MARCH 2026

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. *Sales tax subsidy received for setting up industrial unit in backward area is capital receipt based on 'purpose test'.*

Vardhman Textiles Ltd ('the Assessee'), engaged in the business of manufacturing yarn, had set up an industrial unit in a backward area of Punjab and was eligible for sales tax subsidy under the State Government's incentive scheme. The subsidy was available for a period of 10 years, subject to a ceiling of 300% of the fixed capital investment. The Assessee collected sales tax from customers but retained the same in terms of the scheme. During the year AY 2000-01, the AO treated the subsidy as revenue receipt and taxed the same. On appeal, the CIT(A) partly allowed the Assessee's claim. Aggrieved, the Assessee filed an appeal before the Hon'ble Chandigarh ITAT. However, the Hon'ble ITAT upheld the action of the tax authorities holding that the subsidy was revenue in nature. Aggrieved, the Assessee preferred an appeal before the Hon'ble P&H HC.

The issue before the Hon'ble HC was whether the sales tax subsidy received under the State incentive scheme constituted a capital receipt or a revenue receipt. The Assessee contended that the subsidy was granted to promote capital investment in backward areas and was directly linked to the setting up of industrial units, and therefore, in terms of the 'purpose test' laid down by the Hon'ble SC in *Ponni Sugars and Chaphalkar Brothers*[1], the same ought to be treated as capital receipt. The tax authorities, on the other hand, relied on the decision of the jurisdictional HC in *Abhishek Industries*[2] to contend that the subsidy, being received post commencement of production and being available for use without restriction, constituted revenue receipt.

The Hon'ble HC observed that the law on the issue stands settled by the Hon'ble SC in *Ponni Sugars* and *Chaphalkar Brothers,* wherein it was held that the nature of subsidy is to be determined on the basis of the purpose for which it is granted, and not on the basis of the timing or manner of its receipt. It was observed that the subsidy in the present case was granted with the object of promoting industrialization and encouraging capital investment in backward areas of the State. The Hon'ble HC further noted that the quantum of subsidy was directly linked to the capital investment made by the Assessee and that the subsidy was not intended to supplement the profits of the business. The Hon'ble HC also noted the fact that the tax authorities had, in subsequent proceedings before the Hon'ble ITAT, conceded that the issue stood covered in favour of the Assessee in view of the decision of the Hon'ble SC.

Accordingly, the Hon'ble HC held that the sales tax subsidy received by the Assessee was in the nature of capital receipt and not liable to tax, set aside the order of the Hon'ble ITAT. Thus, the appeal filed by the Assessee was allowed.

***M/s Vardhman Textiles Ltd. v. Commissioner of Income Tax & Anr. – Punjab & Haryana High Court [TS-303-HC-2026 (P&H)]***

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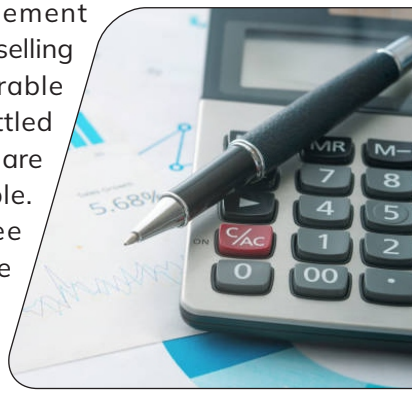
### 2. *Proportionate IPO expenses borne by a promoter pursuant to an OFS under an IPO initially incurred by the company and subsequently recovered from the promoter, constitute expenditure incurred wholly and exclusively in connection with the transfer under OFS and deductible under Section 48(i) of the Act.*

Zarah Rafique Malik ('the Assessee'), promoter of Metro brands Limited ('the Company'), filed her ROI for AY 2022-23, claiming deduction of proportionate IPO expenses and PMS expenses against capital gains arising from the sale of shares of the Company through the OFS mechanism as part of the company's IPO.

The case was picked for scrutiny, and the AO disallowed both claims. The Assessee's objections before the DRP were rejected, with the DRP treating the cost-sharing arrangement between the company and selling shareholders as a colourable device to bypass the settled principle that IPO expenses are capital and non-deductible. Aggrieved, the Assessee appealed before the Hon'ble Mumbai ITAT.



The Assessee submitted that the IPO comprised both a fresh issue of shares by the company and an OFS by the promoters. It argued that the proportionate IPO expenses attributable to the sale of its shares should be deductible under Section 48 of the Act, as they are directly linked to the computation of capital gains. The Assessee also contended that the AO's disallowance was unwarranted, particularly since similar deductions were allowed to other promoter - shareholders in comparable cases.

[1] *Commissioner of Income Tax Madras Vs. Ponni Sugars & Chemicals Ltd [TS-57-SC-2008]*
[2] *Commissioner of Income Tax-1, Ludhiana Vs. Abhishek Industries Ltd", [TS-5548-HC-2006(Punjab & Haryana)-O]*

The Assessee submitted that the company incurred total IPO expenses on behalf of selling shareholders, which were proportionately apportioned and deducted from sale proceeds. The Assessee provided supporting documents, including invoices, shareholder consent, capital gains computation, bank statements, and prospectus extracts evidencing that such expenses were directly related to the sale of shares. It was contended that these expenses, being wholly and exclusively in connection with the transfer, are allowable under Section 48 of the Act.

The AO disallowed the expenses citing absence of supporting documents from the company. The appellant argued that the company had incurred the expenses and provided invoices and a breakup, but complete documentation could not be submitted earlier due to time constraints. The appellant furnished the supporting documents via pen drive, along with IPO details, the prospectus, and the expense allocation showing proportionate sharing among shareholders. It was submitted that the appellant relied on company-issued invoices, fulfilled her evidentiary burden, and that the AO could have sought additional details directly from the company instead of disallowing the claim without specific queries.

In rejoinder, the Assessee argued that the DRP erred in treating the IPO as solely benefiting the company and as a tax-avoidance device. Only 21.79% of the issue comprised fresh shares, while 78.21% were promoter OFS shares, with proceeds going directly to the selling shareholders. The Assessee distinguished *Brooke Bond*[3] and *PSIDC*[4] noting that those cases involved expenses for raising fresh capital, whereas here the company retained only the portion relating to its own fresh issue. On the question of incurrence, it was submitted that although the company initially bore the costs, the Assessee had agreed to bear her proportionate share, was invoiced accordingly, and received net proceeds after such deductions - demonstrating that the expenses were effectively incurred by her.

The Hon'ble Mumbai ITAT allowed the Assessee's appeal. Relying on *Usharani Raghunathan & Others*[5], it held that IPO expenses enabling the Assessee to sell her shares were inherently connected with that sale and deductible under Section 48(i) of the Act. The Hon'ble ITAT noted that IPO-related activities must be undertaken at the company level, and the fact that the company initially incurred the expenses but later recovered the Assessee's proportionate share could not be a ground for disallowance.

The Hon'ble Mumbai ITAT also rejected the DRP's characterisation of the arrangement as a colourable device, holding that an Assessee who participates in an IPO by offering her shares through the OFS mechanism and agrees to bear proportionate expenses in compliance with SEBI regulations cannot be said to have entered into an impermissible arrangement.

Regarding PMS expenses, the Assessee claimed certain sum against long-term capital gains and against short-term gains on non-IPO shares managed by Marcellus Investment Managers Limited. While the AO allowed the amount related to short-term gains, he disallowed the larger claim without issuing a show-cause notice. Since these expenses were incurred wholly for purchase and sale of shares and similar expenses were already allowed, the remaining claim is also allowed.

***Zarah Rafique Malik [TS-363-ITAT-2026(Mum)]***

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### 3. *Flat received on redevelopment in lieu of surrender of tenancy rights constitutes consideration for transfer of a capital asset and therefore cannot be taxed as income from other sources, entitling exemption under Section 54F of the Act.*

Varun Jaisingh Asher ('the Assessee'), an individual engaged in commission agency business, filed his ROI for AY 2020-21 declaring income of INR 4.87 Lakh and claimed exemption under Section 54F of the Act amounting to INR 11.68 Crore on surrender of tenancy rights. The case was selected for scrutiny to verify the claim of capital gains exemption.

The AO found that the Assessee and his brother had commenced tenancy over a family-owned property from April 2013, after the erstwhile tenant vacated the premises. Though no formal agreement was executed initially, the tenancy was evidenced by rent receipts and electricity bills. A registered tenancy agreement was subsequently executed in August 2014, to facilitate the property's redevelopment.

Subsequently, a JDA was entered in August 2014. Upon completion in 2020, the Assessee received a flat in exchange for surrender of tenancy rights. However, the AO treated the tenancy arrangement as a sham and a colourable device and taxed the value of the flat under Section 56(2)(x) of the Act and denied the exemption under Section 54F of the Act.

[3] *Brooke Bond Ltd [TS-15-SC-1997]*
[4] *Punjab State Industrial Development Corp. Ltd [TS-8-SC-1996]*
[5] *Usharani Raghunathan & Others [TS-6733-ITAT-2012(Chennai)-O]*

Aggrieved, the Assessee filed an appeal before the CIT(A), who deleted the addition after a detailed review of the documentary evidence, holding that the Assessee possessed valid tenancy rights and that the flat received constituted consideration for surrender of a capital asset, thereby entitling the Assessee to the Section 54F exemption. Aggrieved, the tax authorities filed an appeal before the Hon'ble Mumbai ITAT.

Before the Hon'ble ITAT, the Assessee submitted a comprehensive paper book and written note documenting the tenancy's genuineness, supported by rent receipts and a clear sequence of events. The Assessee highlighted that this issue had already been adjudicated by the Hon'ble Bombay HC in the case of *Vivek Jaisingh Asher vs. ITO*[6], thereby supporting the Assessee's claim. Per contra, the tax authorities supported the assessment order of the AO.

The Hon'ble Mumbai ITAT considered the submissions and examined it. It noted that the Assessee had furnished substantial documentary evidence, including rent receipts, electricity bills, a registered tenancy agreement, MHADA records, and redevelopment agreements, establishing continuous tenancy since 2013.

The Hon'ble ITAT relying on the judgement of *Vasant Nagorao Barabde vs DCIT*[7], held that mere delay in formal registration of the tenancy agreement does not invalidate its genuineness when supported by corroborative evidence. It further observed that tenancy rights qualify as a capital asset, and their surrender amounts to a transfer, with the flat received constituting consideration. Accordingly, such a transaction falls under the head “capital gains” and cannot be taxed under Section 56(2)(x) as income from other sources.

The Hon'ble ITAT upheld the order of the CIT(A) and allowed the Section 54F exemption as well as dismissed the appeal of the tax authorities.

***Varun Jaisingh Asher [TS-313-ITAT-2026(Mum)]***

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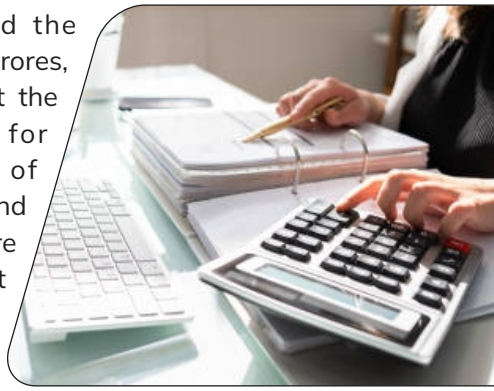
### 4. *Interest on Foreign Acquisition Loans Allowed as Business Expense*

Tata Steel Ltd. ('the Assessee'), had borrowed heavy loans to fund the acquisition of Corus Group PLC, a major overseas steel manufacturer, through its subsidiaries as part of its global expansion strategy. For the AY 2008-09, it had recorded interest expenditure of INR 518 crore incurred on such loans. The company claimed this interest as a business expense while computing its taxable income, stating that the borrowings were for expansion of its existing business.



The AO disallowed the interest of INR 518 crores, on the grounds that the loans were used for acquiring shares of foreign companies and thus were in the nature of capital investment which was not directly related to the core business operations in India. The AO treated the expenditure as not allowable under normal business deduction provisions. Aggrieved, the Assessee filed an appeal before the CIT(A), which upheld the disallowance, agreeing with the AO's view that the expense was not wholly and exclusively for business purposes.

Aggrieved, the Assessee filed an appeal with the Hon'ble Mumbai ITAT which carefully examined the purpose of the borrowing and observed that the acquisition of foreign companies was part of Tata Steel's overall business expansion strategy and were not isolated investments. It relied on settled legal principles under Section 36(1)(iii) of the Act that interest on borrowed funds is allowable if the borrowing is for business purposes, even if it results in acquisition of shares or expansion abroad.

The Hon'ble Mumbai ITAT concluded that the loans were taken for genuine business expansion and had a clear connection with the company's overall business activities. Further, Internal company documents proved that the acquisition was a strategic business decision designed to expand the Assessee's manufacturing capabilities into the European market. It rejected the narrow view taken by the tax authorities and held that interest cannot be disallowed merely because the funds were used to acquire shares. As long as the purpose is business expansion, the deduction is allowable. Accordingly, it deleted the entire disallowance of INR 518 crore emphasizing that expanding business through foreign acquisitions is a legitimate business activity, and related interest costs cannot be denied if there is a clear business connection. Thus, the case was decided in favour of the Assessee.

