, but such refund must be processed in accordance with Section 54. While Section 54(3) permits refund of unutilized Input Tax Credit (ITC), it explicitly limits eligibility to two cases: (1) zero-rated supplies made without payment of tax, and (2) accumulation of credit due to an inverted duty structure. Closure of business is not specifically mentioned.

However, the Court emphasized that there is no express prohibition in the CGST Act against refunding unutilized ITC in the event of business closure. In support of this view, it referred to the case of Slovak India Trading Company Pvt. Ltd., where the Customs, Excise and Service Tax Appellate Tribunal (CESTAT) had allowed refund of unutilized CENVAT credit even after the company had shut down. The Karnataka HC upheld that decision, clarifying that Rule 5 of the CENVAT Credit Rules, 2004 did not bar such refunds.

Drawing a parallel, the Sikkim HC held that Section 49(6) read with Section 54 of the CGST Act does not prohibit refund of ITC upon closure of a business. It further observed that while Section 54(3) lays down limited conditions for refund, the statute does not allow retention of tax without the authority of law.

On this basis, the Court concluded that the petitioner was entitled to a refund of the unutilized ITC and that

the earlier denial of refund was not legally sustainable. Accordingly, the HC set aside the impugned order of the Appellate Authority and allowed the writ petition, granting the refund claimed.



5. *Delhi HC clarifies that penalty under GST is a civil liability, not a criminal offence*

Background:

The petitioner, engaged in the business of manufacturing fast-moving consumer goods, was alleged to have been involved in circular trading, wherein transactions were recorded without actual movement of goods. Based on these allegations, a show-cause notice (SCN) was issued under Section 74 of the Central Goods and Services Tax Act, 2017 (CGST Act), proposing a demand for tax along with a penalty under Section 122.

Following adjudication, the tax demand under Section 74 was dropped, but the penalty under Section 122 was upheld. Challenging this outcome, the petitioner approached the Allahabad HC by filing a writ petition.

The HC framed two central questions for determination:

- Whether an adjudicating authority/proper officer has the power to adjudicate on the penalty provision under Section 122 of the CGST Act?
- Whether the dropping of proceedings under Section 74 of the CGST Act, will automatically leads to the termination of penalty proceedings initiated under Section 122?

Summary of HC Ruling:

The Allahabad HC, in its decision, delivered several important clarifications regarding the nature, scope, and interplay of Sections 74, 122, and 132 of the CGST Act. The ruling addresses both procedural and substantive aspects of GST penalty law. Key highlights include:

- a. **Penalty under Section 122 is a Civil Liability:** The Hon'ble HC reaffirmed that penalties under Section 122 are monetary in nature and constitute civil

obligations, not criminal offences. These arise from procedural contraventions such as circular trading or false invoicing and are not subject to criminal prosecution.

- b. Section 122 and Section 74 serve distinct purposes:** While Section 74 deals with recovery of tax in cases involving fraud or suppression, Section 122 targets specific violations like issuing fake invoices or availing ITC without receipt of goods. Each operates independently, and one is not conditional on the other.
- c. Penalty Proceedings can survive even if Tax is dropped:** The dropping of proceedings under Section 74 does not automatically nullify penalty under Section 122. A taxpayer may still be penalized under Section 122 for conduct that, while not resulting in tax liability, constitutes a regulatory violation.
- d. Proper Officer is empowered to levy Penalty under Section 122:** The adjudicating authority is legally authorised to invoke Section 122 and impose penalties without needing to rely on criminal prosecution. Adjudication through the administrative mechanism is sufficient.
- e. Burden of Proof is Civil, not Criminal:** The Hon'ble HC clarified that Section 122 proceedings follow civil law standards — the burden of proof is based on a preponderance of probabilities, not the stricter "beyond reasonable doubt" standard applicable in criminal cases.

