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BHUTA SHAH & CO LLP

CHARTERED ACCOUNTANTS

Monthly E-Newsletter

BSC BEACON

TAX & REGULATORY INSIGHTS

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I. DIRECT TAXATION:
A. CORPORATE TAX

1. *Disallowance of entire amount on account of bogus purchases upheld due to failure to prove genuineness during the reassessment proceedings*

Kanak Impex India Ltd ("the Assessee") is a company engaged in the business of trading in Iron and Steel. The Assessee had filed its ROI of INR 2.84 lakhs for AY 2009-10. The original assessment was completed under Section 143(3) of the Act determining total income of INR 3.86 lakhs. Subsequently, the Assessee's case was reopened under Section 147 of the Act based on information from the DGIT (Investigation)/Sales Tax Department alleging bogus purchases of INR 20.06 crore from hawala dealers. The notices under Sections 148 and 142(1) were served by email and by affixture after postal service failed, but no response was filed by the Assessee. Further, the AO issued notices under Section 133(6) of the Act to the alleged suppliers, but they were returned unserved. As the Assessee did not appear during reassessment and failed to establish the genuineness of the purchases, the AO added INR 20.06 crore as bogus purchases to the assessed income by passing ex-parte assessment under Section 144 read with 147 of the Act.

Aggrieved, the Assessee preferred an appeal before the CIT(A). The CIT(A) upheld the initiation of reassessment proceedings, rejecting the Assessee's contention that no notice had been served, and observed that there appeared to be a deliberate attempt to avoid service of statutory notices. Accordingly, the CIT(A) held that the notices were validly issued and duly served. With respect to the addition of INR 20.06 crore on account of alleged bogus purchases, the CIT(A) accepted the AO's findings on the non-genuineness of the purchases. However, without independent reasoning, the CIT(A) relied on the judgment of the Gujarat HC in **CIT v. Simit P. Sheth**[1] and restricted the addition to 12.5% of the alleged bogus purchases instead of sustaining the entire amount.

Aggrieved, both the Assessee and tax authorities filed cross appeals before the Hon'ble Mumbai ITAT. The tax authorities specifically contended that the CIT(A) erred in restricting the addition to 12.5% of the alleged bogus purchases instead of confirming the entire amount as added in the reassessment order. Conversely, the Assessee challenged the CIT(A)'s findings on the very sustainability of any addition, including the estimated addition of 12.5%.

[1] *[TS-24-HC-2013(Gujarat)-O]*

Before the Hon'ble HC, the tax authorities relied on the decision of the Hon'ble Gujarat HC in case of NK Industries vs DCIT and PCIT vs Premlata, wherein it was held that estimating a certain % of bogus claim is against the principles of Section 68 & 69C of the Act. Per Contra, the Assessee submitted that details of sundry debtors and creditors have been submitted before the AO during the Assessment proceedings.

The Hon'ble HC noted that Assessee has not appeared in the reassessment proceedings to discharge its onus on proving alleged bogus purchases as genuine. Further, the CIT(A) held that submission made by Assessee during the original assessment proceedings would not be considered as the reassessment proceedings were initiated on the basis of alleged bogus purchases. The Assessee did not make any submission to rebut the bogus purchases. Accordingly, the CIT(A) gave a finding of Assessee's involvement in bogus purchases transaction which was also confirmed by the Hon'ble ITAT. Therefore, the Hon'ble HC allowed the appeal of the tax authorities, by reversing the order of Hon'ble ITAT and restoring the order of the AO. Aggrieved, the Assessee filed SLP before the Hon'ble SC.

The Hon'ble SC perused the material on record and dismissed the appeal by observing that there was no reason to interfere.

Kanak Impex Ltd vs PCIT [TS-5279-SC-2025-O]

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2. *Deduction in respect of an incentive attached to the profits from provision of long-term finance distinguished from a general provision restricting to income arising out of long-term financing activity*

National Cooperative Development Corporation (the Assessee) is a statutory corporation which is required to advance initiatives for the production, processing and marketing of agricultural produce and notified commodities. The Assessee has claimed the deduction in respect of following incomes under Section 36(1)(viii) of the Act:

a. Dividend on redeemable preference shares

b. Interest on short-term bank deposits

c. Service Charge on Sugar Development Fund (SDF) loans

During the assessment proceedings, the AO denied the deduction under Section 36(1)(viii) of the Act on all the above 3 incomes on the basis that above receipts do not qualify as profits derived from the business of providing long-term finance. The AO held that dividend income was the return on the investment in shares. The interest income on short-term bank deposits was accruing on account of investment of idle surplus funds in the interregnum period rather than core activity of providing agricultural credit. Further, the service charge on SDF loans was in the nature of service fees for administrative role in monitoring loans provided by the Central Government.

Aggrieved, the Assessee filed an appeal before the CIT(A) who relied on the legislative intent as well as definition of 'long-term finance' in Explanation to Section 36(1)(viii) of the Act and dismissed the appeal. The Assessee did not succeed before the Hon'ble Delhi ITAT and the Hon'ble Delhi HC. Aggrieved by the Hon'ble HC order, the Assessee filed SLP before the Hon'ble SC.

The Hon'ble SC noted that deduction under Section 36(1)(viii) of the Act can be claimed to the extent of 40% of the profits derived from the business of providing long-term finance. Further, it also observed that dividend arises from contractual relationship of shareholding and the immediate source of income is investment in shares and not the lending activity, as held in the decision of Coordinate Bench in case of **Bacha F Guzdar v. CIT**[2]. Also, there is a distinction between the shareholder and creditor. A creditor has the right to sue for the debt. Thus, dividend income on redeemable preference shares cannot qualify as *profits derived from business of providing long-term finance.*

In respect of interest income on short-term deposits, the Assessee relied on Hon'ble SC decision in its own case[3] that interest on idle funds is interlinked with its business and constitutes *'business income'*. However, the Hon'ble SC noted that there is a distinction between 'Business Income' and 'profits derived from business of providing long-term finance'. Just because an income falls within the bucket of 'business income', does not automatically mean that it qualifies for 40% deduction. Also, the said decision pertained to the period 1976-1984 based on earlier law which does not hold true in the current case.

On the SDF fees, the Hon'ble SC observed that proximate source of this fees is the agency agreement with the Government, and not the lending activity. Therefore, the fees received for the agency services cannot be equated with 'profits derived from the business of providing long-term finance.

Accordingly, the Hon'ble SC held that all the 3 incomes is not eligible for deduction under Section 36(1)(viii) of the Act and hence, dismissed the appeal of the Assessee.

National Cooperative Development Corporation [TS-1633-SC-2025]

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3. *Compensation for relinquishment of Right to sue is a Capital Receipt and not subject to tax.*

Mr. Milan Saini (the Assessee), an engineering graduate along with another promoter, conceptualized the establishment of a cinema multiplex business in India in association with the Cinepolis Group. An initial understanding between the parties contemplated that the Indian management team would be entitled to fixed monthly compensation and a carry equity interest in Cinepolis India Private Limited (CIPL) upon achieving specified milestones.

CIPL was incorporated in November 2007. The Assessee and the co-promoter were appointed as Joint Managing Directors, while the majority shareholding was held by a Cinepolis Group entity. Over time, disputes arose when the Cinepolis Group did not implement the agreed remuneration and equity arrangements. In 2012–2013, the Assessee and his co-promoter initiated multiple civil and criminal proceedings against the Cinepolis Group alleging breach of the initial understanding and related misconduct.

During the pendency of civil and criminal proceedings, the parties entered into a Settlement Agreement. As per the said agreement, the Cinepolis Group agreed to pay the Assessee a lumpsum amount of approximately INR 33.55 crores as compensation for losing the right to sue. In consideration thereof, the Assessee agreed to withdraw all legal proceedings and unconditionally and irrevocably relinquish all claims, including any right to equity shares or remuneration from CIPL. The settlement amount was paid during FY 2013-14.

In the return of income for AY 2014–15, the Assessee

[2] *[TS-5016-SC-1954-O]*
[3] *[TS-464-SC-2020]*

reported and offered the compensation to tax as long-term capital gains, on the premise that the receipt arose from relinquishment of his rights and interests in the equity shares of CIPL. However, the Assessee contended before the AO that the compensation was not taxable in law. In a letter filed before the AO, the Assessee submitted that the gains were not chargeable to tax since the cost of acquisition of the alleged capital asset was indeterminable. However, the AO treated it as taxable as Business income under Section 28(iv) of the Act.

Aggrieved, the Assessee filed an appeal before the CIT(A) and contended that the receipt was in the nature of a capital receipt not liable to tax. The CIT(A) held that the receipt was taxable either as salary, business income or short-term capital gains instead of long-term capital gains.

Aggrieved, the Assessee approached the Hon'ble Delhi ITAT. The Hon'ble ITAT examined the settlement agreement and noted that the dominant purpose of the payment was resolution of disputes and withdrawal of litigation. The payment was intrinsically linked to cessation of legal proceedings and relinquishment of rights, and not to compensation for services rendered.

Relying on settled judicial principles, including the decision of the Hon'ble Delhi HC in **CIT v. J. Dalmia**[4], the Hon'ble ITAT reiterated that a mere "right to sue" is not a transferable capital asset. Compensation received for giving up such a right does not arise from a "transfer" within the meaning of Section 2(47) and, therefore, is not chargeable to tax as capital gains. Such receipts are capital in nature and fall outside the scope of "income" under Section 2(24) of the Act.

The Hon'ble ITAT further observed that the settlement resulted in the Assessee giving up his expected source of income and benefit arising from the original understanding with the Cinepolis Group. The compensation was thus linked to sterilization of a profit-earning source, which courts have consistently held to be a capital receipt.

The Hon'ble ITAT also noted that there was no employer - employee relationship to support taxation under the head "Salaries." Further, it held that Section 28(iv) of the Act was not applicable, as the receipt was not in the nature of business perquisites or benefits, and in any event, the statutory provision taxing compensation for termination or modification of business contracts was introduced only prospectively from AY 2019-20.

Accordingly, the Hon'ble Delhi ITAT held that the lump-sum compensation received pursuant to the settlement agreement was a capital receipt arising from relinquishment of the right to sue and extinction of a source of income. Hence it was not chargeable to tax under any head of income. In view of the same, the Hon'ble ITAT set aside the order of the CIT(A) and allowed the appeal of Assessee.

Milan Saini [TS-1564-ITAT-2025(DEL)]

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4. *Issue of rectification order under Section 154 of the Act without affixing DIN, and on a date prior to issue of notice for rectification considered as invalid and accordingly quashed.*

Siemens Limited ('the Assessee'), is a company engaged in diversified business activities and had filed its ROI for AY 2005-06 disclosing total income of INR 253.76 crores on 28.10.2005. During the assessment proceedings, the TPO recommended an addition of INR 47.53 Crores to the ALP in the transactions in the following 4 divisions in his order dated 20.02.2008:

- AD & PTD – Manufacturing – 6.95 Crores
- Medical – Manufacturing - 5.66 Crores
- Medical – Distribution – 32.21 Crores
- Video Division – 2.71 Crores

Owing to the mistakes in the TPO order, the Assessee filed rectification applications on 25.02.2008 and 28.02.2008. During the pendency of the above rectification applications, the AO passed the Assessment order dated 31.12.2008 under Section 143(3) of the Act, making the TP adjustment and other corporate tax additions thereby assessing the total income at INR 364.01 Crores.

Subsequently, the TPO passed a rectification order on 20.01.2009 wherein out of disallowance of above 4 divisions, the first 2 additions were deleted. However, the disallowance in respect of balance 2 divisions were not deleted.

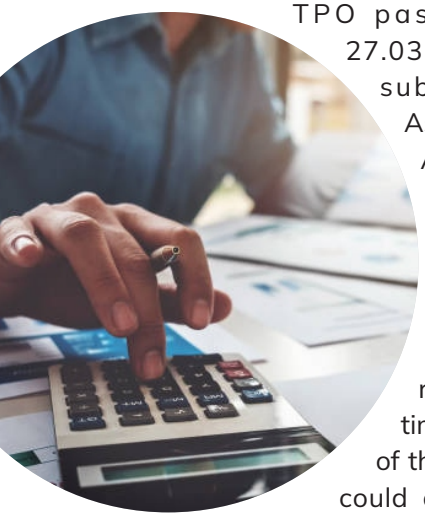
Aggrieved by the assessment order, the Assessee filed an appeal before the Hon'ble CIT(A) on 29.01.2009. In the meantime, the AO passed a rectification order on 09.03.2011 giving effect to the TPO order dated 20.01.2009. The CIT(A) gave partial relief to the Assessee on 29.03.2019. Aggrieved by the order of the CIT(A), the Assessee filed an appeal before the Hon'ble Mumbai ITAT on 06.06.2019.

Meanwhile, the TPO passed

[4] *[TS-5339-HC-1984(Delhi)-O]*

his order on 05.03.2020 giving effect to the CIT(A) order and deleting the TP adjustment in respect of Medical Division – Distribution and Video Division. Subsequently, the AO passed his order on 16.03.2020 after incorporating the TPO order dated 05.03.2020. Since there existed no TP adjustments post 16.03.2020, the Assessee filed revised grounds of appeal before the Hon'ble ITAT.