***Tata Steel Ltd [TS-268-ITAT-2026(Mum)]***

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### 5. *Joint Ownership in a property does not disentitle exemption under Section 54F of the Act.*

Saroj Goenka, ('the Assessee') sold 36 lakh shares of Emami Ltd. for INR 33.77 crore during the AY 2021-22, earning long-term capital gains of INR 26.77 crore for

[6] *Vivek Jaisingh Asher vs. ITO [TS-305-HC-2024(BOM)]*
[7] *Vasant Nagorao Barabde vs DCIT [TS-7695-ITAT-2025(Mumbai)-O]*

which she claimed exemption under Section 54F of the Act. She invested the proceed in an ongoing construction of a residential house property located at 1, Queens Park, Kolkata. The construction of the new house was completed within three-year statutory period as per Section 54F of the Act. She jointly owned a residential house property (HP) and a land during the year under consideration.

During the assessment proceedings the AO denied the exemption, noting that the Assessee already owned one residential property and that the construction of the new property had begun before the date of sale of shares. Accordingly, the AO made an addition of INR 26.77 crore.

Aggrieved, the Assessee filed an appeal before the CIT(A) who confirmed the assessment order. Aggrieved, the Assessee filed an appeal before the Hon'ble Kolkata ITAT. Before the Hon'ble ITAT the Assessee contended that,

1) The jointly held residential HP cannot disentitle the exemption under Section 54F of the Act as it cannot be considered as a residential HP exclusively owned for the purpose of Section 54F of the Act. The Assessee relied on the decision in the case of *Deepak Kothari*[8].
2) The land located at No.13, BT Road was owned by the Assessee. The Assessee leased out this land to Sneh Enclave Pvt Ltd., which constructed and owned a factory building. Since, the Assessee only owned the land, it cannot be considered as a residential HP.
3) The condition for claiming exemption under Section 54F of the Act is to complete the construction of residential HP within 3 years from the date of sale of original asset (shares of Emami Ltd). The fact that construction of new residential HP began much before sale of shares cannot prohibit the Assessee to claim the exemption under Section 54F of the Act in support of her view reliance was placed on *Bharti Mishra*[9] and C. *Aryama Sundaram*[10].

The Hon'ble ITAT noted submissions and concluded that the Assessee satisfied all the essential conditions for claiming exemption under Section 54F of the Act. Accordingly, the Hon'ble ITAT allowed the appeal of the Assessee and directed AO to delete the addition.

***Saroj Goenka [TS-196-ITAT-2026(Kol)]***

*[8] Deepak Kothari vs ACIT [TS-6403-ITAT-2025(Delhi)-O]*
*[9] CIT Vs. Bharti Mishra [TS-5893-HC-2013(Delhi)-O]*
*[10] C. Aryama Sundaram v. CIT [TS-6795-HC-2018(Madras)-O]*

### 6. *Mere registration of property in name of the trustee does not disentitle exemption under Section 11 of the Act in absence of personal benefit.*

Everwin Educational & Charitable Trust ('the Assessee'), a charitable trust engaged in educational activities, had claimed exemption under Section 11 of the Act. During AY 2016-17, the Assessee had acquired certain immovable property out of its funds, which was registered in the name of its trustees. The ROI was accepted by the AO during the scrutiny proceedings. The CIT(E) set aside the assessment order holding it to be erroneous and prejudicial to the interest of the revenue under Section 263 of the Act. The CIT (E) denied the Section 11 exemption given to the Assessee. Based on the order issued by the CIT(E), the AO issued notice to Assessee asking to explain its case. The Assessee submitted that registration in the name of the trustees was a bonafide mistake. The trustees executed the will dated 12.12.2018 and furnished an affidavit dated 21.02.2022 bequeathing properties onto the trust. The legal tittle of the property was not transferred based on an advice that registration would entail cost of stamp duty. However, the AO considered the will and affidavit as an after thought exercised. Also, the AO concluded that both the will and affidavit were revocable at any time during the lifetime of the trustees.

Thus, the AO made an addition of INR 14.70 Crore and denied exemption under Section 11 of the Act of gross receipts of INR 33.29 Crore owning to violation of provisions of Section 13(1)(c) of the Act. Aggrieved, the Assessee filed an appeal before the CIT(A).

The CIT(A) noted that lands were shown as the assets of the trust/school in the books of trust. Further, the trustees have registered a rectification deed on 11.04.2023 wherein the name of purchaser was shown as the Assessee. Encumbrance cost and property tax were also paid in trust name. In view of the above-mentioned facts, the CIT(A) allowed the appeal of the Assessee. Aggrieved, the tax authorities filed an appeal before the Hon'ble Chennai ITAT.

The issue before the Hon'ble ITAT was whether exemption under Section 11 of the Act could be denied by invoking Section 13(1)(c) of the Act merely on account of property being registered in the name of trustees, in the absence of any evidence of personal benefit. The tax authorities contended that registration of the property in the name of trustees amounted to application of income for the benefit of specified persons, thereby attracting Section 13(1)(c) of the Act. The Assessee, on the other hand, contended that the property was acquired out of trust funds and was

utilized solely for the purposes of the trust and that no benefit had accrued to the trustees. It was further submitted that the trustees had contributed their own assets to the trust, evidencing bona fide intent.

The Hon'ble ITAT observed that school building was registered in the name of the Assessee, school activities were carried on by the Assessee. All fees and receipts realized from the student were enjoyed by the Assessee. It was observed that mere registration of property in the name of trustees, in the absence of any material to demonstrate personal benefit, would not result in denial of exemption under Section 11 of the Act. The Hon'ble ITAT further noted that the property was being used for carrying out the charitable objects of the trust and that no evidence had been brought on record by the Revenue to establish that the trustees had derived any undue benefit. Accordingly, the Hon'ble ITAT held that exemption under Section 11 of the Act cannot be denied in the absence of any finding that the trustees had derived personal benefit, and dismissed the appeal filed by the tax authorities.

***Everwin Educational & Charitable Trust v. Revenue – ITAT Chennai [TS-300-ITAT-2026 (CHNY)]***

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***7. Destroyed books of a Company and seized documents justify reasonable and evidence-based estimates of hidden income, even if initial admissions are retracted.***

Bagkiya Construction Pvt. Ltd. ('the Assessee') is a company engaged in civil construction and structural engineering. For the year 2017–18, it filed its tax return showing income of about INR3.33 crore, which was initially accepted by the tax department. Later, the department conducted a survey at its office and found certain documents (like diaries) which showed that the company might have been hiding income. These documents suggested that the company was claiming fake expenses (like labour and subcontractor payments) and also dealing in cash outside its official books. Employees and even the Managing Director admitted that cash was being generated and used for business purposes like getting contracts. One major issue was that the company had destroyed its books of accounts, so proper verification was not possible. Based on the above, the tax department reopened the case.

The AO made large additions to the income. The AO increased the company's profit margin, added INR10.62 crore as unexplained cash, and INR1.18 crore as fake labour expenses. However, when the company appealed, the CIT(A) deleted most of these additions, on the ground that they were based on statements which were later taken back (retracted), and also that the books were not formally rejected. When the matter went to the Hon'ble ITAT, it did not fully agree with the CIT(A). The Hon'ble ITAT held that since the company had destroyed its books, the tax officer had the right to estimate income and rely on other evidence like documents and employee statements. It also said that just because someone takes back their earlier statement, it does not automatically make the addition invalid—especially if there is supporting evidence. So, the Hon'ble ITAT allowed some additions but reduced the amounts. It limited the profit addition to INR85 lakh and reduced the unexplained cash addition to INR3.95 crore. However, it agreed with the CIT(A) in deleting the INR1.18 crore labour expense addition because there was no solid proof, only a statement.

In conclusion, the case was partly decided in favour of the tax department and partly in favour of the Assessee. The Hon'ble ITAT confirmed that additions can be sustained where supported by incriminating material, even if statements are later retracted, especially when the Assessee destroys records. At the same time, it emphasized that additions should be reasonable and based on actual evidence rather than arbitrary estimates or mere admissions.

***Bagkiya Construction Pvt. Ltd [TS-285-ITAT-2026(PAN)]***

# B. INTERNATIONAL TAXATION

***1. The NRI's Geneva bank account is not subject to Indian taxation on account of inability of the tax authorities to discharge the onus of proving that the funds accrued, arose or were received in India pursuant to Section 5(2) of the Act.***

Dipendu Bapalal Shah ('the Assessee') was a non-resident for the purpose of Income tax since year the 1979. The Assessee's case for the AY 2006-07 was reopened based on information received in form of a 'Base Note' from the French Government regarding deposits made by the Assessee in its account with HSBC Bank, Geneva (opened in 1997). As the Assessee had not filed his ROI for the relevant year and the AO had reasons to believe that income had escaped reassessment, the assessment proceedings were initiated.

In the absence of satisfactory and substantiated explanation regarding the source of deposit of such funds in the HSBC Account, the AO added a sum of INR 6.13 Crore being rupee equivalent of USD 13.62 Lakhs in the AY 2006-07.

Aggrieved, the Assessee filed an appeal before the CIT(A) who held that since the HSBC Bank, Geneva account was opened in 1997, well after the Assessee had acquired non-resident status and even thereafter and since the money in the foreign account neither accrued nor arose nor was received or deemed to be received in India, the foundational test of taxability under Section 5(2) read with Section 9 of the Act was simply not satisfied. Accordingly, it was held that the HSBC Bank, Geneva account fell entirely outside the purview of the Act.

It further held that circumstantial evidences discussed above including the report of news agency Indian express, relied by the AO nowhere conclusively establishes that the source of the deposits were from India. Accordingly, the CIT(A) allowed the appeal of the Assessee.

Aggrieved by the Order of the CIT(A), the tax authorities filed an Appeal with the Hon'ble Mumbai ITAT which upheld the order of the CIT(A). The tax authorities filed an appeal with the Hon'ble Bombay HC.

Before the Hon'ble HC, the tax authorities contended that Section 5(2) of the Act covers "all income from whatever source derived" in the case of a non-resident, and that the Assessee's failure to produce bank account statements or sign a consent waiver form drew an adverse inference against him. The tax authorities also argued that the beneficiaries of the foreign trust being Indian residents established an economic nexus with India, bringing the account within the purview of Indian tax law. Reliance was placed on the decisions in *Soignee R. Kothari v. DCIT*[11] and *GVK Industries Ltd. v. ITO*[12].

The Hon'ble HC emphasized on the well settled principle that the burden of proof lies upon the party that asserts. Relying on the SC ruling in *Parimisetti Seetharamamma v. CIT*[13], the Hon'ble HC observed that whenever the department seeks to tax a receipt as income, the onus rests squarely on the tax authorities, which it had failed to discharge in the present case. Finding no substantial question of law, the Hon'ble Bombay HC dismissed the appeal of the tax authorities.

***Dipendu Bapalal Shah [TS-352-HC-2026(BOM)]***

[11] *Soignee R. Kothari Vs. DCIT [TS-207-HC-2016(BOM)]*
[12] *GVK Industries Ltd and anr. Vs. The Income Tax Officer and anr. [TS-61-SC-2015]*
[13] *Parimisetti Seetharamamma v. CIT [TS-5026-SC-1965-O]*

2. ***Sale of off-the-shelf software is not royalty and therefore not taxable in India in absence of PE and finds that Revenue failed to substantiate PE in India***

Computer Modelling Group Ltd ("Assessee") is a company incorporated in and a tax resident of Canada. The Assessee is engaged in the business of selling reservoir simulation software used in oil and gas exploration industry. The Assessee also provides software maintenance and support services to the customers in oil and gas exploration sector. In India, the Assessee grants software licenses for the use of software by entering into software license agreements with various customers engaged in oil and gas sector and educational institution as well as provide maintenance service of same.

The AO, pursuant to DRP directions, treated receipts from sale of software licenses as 'equipment royalty' under Article 12(3)(b) of the India–Canada DTAA. Further, the maintenance fees were held as Fees for Included Services (FIS) under Article 12(4) of the India–Canada DTAA. The AO also held that Assessee had a PE in India, thereby taxing the entire receipts under Section 44BB of the Act.

Aggrieved, the Assessee filed an appeal before the Hon'ble Delhi ITAT and contended that such receipts were not taxable in India under the India – Canada DTAA and that Assessee does not have any PE in India. The Assessee contended that a similar issue was already adjudicated in AY 2012-13, AY 2019-20 to AY 2021-22 in its favour. Per contra, the tax authorities supported the final assessment order.

The Hon'ble ITAT observed that the issue was a recurring one and had been decided in favor of the Assessee in earlier years on identical facts. It held that the tax authorities failed to discharge the onus of establishing the existence of a PE in India and that the DRP's conclusion was perfunctory. The Hon'ble ITAT also noted that the software supplied was off-the-shelf and not customized, distinguishing it from cases relied upon by the tax authorities. The Hon'ble ITAT also noted that the term 'equipment' was explained by the Hon'ble Delhi HC in case of Asia Satellite Telecom Co. Ltd. If the software is unable to perform any activity in itself and is dependent on hardware for execution of any task, the software can not be held as equipment.

Accordingly, in the absence of a PE, the receipts were held to be business income not taxable in India under Article 7 of the DTAA, and the appeal of the Assessee was allowed. The Hon'ble ITAT also held that receipts partake the character of business income of the Assessee and therefore the question of treating the

impugned receipts as royalty or FIS become irrelevant and academic in nature.