- f. Clear distinction between Section 122 and Section 132:** Section 132 provides for criminal prosecution and imprisonment for serious tax offences and requires a separate process involving prosecution and sanction. Section 122, by contrast, entails no criminal consequence, only financial penalty.
- g. Harmonious reading of the GST Law:** The Hon'ble HC emphasized the importance of interpreting Sections 74, 122, 125, and 132 in a coherent and harmonious manner, as they form a tiered enforcement structure — ranging from administrative penalties to criminal punishment.
- h. Statutory Scheme supports Independent Action under Section 122:** Reference was made to Explanation 1(ii) of Section 74, which includes Section 122 (but not Section 132), affirming that Section 122 is intended to be a civil enforcement mechanism, not subject to criminal procedure safeguards.
- i. Legislative Intent is to Deter, Not Criminalize, Procedural Violations:** The ruling reflects the Court's view that GST law intends to ensure compliance and deter violations, not criminalize every procedural misstep. Section 122 thus plays a crucial role as a deterrent and regulatory tool within the broader GST framework.

SICPA India (P.) Ltd. vs. Union of India [2025] 175 taxmann.com 371 (SIKKIM)[10-06-2025]

Patanjali Ayurved Ltd. vs. Union of India [2025] 175 taxmann.com 22 (Allahabad)[29-05-2025]

Circular No. 250/07/2025-GST

VII. COMPLIANCE CALENDAR FOR JULY 2025

A. Income tax

Sr. No.	Due Dates	Concerned (reporting) Period	Compliance Detail	Applicable to
01	7th July	June 2025	TDS Payment	Non-Government Deductors
02	15th July	June 2025	Provident Fund (PF) and Employee State Insurance Corporation (ESIC) Returns and Payment	All deductors
03	15th July	April 25 – June 25	Upload the declarations received from recipients in Form No. 15G/15H	Tax on the total income including PPF balance withdrawn is Zero.
04	15th July	April 25 – June 25	Quarterly statement in respect of foreign remittances (to be furnished by authorized dealers) in Form No. 15CC	Authorized dealer

Sr. No.	Due Dates	Concerned (reporting) Period	Compliance Detail	Applicable to
05	30th July	June 2025	TDS Payment in Form 26QB (Property), Form 26QC (Rent), Form 26QD (Contractor Payment)	Non-Government deductors
06	31st July	April to June 2025	TDS Returns in Form 24Q	Non-Government deductors
07	31st July (Note)	Financial Year 24-25	Return of income for the assessment year 2023-24 for all Assessee other than (a) corporate-Assessee or (b) non-corporate Assessee (whose books of account are required to be audited) or (c) partner of a firm whose accounts are required to be audited or the spouse of such partner if the provisions of section 5A applies or (d) an Assessee who is required to furnish a report under section 92E.	For all Taxpayers

Note: CBDT extends the due date of filing of ITRs which were due for filing by 31.07.2025 to 15.09.2025

C. Goods and Service Tax

Sr. No.	Due Dates	Concerned (reporting) Period	Compliance Detail	Applicable to
01	10th July	June 25	GSTR – 7 (TDS)	Person required to deduct TDS under GST
02	10th July	June 25	GSTR – 8 (TCS)	Person required to collect TCS under GST
03	11th July	June 25	GSTR 1	a) Registered persons having aggregate turnover > Rs. 5 crores in preceding F.Y. or b) Registered persons having aggregate turnover of upto Rs. 5 crores in preceding F.Y. and have not opted for Quarterly Return Monthly Payment ('QRMP') Scheme
04	13th July	April 25 - June 25	GSTR - 1 - QRMP	Registered persons having aggregate turnover of up to Rs. 5 crores in preceding F.Y. and have opted for QRMP Scheme
05	13th July	June 25	GSTR - 6 (ISD)	Person registered as Input Service Distributor
06	18th July	April 25 – June 25	CMP - 08	Person Registered under Composition Scheme
07	20th July	June 25	GSTR - 3B	a) Registered persons having aggregate turnover > Rs. 5 crores in preceding F.Y. b) Taxable persons having aggregate turnover ≤ Rs. 5 crores in preceding F.Y. and not opted for QRMP scheme
08	13th July (D)*	June 25	GSTR - 5 (NRTP)	Non-resident taxable person (NRTP)
09	20th July	June 25	GSTR - 5A (OIDAR)	OIDAR services provider

Sr. No.	Due Dates	Concerned (reporting) Period	Compliance Detail	Applicable to
10	22nd July	April 25 – June 25	GSTR – 3B - QRMP (for April - June 23) (E) **	Aggregate Turnover is up to Rs. 5 crores in preceding F.Y. and opted for QRMP
11	24th July	April 25 – June 25	GSTR – 3B - QRMP (for April - June 23) (F)***	Aggregate Turnover is up to Rs. 5 crores in preceding F.Y. and opted for QRMP

* D - Due Date for NRTP is 13th July or 7 days from the expiry of the validity of registration, whichever is earlier.