Thereafter, the TPO issued a notice dated 21.03.2024 proposing to rectify his earlier order dated 05.03.2020 by withdrawing the relief of INR 32.21 Crores pertaining to Medical Division – Distribution. In response, the Assessee pointed out that the TP adjustment is not a mistake apparent on record and therefore, no rectification can be made. However, the TPO passed an order dated 27.03.2024 disregarding the submission made by the Assessee. Subsequently, the AO issued a notice dated 20.06.2024 seeking rectification and fixed the hearing on 01.07.2024.



In response, the Assessee submitted that proposed rectification proceeding is time-barred as rectification of the order dated 16.03.2020 could only be made till 31.03.2024. Also, the Assessee pointed out that the matter was outside the scope of rectification as the issue is highly debatable and cannot be termed as mistake apparent on record.

However, the Assessee found a rectification order under Section 154 of the Act dated 29.03.2024 on the income-tax portal on 17.07.2024. The Assessee challenged this order before the Hon'ble Bombay HC on the grounds that it was time-barred, backdated, issued without a valid DIN, and in contravention of CBDT Circular No. 19/2019. The Assessee further contended that the DIN was sought to be furnished later through a separate intimation, which could not cure the inherent illegality, and that the rectification proceeding was initiated beyond the statutory limitation period.

The Hon'ble Bombay HC observed that the order was illegally backdated and passed without a DIN, thereby violated the mandatory CBDT Circular. The Hon'ble Bombay HC emphasised that the requirement of quoting a DIN is not a procedural formality but a substantive safeguard to ensure transparency and audit trail. It further held that subsequent communication of DIN could not validate an invalid order and rejected the case laws relied by tax authorities on contrary High Court views. The Hon'ble HC relied on catena[5] of judgements such as Hexaware, Sutherland, Laserwoods US. Inc. Brandix, Tata Medical Centre Trust. Thus, the rectification order was declared invalid and deemed never to have been issued owing to absence of DIN, non-compliance with the circular, backdating, and time-barring period of limitation.

The Hon'ble HC noted that the impugned order was not passed till 20.06.2024 (date of issue of notice) as the same AO who passed the order on 29.03.2024 has issued a SCN on 20.06.2024. The issue of notice on 20.06.2024 itself shows that the order could not have been passed before this date. The notice was issued after the expiry of timeline prescribed under Section 154(7). Also, it was apparent that a separate notice under Section 154(3) of the Act was required to be issued for granting an opportunity of being heard, as the effect of the rectification order would have been to increase the total income. The Hon'ble Bombay HC quashed the impugned rectification order and the subsequent intimation letter.

Siemens Limited [TS-1628-HC-2025(BOM)]

5. *Initiation of prosecution proceedings upheld even when appeals are pending*

The Income Tax Department conducted a search and seizure operations against the Bhatia, Tuteja and Dhand groups in Chhattisgarh in connection with unaccounted liquor sales and related financial irregularities. Subsequently, a search was carried out at the residential premises of Saumya Chaurasia ("the Assessee") on 02.03.2020. Consequent to the search, the tax authorities claimed to have unearthed incriminating material suggesting large-scale undisclosed income attributable to the Assessee. Based on the seized material, proceeding under Section 153C of the Act was initiated, and assessment orders were passed for several AY's, resulting in substantial additions on account of unexplained income and assets. The tax authorities alleged that the quantum of tax sought to be evaded exceeded INR 348 crore. In view of the magnitude of the alleged evasion, the tax authorities proposed initiation of prosecution for offences punishable under Sections 276C and 278E of the Act.

Thereafter, the PCIT accorded sanction under Section 279(1) of the Act in February 2025 for launching prosecution against the Assessee. Criminal complaints were thereafter filed before the various courts.

[5] Hexaware Technologies Ltd. [TS-298-HC-2024(BOM)], CIT v. Sutherland Global Services Inc. [TS-5579-HC-2025(Madras)-O], CIT v. Laserwoods US Inc. [TS-797-HC-2025(MAD)], CIT v. Brandix Mauritius Holdings Ltd. [TS-184-HC-2023(DEL)], PCIT v. Tata Medical Centre Trust [TS-561-HC-2023(CAL)]

Aggrieved by the initiation of prosecution proceedings, the Assessee filed a writ before the Hon'ble Delhi HC seeking quashing of the sanction orders and the prosecution proceedings. The Assessee also challenged the validity of the CBDT Circular No. 5/2020, contending that it was arbitrary, violative of Article 14, and conferred unguided discretion upon the tax authorities. It was further urged that prosecution could not be initiated while assessment orders were under challenged in appeal and penalties had not attained finality.

The Hon'ble HC, after hearing the parties and examining the statutory scheme, dismissed the writ petition. The Hon'ble HC observed that Section 279(1) of the Act expressly empowers the PCIT to grant sanction for prosecution where a prima facie case of offence as per the provision of the Act is made out. Considering the substantial amount of alleged tax evasion, the Hon'ble HC held that the PCIT was the competent authority to grant sanction. The sanction orders were found to be valid and could not be characterised as mechanical or without jurisdiction.

The Hon'ble HC rejected the contention that prosecution must await the outcome of appellate proceedings. It held that assessment proceedings and criminal prosecution are distinct and independent. The statute does not mandate that prosecution can be launched only after confirmation of penalties or finality of assessment orders. Section 275 of the Act does not bar initiation of prosecution in case where appeals are pending. Further, with respect to the challenge to CBDT Circular No. 5/2020, the Hon'ble HC held that the Circular is an administrative instruction issued under Section 119 of the Act to ensure uniformity in prosecution policy. It neither overrides the statute nor violates Article 14. The Hon'ble HC found no infirmity in the sanction orders or the prosecution proceedings and declined to interfere with the same. Accordingly, the Hon'ble HC upheld the validity of prosecution proceedings as well as CBDT circular, thereby affirming the legality of initiating prosecution in high-value tax evasion cases despite the pending appellate proceedings.

Saumya Chaurasia [TS-1622-HC-2025(DEL)]

6. *Reassessment proceedings upheld to be valid where the required information available in the notice itself providing the basis for the reassessment*

Golden Enterprises ("the Assessee") filed a writ petition before the Hon'ble Madras HC challenging the order passed under Section 148A(d) of the Act and notice issued under Section 148 of the Act for AY 2013-14. The Assessee contended that the reassessment proceedings were invalid on the ground that the AO had failed to provide the information and material relied upon for initiating the proceedings, as mandated in the case of *Ashish Agarwal*. It was argued that in the absence of complete disclosure of information, the Assessee was denied a meaningful opportunity to respond to the notice issued under Section 148A(b) of the Act.

The AO, on the other hand, submitted that the notice issued under Section 148A(b) of the Act clearly set out the information suggesting escapement of income. The notice specifically referred to the Assessee's claim of brought-forward business losses of INR 3.27 crore for AY 2013-14, which were set off against current year income, whereas only INR 48.24 lakh was eligible for carry forward. The balance amount was proposed to be treated as income chargeable to tax. It was therefore contended that the Assessee was fully aware of the basis of the proposed reassessment.

The Hon'ble Madras HC, after examining the contents of the notice issued under Section 148A(b) of the Act, observed that the notice contained the basic and relevant information contemplated as per the directions of the SC in the case of *Ashish Agarwal*. The Hon'ble HC Court noted that the Assessee was aware of the nature of the proposed addition and the reasons for restricting the carry-forward of losses and was therefore in a position to respond to the show cause notice.

The Hon'ble HC further held that Section 148A(b) of the Act requires the notice to be based on information suggesting that income chargeable to tax has escaped assessment.

Accordingly, the Hon'ble Madras HC dismissed the writ petition and upheld the validity of the reassessment proceedings. The AO was directed to complete the reassessment within the time limits prescribed under Section 153 of the Act, after excluding the period during which the writ proceedings were pending.

Golden Enterprises [TS-1649-HC-2025(MAD)]

7. *Spectrum Usage Charges allowed as revenue expenditure; SC Ruling in Bharti Hexacom held as applicable only to License Fees*

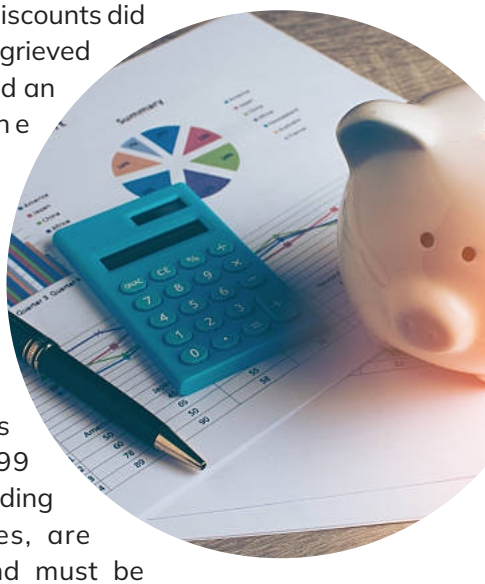
Bharti Hexacom Limited ("the Assessee") is a telecom company providing mobile services under the licences issued by the Department of Telecommunications (DoT) as per the New Telecom Policy, 1999. As part of this licence arrangement, the Assessee was required to make several payments to the Government, such as annual variable licence fees based on Adjusted Gross Revenue (AGR), Spectrum Usage Charges (SUC), and penalties for certain operational defaults. These payments were claimed as business expenses under Section 37(1) of the Act in the income-tax return filed by the Assessee for the AY 2016-17.

During the assessment proceedings, the AO examined these claims and made multiple disallowances which are tabulated as below:

Sr. No.	Issues	Reason for Disallowance by AO
01	License Fess ("LF")	Treated as capital expenditure as it was linked to acquisition and continuation of a valuable telecom licence; deduction allowed only through amortisation under Section 35ABB instead of full revenue deduction.
02	Spectrum Usage Charges ("SUC")	Initially proposed to be treated as capital expenditure on the ground that it was linked to spectrum rights rather than a routine business expense.
03	Penalties	Disallowed on the basis that penalties for subscriber verification failures are not allowable deductions under tax law.
04	Distributor Discount	Treated as commission requiring TDS under Section 194H; disallowed under Section 40(a)(ia) of the Act due to non-deduction of tax at source.

The Assessee argued that the variable licence fee was a recurring payment linked to revenue generation and therefore a normal cost of doing business. It was submitted that once the licence had already been acquired, annual payments should be treated as revenue expenditure. Regarding SUC, the Assessee argued that it was a charge for usage of spectrum and not for acquiring any capital asset. For penalties, it was explained that these were compensatory in nature, paid for procedural lapses and not for any illegal activity. As regards prepaid distributor discounts, the Assessee contended that these were trade discounts and not commission, and therefore TDS provisions did not apply. Aggrieved by the order of the Ld. AO the Assessee filed an appeal before the CIT(A).

The CIT(A) agreed with the view of the Assessee on all issues. Accordingly, the CIT(A) allowed the full deduction of variable licence fees and SUC as revenue expenses, deleted the disallowance of penalties by holding them to be compensatory in nature and deleted the disallowance under Section 40(a)(ia) of the Act by holding that prepaid discounts did not require TDS. Aggrieved the tax authorities filed an appeal before the Hon'ble Delhi ITAT.



The Hon'ble ITAT placed reliance on the Supreme Court judgment in **CIT v. Bharti Hexacom Ltd**[6], wherein it was held that licence fees paid under the 1999 Telecom Policy, including variable annual fees, are capital in nature and must be amortised under Section 35ABB of the Act. Following this binding decision, the Hon'ble ITAT reversed the CIT(A)'s order on the licence fee issue and held that Bharti Hexacom was not entitled to full deduction of variable licence fees in the year of payment.

However, on all other issues, the Hon'ble Delhi ITAT relied on the decision of coordinate bench for the earlier years. Accordingly, the Hon'ble ITAT held that SUC are revenue in nature, subscriber verification penalties are allowable as business expenses, and prepaid distributor discounts do not attract TDS obligation and hence no disallowance under Section 40(a)(ia) of the Act could be made. In result, the appeal of the tax authorities was partially allowed on account of treating LF as capital in nature under Section 35ABB of the Act.

Bharti Hexacom Limited [TS-1652-ITAT-2025(DEL)]

[6] *[TS-605-SC-2023]*

8. ***Income from letting of Integrated educational infrastructure assessable as Business Income and not as Income from house property***

Nord Anglia Education Infrastructure Pvt. Ltd. ("Assessee") has developed and leased out a fully integrated educational infrastructure comprising school buildings, furniture, laboratories, sports facilities, and other allied amenities to an educational institution.

The AO assessed the lease receipts as income from house property, for the AY 2014-15, 2017-18, and 2018-19 holding that the primary activity was letting of immovable property. Aggrieved, the Assessee filed an appeal before CIT(A), who upheld the assessment order.

Aggrieved, the Assessee filed an appeal before the Hon'ble Vizag ITAT contending that the arrangement constituted a composite commercial activity involving exploitation of commercial assets and provision of bundled facilities essential for running a school.