***Computer Modelling Group Ltd [TS-270-ITAT-2026(DEL)]***

### 3. *Income from sale of licensed software is not taxable in India in absence of DAPE*

Milestone Systems A/S ("the Assessee") is a company incorporated in Denmark and is a tax resident of Denmark. The Assessee is engaged in the business of developing and licensing IP Video Management Software and video surveillance related products across the globe, including India. During the AY 2022-23, the Assessee earned revenue of INR19.83 Crore from the sale of licensed software to its distributors in India. The Assessee filed its ROI for the AY 2022-23 declaring a total income of INR18.94 Crore and claimed a refund of INR2.14 Crore. The Assessee took the position that it does not have a PE in India as per Article 5 of the India-Denmark DTAA. Accordingly, the income from sale of off-the-shelf software licenses was not offered to tax by the Assessee during the year under consideration

However, during the assessment proceedings, the AO passed a draft assessment order holding that the software is not off-the-shelf software but is customized in nature. It was further held that the Assessee exercised comprehensive control over the operations of its distributors in India, including fixation of prices. The AO concluded that the Assessee exercises control in selection/appointment of resellers and sells tailor made software in india. On the basis of the aforesaid findings, the AO concluded that the Assessee has a DAPE in India and accordingly attributed 50% of the profits to the alleged DAPE. Upon filing the objections, the findings of the AO were upheld by the Hon'ble DRP and the Final Assessment Order was passed in accordance with the directions of the DRP. However, the attribution was restricted to 25% by the DRP.

Aggrieved the Assessee preferred an appeal before the Hon'ble Delhi ITAT. Before the Hon'ble ITAT, the Assessee submitted that it sells licensed software to its non-exclusive Indian distributors on a principal-to-principal basis and does not instruct any of its distributors regarding selection of resellers. The distributor purchases and sells the products in its own name and for its own account, at its own risk and cost. It was further submitted that neither party is authorized to make any commitments or representations on behalf of the other, unless authorized in writing. The only restriction imposed by the Assessee is that the product shall not be sold beyond the MRP. The Assessee placed reliance on the decision of the Hon'ble SC in case of *Bharti Cellular Ltd. vs. ACIT*[14], wherein the distributor agreement contained a restriction on selling SIM cards of competitors and submitted that the present case stands on a better footing as no such restriction exists. Per contra, the tax authorities supported the AO's assessment Order.

The Hon'ble ITAT referred to Article 5(4) of the DTAA and noted that the impugned order contains no finding that the distributors of the Assessee in India conclude contracts on behalf of the Assessee or play a principal role leading to the conclusion of such contracts. The Hon'ble ITAT further examined the sample Distributor Partner Agreement and observed that the Assessee appoints non-exclusive authorized distributors in India on a principal-to-principal basis. The agreement provides liberty to the distributor to set its own resale price, subject to a maximum resale price. It also permits the distributor to sell products of competitors, thereby not restricting the distributor's commercial independence. The Hon'ble ITAT held that mere certification of resellers by the Assessee cannot be a ground to hold that the Assessee controls the business of its distributors, and such an arrangement cannot be construed as the Assessee exercising control over pricing of the products.

The Hon'ble ITAT observed that no such statement was made by the Assessee on its website as alleged by the AO. The Hon'ble ITAT noted that the software has a broad spectrum to meet the requirements of different categories of end users, which does not render it customized in nature. Accordingly, the Hon'ble ITAT held that the findings of the AO with regard to the Assessee having a DAPE in India are without merit, and consequently, the question of attribution of profits to the alleged PE does not arise.

***Milestone Systems A/S [TS-298-ITAT-2026(DEL)]***

### 4. *Offshore aircraft repairs services not taxable in India in absence of technical knowledge being made available.*

GE Engine Services LLC (“the Assessee” or “GE” or “the Company”) is a single-member US LLC engaged in the repair and overhaul of aircraft engines. During the AY 2021-22, the company has provided maintenance

[14] *Bharti Cellular Ltd. vs. ACIT [TS-5077-SC-2024-O]*

services entirely outside India to several Indian airlines. The work involved transporting engines or components from India to the company's overseas facilities, where inspection, dismantling, part replacement, refurbishment, and testing were performed before the serviced engines were returned to the airline customers.

For the AY 2021-22, the company received INR471.64 crore for such offshore overhaul and repair services. GE treated the receipts as not taxable in India because services were provided outside India, no personnel visited India, and it had no PE in India. Also, the services did not make available any technical knowledge or skill to the customers as required under Article 12(4)(b) of the India–US DTAA.

During the assessment proceedings, the AO took a contrary view, holding that the revenue from these services constituted FTS under Section 9(1)(vii) of the Act. The AO stated that preparing work scope documents, offering diagnostics support, interacting with customer teams, and sharing technical data or guidance amounted to making available technical expertise to Indian airlines.

Additionally, the AO contended that the Company, being an LLC, was fiscally transparent and therefore not a resident as per DTAA, as it was not itself liable to tax in the US. On this basis, the AO denied treaty benefits and brought the entire amount to tax at 10%.

Aggrieved, the Assessee filed objections before the DRP. However, through its order dated 13.09.2023, the DRP upheld the AO's findings.

Aggrieved, the Assessee filed an appeal before Hon'ble Delhi ITAT. Before the Hon'ble ITAT, the Assessee relied on the TRC issued by the US tax authorities, which explicitly certified that Assessee is a business unit of a US corporation, a resident of the US for tax purposes.

Assessee emphasized that under US federal tax rules, the income of a single-member LLC is taxed in the hands of the sole owner. In this case, General Electric Company, a US tax resident was the sole member of the Assessee. This satisfied the “liable to tax” condition under Article 4 of India – USA DTAA. Assessee further relied on the SC judgment in case of *Azadi Bachao Andolan*[15], which clarified that “liable to tax” refers to legal liability, not actual payment. The Assessee also relied on the case of General Motors Company USA, Wild West Domains LLC, and GoDaddy.com LLC wherein it has been held that fiscally transparent US entities are fully entitled to treaty benefits.

On the taxability of the receipts, GE argued that the nature of the work scope was merely an operational document and did not tantamount to transferring proprietary know - how. GE submitted that engine overhaul is a highly specialized procedure governed by aviation safety standards and OEM warranty conditions, under which only authorized overhaul centers can legally or practically perform such repairs.

The Indian airlines never gained the expertise to independently carry out the overhaul activities. Customers continued to rely on GE for every overhaul cycle, which would not have happened if any real technical know-how had been “made available.” The Assessee cited recent decisions in Pratt & Whitney, Rockwell Collins, Goodrich Corporation, and Global Vectra, all of which held that offshore aircraft repair services do not result in making technical knowledge available to the service recipient.

The Hon'ble ITAT first addressed treaty eligibility and rejected the tax authorities' claim that an LLC cannot qualify as a resident. It held that an LLC's tax-transparent status does not affect treaty entitlement, since the DTAA focuses on whether the income is subject to U.S. tax laws, not on the level at which tax is imposed. Actual tax payment is irrelevant; what matters is that the income falls within the U.S. tax net. Accordingly, GE Engine Services LLC was held to be a U.S. resident for DTAA purposes.

The Hon'ble ITAT held that the addition was based on a faulty premise that sharing work scope, interacting with airline staff, or providing ancillary information amounted to imparting technical know-how. All overhaul work occurred at GE's overseas facilities, with no training or hands-on exposure provided, and all critical engineering processes and proprietary methods remained solely with GE. The Hon'ble ITAT observed that the AO's notion that airline engineers became “wiser” through interactions with GE was speculative and did not establish technology transfer. It reiterated that the DTAA requires a deliberate transfer of technical knowledge enabling independent use, and incidental understanding or the mere receipt of a repaired engine does not meet this threshold.

Based on this analysis, the Hon'ble ITAT concluded that the make-available requirement under Article 12(4)(b) was not met and the appeal of the Assessee was allowed.

[15] *Azadi Bachao Andolan [TS-5-SC-2003]*

***GE Engine Services LLC, USA [TS-347-ITAT-2026(DEL)]***

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5. ***Capital gains on shares of listed company with a reasonable growth held for about 10 years cannot be considered as income from penny stock.***

Elara India Opportunities Fund Limited ('The Assessee'), was a SEBI-registered FPI and a tax resident of Mauritius. The Assessee had originally acquired 65 lakh shares of M/s. International Conveyors Limited ('ICL') during the FY 2008-09 through direct subscription to warrants, which were subsequently converted into equity shares. After holding the shares for approximately 10 years, the Assessee sold around 17.77 lakh shares during the AY 2019-20 and claimed the resultant long-term capital gains of INR 5.08 Crores as exempt under Article 13(3) of the India-Mauritius DTAA.

During the assessment proceedings, the AO treated the scrip of ICL as a "penny stock" and characterised the sale proceeds as bogus long-term capital gains, making additions under Sections 68 and 69C of the Act. The Assessee filed its objections against the draft assessment order which were rejected.

Aggrieved, the Assessee filed an appeal before the Hon'ble Mumbai ITAT. The Hon'ble Mumbai ITAT allowed the appeal by applying the principle of judicial consistency and the doctrine of binding precedents. The Hon'ble Mumbai ITAT noted that an identical issue had already been adjudicated by a Coordinate Bench of the Hon'ble Mumbai ITAT in the Assessee's own case for another AY, reported as Elara India Opportunities Fund Ltd. v. DCIT (International Taxation)[16], wherein it was categorically held that an increase in share price from INR 11.90 to INR 29.66 over a period of 10 years was entirely reasonable and bore no resemblance to the hallmark characteristics of a penny stock, where prices typically skyrocket manifold within a short span of time.

The Coordinate Bench had further observed that the Assessee had substantiated the financials of ICL, which demonstrated that the company had genuine operations including a manufacturing facility, approximately 78 employees, and reserves and surplus of around INR 152 crores, thereby negating its characterisation as a bogus entity with dummy directors. Critically, the AO failed to establish any direct nexus between the Assessee and the alleged accommodation entry provider.

Following these findings, the Hon'ble ITAT directed the AO to delete the additions made under Sections 68 and 69C of the Act and held the transaction to be a genuine one.

***Elara India Opportunities Fund ltd. [TS-5723-ITAT-2026(Mumbai)-O]***

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## II. TRANSFER PRICING

1. ***ALP adjusted in respect of AMP. Expenses under BLT, CPM rejected & adjusted TNMM upheld.***

Callaway Golf India Pvt Ltd ('the Assessee') is engaged in the business of distribution of golf equipment, golf balls and related accessories in India and, is a subsidiary of its foreign AE. For AY 2012–13, the Assessee filed its ROI declaring income of around INR 16.33 lakhs. During the year, it incurred significant AMP expenses on sale and distribution of products. During the scrutiny proceedings the TPO treated AMP expenses as a separate international transaction and proposed adjustments on the grounds that the Assessee was promoting the brand of its AE.

The TPO used multiple approaches such Bright Line Test (BLT), Cost-plus Method (CPM) (treated AMP as a separate service and applied gross margin of Assessee as markup on AMP expenses), and Adjusted TNMM (intensity adjustment which compared profit margin with the comparable companies where comparable margin was 7.41% and Assessee margin was 6.05%). Subsequently, the TPO made additions with respect to AMP considering AMP as NIL and passed a draft assessment order. The Assessee filed its objections before the DRP which upheld the draft order. Consequently the AO made additions on both substantive and protective basis.

Aggrieved, the Assessee filed an appeal before the Hon'ble Delhi ITAT. The Assessee argued that it is only a routine distributor and AMP expenses were incurred for its own business. The Hon'ble ITAT observes that the Assessee operates as a routine distributor and not a manufacturer. It held that BLT is not a legally sustainable method for determining ALP and accordingly, the adjustment made under this method was deleted.

With respect to the CPM, the Hon'ble ITAT noted that

[16] *Elara India Opportunities Fund Ltd. v. DCIT (International Taxation) [TS-6346-ITAT-2024(Mumbai)-O]*

the Assessee merely carried out trading activities and incurred AMP expenses to support its sales. It found no evidence of any separate arrangement for brand promotion on behalf of the AE. The Hon'ble ITAT further observed that the Assessee had earned a reasonable profit margin from its operations. Therefore, application of CPM was held to be unjustified and the corresponding adjustment was deleted.

Regarding adjusted TNMM, the Hon'ble ITAT noted that the TPO had identified comparable companies and determined an average margin. However, it found inconsistency in the approach adopted by the TPO. The Hon'ble ITAT directed that ALP adjustment should be restricted to 1.36% (7.41% less 6.05%). Accordingly the Hon'ble ITAT partly allowed the appeal.

***Callaway Golf India Pvt Ltd [TS-208-ITAT-2026(DEL)-TP]***

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### 2. *Internal CUP upheld as Most Appropriate Method for benchmarking interest on NCDs*

Home Credit India Finance Private Limited, ('the Assessee') is a NBFC which is engaged in the business of consumer finance services. The Assessee filed its ROI for the AY 2019-20 reporting total income of INR 4.76 Crores. During the AY 2019-20, it has issued non-convertible debentures (NCDs) to its AEs and paid interest on the same. The Assessee undertook TP benchmarking for the interest paid on these NCDs and adopted the Internal Comparable Uncontrolled Price (Internal CUP) method as the Most Appropriate Method (MAM) by comparing the interest rate paid to AEs with similar borrowings from unrelated parties. The main issue in dispute was whether Internal CUP is the correct for benchmarking interest on NCDs, or whether another method / adjustment was required.