**E - Taxpayers who have availed the Quarterly Return Monthly Payment (QRMP), option having aggregate TO up to INR 50 Mn in preceding year whose principal place of business is in Category -1 states

***F – Taxpayers who have availed the Quarterly Return Monthly Payment (QRMP), having aggregate TO up to INR 50 Mn in preceding year whose principal place of business is in Category -2 states

C. MCA Compliance

Sr. No.	Due Dates	Particulars	Concerned (reporting) Period	Applicable to
01	31st July	Financial Year 24-25	Filing of return of deposits / exempted deposits in form DPT-3	All Companies

D. FEMA Compliance

Sr. No.	Due Dates	Particulars	Applicable to
01	7th July	ECB 2 Return (External Commercial Borrowing)	All Indian Borrowers who have non resident lenders
02	15th July	Form FLA Return – based on unaudited financials	Any company who has either made ODI or received FDI



GLOSSARY

ABBREVIATION	FULL FORM
Act	Income-tax Act, 1961
AE	Associated Enterprise
AED	United Arab Emirates Dirham
ALP	Arm's Length Price
AO	Assessing Officer
AY	Assessment Year
CBDT	Central Board of Direct Taxes
CBIC	Central Board of Indirect Taxes and Customs
CIRP	Corporate Insolvency Resolution Process
CIT	Commissioner of Income-tax
CIT(Appeals) / CIT(A)	Commissioner of Income-tax (Appeals)
CGST	Central Goods and Services Tax
CIT(E)	Commissioner of Income-tax (Exemption)
CUP	Comparable Uncontrolled Price
CUSPA	Client Unpaid Securities Pledgee Account
DRP	Dispute Resolution Panel
DTAA	Double Taxation Avoidance Agreement
DAPE	Dependent Agent Permanent Establishment
ESI	Employee State Insurance
EPF	Employees' Provident Fund
EBITDA	Earnings Before Interest Tax Depreciation and Amortization
ECB	External Commercial Borrowings
FD	Fixed Deposits
FDI	Foreign Direct Investment
FLA	Foreign Liabilities and Assets
FTWZ	Free Trade Warehousing Zone
FV	Face Value
FY	Financial Year
GIFT	Gujarat International Finance Tec-City
GP	Gross Profit
GDP	Gross Domestic Product
GST	Goods & Service Tax
HC	High Court
Hon'ble	Honorable
ITAT	Income Tax Appellate Tribunal
ITC	Input Tax Credit

GLOSSARY

ABBREVIATION	FULL FORM
IBC	Insolvency and Bankruptcy Code
JAO	Jurisdictional Assessing Officer
KIP	Keyman Insurance Policy
LIBOR	London Interbank Offered Rate
LIC	Life Insurance Corporation of India
LTCG	Long Term Capital Gains
MA	Miscellaneous Application
MAM	Most Appropriate Method
MSMEs	Micro, Small and Medium Enterprises
NCD	Non-Convertible Debentures
NPA	Non-Performing Asset
NRI	Non-Resident Indian
PCIT	Principal Commissioner of Income Tax
PE	Permanent Establishment
PLI	Production Linked Incentive
PLR	Prime Lending Rate
PPIRP	Pre-Packaged Insolvency Resolution Process
Rules	Income-tax Rules, 1962
RBI	Reserve Bank of India
RPM	Resale Price Method
RTGS	Real Time Gross Settlement
ROI	Return of Income
SC	Supreme Court
SEZ	Special Economic Zone
SDS	Software Development Services
SOP	Standard Operating Procedure
TCS	Tax Collected at Source
TDS	Tax Deducted at Source
TP	Transfer Pricing
TPO	Transfer Pricing Officer
VCF	Venture Capital Funds

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