The Hon'ble ITAT observed that the intention of the parties and the manner of exploitation of the asset are determinative to decide the nature of income. It held that the letting of premise was inseparable from the provision of the commercial infrastructure and facilities.

Accordingly, the Hon'ble ITAT held that the receipts were assessable as business income and not as income from house property.

Nord Anglia Education Infrastructure Pvt. Ltd [TS-1651-ITAT-2025 (Viz)]

B. INTERNATIONAL TAXATION

1. ***Section 270A of the Act not invocable in case of erroneous excess claim of FTC as it does not constitute underreporting or misreporting of income***

Mr. Srinivas Gandhi Sampath (the Assessee) filed his ROI for AY 2017-18, disclosing a total income of INR 10.78 Crore. Subsequently, an intimation under Section 143(1) of the Act was issued, wherein the income declared by the Assessee was accepted. Pursuant to this, an assessment order under Section 143(3) dated 23.12.2019 was passed by the AO. In the said order, the AO, while considering the foreign salary income of INR 1.02 Crore, allowed a proportionate FTC of INR 23.03 Lakhs, as against INR 68.27 Lakhs claimed by the Assessee in his ROI.

Thereafter, the AO issued a show-cause notice to explain why a penalty should not be imposed under Section 270A of the Act for alleged underreporting of income. The Assessee submitted a detailed reply in response to the notice. However, the AO did not accept the submissions and passed the penalty order under Section 270A of the Act on the ground of underreporting of income arising out of excess claim of FTC made by the Assessee. Aggrieved, the Assessee filed a writ petition before the Hon'ble Karnataka HC.

Before the Hon'ble HC, the Assessee contended that the penalty proceedings under Section 270A of the Act were unsustainable because the necessary conditions for invoking the provision were absent. Since the income tax returns were accepted without adjustments, there was no underreporting or misreporting of income, and an erroneous credit claim alone cannot justify penalty under Section 270A of the Act.

The Tax authorities submitted that the petition lacked merit and was not maintainable, as the Assessee had an equally efficacious alternative remedy in the form of an appeal, and therefore, the petition should be dismissed.

The Hon'ble HC, after examining the provisions of Section 270A and relying on the decision of Hon'ble SC on **Reliance Petroproducts**[7] and the Hon'ble Gujarat HC in **Prafulbhai Vallabhadas Fuletra**[8]. held that the section 270A is invocable only in cases of underreporting or misreporting of income and cannot be applied merely because the Assessee claimed excess FTC. The Hon'ble HC further noted that the penalty proceedings initiated by the tax authorities lacked the necessary ingredients under Section 270A of the Act and were therefore without jurisdiction.

The Hon'ble HC also held that the existence of an alternative remedy by way of appeal does not oust its jurisdiction under Article 226 of the Constitution of India.

Based on the above, the Hon'ble Karnataka HC allowed the writ petition filed by the Assessee and the penalty order was quashed.

Srinivasa Gandhi Sampath [TS-1609-HC-2025 (KAR)]

[7] *[TS-37-SC-2010-O]*
[8] *[TS-640033-HC-2023(Gujarat)-O]*

2. ***DDT collected in excess of 10% as provided by India-UK DTAA is erroneous and contrary to the law and retention of excess tax would be contrary to the Article 265 of the Constitution of India.***

Colorcon Asia Pvt. Ltd. (the Assessee) is an Indian company and a wholly owned subsidiary of Colorcon Ltd., UK. During the FY 2015-16 to 2018-19, the Assessee distributed dividends to its UK parent and discharged DDT at effective rates exceeding 20% in accordance with Section 115-O of the Act. Since the cumulative dividend payout exceeded INR 100 crores, the Assessee approached BFAR seeking an advance ruling on whether the tax on such dividends could be restricted to 10% in terms of Article 11(2) of the India-UK DTAA and whether such tax required grossing up.

BFAR rejected the application, holding that DDT is an additional income tax levied on the domestic company and not a tax on the shareholder, and therefore falls outside the scope of the DTAA. BFAR followed the ITAT Special Bench ruling in case of **Total Oil India Pvt. Ltd.**[9] and concluded that tax treaty protection for dividends can apply only when the shareholder is taxed in India. Aggrieved, the Assessee challenged the order of BFAR before the Hon'ble Bombay HC.

The Hon'ble HC undertook an extensive examination of the legislative history of Section 115-O, tracing its introduction, repeal, and re-introduction from 1997 onwards. The Hon'ble HC observed that throughout these changes, dividend has consistently been recognised as income of the shareholder, and the shifting of the incidence of tax from the shareholder to the company was done purely for administrative convenience. The Hon'ble HC emphasised that the character and nature of dividend income has never changed, and DDT remains a tax on dividend income, notwithstanding the mechanism of collection.

Interpreting Article 11 of the India-UK DTAA, the Hon'ble HC held that the decisive factor for its applicability is the nature of income, namely dividends, and not the person from whom tax is collected. The Hon'ble HC categorically rejected the view that Article 11 applies only when dividends are taxed in the hands of the shareholder in India. On a plain reading of Article 11, the Hon'ble HC held that there is no requirement that the shareholder must be directly taxed in India for the tax treaty protection to apply. The limitation on tax rate prescribed in Article 11(2) operates once dividend income arises in India and is paid to a resident of the other contracting state who is the beneficial owner.

The Hon'ble HC further held that Section 90(2) of the Act expressly permits the Assessee to apply DTAA provisions where they are more beneficial, and unilateral changes in domestic law cannot override treaty obligations. In this context, the Hon'ble HC disagreed with the reasoning of the ITAT Special Bench in Total Oil India Pvt. Ltd., observing that the Special Bench had erroneously introduced extraneous conditions into Article 11 which do not exist in the treaty text.

The Hon'ble HC also observed that collection and retention of tax in excess of the tax treaty-prescribed rate of 10% is without authority of law and violative of Article 265 of the Constitution of India. Consequently, the Hon'ble HC held that BFAR erred in law in concluding that DDT is outside the scope of the India-UK DTAA and in denying the Assessee the benefit of the tax treaty rate.

Colorcon Asia Pvt. Ltd [TS-1623-HC-2025(BOM)]

3. ***Period of vacation, business development to be excluded for the purpose of computing threshold of Service PE under the DTAA.***

Clifford Chance Pte Ltd. ("Assessee"), a Singapore-based law company, provided legal advisory services to Indian clients. Certain employees of the Assessee visited India for meetings, negotiations, and client interactions in connection with ongoing assignments. The tax authorities alleged that such activities created a Service PE / Virtual Service PE in India under the India–Singapore DTAA and accordingly considered the receipts from Indian clients to the alleged virtual service PE as taxable income amounting to INR 15.55 crores and INR 7.97 crores for the AY 2020-21 and AY 2021-22 respectively. The Assessee argued that services were rendered predominantly outside India, and that short-duration visits of employees did not result in a PE. Although, the employees of the Assessee were present in India for 120 days, the period during which they were on vacation as well as business development should not be considered for threshold of 90 days. If these intervening days are removed from the total physical stay, the employee were within the threshold of 90 days. It was further contended that no fixed place of business existed in India.

The matter went to the Hon'ble Delhi ITAT which decided in the favour of the Assessee and held that

[9] *Total Oil India Pvt. Ltd. Vs. Deputy Commissioner of Income Tax Circle 11(3)(1), Mumbai. [TS-197-ITAT-2023(Mum)]*

provision of services by employees did not constitute service / virtual service PE as the threshold period is not exceeded. Aggrieved, the tax authorities filed an appeal before the Hon'ble Delhi HC. The Hon'ble HC examined the nature and duration of services rendered in India and held that physical presence of employees for furnishing services was sufficient to trigger a Service PE under Article 5 of the India – Singapore DTAA. The Hon'ble HC emphasized that the test is not the existence of a fixed office but whether services are furnished in India through personnel for the prescribed duration.

The Hon'ble HC rejected the argument of "virtual rendering" of services by observing that period of physical visits of its employees in India (in number of days) which got covered under the term 'services rendered' were less than 90 days as per the DTAA. Accordingly, the Hon'ble HC accepted the fact laid down by the Hon'ble ITAT and dismissed the appeal of the tax authorities.

Clifford Chance Pte Ltd. [ITA 353/2025 & ITA 354/2025 (Delhi HC)]

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4. *Bitcoin does not have a physical situs and hence not regarded as Foreign Asset.*

Shaista Suhel Patanwala ("Assessee"), an individual resident in India, had undertaken transactions in Bitcoin through overseas virtual currency exchanges during earlier years. The Assessee had disclosed the income during the course of proceedings for the AY 2017-18 under the Act.

Based on information received, the AO initiated proceedings under the BMA for AY 2017–18, treating the Bitcoin holdings as undisclosed foreign assets. The AO proceeded on the footing that Bitcoin constituted a foreign asset and framed assessment under the BMA for the said AY.

Aggrieved, the Assessee filed an appeal before the Hon'ble Pune ITAT contending that Bitcoin does not fall within the definition of 'foreign asset' under the BMA and, in any event, the assessment was without jurisdiction since the alleged foreign asset came to the notice of the AO only in AY 2018–19. Under the BMA, assessment can be made only for the AY in which the undisclosed foreign asset comes to the notice of the AO.

The Hon'ble ITAT accepted the Assessee's contentions and held that the BMA, being a penal legislation, must be strictly construed. The Hon'ble ITAT observed that Bitcoin does not have a physical situs and cannot be regarded as a foreign asset merely because the exchange platform is located outside India. More importantly, it was held that initiation of proceedings for the AY 2017–18 was invalid since the alleged foreign asset came to the notice of the AO only in the AY 2018–19.

Accordingly, the Hon'ble ITAT quashed the assessment under the BMA on jurisdictional grounds, holding that the action of the AO was unsustainable in law and allowed the appeal of the Assessee.

Shaista Suhel Patanwala [TS-1626-ITAT-2025 (Pune)]

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5. *Seed technology and Licensing arrangement does not constitute royalty or FTS under India–Netherlands DTAA*

Nunhems Netherlands B.V. ("Assessee"), a tax resident of the Netherlands, was engaged in research and development of hybrid vegetable seeds and supplied seeds to its Indian affiliate under a licensing and supply arrangement.

The AO treated the payments received by the Assessee as in the nature of Royalty and FTS, alleging transfer of intellectual property and technical know-how, and made additions accordingly. Aggrieved, the Assessee filed an application before the Hon'ble DRP, which upheld the action of the AO.

The Assessee preferred an appeal before the Hon'ble Delhi ITAT contending that no ownership rights in intellectual property was transferred and no technical knowledge or skill was "made available" to the Indian entity. It was argued that the arrangement was a commercial supply transaction.

The Hon'ble ITAT examined the agreements and held that there was neither transfer of any patent, process, or technical know-how, nor was any technical knowledge made available so as to enable independent application by the Indian entity. Accordingly, the Hon'ble ITAT held that the receipts can not be characterized as Royalty or FTS under Article 12 of the India–Netherlands DTAA and hence the same is not taxable in India in the absence of a PE.

Nunhems Netherlands B.V. [TS-1639-ITAT-2025 (Del)]

II. TRANSFER PRICING

1. ***There is no loss of revenue to the department once the expenses are recovered from AE with mark-up and hence PCIT order unsustainable.***

UBS Business Solutions (India) Pvt. Ltd ('the Assessee') is engaged in the business of providing IT and ITeS to AEs outside India. The Assessee is a captive service provider and a cost-plus entity in India. It has charged a mark-up of 14.5% on the cost incurred for providing services to its AE. The case of the Assessee was selected for scrutiny under CASS mainly on the grounds of refund claimed by the Assessee and deduction under Chapter VIA. The notices were issued and the final assessment order was passed under Section 143(3) r.w.s 144B of the Act by the AO.

Further, the PCIT issued a notice under Section 263 alleging that the AO's order was erroneous and prejudicial to the interest of the tax authority on the ground of exorbitant repairs and maintenance expenses debited to P&L Account. Further the huge refund claim led to the suspicion on the genuineness of expenditure and the PCIT was of the view that the same was not verified by the AO. The PCIT alleged that certain computer peripherals and furniture were treated as revenue in nature but should have been capitalized in books as per the accounting policy. Accordingly, the PCIT partly set aside the order of the AO for verification of repair expenses.

Aggrieved, the Assessee filed an appeal before the Hon'ble Pune ITAT. The Assessee contested that being in the ITES industry, the computer peripherals are frequently replaced due to its wear and tear. The Assessee further contested that allowance of an expense cannot be challenged as the Assessee, being a captive service provider, recovers all the expenses along with a mark-up from its AE.

The Hon'ble ITAT observed that there is no inference on the fact that the Assessee has recovered all the expenses along with a mark-up from its AE. The Hon'ble ITAT observed that the twin conditions for invoking Section 263 are not fulfilled in the instant case. The AO had taken a plausible view on capital versus revenue expenditure and Section 263 cannot be invoked merely due to a disagreement. Accordingly, the Hon'ble ITAT held that since the expenses are recovered along with a mark-up, there is no loss of revenue and hence the assessment order passed by the AO is not prejudicial to the interests of the tax authorities. Accordingly, the Hon'ble ITAT passed an order in favour of the Assessee.