The TPO rejected the Assessee's Internal CUP analysis and proposed a TP adjustment. TPO's main objection in case was that the terms of NCDs issued to AEs vs third parties were not identical as there were differences in risk, tenure, security, and credit profile. Therefore, taking these objections into consideration Internal CUP was considered as not reliable. The TPO held that the Assessee had not justified that the borrowings from AEs were at arm's length and either applied an alternative benchmarking approach or modified the rate, resulting in an addition.

Aggrieved, the Assessee filed an appeal before the CIT(A) which upheld the action of the TPO. Aggrieved, the Assessee filed an appeal before the Hon'ble Delhi ITAT. The Hon'ble Delhi ITAT disagreed with the lower authorities and held that Internal CUP should be preferred when reliable internal comparable transactions are available and minor differences like tenure, risk etc can be adjusted, but they are not the grounds to reject CUP entirely. The Hon'ble Delhi ITAT observed that if similar borrowings with unrelated parties exist, they provide a strong benchmark and cannot be disregarded without proper reasoning.

The Hon'ble Delhi ITAT concluded that Internal CUP is the MAM for benchmarking interest on NCDs in this case, and the rejection by TPO was not justified. Accordingly, the Hon'ble Delhi ITAT directed the TPO to delete the TP adjustments.

***Home Credit India Finance Pvt. Ltd [TS-214-ITAT-2026-TP]***

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### 3. *Stay granted on tax demand in view of pendency of appeal proceedings*

Mavenir Systems Pvt. Ltd.('the Assessee'), is engaged in providing post-sales support services to its AE. The Assessee filed its ROI for AY 2018–19, and the case was selected for scrutiny and referred to the TPO. During the scrutiny proceedings, the TPO accepted the functional profile of the Assessee, but rejected three comparables selected by the Assessee. The TPO conducted a fresh search using business and consultancy services, selecting thirteen comparables. Accordingly, the TPO made an addition of INR 10 Crores. The AO passed the draft order considering the TP adjustment. Aggrieved, the Assessee filed its objections before the Hon'ble DRP which restricted the TP adjustment to INR 8.69 Crores. Accordingly, the AO issued a final order raising the tax demand of INR 3.88 Crores.

Aggrieved, the Assessee filed an appeal before the Hon'ble Bangalore ITAT.

In the meantime, the AO initiated the recovery proceedings upon the Assessee. In response to the recovery proceedings, the Assessee filed a stay petition.

While adjudicating on the stay petition, the Assessee contended before the Hon'ble ITAT that the TPO erred in considering the FAR analysis of market support services whereas it was engaged in after sale service and does not provide any marketing support services. Hence, the TP adjustment is erroneous in nature. Also, the Assessee raised additional ground by challenging

the validity of the DRP directions being issued without proper DIN and violated Circular No. 19/2019 dated 14.08.2019. Further, the Assessee submitted that DIN for the DRP Directions were also not provided by a separate letter thereafter. Therefore, the Assessment Order (based on invalid DRP directions) passed by the AO a nullity.

Per contra, the tax authorities contended that the TPO / DRP has taken FAR based on TPSR of the Assessee. The tax authorities relied on the proposed retrospective amendment to Section 292BA in the Finance Bill, 2026 which negates the ground raised by the Assessee.

The Hon'ble ITAT observed a prima facie inconsistency in the approach of the TPO and did not find any discrepancy in TPSR. However, Hon'ble ITAT held that the issue requires detailed examination. On the DIN issue, the Hon'ble ITAT noted that the proposed amendment has not yet been enacted. It also relied on the CBDT guidance dated 02.02.2026, which advises, deferring the adjudication until such clarificatory amendments are finalized. Accordingly, the Hon'ble ITAT held that the delay in disposal is not attributable to the Assessee.

Accordingly, the Hon'ble ITAT granted stay on the outstanding demand raised by AO and directed him to keep recovery proceedings in abeyance until disposal of the appeal or 180 days from the date of the order, whichever is earlier.

***Mavenir Systems Pvt Ltd [TS-188-ITAT-2026(Bang)-TP]***

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### 4. *Goodwill expense to be treated as non-operating for PLI computation under TNMM*

Bergen Engines India Pvt. Ltd., ('the Assessee') is engaged in providing engineering and related services to its AEs. For the AY 2012-13, In the course of its business, the Assessee had acquired goodwill through a slump sale and debited its amortization of INR 1.99 crore to its Profit & Loss account. The core dispute in this case revolved around whether this goodwill amortization should be treated as an extraordinary/ non-operative expense for the purpose of computing the PLI under the TNMM in the transfer pricing analysis.

This was the second round of proceedings before the Hon'ble ITAT. In the first round, the Co-ordinate Bench had held that goodwill amortization is an extraordinary item affecting normal profitability and should be excluded while computing the PLI. The matter was remanded back to the AO/TPO only for the limited purpose of verifying whether the Assessee had actually claimed depreciation on goodwill under the Act. Critically, the first round Tribunal had not denied the non-operative treatment of goodwill amortization — it had simply kept the factual verification open.

However, after remand, the TPO and subsequently the DRP both misread the first round order. They wrongly concluded that the Hon'ble ITAT had refused to treat goodwill amortization as extraordinary and had denied non-operative treatment altogether. Based on this incorrect reading, the lower authorities continued to treat goodwill amortization as an operating expense, which adversely impacted the Assessee's PLI computation and led to a transfer pricing adjustment.

Before the Hon'ble ITAT in the second round, the Assessee pointed out this clear misreading of the earlier directions. The tax authorities supported the orders of the lower authorities. The Hopn'ble ITAT, after carefully examining the first round order, held that the lower tax authorities had plainly failed to appreciate what the Hon'ble ITAT had actually directed. Accordingly, the Hon'ble ITAT corrected the error and directed the AO/TPO to treat the goodwill amortization as a non-operative expense and adjust it accordingly while computing the Assessee's PLI.

***Bergen Engines India Pvt Ltd [TS-227-ITAT-2026(DEL)-TP]***

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### 5. *Advancement of loans to a failing overseas subsidiary classified as a "colourable device" designed for tax evasion rather than a genuine business loss.*

Matrix Clothing Pvt. Ltd. ('the Assessee') set up a SPV in Jordan named Matrix Clothing Pvt. Ltd. Jordan LLC ('Matrix Jordan') to acquire Indo Jordan Clothing LLC, a Jordanian company engaged in manufacturing and export of garments — the same line of business as the Assessee. Starting from FY 2016-17, the Assessee began advancing loans to Matrix Jordan and also extended corporate guarantees to banks for Matrix Jordan's working capital facilities. The cumulative loans advanced by the Assessee from FY 2016-17 to FY 2020-21 totalled INR 83.03 crores, given on various dates through Board resolutions. During AY 2021-22, the Assessee wrote off INR 53.24 crores as

irrecoverable loans and claimed this as a deduction, which the TPO, AO, and the DRP disallowed.

Aggrieved, the Assessee filed an appeal with the Hon'ble Delhi ITAT. The Assessee claimed that the loans were advanced for legitimate business purposes i.e. to support an overseas entity engaged in the same line of trade and therefore the write-off qualified as a business deduction under Section 36(1)(vii) read with Section 36(2) of the Act or alternatively under Section 37(1) of the Act. It further stated that Jordan LLC was operating smoothly until the COVID-19 pandemic disrupted its business, as its primary buyer filed for bankruptcy. It further contended that the write-off was a unilateral act and not an "international transaction" under Section 92B of the Act, and hence transfer pricing provisions should not apply. Lastly, the Assessee pointed to the RBI's compounding order and argued that this amounted to RBI's approval for the write-off, thereby curing the procedural violation under FEMA.

The tax authorities claimed that out of the total INR 53.24 crores written off, more than INR 33.97 crores were fresh loans advanced during AY 2021-22 itself, of which INR 30 crores were pumped in during January and February 2021 i.e. precisely when the process of finding a buyer for Jordan LLC's shares was already in progress. The tax authorities argued that no prudent businessman would advance such large sums to a financially dying entity while simultaneously negotiating its sale.

As for the RBI compounding order, the tax authorities claimed that it was merely a regularisation of the Assessee's offence under FEMA for having written off the loan without prior RBI approval. It was not an approval of the write-off itself. The analogy offered was that just as a court compounding a criminal offence does not mean the act itself was lawful or approved, the RBI compounding order could not be read as a green signal for the income tax claim.

Further, the Hon'ble ITAT found it commercially irrational that despite knowing Indo Jordan Clothing LLC was making persistent losses, the Assessee chose to infuse funds during the very year in which the company was being sold off, characterising this as the Assessee having "made a bet on the horse that was going to lose the race." It went further to say that even the doctrine of commercial expediency could not be stretched to justify such conduct by any standard of prudent business behaviour.

The Hon'ble ITAT then applied the test of human probability and circumstantial evidence, drawing on the SC decisions in CIT v. Durga Prasad More and Sumati Dayal v. CIT, which hold that tax authorities and tribunals are entitled to look through the surface of transactions and assess their genuineness based on surrounding circumstances and normal human conduct.

The Hon'ble ITAT also drew upon the SC landmark ruling in McDowell & Co. Ltd. v. The Commercial Tax Officer, which prohibits the use of colourable devices in tax planning and holds that every citizen is obligated to pay taxes honestly without resorting to subterfuges.

Applying all these principles, the Hon'ble ITAT upheld the disallowance of INR 53.24 crores in full. It also clarified that the RBI compounding order did not grant any immunity under the Income Tax Act, which is a separate and independent code, and every claim must be tested solely against its own provisions.

**Matrix Clothing Pvt. Ltd [TS-322-ITAT-2026(DEL)]**

# III. GOODS & SERVICES TAX AND CUSTOMS

## A. Case Laws - GST and Customs

### GST

1. ***Input Tax Credit distribution by ISD arises only upon fulfillment of Section 16(2) conditions; same-month distribution not mandatory***

The Assessee, Reliance Jio Infocomm Ltd., a company with 36 separate GST registrations across States, was registered as an Input Service Distributor (ISD) under Section 24(viii) of the CGST Act. For the period 2018–19 to 2023–24, the Assessee received common input service invoices and distributed the corresponding ITC to its recipient units. The Department issued show cause notices alleging that the Assessee had contravened Rule 39(1)(a) of the CGST Rules by not distributing ITC in the same month as the underlying input service invoices were received. The Assessee challenged these notices contending that prior to the amendment to Section 20 of the CGST Act effective 01.04.2025, no statutory authority existed to prescribe a time limit for distribution, and that ITC only becomes available for distribution upon fulfillment of conditions under Section 16(2), which include receipt of the tax invoice, reporting of that invoice by the supplier, actual receipt of the service, payment of tax to the Government, and furnishing of returns.

The issue before the Hon'ble Madras High Court was whether Rule 39(1)(a) mandates distribution of ITC

immediately upon receipt of an invoice, or only when ITC becomes available after satisfying the conditions prescribed under Section 16(2) of the CGST Act.

The Hon'ble Court, applying the principle of purposive interpretation as laid down by the Hon'ble Supreme Court in *Vivek Narayan Sharma v. Union of India*[17], held that the expression "input tax credit available for distribution" in Rule 39(1)(a) must be read harmoniously with Section 16 and Section 20 of the CGST Act. The Hon'ble Court clarified that "input tax" and "input tax credit" are distinct concepts under Section 2(62) and Section 2(63) respectively, and that input tax converts into credit only upon fulfillment of the conditions enumerated in Section 16(2). Relying on the Hon'ble Supreme Court's decision in *Union of India v. VKC Footsteps India Pvt Ltd*[18] and *ALD Automotive (P.) Ltd. v. Commercial Tax Officer*[19], the Hon'ble Court further observed that ITC is a statutory benefit subject to conditions prescribed by law, and the distribution mechanism under Section 20 is triggered only after those conditions are met. The Hon'ble Court rejected the Department's contention that distribution must occur upon invoice issuance, holding that such an interpretation rests on the incorrect assumption that service is received when the invoice is issued.

The Rule was read down to save its constitutionality. The show cause notices were directed to be adjudicated afresh in light of this interpretation.

***Reliance Jio Infocomm Ltd. v. Union of India [TS-137-HC(MAD)-2026-GST]***

### 2. GST Portal service insufficient post-cancellation of registration; alternative modes of notice required

The Assessee, Raj Shekhar Pandey, had surrendered his GST registration pursuant to an application dated 29.04.2023, which was duly cancelled. After the cancellation, the Department initiated proceedings by issuing a show cause notice dated 16.11.2024, followed by an order dated 13.01.2025 passed under Section 73 of the CGST Act. Both the notice and the order were served exclusively through the GST portal. The Assessee contended before the Hon'ble Uttarakhand High Court that once registration stands cancelled, there is no obligation to monitor the GST portal, and that service of notice ought to have been effected through alternative modes prescribed under Section 169 of the CGST Act. The Revenue admitted that proceedings were initiated after the cancellation of registration.

The issue before the Hon'ble Court was whether service of notices exclusively through the GST portal, where the registration stood cancelled, constitutes valid service under Section 169 of the CGST Act, and whether the impugned order violated Section 75(4) which mandates a personal hearing where an adverse decision is contemplated.

The Hon'ble High Court noted that the Revenue admitted the proceedings were initiated post-cancellation of the petitioner's registration. It observed that while Section 169 of the CGST Act permits multiple modes of service, including the common portal, it is not the exclusive method. It was held that the Department is duty-bound to ensure effective service in a manner that communicates the notice to the Assessee. It further noted that insisting on portal-based service for a non-registered person imposes a duty the law does not contemplate. Relying on judicial precedents, the Court emphasized that fiscal adjudications must strictly comply with the principles of natural justice and Section 75(4), which mandates a personal hearing where an adverse decision is contemplated.