UBS Business Solutions (India) Pvt. Ltd [TS-715-ITAT-2025(PUN)-TP]

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2. ***Benchmarking of the interest rate should be done as per the repayment currency of the loan. No separate adjustment in form of interest on outstanding receivables is required, when the AE margin is higher than the non-AE margin.***

Acme Cleantech Solutions Pvt Ltd ('the Assessee') is engaged in manufacturing and service of passive telecom infrastructure equipment i.e. PIU, Shelter, AC, PCM etc. used in mobile telecom sites. The case of the Assessee was selected for scrutiny, and the matter was referred to the TPO for determination of the Arm's Length Price of the International transactions with AEs. The TPO made transfer pricing adjustments with respect to loan advanced by the Assessee to its AEs by benchmarking interest at SBI PLR rate instead of LIBOR as already done by the Assessee. It also made an interest adjustment on the outstanding receivables from AEs.

The Assessee contested that since the loan given to AEs was repayable in USD, the interest should be benchmarked in LIBOR terms and not SBI PLR. It further submitted the agreements and modified agreements supporting show that the loan was repayable in USD. Further, on the ground of outstanding receivables, the Assessee contested that since the margin of 47.21% earned from the AE transaction of sale of goods is much higher than the non-AE margin of 23.65%, the impact of receivable on working capital has already been factored in by the Assessee. Accordingly, the Assessee contended that no further adjustment is required.

On appeal, the CIT(A) partly allowed the appeal in favour of the Assessee. Aggrieved, the Assessee filed its appeal before the Hon'ble Delhi ITAT.

The Hon'ble ITAT observed that the loan was repayable in USD as per the terms and conditions of the agreements and that the observation of the CIT(A) that the repayment is in INR is incorrect. Accordingly, relying on the decision of the Hon'ble Delhi HC in the case of CIT-I vs Cotton Naturals (I) (P.) Ltd[10] held that interest rate should be market determined rate applicable as per the currency in which loan has to be repaid.

[10] *[TS-117-HC-2015(DEL)-TP]*

Accordingly, directed the AO to charge the interest at LIBOR along with an additional 5.5% as applicable.

On the ground of interest on outstanding receivables, the Hon'ble ITAT held that the adjustment made by the TPO was correct as the adjustment falls within the definition of international transaction as introduced by Finance Act, 2012 vide Explanation to Section 92B with retrospective effect from 01.04.2002. Further, the Hon'ble ITAT observed that the AE margin of 47.21% being higher than the non-AE margin of 23.65%, the economic adjustments with respect to the working capital has already been taken care of. Hence, relying on the decision of the jurisdictional court in the case of Pr. CIT vs Kusum Healthcare (P.) Ltd.[11] and Avenue Asia Advisors Pvt Ltd.[12] vs. DCIT, directed the AO to delete the adjustments made on outstanding receivables.

Acme Cleantech Solutions Pvt. Ltd [TS-685-ITAT-2025(DEL)-TP]

3. Upheld ITAT order in absence of any perversity.

Grupo Antolin India Private Limited ('the Assessee') is engaged in the business of manufacturing car interiors such as headliners, door panels, and parcel trays. During the assessment proceedings, the TPO alleged that the Assessee has availed services from AE which were different from those specified in the inter-company agreement and TP study. The TPO further alleged that the Assessee failed to produce adequate documentary evidence to prove that the services availed from AE is in line with the agreement. Accordingly, the TPO disallowed the payment made to the AE to avail its services.

On appeal before the Hon'ble Mumbai ITAT, the Hon'ble ITAT deleted the adjustment made by the TPO on the ground that there was no considerable difference between the services rendered by the AE vis-à-vis the agreement.

Aggrieved, the Department filed an appeal before the Hon'ble Bombay HC. The Assessee contested that for the several past assessment years, the same issue has been raised by the tax authorities and has been consistently decided in favour of the Assessee by the Hon'ble ITAT.

The Hon'ble HC observed that the findings of the Hon'ble ITAT is based on documentary evidence and that the services were actually rendered in alignment with the agreement. The AE possess skill sets to provide such advisory services and has also given such similar service to other group entity. The case does not fall under the category of no evidence or where the observations are a result of ignoring vital and relevant evidence. In the absence of any perversity in the findings of the Hon'ble ITAT and consistency in the facts recorded by the Hon'ble ITAT on this matter from time to time, the Hon'ble HC refused to re-appreciate the evidence. Considering the limited scope of Section 260A, the appeal of the Department was dismissed.

Grupo Antolin India Private Limited [TS-660-HC-2025(BOM)-TP]

III. CIRCULARS AND NOTIFICATIONS

1. CBDT[13] introduces amendment to Capital Gains Accounts Scheme 1988

The **Capital Gains Accounts (Second Amendment) Scheme, 2025** modernizes the 1988 framework by formally recognizing **electronic payment modes** (credit/debit cards, net banking, IMPS, UPI, RTGS, NEFT, BHIM Aadhaar Pay) alongside cheques and drafts. Deposit offices now include authorized banks under the Banking Regulation Act. Effective deposit dates depend on realization of electronic payments. Passbooks are supplemented with **electronic statements.** From **April 1, 2027**, account closure must be filed electronically using **digital signatures or electronic verification codes**. The Income-tax (Systems) Directorate will specify procedures, verification standards, and security policies for Forms G and H, ensuring compliance and digital recordkeeping.

[11] *[TS-412-HC-2017(DEL)-TP]*
[12] *[TS-5913-HC-2017(Delhi)-O]*
[13] *Circular No. F. No.161/2025/F. No. 370142/23/2024-TPL*

IV. GOODS & SERVICES TAX AND CUSTOMS

1. *Supreme Court affirms hostel rentals exemption for renting residential dwelling to company*

Assessee is the co-owner of a 42-room residential building in Bengaluru, recorded as residential in municipal records and designed as a multi-storey dwelling with common areas. In June 2019, a lease deed was executed in favour of DTwelve Spaces Pvt. Ltd., an aggregator that took the property on lease and, in turn, sub-licensed individual rooms for long-term hostel-style accommodation to students and working professionals, for stays between 3 and 12 months. Assessee sought an advance ruling to determine whether the rental income from such lease, qualified for exemption as "services by way of renting of residential dwelling for use as residence" under Entry 13 of Notification No. 9/2017-Integrated Tax (Rate).

The AAR and AAAR, both denied the exemption on two main grounds: (i) they treated renting of the building as hostel/ "sociable accommodation" rather than renting of a residential dwelling; and (ii) they took the view that since the lessee was a company and did not itself reside in the premises, the requirement "for use as residence" was not met. Karnataka High Court set aside the AAAR's ruling and allowed the exemption, following which the matter came before to the Hon'ble Supreme Court.

Question before the Hon'ble SC was whether leasing of residential dwelling in the hands of a commercial aggregator qualifies for exemption under Entry 13 of Notification No. 9/2017-Integrated Tax (Rate) dated 28 June 2017, as services by way of renting of residential dwelling for use as residence.

Hon'ble SC examined the meaning of "residential dwelling" by placing reliance on the CBIC Education Guide under the erstwhile service tax regime, which provides "residential dwelling is any residential accommodation, but does not include hotel, motel, inn, guest house, camp-site, lodge, house-boat, or like places meant for temporary stay". The above-mentioned definition was further analysed along with Entry 13 of the Notification to hold that unconditional exemption applies to renting of residential dwelling to any person provided the same is used for residence. On the facts, it held that the property was evidently a residential dwelling; it was constructed and approved as residential and was actually used by students and working women for long-term stays, not as transient hotel-type accommodation. Hon'ble SC also noted that there are 3 cumulative conditions under Entry 13 of the Notification, as noted below:

a) supply of service of renting,

b) property let out must be a residential dwelling,

c) residential dwelling must be used as residence

Hon'ble SC ruled that Entry 13 of the Notification, does not require the immediate lessee (here, the company) to personally use the property as residence; the "use as residence" condition was satisfied through the sub-lessees (students and working professionals) who actually lived there. The exemption was characterised as activity-specific and not person-specific, and a narrow reading that denied exemption merely because the tenant is a commercial entity would defeat the legislative intent of not subjecting genuine residential use to levy of GST. It was further noted that amendment to Entry 13 from 18 July 2022, which excluded cases where the residential dwelling is rented to a registered person, operated only prospectively; retrospective denial of exemption for the pre-amendment period was impermissible. Accordingly, the State's appeals were dismissed.

State of Karnataka v. Taghar Vasudeva Ambrish, Supreme Court of India, [TS-981-SC-2025-GST]

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2. *Supreme Court upholds key findings on Customs, Drugs Law and Valuation for intraocular lens imports*

Epsilon Eye Care Pvt. Ltd., the Assessee, imported intraocular lenses through multiple modes and over different periods, including imports through air cargo and post parcels. Certain consignments were seized from the Assessee's manufacturing premises on the ground that the lenses were time-expired, while other consignments were alleged to have been imported without a valid Central Drugs Standard Control Organization (CDSCO) license. Imports occurred after the license expiry in January 2020, but before its revalidation in October 2022, though an application for renewal had been filed in May 2022. In addition, Customs sought to reopen and confiscate past consignments imported by post parcels over the preceding five years which had already been cleared for home consumption, and to enhance their declared value by adopting surrogate or internet values of

similar goods, imported earlier by the Assessee through air cargo.

Adjudicating Authority ordered absolute confiscation and disposal of the time-expired lenses by placing reliance on the Department's Disposal Manual, 2019. Confiscation of lenses imported during the interregnum period of license expiry and renewal and also proposed confiscation and valuation enhancement of the post-parcel imports already cleared for home consumption, was also ordered. Aggrieved by the order, Assessee approached the CESTAT, which set aside the order and ruled in favour of the Assessee, leading the Revenue to approach the Hon'ble Supreme Court.

Before the Hon'ble Court, the central issues were whether an adjudicating authority could rely on an administrative Disposal Manual of 2019, as a source of substantive power for confiscation and disposal. Also, whether imports made during the period between license expiry and renewal could be absolutely confiscated when a valid license existed at the time of adjudication. The third question before the Hon'ble Court was whether goods already cleared for home consumption could be subjected to confiscation, and whether valuation of post-parcel imports could be enhanced by resorting to surrogate or internet values under the Customs Valuation Rules, 2007.

The Hon'ble Court declined to interfere with the findings of the Tribunal and dismissed the Revenue's appeals, observing that there was no good reason to entertain them, particularly when it was undisputed that on the date of adjudication, the Assessee held a valid CDSCO license. The Hon'ble Court affirmed that the Disposal Manual, 2019 is merely an administrative guideline and cannot be treated as an independent or extra-legal source of power to order confiscation or disposal, which must be traceable strictly to the Customs Act, including Sections 47, 110, 111, 126 and 14 read with the applicable rules.

The Hon'ble Court accepted the view that seizure and absolute confiscation of lenses imported during the interregnum period was not justified once a valid license existed at adjudication, while expressly keeping open the broader question of Customs' powers after goods have left the port. The Hon'ble Court further agreed that goods already cleared for home consumption lay beyond the adjudicatory reach of Customs for purposes of absolute confiscation, and that valuation could not be enhanced by borrowing surrogate or internet values in the absence of any allegation of collusion or misdeclaration, particularly as the declared prices reflected the actual transaction value. Dismissal of the Revenue's appeals thus reinforces important limits on post-clearance jurisdiction, the use of extra-statutory manuals, and unsupported valuation enhancements.

Commissioner of Customs v. Epsilon Eye Care Pvt. Ltd., Supreme Court of India, Civil Appeal Diary No. 59378 of 2025, decision dated 17 November 2025

3. *Endorsement on SEZ invoices not required for zero-rated supplies prior to 21.09.2018*

Assessee, MK Travels, supplied services to an SEZ unit during the period from July 2017 to March 2018 and treated such supplies as zero-rated under Section 16 of the IGST Act. During audit, the authorities objected to this zero-rated treatment on the ground that invoices raised by the Assessee were not endorsed by the authorised officer of the SEZ as contemplated under Rule 30(4) of the SEZ Rules, 2006 ('Rules'). Relying on the amended Rule 30(4) of the Rules, which came into force from 21 September 2018, and an SEZ Circular dated 12 September 2019 introducing the “DTA Service Procurement Form” module, the Deputy Commissioner initiated proceedings under Section 73 of the KGST/CGST Acts, whereby it confirmed the tax and interest, and issued a summary order in Form DRC-07 along with a recovery notice under Section 78 of the KGST/CGST Act. Aggrieved, the Assessee preferred a Writ Petition before the Hon'ble Karnataka High Court.

Issue before the Hon'ble Karnataka High Court was whether, for supplies made to an SEZ unit during July 2017 to March 2018, absence of endorsement by the SEZ authorised officer on invoices could be a valid ground to deny zero-rated treatment and raise a tax demand by applying the amended Rule 30(4) of the SEZ Rules and 2019 SEZ circular, and whether the writ petition was maintainable despite the availability of an appellate remedy.