The Hon'ble Court, following the Allahabad High Court's decision in *AHS Steels v. Commissioner of State Taxes*[20], held that while making a notice available on the common portal is one permissible method under Section 169, it is not the exclusive method. The Hon'ble Court observed that insisting on portal-based service for a person whose registration has been cancelled amounts to imposing a duty the law does not contemplate.

The Hon'ble Court quashed the impugned order and the Assessee was granted liberty to file a reply to the show cause notice within two weeks, and the Department was permitted to pass a fresh order in accordance with law after providing a personal hearing under Section 75(4) of the CGST Act.

***Raj Shekhar Pandey v. State Tax Officer TS(DB)-GST-HC(UTT)-2026-306***

### 3. Quasi-judicial authorities should not blindly rely on AI-generated citations; guidelines required

The Assessee, Marhabba Overseas Pvt. Ltd., challenged an order dated 26.09.2025 passed by the Additional Commissioner, Central GST and Central

[17] *Vivek Narayan Sharma v. Union of India [LSI-1-SC-2023(NDEL)]*
[18] *Union of India v. VKC Footsteps India Pvt Ltd [TS-472-SC-2021-GST]*
[19] *ALD Automotive (P.) Ltd. v. Commercial Tax Officer [TS-560-SC-2018-VAT]*
[20] *AHS Steels v. Commissioner of State Taxes [TS(DB)-GST-HC(ALL)-2024-2160]*

Excise, under Section 75 of the CGST Act. The impugned order rejected four core defence submissions raised by the Assessee, including the issuance of a defective show cause notice dated 29.06.2025 without supplying Relied Upon Documents (RUDs), non-compliance with the mandatory requirement of Form DRC-01A under Rule 142A, delayed re-initiation of investigation for the same cause of action, and gross violation of principles of natural justice by not providing adequate time to respond.

The Assessee demonstrated before the Hon'ble Gujarat High Court that several of these citations were either non-existent, attributed to the wrong court, or dealt with entirely unrelated subject matters such as service classification and manufacturing processes under the Central Excise Act, 1944.

The issue before the Hon'ble Court was whether a quasi-judicial authority can sustain an adjudication order by placing reliance on judgments that are non-existent or have no application to the issues raised by the Assessee.

The Hon'ble Court accepted the submissions of the Assessee and found the reasoning in the impugned order to be "flawed and deceptive". It observed that the Commissioner appeared to have followed AI-generated citations and case law without reading the actual judgments. For instance, the citation of *NKAS Services (P) Ltd v. Union of India* attributed to the Madras High Court did not exist; the actual judgment was by the Jharkhand High Court in *NKAS Services (P.) Ltd. v. State of Jharkhand*[21], which in fact supported the Assessee's position on DRC-01A. The Hon'ble Court stayed the impugned order and directed that guidelines be prescribed to regulate quasi-judicial authorities in referring to judgments, particularly those generated through Artificial Intelligence.

***Marhabba Overseas Pvt. Ltd. v. Union of India, Hon'ble Gujarat High Court, R/Special Civil Application No. 2229 of 2026, decided on 20 February 2026***

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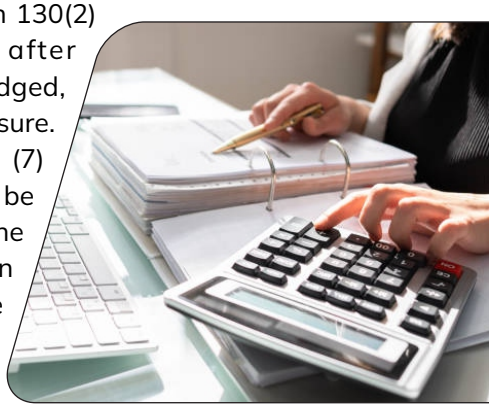
### 4. *Continued detention of goods during confiscation proceedings unsustainable without a valid detention order under Section 129 of the CGST Act*

The Assessee, Authentic Metals, a registered taxpayer dealing in scrap materials, was transporting copper scrap on 25.11.2025 accompanied by a valid invoice and e-way bill. The enforcement authority detained the goods for physical verification, issuing Forms GST MOV-1, MOV-2, and MOV-4. Thereafter, without passing any detention order under Section 129 of the CGST Act, the authority directly issued a notice in Form GST MOV-10 under Section 130 proposing confiscation and a fine of Rs. 18,92,053 in lieu of confiscation. The Assessee deposited the proposed fine amount and sought provisional release of the goods, but the authority continued to retain possession. The Assessee challenged the continued detention before the Hon'ble Kerala High Court, contending that no valid detention order under the proviso to Section 129(1) was ever passed and that Section 130(2) does not provide for provisional release.

Two issues arose before the Hon'ble Court: first, whether Section 130(2) of the CGST Act enables provisional release of goods pending adjudication of confiscation; and second, whether the authority can retain possession of goods during confiscation proceedings in the absence of a detention order under Section 129.

On the first issue, the Hon'ble Court held that the power of provisional release is specifically provided under Section 67(6) of the CGST Act and is conspicuously absent from Section 130. Applying the maxim *expressio unius est exclusio alterius* and relying on Padma Sundara Rao v. State of Tamilnadu[22], Bharat Aluminium Co. v. Kaiser Aluminium Technical Service, Inc.[23], and Commissioner of Sales Tax, U.P. v. Parson Tools and Plants[24], the Hon'ble Court held that the release under Section 130(2) is a final release after confiscation is adjudged, not a provisional measure. Sub-sections (2) and (7) of Section 130 must be read together, with the fine to be paid within three months of the final confiscation order.



On the second issue, the Hon'ble Court emphasized that under Article 300A of the Constitution, no person shall be deprived of property save by authority of law. It noted that Section 68 only authorizes inspection, not continued detention, and that the purpose of Form GST MOV-2 under Clause 2(d) of CBIC Circular No. 41/15/2018-GST dated 13.04.2018 is limited to facilitating inspection within three working days. Once the physical verification report (MOV-4) was prepared, the scope of inspection was exhausted, and the authority could not retain the goods without passing a detention order under the proviso to Section 129(1) of the CGST Act.

[21] *NKAS Services (P.) Ltd. v. State of Jharkhand [TS(DB)-GST-HC(JHA)-2021-654]*
[22] *Padma Sundara Rao v. State of Tamilnadu (2002) 3 SCC 533*
[23] *Bharat Aluminium Co. v. Kaiser Aluminium Technical Service, Inc. (2012) 9 SCC 552*
[24] *Commissioner of Sales Tax, U.P. v. Parson Tools and Plants (1975) 4 SCC 22*

The Hon'ble Court directed the release of the goods forthwith upon the Assessee furnishing a simple bond, while permitting the authority to finalize the confiscation proceedings after providing the Assessee an opportunity of hearing.

***Authentic Metals v. Enforcement Officer [TS-103-HC(KER)-2026-GST]***

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### 5. *Penalties under Section 122(1A) on company officers quashed for lack of jurisdiction and retroactive application*

The Assessee-Petitioners, being the Joint Managing Director, Chief Executive Officer, Director, and Chief Financial Officer of M/s. Shemaroo Entertainment Limited, were individually penalised under Section 122(1A) of the CGST Act following an investigation into the company's alleged fraudulent ITC transactions. The Department's case originated from a search under Section 67(2) conducted on 05.09.2023 on four related firms, which was subsequently extended to the company. Show cause notices dated 02.08.2024 alleged that the company had wrongfully availed and passed on ineligible ITC of approximately Rs. 70.25 crore and Rs. 63.35 crore respectively, for the period July 2017 to March 2022. The adjudicating authority, by order dated 01.02.2025, imposed personal penalties of Rs. 133.60 crore each on the Assessee-Petitioners. The company had already deposited Rs. 12 crore under protest via Form GST DRC-03. The Assessee-Petitioners challenged the penalty orders contending that they were not "taxable persons" as defined under Section 2(107) of the CGST Act, that they had not personally retained any benefit from the transactions, and that Section 122(1A) could not be applied to acts committed prior to its insertion effective 01.01.2021.

Two issues arose before the Hon'ble Bombay High Court: whether officers and employees of a company can be penalised under Section 122(1A) when they are not "taxable persons" and have not retained the benefit of the transactions; and whether Section 122(1A) can apply retroactively to acts prior to its enforcement on 01.01.2021.

On the first issue, the Hon'ble Court held that Section 122(1) applies specifically to a "taxable person" as defined under Section 2(107). Section 122(1A) mandates a two-fold requirement: the person must have retained the benefit of transactions falling under clauses (i), (ii), (vii), or (ix) of Section 122(1), and the transactions must have been conducted at that person's instance. Since clauses (i), (ii), (vii), and (ix) target violations by a taxable person, Section 122(1A) must be read in that context. The Hon'ble Court found no material or finding in the impugned order to show that the Assessee-Petitioners were taxable persons in their individual capacity or that they had retained any benefit. The Hon'ble Court affirmed that employees cannot be held vicariously liable under these provisions.

On the second issue, the Hon'ble Court held that Section 122(1A), inserted with effect from 01.01.2021 by the Finance Act, 2020 via Notification No. 92/2020-CT dated 22.12.2020, cannot be applied retroactively. Article 20(1) of the Constitution expressly bars ex post facto penal liability. The penalty orders and the show cause notice issued, to the extent they related to the Assessee-Petitioners, were quashed.

***Amit Manilal Haria v. Joint Commissioner, CGST & Central Excise [TS-105-HC(BOM)-2026-GST]***

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### 6. *IGST on ocean freight for CIF imports not leviable separately; refund of tax and interest paid under reverse charge allowed*

The Assessee, Arinsun Clean Energy Pvt. Ltd., a company engaged in the generation and sale of solar power, imported solar photovoltaic (PV) modules on a Cost, Insurance and Freight (CIF) basis during the financial year 2018–19. Pursuant to Entry No. 10 of Notification No. 10/2017-Integrated Tax (Rate) dated 28.06.2017 read with Notification No. 08/2017-Integrated Tax (Rate) dated 28.06.2017, the Assessee paid IGST on ocean freight under the reverse charge mechanism, along with interest under Section 50 of the CGST Act for delayed payment. The Assessee filed a refund application for Rs. 26,19,546 (tax) and Rs. 2,26,036 (interest) via Form RFD-01 for June 2019. The refund was rejected. In an earlier writ petition, the Hon'ble Madhya Pradesh High Court remanded the matter for reconsideration in light of the Hon'ble Supreme Court's ruling in *Union of India v. Mohit Minerals (P.) Ltd.*[25]. Despite this, the Department rejected the claim again vide order dated 24.01.2025.

The issue before the Hon'ble Court was whether IGST and interest paid on ocean freight under a CIF contract during 2018–19 are refundable, given that Notification No. 10/2017 stood struck down by the Gujarat High Court and the Hon'ble Supreme Court, notwithstanding the Department's contention that the omitting Notification Nos. 11/2023 and 13/2023 (both dated 26.09.2023) were effective only prospectively from 01.10.2023.

The Hon'ble Court observed that the Gujarat High Court in *Mohit Minerals (P.) Ltd. v. Union of India*[26] had held that Indian importers are liable to pay IGST on the composite supply comprising goods, transportation,

[25] *Union of India v. Mohit Minerals (P.) Ltd. [TS-246-SC-2022-GST]*
[26] *Mohit Minerals (P.) Ltd. v. Union of India 2020 (33) G.S.T.L. 321 (Guj.)*

and insurance in a CIF contract under Section 8 of the GST Act, and that a separate levy on the service component of ocean freight by a shipping line would violate the said provision. The Hon'ble Supreme Court not only dismissed the SLP but expressly upheld the Gujarat High Court's order. The Hon'ble Court held that once the charging notification has been struck down by the judiciary, the past levy is not saved merely because the administrative omission was made effective from 01.10.2023. The Assessee was held entitled to a refund of both IGST and interest paid, and the Department was directed to process the refund.

***Arinsun Clean Energy Pvt. Ltd. v. State of Madhya Pradesh, Hon'ble Madhya Pradesh High Court, Writ Petition No. 10484 of 2025, decided on 19 February 2026***

## CUSTOMS

***7. Conviction under Section 135(1)(b)(i) of the Customs Act upheld; sentence reduced to period already undergone considering prolonged litigation and advanced age of accused***

On 30.04.1985, acting on secret intelligence, Customs officers at Mandvi recovered two jute sacks containing 777 foreign-made wrist watches (brands including Seiko, Citizen, and Ricoh) and 879 wrist watch straps, valued at Rs. 2,22,190, concealed in pits near a fisherman's jetty. A seizure panchnama was prepared on 01.05.1985 and the goods were confiscated under the Customs Act, 1962 on the reasonable belief that they had been illegally imported. Investigation revealed that the goods had been smuggled into India during the first week of February 1985 aboard the ship Safina-Tul-Firdaus H.M.V. 643. The Assessees (original accused Nos. 1, 2, 3, 5, 6, 7 and 11) were identified as the ship's owners, its captain, and persons involved in concealing, transporting, and selling the smuggled goods. After obtaining sanction from the Collector of Customs, Ahmedabad, a criminal complaint was filed on 19.01.1987 against 21 accused persons. The Trial Court convicted seven accused under Section 135(1)(b)(i) of the Customs Act, 1962 and sentenced each to three years' rigorous imprisonment with a fine of Rs. 2,000, while acquitting the remaining accused. The conviction was affirmed by the Appellate Court and subsequently by the Hon'ble Gujarat High Court, which dismissed the revision applications vide its judgment dated 21.12.2010.