The Hon'ble HC observed that the requirement of forwarding invoices or bills of export endorsed by the SEZ authorised officer, failing which demand could be raised on the DTA supplier, was introduced only by the amendment to Rule 30(4) of the SEZ Rules with effect from 21 September 2018. Similarly, the SEZ circular dated 12 September 2019 mandating use of the DTA Service Procurement Form module was prospective in nature. Since the impugned demand pertained entirely to a period prior to the coming into force of both the amended rule and the circular, it was held that reliance on these instruments to deny zero-rated treatment

was contrary to law and without jurisdiction. On this basis, the Hon'ble Court held that the availability of an appellate remedy did not bar the Writ Petition, as the very foundation of the proceedings was legally unsustainable. The adjudication order under Section 73, the summary order in Form DRC-07, and the recovery notice under section 78 were accordingly quashed.

MK Travels v. Deputy Commissioner, High Court of Karnataka, [TS-971-HC(KAR)-2025-GST]

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4. *Confiscation for excess stock not justified under Section 130 of the CGST Act*

Assessee, a registered dealer under the CGST/UPGST Acts, was subjected to a survey at its business premises during which the GST Authorities alleged detection of excess or unaccounted stock. Based solely on the findings of the survey, the GST Authorities initiated proceedings directly under Section 130 of the CGST/UPGST Acts and passed an order confiscating the goods along with consequential demands. A subsequent order by the Appellate Authority, was also issued reaffirming the confiscation. Aggrieved, the Assessee approached the Allahabad High Court in writ proceedings challenging both orders, contending that mere detection of excess stock during a survey does not justify invocation of confiscation provisions.

The issue before the Hon'ble Court was whether, in cases where excess or unaccounted stock is allegedly found during a survey at a business premise, the Department can bypass the statutory mechanism for assessment and tax determination under Sections 73 or 74 read with Section 35(6) of the CGST Act and directly invoke Section 130 for confiscation of goods. The Assessee relied on earlier decisions of the same Hon'ble Court in **Vijay Trading Company**[14] and **PP Polyplast (P.) Ltd.**[15], both of which had held that Section 130 of the CGST Act, cannot be invoked solely on the basis of excess stock found during survey, and which had since been affirmed by the Hon'ble Supreme Court.

The Hon'ble Court examined Section 35 of the CGST Act, which mandates maintenance of true and correct accounts by registered persons, and specifically sub-section (6), which provides that where goods are not properly accounted for, the proper officer shall determine the tax payable on such goods by applying the provisions of Sections 73 or 74 mutatis mutandis.

The Hon'ble Court observed that the GST law is a complete and self-contained code and that, where the statute itself prescribes a specific procedure for dealing with unaccounted goods, the department cannot ignore that mechanism and directly resort to confiscation under Section 130 merely because excess stock is alleged to have been found.

Following its own binding precedents in the case of Vijay Trading Company and PP Polyplast (P.) Ltd., as affirmed by the Hon'ble Supreme Court, it was held that proceedings under Section 130 cannot be "put to service" in cases where the sole allegation is existence of excess stock detected during a survey. Since the impugned orders were founded entirely on this legally untenable approach, they were held to be unsustainable. The confiscation orders were quashed, writ petition was allowed, and the Hon'ble Court directed that any amount deposited by the Assessee pursuant to the impugned orders be refunded within one month from the date of production of a certified copy of the judgment.

Vidyarthi Dresses v. State of UP, High Court of Allahabad, [TS(DB)-GST-HC(ALL)-2025-3335]

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5. *Supplementary drawback limitation runs from revaluation, not original sanction*

Assessee, engaged in the export of knitwear, supplied men's cotton knitted vests and T-shirts to a unit in Falta SEZ under the duty drawback scheme in February 2003. Drawback claims aggregating to ₹7,48,800 for vests and ₹6,02,640 for T-shirts were filed on 21 July 2003. While the claims were processed, only ₹6,52,464 was sanctioned on 31 March 2004, resulting in a shortfall. The Assessee continuously represented before the Tax Authorities seeking revaluation of the exported goods and reconsideration of the drawback amount. Eventually, the matter was referred to the Apparel Export Promotion Council, by letter dated 25 September 2007, received by the Assessee on 05 October 2007, which communicated a revised valuation of the T-shirts. Based on this revaluation, the Assessee requested sanction of the balance drawback and, at the instance of the authorities, filed a supplementary drawback claim on 03 January 2008 under Rule 15 of the Customs, Central Excise Duties and Service Tax Drawback Rules, 1995.

The supplementary claim was rejected by the

[14] *[TS(DB)-GST-HC(ALL)-2024-1551]*
[15] *[TS(DB)-GST-HC(ALL)-2024-1334]*

Development Commissioner as being time-barred under Rule 15 of the Drawback Rules. After being unsuccessful before the appellate authority and in earlier writ petition, the Assessee once again approached the Hon'ble High Court, which granted liberty to pursue the statutory remedy before the CESTAT.

The core issue that ultimately arose for consideration was the appropriate starting time for limitation purposes, for filing a supplementary drawback claim under Rule 15 i.e., whether limitation period should be computed from the date of original sanction of drawback in March 2004 or from the date on which the Assessee received the revaluation report forming the basis of the supplementary claim.

It was observed that a supplementary drawback claim is intrinsically linked to the emergence of a fresh cause of action. Such cause of action can arise only when the exporter becomes aware, through a competent authority's revaluation, that additional drawback may be due. In the present case, this event occurred only on 05 October 2007, when the Apparel Export Promotion Council's revaluation was communicated to the Assessee. The Tribunal held that limitation under Rule 15 must therefore be reckoned from this date i.e., 05 October 2007 and not from the date of original drawback sanction.

Promising Exports Ltd. v. Development Commissioner, FALTA SEZ, CESTAT Kolkata, CESTAT, Kolkata, Appeal No. C/75607-75608/2022, decision dated 19 November 2025

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6. *Suspension Not Sustainable Where Alleged GST Fraud Occurred Despite Officer's Adverse Verification Report*

Assessee, a State Tax Officer posted in Etawah, was placed under suspension by an order dated 23 August 2025 passed by the Commissioner, State Tax, Uttar Pradesh under the U.P. Government Servant (Discipline and Appeal) Rules, 1999. The suspension was linked to allegations of delay in uploading an adverse physical verification report relating to a GST registration application filed on 13 October 2024 by a firm. As per the applicable circular dated 14 November 2018, if verification is not completed within three days, registration is deemed to be granted, followed by post-registration verification. The Assessee conducted physical verification and submitted an adverse report on 03 December 2024, categorically stating that the firm was bogus. This report was admittedly received by the Assistant Commissioner and a show cause notice proposing cancellation of registration was issued to the firm on 05 December 2024. However, the registration was not suspended, and the firm subsequently availed input tax credit on 13 January 2025, allegedly resulting in loss to the revenue. Suspension of the Assessee was premised on the allegation that the adverse report was not uploaded within the stipulated time.

Issue before the Hon'ble Court was whether suspension of the Assessee was legally sustainable when the factual record showed that the adverse report had been submitted, acted upon by the competent authority, and that subsequent events, including availment of input tax credit, occurred despite such knowledge. The Hon'ble Court was also required to consider whether an alleged procedural delay, in the given facts, could constitute misconduct warranting suspension under the applicable service rules.

The Hon'ble Court observed that it was undisputed that the Assessee had submitted the adverse verification report on 03 December 2024 and that the same formed the basis for issuance of the show cause notice on 05 December 2024. It further noted that the respondents did not dispute the sequence of events, namely submission of the adverse report, issuance of show cause notice and the later availment of input tax credit. In these circumstances, the Hon'ble Court held that submissions of the Assessee carried prima facie substance and that the alleged delay could not be treated as misconduct so as to justify suspension, particularly when the competent authority, despite being aware of the adverse report, chose not to suspend the registration. Accordingly, the Hon'ble Court set aside the suspension order dated 23 August 2025. At the same time, Hon'ble HC held that setting aside the suspension would not preclude the department from proceeding with a departmental inquiry in accordance with law and directed that such inquiry, if initiated, be concluded expeditiously.

Malikhan Singh vs. State of Uttar Pradesh, High Court of Allahabad, [TS(DB)-GST-HC(ALL)-2025-3334]

V. REGULATORY UPDATES

1. *IFSCA Circular on Disclosure Requirements for Global Access in IFSC*

The IFSCA vide circular dated 26 November 2025, has mandated additional disclosure requirements under Clause 39 of the Regulatory Framework for Global Access in the IFSC. The Capital Market Intermediaries (CMI) and earlier circular applies to Global Access Providers (GAPs) and Introducing Brokers (IBs) operating in the IFSC.

IFSCA has directed that key risks and disclaimers relating to global access must be displayed to clients at every login, in the manner specified by the Authority. The IFSCA has prescribed disclosures, detailed in key risks / disclosures which cover various investor risks including market and interest rate risk, currency risk, custody risk, liquidity and settlement risk, technology and cyber risks, product suitability risk, regulatory and legal risk, taxation risk, remittance and compliance risk, and social and political risk.

Clients are also required to acknowledge that they have read and understood these risks and the disclosures issued under Clause 38 of the earlier circular issued by IFSCA dated 12 August 2025.

All GAPs and IBs must ensure full compliance with this requirement by the prescribed timeline.

2. *IFSCA proposes to issue Master Circular for Capital Market Intermediaries*

IFSCA has issued consultation paper dated 29th November 2025 proposing a Master Circular for Broker Dealers and Clearing Members. The proposed Master Circular seeks to consolidate, supersede, or incorporate all the circulars and guidelines issued by SEBI prior to 01st October 2020 along with eight circulars issued by IFSCA applicable to broker, dealers and clearing members registered with the Authority.

Through this initiative IFSCA aims to create a harmonized and comprehensive regulatory framework ensuring clarity and ease of compliance for market intermediaries operating in IFSCs. The authority had invited public comments on proposed Master Circular within the prescribed consultation period.

3. *IFSCA issues consultation paper on guidelines on Cyber Security and Cyber Resilience for Market Infrastructure Institutions*

The consultation paper issued by the IFSCA aims to invite comments/views from Market Infrastructure Institutions (MIIs) and other relevant stakeholders on the proposed Guidelines on Cyber Security and Cyber Resilience for MIIs in IFSC.

IFSCA had introduced principle-based cyber security guidelines for regulated entities in IFSCs, aligned with global best practices. This consultation paper issued by IFSCA is exclusively aimed at MIIs operating in IFSC. Given the potential impact and their high level of interconnectivity, a differentiated elevated cyber security baseline has been considered necessary.

The draft guidelines adopt a structured, risk-based approach covering governance, identification, protection, detection, training, response, and recovery and data security. Overall, the framework seeks to ensure that MIIs are better prepared to prevent cyber incidents, by undertaking regular business continuity drills to check the readiness of the organization. MIIs shall have a Cyber Security Operation Center manned by security analysts. The guidelines require MIIs to undergo annual cyber security audits conducted by CERT-In empaneled Information Security auditor.

4. *IFSCA issues consultation paper on Proposed IFSCA Good Delivery Guidelines 2025*

IFSCA has issued a consultation paper outlining the proposed IFSCA Good Delivery Guidelines 2025, aimed at strengthening India's bullion market ecosystem through the India International Bullion Exchange (IIBX) at GIFT IFSC.

This initiative seeks to position India as a global price setter for precious metals by enabling delivery of gold refined by Indian or global refineries that adhere to best practices and responsible sourcing standards. The guidelines emphasize ethical, sustainable, and transparent sourcing of gold, aligning with OECD Due Diligence Guidance to mitigate environmental, social, and governance risks, including child labor, human rights violations, and non-transparent financing.

Accredited refiners must implement robust compliance frameworks—Risk-Focused Regulatory Compliance (RFRC) and Risk-Based Operational Excellence (RBOE)—supported by due diligence, enhanced checks for high-risk areas, and continuous monitoring. The framework mandates supply chain mapping, traceability, and risk mitigation strategies across

sources such as large-scale mines, artisanal mining, recycled gold, and mixed gold.

It also prescribes strict anti-money laundering and Combating of Financing Terrorism (AML/CFT) measures, record-keeping for eight years, and payment through formal banking channels only. Independent third-party audits and annual compliance reporting are compulsory to ensure adherence to international standards.

The focused objective of this Consultation Paper is to permit gold refined by any Indian or global refinery, by adhering to best practices and audited by leading audit specialists on responsible sourcing, to be delivered on the India International Bullion Exchange.

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5. *SEBI amends the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 to align valuation norms and protect the interest of minority shareholders*

SEBI has amended the Substantial Acquisition of Shares and Takeovers Regulations, 2011 via its notification dated 3rd December. The said amendment shall come into force on 2nd January 2026

Under the said amended regulation, SEBI has inserted a new definition of valuer which adopts the meaning assigned to it under section 247 of the Companies Act, 2013, as amended from time to time.

Further, the amendment states that where shares are infrequently traded, the offer price must now be determined by an independent registered valuer, instead of the acquirer and the manager to the open offer (as was done earlier). This ensures better protection for minority shareholders in open offers.

The notification specifies that the ongoing valuation assignment which was undertaken prior to the amendments shall be completed within a period of nine months from the date of coming into force of the said regulations. This will ensure a smoother transition into new framework.