Before the Hon'ble Supreme Court, the Assessees contested the concurrent findings and contended that their conviction was founded solely on confessional statements recorded under Section 108 of the Customs Act, 1962, without independent corroborative evidence. They further submitted that given the nearly four-decade passage of time, the advanced age of the surviving accused, and the period of incarceration of approximately one year already undergone (exceeding the statutory minimum of six months under the proviso to Section 135(1)(b)(i)), the sentence warranted reduction to the term already served.

The Hon'ble Supreme Court held that the concurrent findings of the Trial Court, the Appellate Court, and the Hon'ble High Court were not perverse, illegal, or manifestly erroneous so as to warrant interference under Article 136 of the Constitution. Referring to the Hon'ble High Court's analysis, the Hon'ble Supreme Court noted that statements recorded under Section 108 are admissible in evidence if made voluntarily, relying on *K.I. Pavunny v. Assistant Collector (HQ), Central Excise Collectorate, Cochin*[27]. The Hon'ble High Court had found that the Assessees failed to demonstrate that the statements were obtained under coercion, inducement, or threat; that the statements led to discovery of incriminating material including contraband articles and money, documented through panchnamas and corroborated by the testimony of Customs officers; and that such discoveries constituted independent evidence within the meaning of Sections 6, 10, and 11 of the Indian Evidence Act, 1872. The conviction was therefore not based solely on confessional statements but was supported by tangible corroborative evidence.

On sentence, however, the Hon'ble Supreme Court observed that the recovery related to 1985, the offending consignment was found in abandoned condition, no conscious possession of smuggled goods was attributed to the Assessees, several co-accused had been acquitted, and some appellants had passed away during pendency. Considering the totality of circumstances, the Hon'ble Court reduced the sentence to the period of incarceration already undergone, while affirming the conviction.

***Amad Noormamad Bakali v. State of Gujarat, Hon'ble Supreme Court, Criminal Appeal Nos. 1000 of 2012 with Criminal Appeal Nos. 1232–1237 of 2012, decided on 23 February 2026***

[27] *K.I. Pavunny v. Assistant Collector (HQ), Central Excise Collectorate, Cochin (1997) 3 SCC 721, 1997 (90) E.L.T. 241 (S.C.)*

## B. Notifications, Circulars & Instructions – GST & CUSTOMS

### 1. *Circular No. 8/2026–Customs dated 28 February 2026*

The CBIC has issued this circular to operationalize the facility of deferred payment of customs import duty for the newly introduced category of "Eligible Manufacturer Importer" (EMI), pursuant to Notification No. 12/2026–Customs (N.T.) dated 01.02.2026 issued under the proviso to sub-section (1) of Section 47 of the Customs Act, 1962. The facility will be available to eligible EMIs with effect from 01.04.2026 and will remain in force until 31.03.2028, governed by the Deferred Payment of Import Duty Rules, 2016 as amended.

The circular lays down detailed eligibility criteria. The applicant must be an importer under Section 2(26) of the Customs Act, 1962 and a manufacturer under Section 2(72) of the CGST Act (or an importer sending inputs or capital goods for job work under Section 143 of the CGST Act without payment of tax). Additional requirements include a valid IEC, minimum 25 EXIM documents filed in the preceding financial year (relaxed to 10 for MSMEs), at least one active GST registration with manufacturing activity declared in Form REG-01, aggregate turnover exceeding Rs. 5 crore, business continuity of at least two financial years, filing of all pending GSTR-3B returns, no instances of duty collected but not deposited under the CGST Act or earlier indirect tax laws, financial solvency certified by a Chartered Accountant, and absence of arrests, convictions or pending prosecutions under customs, excise, service tax, or GST laws.

Applications are to be submitted electronically on the AEO portal (www.aeoindia.gov.in) with effect from 01.03.2026. Upon approval by the Directorate of International Customs (DIC), the EMI's nominated nodal person must obtain ICEGATE login and authenticate deferred payment Bills of Entry using OTP verification. The deferred duty payment timelines under Rule 4 require payment by the 1st of the following month for all months except March, where duty must be settled by 31st March. A dedicated helpline has been set up at emihelpdesk-dic@gov.in.

### 2. *Circular No. 9/2026–Customs dated 8 March 2026*

The CBIC has issued this circular under Section 143AA of the Customs Act, 1962 to prescribe a simplified procedure for handling export cargo that is returned to Indian ports due to the closure of the Strait of Hormuz and the resulting disruption of international maritime routes. The vessel must berth only at the same Indian port from which it originally departed, except in cases of transshipment.

The circular prescribes three distinct procedures depending on the stage of the cargo. First, where the vessel is within Indian territorial waters and no EGM or SDM has been filed, the vessel may berth without filing a Sea Arrival Manifest, containers may be offloaded without a Bill of Entry subject to verification of shipping documents and seal integrity, and the proper officer shall cancel the Shipping Bills and Let Export Order. Second, where the EGM or SDM has been filed or the vessel has crossed territorial waters but returned without calling at any foreign port, a similar procedure applies with the addition that DG Systems will provide a new facility in ICES to cancel Shipping Bills post-EGM, and details of cancelled Shipping Bills will be shared with RBI, DGFT, and other agencies through ICEGATE. Third, where the vessel has returned after calling at a foreign port without discharging any container, the consignment is treated as exported out of India and the shipping line must file a Sea Arrival Manifest. The circular also directs field formations to ensure recovery of all export incentives including IGST and Drawback where already disbursed. The relaxation remains in force for 15 days from the date of the circular.

### 3. *Circular No. 10/2026–Customs dated 10 March 2026*

The CBIC has issued this circular under sub-clauses (c) and (d) of Section 143AA of the Customs Act, 1962 to waive the fee prescribed under the Levy of Fees (Customs Documents) Regulations, 1970 (notified under clause (a) of sub-section (2) of Section 157 read with clause (1) of sub-section (2) of Section 158 of the Customs Act, 1962) for amendment or cancellation of export documents where the need arises solely due to force majeure circumstances. The relaxation has been prompted by the disruption of international shipping and logistics routes due to the closure of the Strait of Hormuz.

Qualifying circumstances include cancellation or non-

operation of flights, withdrawal or rescheduling of vessels, disruption of cargo services by carriers, closure or operational disruption of ports or airports, natural disasters, government-mandated restrictions affecting transport operations, or other comparable circumstances beyond the exporter's control. Exporters or authorised Customs Brokers must submit requests to the jurisdictional Deputy/Assistant Commissioner of Customs, supported by evidence such as airline or shipping line communications and port or airport notices. The proper officer must be satisfied that the amendment or cancellation arises solely from such circumstances and not from avoidable errors on the exporter's part. The relaxation applies across all customs stations including sea ports, air cargo complexes, ICDs and CFSs, and remains in force for 15 days from the date of issue.

# IV. REGULATORY UPDATES

## A. Ministry of Corporate Affairs (MCA) – Companies Act, 2013

### 1. *Director KYC (DIR-3 KYC Web) — Periodic Filing Requirement*

**Circular / Notification:** MCA Notification
**Date:** 01 January 2026
**Effective From:** 31 March 2026

The Ministry of Corporate Affairs has notified that every individual who holds a Director Identification Number (DIN) as on 31st March of a financial year shall be required to file a KYC intimation in Form No. DIR-3 KYC Web to the Central Government on or before 30th June of the immediately following every third consecutive financial year.

This amendment rationalizes the compliance burden on directors by shifting the KYC requirement from an annual obligation to a triennial one. However, it is important to note that while the formal filing is required only once in three years, the information submitted must be current and accurate as on the relevant date. Directors whose DINs are deactivated due to non-compliance will not be permitted to function in any directorial capacity until the KYC is completed and the DIN is reactivated.

### 2. *Companies Compliance Facilitation Scheme, 2026*

**Circular / Notification:** MCA Circular
**Date:** 24 February 2026
**Effective From:** 15 April 2026 to 15 July 2026

The Ministry of Corporate Affairs has introduced the Companies Compliance Facilitation Scheme, 2026, providing a limited-period window to companies and their officers to regularise pending non-compliances at substantially reduced costs. The Scheme shall come into force on 15 April 2026 and shall remain in force until 15 July 2026.

The key benefits available under the Scheme are as follows:

- Annual Filings: Companies can complete their pending annual filings (such as financial statements and annual returns) by paying only 10% of the total additional fees otherwise payable on account of delays.
- Dormant Company Status: Companies may apply to be declared as 'dormant company' under Section 455 of the Companies Act, 2013, by filing e-Form MSC-1 and paying half of the normal fee otherwise payable under the applicable rules.
- Strike Off: Companies seeking voluntary strike-off may file an application in e-Form STK-2 during the currency of the Scheme by paying 25% of the otherwise applicable filing fees.
- The Scheme provides a significant opportunity for companies that have accumulated substantial additional fee liabilities due to delayed filings to regularise their status and achieve good compliance standing at a fraction of the normal cost. Companies are encouraged to undertake a thorough review of their pending filing obligations and take advantage of this window before its closure on 15 July 2026.

### 3. *Highlights of the Corporate Laws (Amendment) Bill, 2026*

**Date:** 23 March 2026
**Effective From:** Proposal (Bill introduced in Parliament)

The Corporate Laws (Amendment) Bill, 2026 has been introduced in Parliament on 23 March 2026, proposing wide-ranging amendments to the Companies Act, 2013 with the objective of easing the regulatory compliance burden, improving corporate governance standards, and aligning domestic law with evolving business practices. The key proposals under the Bill are summarised below.

**Corporate Structure and Thresholds:**

- Small Company Threshold [Section 2(85)]: The paid-up capital limit for classification as a 'small company' is proposed to be increased from INR10 crore to INR20 crore, and the turnover threshold increased from INR100 crore to INR200 crore.
- Buy-back Frequency [Section 68]: Two buy-back offers per financial year will be permissible for certain classes of companies, subject to a minimum gap of six months between the closures of consecutive buy-backs.
- Charge Registration [Section 77]: The timeline for registration of charges for prescribed companies has been proposed to be extended from 120 days to 180 days.

**Meetings and Governance:**

- Virtual/Hybrid Meetings [Sections 96 & 100]: AGMs and EGMs may be held via video conferencing or audio-visual means. However, companies must conduct at least one physical Annual General Meeting once every three years.
- Meeting Notice [Section 101]: The notice period for EGMs conducted exclusively via video conferencing has been reduced to seven days.
- Board Meetings [Section 173(5)]: One-Person Companies (OPCs), Small Companies, and Dormant Companies will be required to hold only one board meeting per calendar year.

**Directors:**

- Additional Directors and Casual Vacancy [Section 161]: Tenure of Additional Directors and directors appointed to fill casual vacancies is limited to the date of the next general meeting or three months from the date of appointment, whichever is earlier, aligning with SEBI LODR Regulations.
- DIN Verification [Section 154]: Mandatory periodic submission of information for verification of DIN particulars is introduced.
- DIN Validity [Section 152]: A director shall not function if their DIN is deactivated or cancelled.
- Disclosure of Interest [Section 184]: Disclosure of interest by directors will be required only upon a change in interest, and not mandatorily every financial year.
- Disqualification [Section 164(2)]: The disqualification trigger is revised to non-filing of returns for two financial years (reduced from three years).
- Immediate Vacation of Office [Section 167]: The office of a director shall become vacant in all companies (including the defaulting company) upon the expiry of six months from the trigger of disqualification.

**Other Significant Amendments:**

- CSR Threshold [Section 135]: The Central Government is empowered to fix and modify the specific net profit criteria for determining applicability of CSR obligations.
- Auditor Exemption [Section 139]: Prescribed classes of companies may be exempted from the mandatory requirement of appointing statutory auditors.
- Investment and Loans [Section 186]: Contraventions of sub-sections (9) and (10) relating to inter-corporate investments and loans are moved from non-compoundable to adjudicatable offences.
- LLP Inclusion in Section 185: The prohibition on loans, advances, and security to directors is extended to include Limited Liability Partnerships (LLPs) within its ambit.
- Multi-Disciplinary Firms: Firms having a majority of Practicing Company Secretaries as partners are proposed to be allowed to undertake secretarial audit.

## Insolvency and Bankruptcy Code

1. ***Limitation under Section 61(2) IBC runs from pronouncement in open court, not from upload on the website***

**Background**

The appellant had filed a Section 9 petition under the IBC which was admitted in October 2020. The parties later settled, with the petition being withdrawn in April 2021 subject to an express liberty to revive it upon default. When the respondent allegedly defaulted, the appellant filed a Restoration Application, which the NCLT Mumbai dismissed on 21 April 2025 without issuing notice to the respondent. The appellant challenged this before the NCLAT.

**The limitation dispute**

The central issue was whether the appeal was filed in time under Section 61(2) of the IBC, which allows 30 days with a maximum condonable extension of 15 days. The appellant argued that limitation should run from 29 April 2025, the date the order was uploaded to the NCLT website, making the appeal filed on 10 June 2025 just within time. The respondent countered that the order was pronounced in open court on 21 April 2025 in the presence of counsel for both parties, a fact the appellant did not specifically deny.

**NCLAT's ruling**

The NCLAT dismissed the appeal as time-barred. It drew a clear distinction between pronouncement of an order, which is a judicial act, and its uploading, which is merely administrative. Once an order is pronounced in open court, the law imputes knowledge to the parties and limitation begins running immediately. Counting from 21 April 2025, the outer limit of 45 days expired on 4 June 2025, making the appeal filed on 10 June 2025 jurisdictionally incompetent. The Tribunal emphasised that Section 61(2) is peremptory as once the window closes, it loses the power to even take cognizance.

***Mukesh Sumermal Sanghvi v. R. D. Engineer (India) Pvt. Ltd. Appeal (AT) (Ins) No.1194 of 2025, 25 March 2026***

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## 2. *Security deposit made by the corporate debtor cannot be appropriated against pre-CIRP dues once moratorium under Section 14 has commenced*

**Background**

KSK Mahanadi Power Company Ltd. (KMPCL), the corporate debtor, had deposited Rs. 108.44 crores with the Central Transmission Utility of India Ltd. (CTUIL) as a Payment Security Mechanism (PSM) in lieu of a Letter of Credit, pursuant to directions of the Central Electricity Regulatory Commission under their Transmission Service Agreement. CIRP was initiated against KMPCL and admitted by the NCLT on 3 October 2019. Despite this, CTUIL appropriated the entire Rs. 108.44 crores on 28 March 2020 by adjusting it against both pre-CIRP and post-CIRP outstanding bills. The Resolution Professional objected, and the dispute eventually reached the Supreme Court.

**The dispute**

Out of the total Rs. 108.44 crores appropriated by CTUIL, Rs. 23.31 crores was adjusted against bills raised after the start of CIRP and nobody disputed that. The real fight was over the remaining Rs. 85.13 crores, which CTUIL had applied towards dues that were already outstanding before CIRP began.

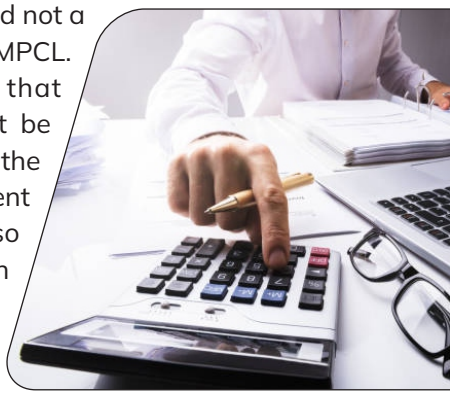
CTUIL's case was that the deposit was essentially a substitute for a Letter of Credit, and just as an LoC can be invoked independently, it should be entitled to use this deposit to recover its pre-CIRP dues even after insolvency proceedings had started. It also argued that this was a legitimate set-off, drawing support from the Supreme Court's ruling in Bharti Airtel Ltd. v. Aircel Ltd.

The RP pushed back on both counts. He pointed out that KMPCL's own balance sheet and the Information Memorandum prepared for the resolution process had recorded the Rs. 108.44 crores as an asset of the company as on the date CIRP commenced. More tellingly, CTUIL itself had filed its dues as a claim before the RP in Form B without ever describing the deposit as a security interest it held over that amount, which undermined its position before the Court.

**Supreme Court's ruling**

The Supreme Court dismissed the appeal and affirmed the findings of the NCLT and NCLAT. It held that a security deposit made by the corporate debtor before CIRP commences remains its property and cannot be appropriated against pre-CIRP dues once the moratorium under Section 14 kicks in. Any such adjustment made after the moratorium is illegal, regardless of whether the deposit is treated as a guarantee or a substitute for an LoC.

On the set-off argument, the Court distinguished the present case from Bharti Airtel Ltd., where mutual dues under distinct contracts had justified a set-off. Here, no such mutuality existed. The deposit was a unilateral security arrangement and not a debt owed by CTUIL to KMPCL. The Court reaffirmed that contractual set-off must be exercised before or on the insolvency commencement date, and that doing so afterwards violates both the moratorium and the pari passu principle.



The NCLT's direction to reverse the appropriation through book adjustments, applying the amounts towards post-CIRP dues instead and leaving pre-CIRP dues to be resolved through the RP's claims process, was upheld.

**Significance**

This decision reinforces the sanctity of the moratorium under Section 14 and clarifies that operational creditors holding security deposits cannot bypass the IBC's claims process by unilaterally appropriating such deposits against pre-CIRP dues after CIRP commences. It also draws a clear line between permissible contractual set-off, which must occur before the insolvency commencement date, and post-commencement appropriations, which remain impermissible regardless of how the security is characterized.

***Central Transmission Utility of India Ltd. v. Sumit Binani and Ors. [LSI-394-SC-2026-(NDEL)]***

## Securities and Exchange Board of India (SEBI)

### 1. *SEBI (Listing Obligations and Disclosure Requirements) (Amendment) Regulations, 2026 — Investor Service Request Processing*

**Circular / Notification:** Notification No. SEBI/LAD-NRO/GN/2026/297
**Date:** 12 March 2026
**Effective From:** 12 March 2026

SEBI has notified an amendment to the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, introducing a mandatory timeline for the processing of investor service requests relating to certain corporate actions on securities.

Under the amended provisions, a listed entity shall effect the credit of securities pursuant to investor service requests in relation to the following actions in dematerialised form within a period of thirty days from the date of receipt of such request along with the relevant documents:

- Subdivision / splitting of shares
- Consolidation of shares
- Renewal of securities
- Exchange of securities
- Issuance of duplicate securities on account of loss, or old, decrepit, or worn-out certificates

This amendment ensures that investors whose securities are affected by the above corporate events are not subjected to undue delay in receiving dematerialised credit of the resultant securities. Listed companies and their Registrars and Share Transfer Agents (RTAs) must ensure that their internal processes are aligned to comply with the thirty-day statutory deadline.

### 2. *SEBI (Issue of Capital and Disclosure Requirements) (Amendment) Regulations, 2026*

**Circular / Notification:** Notification No. SEBI/LAD-NRO/GN/2026/299
**Date:** 16 March 2026
**Effective From:** 16 March 2026

SEBI has notified the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) (Amendment) Regulations, 2026, making several amendments to the principal ICDR Regulations. The amendments primarily relate to the introduction of draft and final abridged prospectuses as mandatory disclosure documents in public issue and rights issue processes, along with certain changes to the lock-in framework and disclosure methodology.

**Key Amendments:**

Lock-in as 'Non-Transferable' Securities [Regulation 17(2)]:

Where lock-in of specified securities cannot be created in the depository system, the depositories shall, upon receipt of instructions from the issuer, record such securities as 'non-transferable' for the duration of the applicable lock-in period. This amendment ensures that the lock-in restriction continues to be operative even in circumstances where the technical creation of a lock-in is not feasible within the depository framework.

Abridged Prospectus — Mandatory Inclusion in Public Issues [Regulations 25, 26, 34, 59C, 123, 124, 131, 246, 247, 255]:

The Amendment Regulations introduce the concept of a 'draft abridged prospectus' and a final 'abridged prospectus' as per Part E of Schedule VI. A comprehensive set of amendments have been made across multiple regulations applicable to initial public offerings (IPOs), follow-on public offerings (FPOs), and rights issues, to mandatorily require the submission, hosting, and public availability of both the draft and the final abridged prospectus alongside the corresponding principal offer documents. Key changes include:

- The draft abridged prospectus (as per Part E of Schedule VI) shall be submitted along with the draft Red Herring Prospectus and hosted on the websites of the issuer, SEBI, the relevant stock exchanges, and the lead manager(s) to the issue.
- Physical application forms for IPOs shall no longer be required to be accompanied by a printed copy of the abridged prospectus. Instead, application forms shall include a QR code and a hyperlink providing access to the Red Herring Prospectus, the abridged prospectus, and the price band advertisement.
- All offer documents filed with SEBI and the stock exchanges shall be accompanied by the abridged prospectus.

Revised Format and General Instructions for Part E of Schedule VI:

The general instructions applicable to the preparation of the draft and final abridged prospectus have been revised to require: cross-referencing of each section of the abridged prospectus to the corresponding section of the principal offer document; inclusion of QR codes for access to the offer documents; and use of clear, simple, and easily understandable language in all disclosures. The front outside cover page of the draft or final offer document shall serve as the first page of the draft abridged prospectus and the abridged prospectus respectively.

These amendments are intended to improve investor accessibility to key disclosures in public offerings by enabling investors to access critical information in a concise, standardised format, while simultaneously leveraging technology (QR codes and digital links) to ensure full access to detailed offer documents.

### 3. *SEBI eases compliance burden for AIFs with revised reporting framework*

SEBI has introduced a revised regulatory reporting framework for AIFs. The circular dated March 04, 2026, has brought in a notable shift from existing reporting structure by introducing a comprehensive annual activity report along with limited quarterly disclosures.

Under the current framework, AIFs are required to submit a quarterly activity report to SEBI within 15 calendar days from the end of each quarter. SEBI has reviewed the reporting format and has made changes to the framework in order to incorporate amendments to the AIF regulations and the circulars issued thereafter.

As per the revised framework, AIFs will submit an Annual Activity Report at the end of March of each financial year. The said report is to be submitted by all AIFs online on the SEBI Intermediary Portal (SI Portal) within 30 calendar days from the end of March of every financial year. The first such Annual Activity Report shall be submitted for the year ending March 2026 by May 31, 2026.

In addition to the above, a limited Quarterly Activity Report shall be submitted by all AIFs online on the SI Portal in a revised format within 15 calendar days from the end of each quarter. The first such Quarterly Activity Report shall be submitted for the quarter ending June 2026. Further, it is clarified that a separate quarterly submission for the quarter ending March will not be required, as the Annual Activity Report will comprehensively incorporate all data points otherwise covered under the Quarterly Activity Report.

Indian Venture and Alternate Capital Association (IVCA) shall assist all AIFs in understanding the reporting requirements and in clarifying or resolving any issues that may arise in connection with reporting to ensure accurate and timely reporting.

## International Financial Services Centres Authority (IFSCA)

### 1. *IFSCA unveils FinTech Sandbox Framework to boost innovation in IFSC*

IFSCA has introduced a comprehensive FinTech Sandbox Framework vide its circular dated March 16, 2026. This new framework replaces the earlier 2022 framework for limited use authorization of FinTechs in IFSC.

The earlier framework which was introduced in 2022 provided for a controlled environment for FinTech entities to test innovative solutions in IFSC. Building on the outcomes and insights derived from the 2022 framework, IFSCA has now revamped the framework for an entity desirous of obtaining Limited Use Authorization as FinTech Sandbox Entity.

The sandbox offers multiple avenues to cater to different stages and types of innovation –

1. **FinTech Innovation Sandbox (FIS)** – a controlled environment to develop and test innovative products/solutions in isolation from the live market.
2. **FinTech Regulatory Sandbox (FRS)** – a live testing environment with real customers, where certain regulatory relaxations may be granted for experimentation.
3. **Inter-Operable Regulatory Sandbox (IoRS) -** a mechanism to facilitate testing of innovative hybrid financial products/ solution falling within the regulatory ambit of more than one Domestic Financial Sector Regulator.
4. **Overseas Regulatory Referral Mechanism / FinTech Bridge -** a co-operation mechanism between IFSCA and an overseas financial sector regulator to facilitate FinTech Sandbox Entities desirous of operating in each other's jurisdiction.

We have summarized below the key salient features of the new framework –

- The framework enables both domestic and international entities to obtain a limited use authorization to test innovative financial products / services
- The applicant shall propose the use of innovative technology in relation to financial products / services
- The application process follows a two-stage approach—a preliminary application for initial assessment, followed by a detailed final application. Upon approval, applicants receive an "in-principle approval" and, subject to meeting specified conditions, are granted authorization to enter the testing stage, which can last up to 12 months (extendable by 6 months)
- Applicants must demonstrate the potential benefits of their solutions, provide clear testing strategies, and implement safeguards such as user consent, disclosure of risks, and grievance redressal mechanisms
- During testing, entities are required to operate within defined "boundary conditions" and submit periodic reports to the IFSCA
- It empowers IFSCA to revoke authorization in cases of non-compliance or risk to market integrity
- The framework also outlines provisions relating to regulatory relaxations, reporting requirements, maintenance of records, and exit mechanisms from the sandbox

### 2. *IFSCA amends the guidelines on Cyber Security and Cyber Resilience for Regulated Entities in IFSC'S*

The IFSCA, based on representations received from Regulated Entities (REs), has amended its Cyber Security Circular dated 10th March 2025 to ease compliance requirements. Under the revised framework, certain categories of REs are now exempted from the circular's requirements for a period of three years from the date of its issuance.

In addition to the exempted categories provided earlier, the amendment extends this exemption to foreign universities set up in IFSCs, newly incorporated standalone REs without any parent organization and credit rating agencies.

For REs falling under the original exemption categories, the compliance conditions have been revised, including an additional requirement that the parent or holding company must be regulated by a regulator or Government Body in its home jurisdiction. They shall also appoint a Designated Officer, who shall certify that necessary systems and processes in line with the Guidelines have been implemented. The Designated Officer is directed to submit such certification within 90 days from the end of each financial year, along with the annual cyber security audit report to IFSCA.

Further, for the newly added exempted categories, the Designated Officer shall certify that the RE has implemented adequate cybersecurity measures proportionate to its risk exposure and submit such certification to IFSCA within 90 days from the end of each financial year.