From now onwards cases involving share swaps or consideration other than cash, valuation certification must now be carried out by a registered valuer, replacing merchant bankers or chartered accountants.

6. *SEBI issues circular for additional incentives to distributors on onboarding new individual investors*

SEBI has issued a circular revising the incentive structure for mutual fund distributors to encourage onboarding of new individual investors from B-30 cities and women investors. Effective February 1, 2026, distributors will receive an additional commission funded from the 2 basis points set aside for investor education. The earlier incentive structure linked to B-30 inflows was prone to misuse through routing and re-mobilisation of existing investments, without resulting in genuine addition of new investors, prompting SEBI to overhaul the framework

Under the new incentive scheme the Investments eligible for additional incentive is linked to new PAN-based individual investors from B-30 cities and women investors from both Top 30 and B-30 cities, this ensures that the commission is paid on actual new investor onboarding on anot merely re-mobilization of investment. The commission is capped at ₹2,000 per investor, calculated as 1% of the first-year investment for lump sum or SIP, subject to the condition that the investor stays invested in the scheme for a minimum period of 1 year.

Investments in ETFs, FoFs with more than 80% domestic AUM, and schemes with duration requirement of less than 1 year are not eligible for additional incentive. Further, it is clarified that changes in offer documents due to the above revision will not be treated as fundamental attribute changes.

Association of Mutual Funds in India (AMFI) has been directed to release implementation standards within 30 days from the date of this circular.

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7. *SEBI streamlines the Framework for Accredited Investor–Only AIF Schemes/ Large Value Funds and provides modalities for migration to AI only scheme.*

SEBI amended the AIF Regulations through its notification dated November 19, 2025, introducing a distinct category of AIF schemes exclusively for Accredited Investors (AI). Subsequently, SEBI has issued circular dated December 08, 2025 clarifying the operational framework by prescribing specific naming conventions and conversion modalities for AI-only schemes.

The said circular specifies that any new AI-only scheme or Large Value Fund (LVF) is required to include the words “AI only fund” or “LVF,” respectively, at the end of the scheme name. Existing AIF schemes seeking to

migrate to an AI-only scheme or an LVF are similarly required to change their name to incorporate 'AI only fund' or 'LVF' as the case may be. Further, AIFs must report the conversion and corresponding change in scheme name to SEBI within fifteen days of such conversion and intimate the depositories within the same timeframe to facilitate necessary system updates.

The circular also provides clarity on the continuity of Accredited Investor status, stating that an investor who qualifies as an Accredited Investor at the time of onboarding shall continue to be treated as an Accredited Investor for the entire life of the scheme, even if such investor ceases to meet the accreditation criteria during the scheme tenure.

AI only schemes may be extended for a maximum period of 5 years, including any extensions availed by them prior to their conversion into an AI-only or LVF scheme.

In addition, circular provides compliance relaxations to LVFs, exempting them from adhering to the standard placement memorandum template as well as from undertaking an annual audit of the placement memorandum terms, without the requirement of obtaining specific waivers from investors.

8. *Regulatory conditions for activities of Debenture Trustees outside SEBI's Purview*

SEBI, through circular dated November 25, 2025, has laid down a clear framework mentioning the conditions under which Debenture Trustees (DT) may undertake activities that are not regulated by SEBI. This follows the recent amendment to the SEBI (Debenture Trustees) Regulations, 1993, vide its notification dated October 27, 2025, which introduced Regulation 9C to provide clarity on permitted activities of Debenture Trustee.

Under the framework, DT may carry out non-SEBI regulated or other regulator-governed financial service activities only on an arm's length basis through Separate Business Units (SBU). These SBU must be clearly segregated from SEBI-regulated activities including grievance redressal mechanisms, records, staff, and distinct disclosures are required to avoid conflicts. While certain resources such as IT infrastructure may be shared, this is permitted only under board-approved procedures.

The DT must ensure that its advertising or marketing material displaying information must vary from SEBI related activities. Where activities fall under another financial sector regulator, the relevant regulator must also be disclosed on all relevant documents, and the applicable regulatory framework must be complied with.

The DT are directed to obtain confirmation from stakeholders at the time of engagement, stating that the stakeholders have understood the nature of the activity, risks involved and that there is no SEBI investor protection mechanism available.

The DT undertaking any activity not regulated by SEBI and which is not regulated by board shall submit an undertaking confirming compliance with the requirements.

9. *SEBI issues clarification on earlier circulars issued on Digital Accessibility*

SEBI has issued clarification for three of the circulars issued by it during the year concerning Digital Accessibility requirements on the Digital Platforms of Regulated Entities. It provided the inclusion of “Investors' Right to have digital accessibility” in respective Investor Charters applicable to various Regulated Entities (RE).

Further SEBI has clarified that in place of earlier requirement to appoint an accessibility Auditor by 14th December 2025, the RE's are to submit a platform-wise status of readiness and compliance with Digital Accessibility standards by 31st March, 2026.

The circular also prescribes a standard reporting format requiring REs to disclose details such as the URLs of their investor-facing digital platforms, compliance with WCAG AA-level accessibility standards, and remarks on the current state of readiness. In addition, SEBI has enabled investors to lodge accessibility-related complaints through SCORES under a dedicated “Accessibility” category, and REs are required to remediate the reported accessibility issues for closure of such complaints.

Further SEBI has mandated REs to undertake periodic accessibility Audits of its digital platforms including websites, mobile apps and portal through certified accessibility professionals.

10. *Relaxation on geo-tagging requirement in India for NRIs while undertaking re-KYC*

SEBI has issued a clarification to make the re-KYC process easier for Non-Resident Indians (NRIs). Many stakeholders had requested relaxation in KYC rules because NRIs often face difficulty completing digital

KYC while being outside India on account of geo-tagging. Considering this, SEBI has decided to modify the provisions of the master circular.

The geo-tagging requirement forms part of SEBI's digital KYC and re-KYC framework and was implemented by SEBI-registered intermediaries such as stockbrokers, DPs, AMCs and KRAs through their digital platforms. In practice, intermediaries restricted geo-location capture to India, which made re-KYC impossible for NRIs residing abroad. To address this unintended hardship, SEBI issued the said circular relaxing the India-based geo-tagging requirement for NRIs while retaining robust digital safeguards. NRIs can now complete due diligence through digital mode even if they are located outside India

The said circular states that the App shall have features of random action initiation for client response to establish that the interactions are not pre-recorded along with time stamping and geo-location tagging to ensure the requirement like physical location being in India etc., the condition of being physically present in India will not apply for NRI re-KYC. However, the app must ensure that the GPS location captured matches the country mentioned in the client's proof of address and must block connections from spoofed IP addresses.

11. SEBI Circular: Extension of ₹10,000 Denomination to Zero-Coupon Bonds

SEBI issued a circular on December 18, 2025, modifying conditions for reduction in denomination of debt securities. SEBI circular dated July 03, 2024, allowed issuance of debt securities and non-convertible redeemable preference shares at a reduced face value of ₹10,000, subject to certain conditions.

One such condition required the securities to be interest or dividend bearing, which excluded zero-coupon instruments. Market participants highlighted that zero-coupon securities which are issued at a discount and redeemed at par, provide compounded returns and portfolio diversification benefits to investors.

In response to the above, SEBI has amended the Master Circular on non-convertible securities to permit issuance of securities at ₹10,000 face value on a private placement basis, provided they are either interest or dividend bearing with fixed maturity and no structured obligations, or zero-coupon debt securities with fixed maturity and no structured obligations.

This amendment enables issuers to offer reduced denomination securities that are zero-coupon. All other provisions of the Master Circular remain unchanged.

12. SEBI reclassifies REITs as equity related instruments

SEBI has issued a circular dated November 28, 2025 reclassifying Real Estate Investment Trusts (REITs) as equity related instruments to increase participation by Mutual Funds and Specialized Investment Funds (SIFs). This move follows the amendments to the SEBI Mutual Funds Regulations which were notified on October 31, 2025.

With effect from January 01, 2026, any investment made by a Mutual Fund or an SIF into REIT shall be considered as an investment in an equity related instrument. It is clarified that Infrastructure Investment Trusts (InvITs) shall continue to be classified as a hybrid investment instrument.

The Circular further clarified that the investment held by Debt Funds in REIT's as on December 31, 2025 are grandfathered i.e. the Debt Fund is eligible to hold them. However, the asset management companies have been encouraged to consider divesting REIT exposures from debt scheme portfolios.

Association of Mutual Funds of India (AMFI) shall include REITs in the list of classification of scrips as per their market capitalization.

Further, SEBI has directed asset management companies to issue an addendum to make the necessary changes in the scheme documents to reflect the revised treatment of REITs and such change shall not be considered as fundamental attribute change for the scheme

SEBI has stipulated that any inclusion of REITs in equity indices may be undertaken only after a cooling-off period of six months, commencing July 1, 2026.

13. SEBI Consultation Paper on Mandatory Disclosures by Regulated Entities on Social Media Platforms

SEBI has issued a consultation paper proposing mandatory disclosure of the registered name and registration number by SEBI-regulated entities and their agents on Social Media Platforms (SMPs), in view of the rising instances of securities market frauds carried out through misleading and manipulative social media content. The proposal aims to enhance

transparency, enable easy identification of SEBI-regulated entities, and strengthen investor protection by clearly distinguishing genuine, regulated content from that posted by unregistered persons..

Under the draft circular, all SEBI-regulated entities and their agents are required to prominently display their registered name and registration number on their social media home pages and alongside every post, video, or content uploaded. The draft circular also provides for strict prohibitions on social media content, including false or misleading statements, exaggerated claims, guarantees of assured or risk-free returns, misuse of SEBI's name or logo, references to past performance unless permitted by SEBI, and associations with unregistered advisers or return-claiming entities.

Any social media content that directly or indirectly promotes products or services of a regulated entity shall be treated as an advertisement and must comply with the applicable Advertisement Code.

14. SEBI seeks public comments on facility for Basic Services Demat Account

SEBI has issued a draft circular to review and improve the rules for the Basic Services Demat Account (BDSA). The main aim is to make investing easier for small investors and reduce operational difficulties for Depository Participants (DP).

SEBI has proposed that Zero Coupon Zero Principal (ZCZP) bonds should not be considered while calculating the value of holdings for BSDA eligibility. These bonds are not tradable, cannot be transferred, and do not give any monetary return. Since they do not have real market value, including them may wrongly make an investor ineligible for BSDA.

With respect to delisted securities, SEBI has proposed that delisted securities be treated like suspended securities and excluded from BSDA value calculation, as they have no active market or liquidity. For illiquid securities, the last closing price should be used. These valuation rules will not apply to promoter individuals.

To improve ease of doing business for the DPs, SEBI proposes that DPs should reassess BSDA eligibility every quarter instead of at the end of each billing cycle, as previously billing cycles used to differ across DPs which made it difficult to implement the same.

Lastly, SEBI proposes to allow investors to give consent to opt out of BSDA not only through registered email, but also through other verified and authenticated methods, as the earlier method was restrictive and delayed the process, thereby increasing the compliance burden for the DPs.

15. SEBI issues Consultation paper to ease issuance of duplicate share certificate

SEBI has issued a consultation paper along with draft circular proposing measures for simplification of the process of issuance of duplicate securities certificate. The proposals have been made in view of the investors' pain considering the feedback received from investors, discussions with the Registrar Association of India (RAIN) and recommendations of the Industry Standards Forum for RTAs.

The following are the key proposals:

- Presently, for issuance of duplicate certificates, certain specified documents/procedures are required to be submitted/followed. However, wherein the request is for securities valuing upto Rs. 5 Lakhs, the Copy of FIR/Police complaint/Court injunction order/copy of plaint and issuance of newspaper advertisement is not required. It is proposed to increase the said threshold from Rs. 5 Lakhs to Rs. 10 Lakhs.
- It is proposed to introduce a standardized affidavit-cum-indemnity form in place of separate affidavits and indemnity bonds with a view to simplifying documentation and to reduce associated costs.
- Further, to formalize the existing market practice, it is proposed that newspaper advertisements relating to loss of securities to be issued by the listed company on behalf of the investors.

16. SEBI – Consultation Paper on Master Circular for FPI

SEBI has released a consultation paper on Master Circular for Foreign Portfolio Investors (FPI). Earlier, the Board had issued a master circular for FPIs on May 24, 2024.

Since then, several circulars have been issued by SEBI pertaining to FPIs. The purpose of the new master circular is to incorporate all the changes made by the subsequent circulars.

SEBI has undertaken an exercise to streamline the FPI Master Circular with the objective of enhancing ease of doing business and ease of compliance. It focuses on simplifying the language of the Master Circular, eliminating duplicative provisions, and removing transitory or redundant clauses. This rationalization is intended to improve clarity, reduce interpretational ambiguities, and ensure that the regulatory framework governing FPIs remains concise, coherent, and user-friendly.

17. SEBI's amendment on Valuation norms under Share-Based Employee Benefits and Sweat Equity Regulations, 2021

SEBI has notified the Second Amendment to the Share Based Employee Benefits and Sweat Equity Regulations, 2021. These amendments will come into force 30 days from the date of publication in the Official Gazette.

The term "valuer" has now been aligned with Section 247 of the Companies Act, 2013. The amendment introduces the replacement of merchant bankers with independent registered valuers for carrying out valuations under these regulations. The valuation of the know-how or intellectual property rights or value addition shall be carried out by an independent registered valuer.

18. SEBI amends FPI Regulations

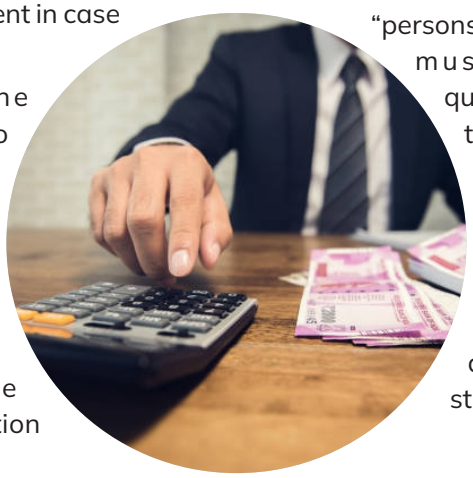
SEBI has amended the Foreign Portfolio Investors Regulations, 2019 vide its notification dated 1 December 2025.

The notification introduces a new clause to define "Single Window Automatic and Generalised Access for Trusted Foreign Investor (SWAGAT-FI)," which, subject to conditions specified by SEBI from time to time, includes government and government-related investors referred to in regulation and public retail funds as explained under regulation.

It now also allow greater flexibility in the constitution of applicants, including permitting certain mutual funds to be constituents, subject to conditions specified by SEBI. Further, the amendment revises investment thresholds for corpus related requirement for different categories of applicants, including Category I and Category II Alternative Investment Funds and other specified entities. Such revise investment thresholds are as under:

- 10% of the corpus of the applicant in case the applicant is an Alternative Investment Fund or
- 10% of the Assets under Management in case the applicant is a Retail scheme

Further amendments clarify the applicability of certain conditions to specific structures such as SWAGAT entities. Regulation has been amended to require FPIs to pay registration fees for every block of ten years in advance, and corresponding changes have been made in the Second Schedule to align the fee structure with the revised registration framework.



19. Amendment to SEBI (Foreign Venture Capital Investors) Regulations

SEBI has notified amendment to SEBI Foreign Venture Capital Investors Regulations, 2000. The amendment introduce the concept of Single Window Automatic and Generalized Access for trusted Foreign Investors (SWAGAT-FI) into foreign regulatory framework and provide regulatory relaxation to such foreign investors.

The key amendments are as below:

- The renewal fees in case of SWAGAT-FI shall be paid for every block of ten years to keep the registration in force. Further, the renewal fees shall be collected in advance, from the beginning of the eleventh year, from the date of registration.
- SWAGAT-FI are exempted from a) minimum investments of 66.67% in unlisted equity shares or equity linked instruments of venture capital undertaking or investee company, and b) investment criteria for balance 33.33 % as specified in Regulation 11(c) (ii).
- SWAGAT-FI are also exempted from filing the application form to DDP for grant of certificate as Foreign Venture Capital Investors.

The said amendments will come into force w.e.f. May 30, 2026

20. SEBI amends the Investment Advisers Regulations

SEBI has amended the Investment Advisers Regulations, 2013 via notification dated 25th November 2025.

The regulations provide an exemption to certain categories of persons from obtaining registration under the Investment Adviser (IA) Regulations, subject to the fulfilment of specified conditions. The amendment removes the reference to "sub-brokers" from the list of exempted persons, as SEBI has discontinued sub-brokers as a distinct category of intermediary with effect from 2018. Further, SEBI has now mandated that "persons associated with investment advice" must also satisfy the prescribed qualification requirements, in addition to the registered IA.

The amendment revises the IA qualification and certification criteria, by removing the requirement of a discipline-specific degree and permitting any graduate or equivalent qualification. At the same time, it strengthens regulatory competence by

making relevant NISM or NISM-accredited certification mandatory. The CFA Charter is no longer a standalone qualification and must now be supplemented with NISM certification. The new regulations explicitly recognizes the Post Graduate Program in Securities Market (Investment Advisory) and the Post Graduate Program in Financial Planning offered by NISM.

IA, principal officers, partners, and associated persons must renew their NISM certification before expiry or within 3 years of registration.

The amendment restructures and tightens the transition framework applicable to individual IA who cross the prescribed client or fee thresholds. Under the earlier regulation, IA who had crossed the client / fee thresholds were required to apply for in-principle registration as a non-individual IA. With the in-principle registration itself being valid for three months to facilitate the transition, after which the individual registration had to be surrendered. The amended regulation now introduces an immediate intimation requirement to the Administration and Supervisory Body upon crossing the threshold and mandates initiation of the transition process without delay, followed by an obligation to apply for in-principle approval within three months from the date the threshold is reached.

Further, through the newly inserted clauses, the validity of the in-principle approval is expressly prescribed as three months from the date of grant, the requirement to surrender the individual registration upon completion of the transition or grant of non-individual registration is retained, and an explicit clarification is added permitting the IA to on-board new clients and collect fees beyond the threshold during the transition period. Further, SEBI has notified certain changes to the IA application form.

21. SEBI InvITs (Third Amendment) Regulations, 2025 – refines key definitions and broadens investor eligibility in InvIT offerings in India

SEBI has amended the Infrastructure Investment Trusts Regulations, 2014 via a notification dated 9th December 2025.

The amendment redefines “institutional investor” by streamlining the categories included. Earlier, it covered family trusts, systemically important NBFCs registered with the RBI, and SEBI-registered intermediaries with a net worth above ₹500 crore. The revised definition now limits it to qualified institutional buyers, family trusts, and SEBI-registered intermediaries exceeding ₹500 crore, removing RBI-registered NBFCs.

The definition of Qualified Institutional Buyer has been aligned with the Issue of Capital and Disclosure Requirements Regulations, 2018.

Further, the amendment has significantly revised the definition of 'strategic investor'. Strategic investors now include institutional investors, foreign portfolio investors, RBI-registered NBFCs (middle, upper, and top layer), and other entities specified by SEBI, provided they invest at least 5% of the total InvIT offer size. Before specifying any other entity as a strategic investor, the Board shall consult the relevant financial sector regulator if the entity is subject to regulation by such authority.

22. SEBI Issues Major Amendments to Merchant Banking Regulations

SEBI has introduced comprehensive amendments to the Merchant Banking Regulations vide notification dated 3rd December 2025 which are effective from 02nd January, 2026. The changes include revised capital adequacy norms, stricter eligibility criteria, and enhanced reporting obligations.

The Key amendments are as under:

a) Application for grant of certificate of registration shall be made in Form A whereby applicants must choose Category I (which can carry out all permitted activities) or Category II (all permitted activities except for main-board equity IPOs). Further, Board has directed that the existing merchant bankers must re-categorize itself as Category I or Category II.

b) The applicant should be a body corporate or an LLP (except for a body corporate incorporated outside India other than a foreign bank licensed by the RBI, OPC and NBFC).

c) Capital adequacy requirements have been amended to state that the net worth of the applicant should not be less than fifty crore rupees for Category I merchant banker and ten crore rupees for Category II merchant banker

d) Liquid net worth requirements have been inserted vide the amendment which state that the net worth should not be less than twelve crore fifty lakh rupees for Category I merchant banker, two crore fifty lakh rupees for Category II merchant banker.

(For para (c) and (d) above the merchant banker who does not meet the requirements should not carry out any fresh permitted activity till it complies with the requirements)

e) The conditions of registration have been amended to include that the applicant should only conduct SEBI specified activities, not outsource core activities, generate minimum revenue as specified by SEBI and the employees & compliance officer should possess the mandatory certifications as required.

f) Failure to pay annual fees will result into Merchant Banker not able to carry on permissible activities till the payment of such fees has been made along with the interest.

g) The activities permitted by SEBI for a Merchant banker have been amended allowing them to undertake services such as management of public issues/qualified institution placements/rights issues of securities and advisory or consulting services incidental to such issues, managing acquisitions and takeovers, buy-back, delisting, implementation of SEBI schemes, underwriting activities, etc.

h) It has been clarified that non-SEBI activities must be held in a separate business with net worth ring-fenced from any adverse impact that may arise from undertaking such activities.

I) The ownership threshold has been reduced from 15% to 10% for voting rights when assessing control/ related-party contexts in issue/ sale/ purchase of securities.

j) SEBI has also introduced new clauses to the regulations whereby the merchant banker should not lead manage its own issue or be associated with any other activity in respect of its own issue. Also, a merchant banker should not lead manage in an issue where its directors, KMP, compliance officer or their relatives hold individually or in aggregate more than 0.1% of the total paid up share capital or shares having nominal value of more than 10,00,000 rupees, whichever is lower except when the merchant banker is appointed only for the marketing of the issue.

k) Underwriting obligations have been simplified to state that the merchant bankers should engage in underwriting activities as specified by SEBI from time to time.

l) The general responsibilities of the merchant banker in case of underwriting have been amended to include that underwriting exposures should be limited to 20 times the liquid net worth and the existing firms have been directed to comply with the same.

23. SEBI REITs (Third Amendment) Regulations, 2025 – refines key definitions and broadens investor eligibility in REIT offerings in India

SEBI has notified the amendments to Real Estate Investment Trust (REITs) Regulations, 2014 on 9 December 2025.

The amendment introduces a new definition of "institutional investor," which includes qualified institutional buyers as well as family trusts or SEBI-registered intermediaries having a net worth of more than ₹500 crore as per the latest audited financial statements.

It also substitutes the definition of "qualified institutional buyer" by aligning it with the meaning provided under the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018.

Further, the amendment has significantly revised the definition of 'strategic investor'. Strategic investors now include institutional investors, foreign portfolio investors, RBI-registered NBFCs (middle, upper, and top layer), and other entities specified by SEBI, provided they invest at least 5% of the total InvIT offer size. Before specifying any other entity as a strategic investor, the Board shall consult the relevant financial sector regulator if the entity is subject to regulation by such authority.

24. SEBI's Revised Framework for Research Analysts

SEBI has notified amendments to the Research Analysts Regulations, 2014. This amendment, notified on 25 November 2025, has been introduced to expand the regulatory scope for research analysts.

The amendment revises the Research Analyst qualification criteria, by removing the requirement of a discipline-specific degree and permitting any graduate or equivalent qualification. At the same time, it strengthens regulatory competence by making relevant NISM or NISM-accredited certification mandatory. The CFA Charter is no longer a standalone qualification and must now be supplemented with NISM certification. Further, the scope of recognized NISM programs has been expanded, with flexibility granted to the Board to notify additional programs, while the minimum duration requirement has been dispensed with.

Further, Research Analysts are required to disclose the number of persons associated with research services along with their qualification

details and whether the Research Analysts possess the necessary infrastructure to carry out their activities effectively.

25. SEBI Approves Regulatory Reforms Across Market Segments

SEBI at its 212th Board Meeting held in December, 2025 approved a broad package of regulatory reforms covering mutual funds, capital markets, debt markets and listed entities.

We have covered below few of the key reforms approved by the Board.

A) Reform of Stock Broker Regulations

The Board approved the replacement of existing SEBI Stockbrokers Regulations, 1992 with SEBI Stock Brokers Regulation, 2025. The main objective of this reform was to simplify the language, remove redundant provisions and update the regulations with contemporary changes. The new regulations expects to significantly reduce the compliance burden while maintaining supervisory oversight.

B) Comprehensive review of Mutual Funds Regulations

The new SEBI Mutual Funds Regulations, 2026 were approved with the aim to offer stake holders greater clarity, improved readability and enhanced structural coherence. The regulations will streamline the eligibility criteria for sponsors of Mutual Funds along with reorganizing the roles and responsibilities of AMCs and Trustees along with reorganizing the prudential investment limits and valuation of securities.

Expense ratio limits have now been termed as Base Expense Ratio (BER), which excludes all statutory levies. The Total Expense Ratio (TER) shall now be the sum of BER, brokerage, regulatory levies and statutory levies. The regulations also provide revised BER limits and rationalizes brokerage limits for cash market transactions and derivatives. The additional expense allowance earlier permitted to be charged on schemes with exit load has now been removed.

SEBI has provided many reliefs from compliance such as removing separate half-yearly portfolio disclosures requirement, reducing the requirement of annual trustee meetings and other reliefs

C) Amendments to ICDR Regulations

To ensure a smoother fund-raising process and increase the participation of retail investors, amendments to the Issue of Capital and Disclosure Requirements (ICDR), Regulations were approved. These include a revised mechanism to ensure lock-in compliance when pre-issue shares are pledged and the introduction of a new concise, standardized abridged prospectus at the draft offer (DRHP) document stage.

D) Measures to Deepen the Corporate Debt Market

The Board approved amendments to allow issuers of debt securities to offer incentives like additional interest or a discount to the issue price to certain categories of allotees namely senior citizens, women, armed forces, retail individual investors, etc. It is clarified that such incentive shall only be provided to initial allottees and not in a case where such debt securities are transferred post allotment.

E) Investor-Centric Reforms under LODR Regulations

The Board introduced significant changes to simplify investor service processes and enhance compliance which included :

- Dispensing with the requirement of issuing Letters of Confirmation for certain investor service requests and enabling direct credit of securities to demat accounts, thereby reducing processing timelines.
- Introducing a facilitative framework to allow transfer of physical securities acquired prior to April 1, 2019, subject to safeguards, to address legacy investor issues and restore property rights.

F) Credit Rating Agencies

Board approved amendments enabling credit rating agencies to rate financial instruments regulated by other financial sector regulators, subject to prescribed safeguards and disclosures. This is expected to expand the availability of credit ratings and support the development and depth of the debt market.

26. OECD Model Tax Convention 2025 – Key changes and India's stance

The OECD has released significant updates to the OECD Model Tax Convention (MTC) aimed at aligning treaty interpretation, strengthening the dispute resolution mechanisms and addressing cross border tax issues.

India has maintained reservations on several provisions; we have listed below the key changes and India's stance on the same.

Article No.	Subject Matter	Key change introduced	India's stance
5	Permanent Establishment	The OECD commentary on Article 5 clarifies the circumstances under which an individual's home may constitute a "place of business" of an enterprise.	India does not agree with the conditions, time threshold, and commercial rationale prescribed. India considers that an individual's home can be regarded as being at the disposal of the enterprise and would therefore constitute a place of business for the purposes of Article 5
9	Adjustments to profits for transactions between Associated Enterprises (AE)	In response to a taxpayer query, the OECD has introduced changes to the transfer pricing guidance relating to financial transactions between AEs.	India has not agreed to the OECD transfer pricing guidelines and reserves the right to apply the provisions of its domestic law.
11	Taxation on Interest	Amendments have been made to the commentary on Article 11.	India reserves its right to treat the income received from financial leasing and factoring contracts as "Interest"
13	Taxation on Capital Gains	Amendments have been made to the commentary on Article 13.	India reserves its right to source based taxation including taxation on indirect transfers.
25	Mutual Agreement procedure	A new paragraph 6 has been inserted confirming that competent authorities are responsible for determining whether a matter falls within the scope of a tax treaty for the purposes of dispute resolution mechanisms under the General Agreement on Trade in Services (GATS)	Reserves the right to exclude mandatory arbitration reference.

VI. COMPLIANCE CALENDAR FOR JANUARY 2026

A. Income tax

Sr. No.	Due Dates	Concerned (reporting) Period	Compliance Detail	Applicable to
01	7th Jan	December 2025	TDS / TCS Payment	Non-Government Deductors
02	15th Jan	Qtr. -3 (Oct-Dec 25)	Furnishing the Form 15G/15H	All individuals
03	30th Jan	Qtr. -3 (Oct-Dec 25)	TCS Certificate	All Deductors
04	31st Jan	Qtr. -3 (Oct-Dec 25)	TDS Certificate	All Deductors

*Note: As per the CBDT Circular dated 29.10.2025, the due date for furnishing the return of income for taxpayers subject to tax audit (excluding transfer pricing cases) has been extended from **31.10.2025 to 10.12.2025**. Further, the due date for furnishing the tax audit report (other than TP cases) has been extended from **30.09.2025 to 31.10.2025**.*

B. Goods and Service Tax

Sr. No.	Due Dates	Concerned (reporting) Period	Compliance Detail	Applicable to
01	10th Jan.	December 2025	GSTR – 7 (TDS)	Person required to deduct TDS under GST
02	10th Jan.	December 2025	GSTR – 8 (TCS)	Person required to collect TCS under GST
03	11th Jan.	December 2025	GSTR1	a) Taxable persons having annual turnover > Rs. 5 crores in FY 2024-25 b) Taxable persons having annual turnover ≤ Rs. 5 crores in FY 2024-25 and not opted for Quarterly Return Monthly Payment (QRMP) Scheme
04	13th Jan.	Qtr. 3 F.Y. 2025-26 (Oct to Dec)	GSTR – 1 - QRMP	All those taxpayers opted for Quarterly Return Monthly Payment Scheme
05	13th Jan.	December 2025	GSTR – 6 (ISD)	Person registered as ISD
06	18th Jan.	Qtr. 3 F.Y. 2025-26 (Oct to Dec)	CMP-08	Person Registered under Composition Scheme
07	20th Jan.	December 2025	GSTR – 3B	a) Taxable persons having annual turnover > Rs. 5 crores in FY 2024-25 b) Taxable persons having annual turnover ≤ Rs. 5 crores in FY 2024-25 and not opted for QRMP scheme
08	13th Jan.	December 2025	GSTR - 5 (NRTP)	Non-resident taxable person (NRTP)
09	20th Jan.	December 2025	GSTR - 5A (OIDAR)	OIDAR services provider
10	22nd Jan.	Qtr. 3 F.Y. 2025-26 (Oct to Dec)	GSTR – 3B - QRMP (for Oct- Dec 25) (D) *	Aggregate Turnover is up to Rs. 5 crores
11	24th Jan.	Qtr. 3 F.Y. 2025-26 (Oct to Dec)	GSTR – 3B - QRMP (for Oct - Dec 25) (E)**	Aggregate Turnover is up to Rs. 5 crores

**D - Taxpayers who have availed the Quarterly Return Monthly Payment (QRMP), option having aggregate TO up to INR 5 Crs in PFY whose principal place of business is in Category -1 states*

***E - Taxpayers who have availed the Quarterly Return Monthly Payment (QRMP), having aggregate TO up to INR 5 Crs in PFY whose principal place of business is in Category -2 states*

C. FEMA Compliance

Sr. No.	Due Dates	Particulars	Applicable to
01	7th January	ECB 2 Return (External Commercial Borrowing)	All Indian Borrowers who have non-resident lenders

GLOSSARY

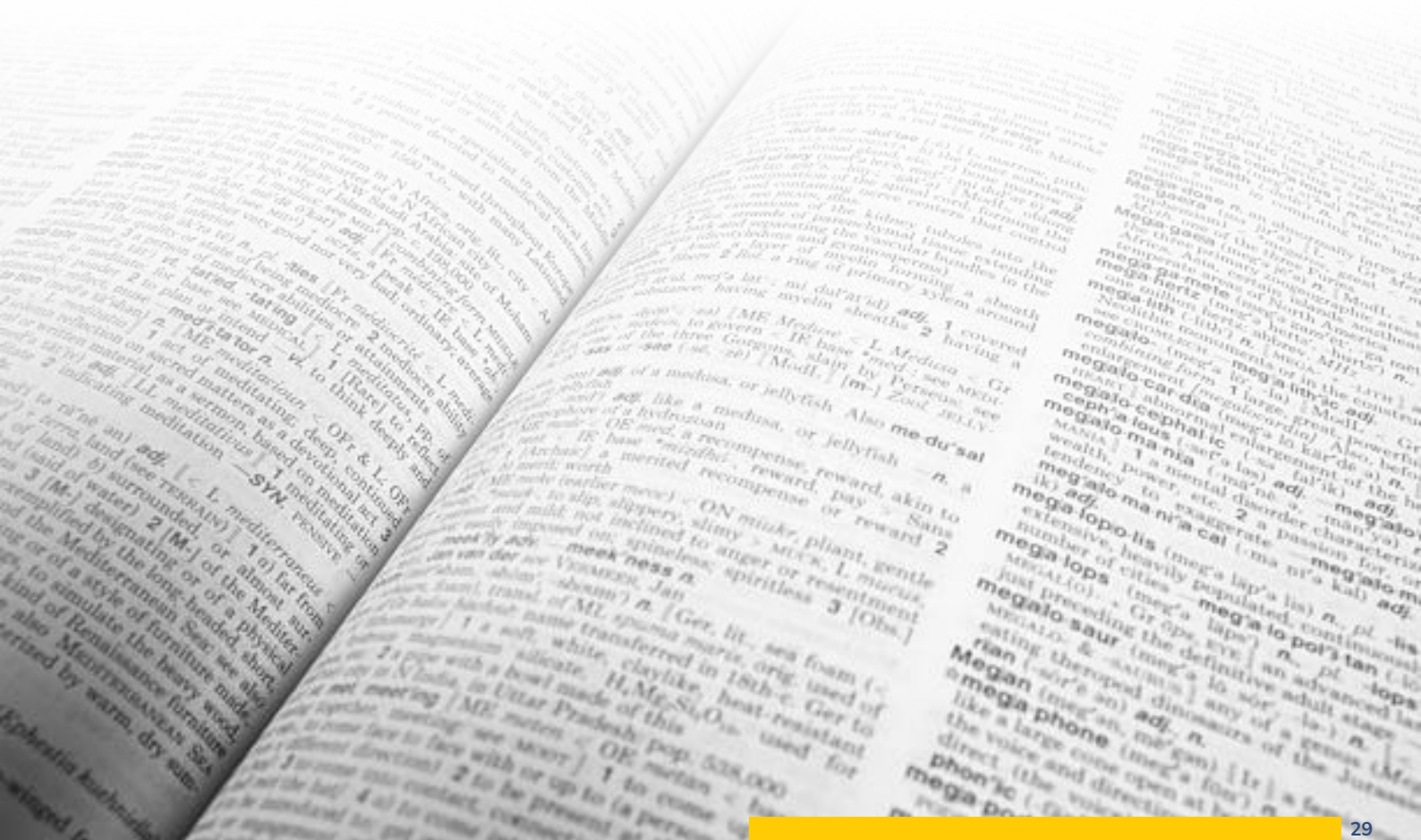
ABBREVIATION	FULL FORM
Act	Income-tax Act, 1961
AE	Associated Enterprise
AAR	Authority for Advance Rulings
AAAR	Appellate Authority for Advance Ruling
AI	Accredited Investors
AIF	Alternative Investment Fund
AMFI	Association of Mutual Funds in India
AML	Anti-Money Laundering
AGR	Adjusted Gross Revenue
AO	Assessing Officer
AY	Assessment Year
BER	Base Expense Ratio
BMA	Black Money Act
BFAR	Board for Advance Ruling
BSDA	Basic Services Demat Account
CBDT	Central Board of Direct Taxes
CESTAT	Customs, Excise and Service Tax Appellate Tribunal
CDSCO	Central Drugs Standard Control Organization
CBIC	Central Board of Indirect Tax and Customs
CMI	Capital Market Intermediaries
CASS	Computer-Assisted Scrutiny Selection
CFT	Combating of Financing Terrorism
CGST	Central Goods & Services Tax
CIT	Commissioner of Income-tax
CIT(Appeals) / CIT(A)	Commissioner of Income-tax (Appeals)
CPC	Centralized Processing Centre
DCIT	Deputy Commissioner of Income Tax
DGIT	Directorate General of Income Tax
DDT	Dividend Distribution Tax
DIN	Document Indentification Number
DOT	Department of Telecommunications
DT	Debenture Trustees
ETF	Exchange-Traded Fund
FPI	Foreign Portfolio Investment
FTC	Foreign Tax Credit
FTS	Fees for Technical Services
FY	Financial Year

GLOSSARY

ABBREVIATION	FULL FORM
GP	Gross Profit
GST	Goods & Service Tax
GAP	Global Access Providers
GSTAT	Goods and Services Tax Appellate Tribunal
HC	High Court
Hon'ble	Honourable
IIBX	India International Bullion Exchange
IB	Introducing Brokers
IFSC	International Financial Service Centre
IFSCA	International Financial Services Centre's Authority
ITAT	Income Tax Appellate Tribunal
ITR	Income Tax Return
KYC	Know Your Customer
LODR	Listing Obligations and Disclosure Requirements
LIBOR	London Interbank Offered Rate
LF	License Fees
LVF	Large Value Fund
MII	Market Infrastructure Institution
MTC	Model Tax Convention
NBFC	Non-Banking Financial Company
NFAC	National Faceless Assessment Centre
NISM	National Institute of Securities Markets
NRI	Non- Resident Indians
OGE	Order Giving Effect
OECD	Organisation for Economic Co-operation and Development
PE	Permanent Establishment
PAN	Permanent Account Number
PCIT	Principal Commissioner of Income Tax
PLR	Prime Lending Rate
RBI	Reserve Bank of India
RE	Regulated Entities
ROI	Return of Income
RFRC	Risk-Focused Regulatory Compliance
RBOE	Risk-Based Operational Excellence
REIT	Real Estate Investment Trust
RAIN	Registrar Association of India
Rules	Income-tax Rules, 1962

GLOSSARY

ABBREVIATION	FULL FORM
SWAGAT-FI	Single Window Automatic and Generalised Access for Trusted Foreign Investor
SC	Supreme Court
SDF	Sugar Development Fund
SMP	Social Media Platform
SCN	Show Cause Notice
SUC	Spectrum Usage Charges
SEZ	Special Economic Zone
SEBI	Securities and Exchange Board of India
SGST	State Goods and Services Tax
SIF	Specialised Investment Fund
TDS	Tax Deducted at Source
TER	Total Expense Ratio
TP	Transfer pricing
TPO	Transfer Pricing Officer
ZCZP	Zero Coupon Zero Principal



BHUTA SHAH & CO LLP
CHARTERED ACCOUNTANTS

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