### 3. *IFSCA issues a consultation paper on IFSCA Prohibition of Market Abuse in Securities Markets Regulations, 2026*

IFSCA has issued a consultation paper dated 6 March 2026 proposing the introduction of the IFSCA (Prohibition of Market Abuse in Securities Markets) Regulations, 2026. The proposed framework aims to establish a unified and comprehensive regime to address market abuse in IFSC, replacing the current applicability of SEBI's insider trading and fraudulent trade practices regulations. The objective is to strengthen market integrity, enhance investor confidence, and align the IFSC regulatory framework with global best practices.

The proposed regulations adopt a holistic approach towards market conduct by covering key areas such as insider trading, market manipulation, fraudulent practices, and unfair trade activities. A notable aspect of the framework is the introduction of clear and expansive definitions, including "connected person," "insider," and "material non-public information," thereby broadening the scope of persons and transactions subject to regulatory oversight. The framework also places restrictions on communication, procurement and use of material non-public information, prohibiting insiders from trading while in possession of such information, subject to specified exceptions such as legitimate business purposes or pre-disclosed trading plans.

Further, the proposed regulations lay down detailed provisions to prohibit manipulative, deceptive, and fraudulent practices in securities markets. These include activities such as creation of artificial price

movements, dissemination of false or misleading information, circular trading, misuse of client funds, and inducing investors through deceptive means. The framework also introduces an illustrative list of practices that would be deemed as market abuse, thereby providing greater clarity to market participants while retaining regulatory flexibility to address evolving forms of misconduct.

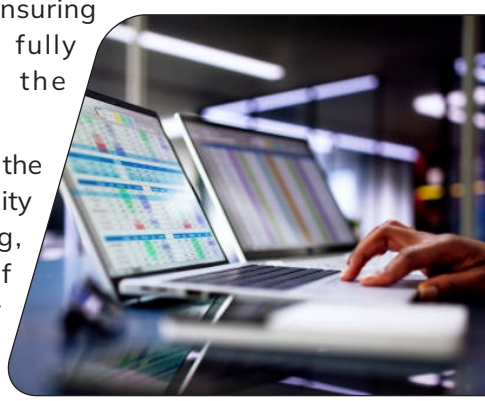
In addition, the regulations prescribe disclosure requirements for insider trades above specified thresholds and mandate listed entities and regulated intermediaries to establish robust internal controls and codes of conduct to prevent market abuse. The proposed regulations also incorporate certain defenses and exemptions in genuine cases, ensuring that legitimate transactions carried out in compliance with regulatory requirements are not adversely impacted.

Importantly, the proposed framework reflects a balanced approach by combining both rule-based and principle-based regulation, in line with recommendations of expert committees and global regulatory practices across jurisdictions such as the UK, Singapore, and the European Union. This approach is intended to ensure regulatory certainty while maintaining flexibility to address new and complex forms of market misconduct.

### 4. *IFSCA issues consultation paper on the regulatory framework for rights issue by listed entities in the IFSC*

IFSCA ("International Financial Services Centres Authority") has issued a consultation paper dated 06 March, 2026, proposing a comprehensive regulatory framework for rights issues by listed entities in IFSC. The proposed framework is aimed at providing a streamlined and efficient mechanism with reduced timelines for capital raising, while ensuring transparency, investor protection, and alignment with global standards such as IOSCO ("International Organization of Securities Commissions") principles.

The proposed framework sets out clear eligibility conditions and procedural requirements along with detailed timeline for undertaking rights issues. It provides that an issuer shall be ineligible to undertake a rights issue of specified securities if its equity shares are under trading suspension on account of any disciplinary action. Further, issuers are required to obtain in-principle approval from such recognised stock exchanges, ensure that partly paid-up shares are either converted to fully paid up or fortified, and file a letter of offer with the Authority. The framework also emphasises adequate disclosures in the offer document, including details of rights entitlements, renunciation, trading mechanisms, and specified investors, thereby ensuring that investors are fully informed with all the material information.



A notable feature of the proposal is the flexibility provided in pricing, where the board of directors of the issuer are empowered to determine the issue price, with an option to consult the designated stock exchange. The framework further lays down detailed operational aspects relating to credit of rights entitlements in demat form, renunciation (both on-market and off-market), subscription period, payment mechanisms, allotment procedures, and post-issue compliances. It also introduces provisions around minimum subscription, monitoring of issue proceeds (where applicable), and strict timelines for allotment, refunds, and reporting, thereby enhancing efficiency and accountability in the process.

Additionally, the framework seeks to ensure fairness and transparency by prescribing equitable allotment principles, restricting incentives for subscription, and mandating disclosures of transactions by promoters and controlling shareholders during the issue period. It also places responsibilities on issuers for post-issue activities and coordination with intermediaries until completion of listing and credit of securities.

### 5. *IFSCA Introduces OTP-Based Aadhaar e-KYC under the Anti Money Laundering, Counter-Terrorist Financing and Know Your Customer Guidelines*

The International Financial Services Centres Authority ("IFSCA") has issued a circular dated 26 February 2026, announcing a modification to the IFSCA (Anti Money Laundering, Counter-Terrorist Financing and Know Your Customer) Guidelines, 2022.

Under this update, OTP-based Aadhaar e-KYC authentication has also been included as an additional method for customer identification. This new provision has been introduced under Part A, Annexure II of the principal Guidelines and applies to all regulated entities operating in IFSCs.

The amendment is effective immediately and aims to enhance efficiency and flexibility in the KYC process,

while continuing to uphold robust AML ("Anti Money Laundering") and CFT ("Counter-Terrorist Financing") compliance standards.

### 6. *IFSCA consultation paper on draft IFSCA (IFSC Financial Services) Regulations, 2026*

IFSCA issued a consultation paper on draft International Financial Services Centres Authority (IFSC Financial Advisers) Regulations, 2026 inviting public comments on proposed regulations. The draft regulations are aimed at providing a regulatory framework for Financial Institution in IFSC with a view to put in place a structured and anchored regulatory framework for engagement of IFSC Financial Advisers by such Institutions for the purpose of rendering or soliciting any of the financial services. This initiative by IFSCA is driven by the recognition that the absence of a dedicated regulatory framework for IFSC Financial Advisory professionals constitutes a structural gap in the existing ecosystem.


In the absence of explicit regulatory recognition, pre-execution advisory activities operate in a grey area, as existing investor protection mechanisms are primarily triggered at the transaction or distribution stage rather than during the advisory stage where decisions are made. A structured advisory framework would enable regulatory oversight across the client journey from initial engagement till eventual execution through regulated intermediaries, thereby strengthening investor protection and market integrity.

The draft framework sets out eligibility, fit-and-proper norms, registration and oversight requirements for IFSC Financial Advisers, along with clear duties, conduct standards and ongoing professional development obligations. It introduces a centralised list of IFSC Financial Advisers as a 'IFA Registry', to be maintained through approved Market Infrastructure Institutions, and places responsibility on IFSC Financial Institutions for the supervision, monitoring and conduct of their affiliated advisers throughout the client lifecycle.

By strengthening regulatory oversight at the advisory stage where investment decisions are shaped, the proposed regulations aim to improve transparency, suitability and investor confidence. Once implemented, the framework is expected to facilitate greater participation by retail and NRI investors in the GIFT-IFSC ecosystem, while ensuring that advisory activities remain subject to robust governance, accountability and supervisory safeguards.

The public comments were required to be shared with the IFSCA Authority latest by March 16, 2026

### 7. *IFSCA (International Financial Services Centres Authority) issues consultation paper on Electronic Trading Platform (ETPs) Regulations, 2026*

IFSCA has issued a public consultation paper on proposed regulations of the Authority on setting up and operation of Electronic Trading Platform (ETPs) in IFSC. ETPs are trading venues, largely meant for trading among institutional participants. Further ETPs are usually settled bilaterally between buyers and sellers, instead of through clearing house.

Through the draft regulations, the IFSCA aims to introduce clear eligibility, authorisation, and governance requirements for ETP operators, while aligning the IFSC ecosystem with international regulatory standards observed in jurisdictions such as Singapore, the United States, and other global financial centres.

For a platform to be eligible for authorization under these regulations, the electronic system of the said platform must be physically located in IFSC. However, entities that already hold similar authorisation in specified jurisdictions are proposed to be permitted to establish a presence in the IFSC through a branch of the existing entity.

IFSCA has proposed eligibility criteria focusing on the applicant's track record, financial soundness, management capability, risk management systems, ability to employ individuals with adequate expertise, viability of business plans and compliance with "fit and proper" standards for directors and key managerial personnel. The draft regulations prescribe a minimum net worth requirement of USD 250,000 or equivalent in any specified foreign currency at all time with flexibility for IFSCA to impose higher thresholds depending on the nature and scale of the business.

The regulations permit trading only in eligible financial instruments such as securities, money market instruments, foreign exchange instruments and derivatives or any instruments of like nature as may be specified by the Authorities. Cryptocurrencies and tokens have been expressly excluded from the scope of permitted instruments on ETPs. The regulations also contain details of eligible jurisdictions.

The Authority had asked the general public and stakeholders to provide their comments on the draft directions through email lates by March 18, 2026.

## Reserve Bank of India (RBI) — Foreign Exchange Management (FEMA)

### 1. *External Commercial Borrowings (ECB) — Revised Regulatory Framework*

**Circular / Notification:** RBI/2025-26/223 A.P. (DIR Series) Circular No. 23
**Date:** 16 February 2026
**Effective From:** 16 February 2026

The Reserve Bank of India has issued a Circular introducing material amendments to the regulatory framework governing External Commercial Borrowings (ECBs) under the Foreign Exchange Management Act, 1999. The amendments are with immediate effect.

Key Amendments:

- Currency Conversion — INR to FCY ECB: Indian Rupee-denominated ECBs may now be converted to Foreign Currency (FCY) ECBs by the borrower without prior RBI approval, subject to compliance with the prescribed conditions. This provides greater flexibility for borrowers in managing their currency and liability profiles.
- End-Use Restrictions — New Regulation 3A: A new regulation 3A has been introduced mandating strict prohibitions on the utilisation of ECB proceeds for the following purposes: acquisition of land or real estate; investment in capital markets or equity instruments; on-lending or lending to third parties; and any other purposes specified by the RBI from time to time. Borrowers are required to ensure that the end-use of ECB proceeds is strictly compliant with the revised framework.
- Manufacturing Sector Relaxation: Manufacturing entities are now permitted to raise ECBs with a minimum average maturity period of 1 year (reduced from the earlier 3 years) for specified eligible end-uses. This relaxation is intended to provide the manufacturing sector with access to short-to-medium term foreign currency funding at competitive rates.


Companies and their treasury/finance teams that have existing ECB facilities or are planning to raise ECBs should review the revised framework carefully, particularly the new end-use restrictions under Regulation 3A, and ensure all existing and proposed ECBs are compliant.

### 2. *Foreign Exchange Management (Guarantees) Regulations, 2026*

**Circular / Notification:** No. FEMA 8(R)/2026-RB
**Date:** 06 January 2026
**Effective From:** 01 October 2026

The Reserve Bank of India has notified the Foreign Exchange Management (Guarantees) Regulations, 2026, superseding the Foreign Exchange Management (Guarantees) Regulations, 2000. The revised regulations introduce a principle-based approach to the regulation of cross-border guarantees, marking a significant departure from the erstwhile approval-based regime.

Key Features of the New Regulations:

- Principle-Based Regime: The revised regulations shift from an approval-heavy framework to a principle-based approach, permitting the giving and receiving of cross-border guarantees without prior RBI approval, provided the guarantees comply with the stipulated guidelines regarding eligible parties, permissible purposes, and prescribed conditions. This represents a significant liberalisation, reducing the time and administrative burden associated with cross-border guarantee transactions.
- New Quarterly Reporting Framework — Form GRN: A new structured quarterly reporting requirement has been introduced through a standardised Form GRN (Guarantee Reporting Note). Authorised Dealer banks and other regulated entities will be required to report all cross-border guarantee transactions on a quarterly basis, enabling the RBI to maintain effective oversight of the guarantee ecosystem.
- Late Submission Fee: A formal late submission fee mechanism has been introduced for procedural delays in compliance with the guarantee regulations. The fee structure prescribes a base fee of INR7,500 plus 0.025% per year of delay, calculated on the amount of the guarantee. This mechanism provides a structured route for regularising past delays, replacing the earlier ad hoc compounding process.

These regulations will come into effect from 01 October 2026, providing entities with adequate time to review their existing cross-border guarantee structures and update compliance procedures in alignment with the revised framework.

# V. COMPLIANCE CALENDAR FOR APRIL 2026

## A. Income tax

| Sr. No. | Due Dates | Concerned (reporting) Period | Compliance Detail | Applicable to |
|---|---|---|---|---|
| 01 | 7th April | March 2026 | TCS Payment | Non-Government Deductors |
| 02 | 30th April | March 2026 | TDS Payment | Non-Government Deductors |

## B. Goods and Service Tax

| Sr. No. | Due Dates | Concerned (reporting) Period | Compliance Detail | Applicable to |
|---|---|---|---|---|
| 01 | 10th April 2026 | March 2026 | GSTR – 7 (TDS) | Person required to deduct TDS under GST |
| 02 | 10th April 2026 | March 2026 | GSTR – 8 (TCS) | Person required to collect TCS under GST |
| 03 | 11th April 2026 | March 2026 | GSTR 1 | a) Taxable persons having annual turnover > INR 5 crores in FY 2024-25<br>b) Taxable persons having annual turnover ≤ INR 5 crores in FY 2024-25 and not opted for Quarterly Return Monthly Payment (QRMP) Scheme |
| 04 | 13th April 2026 | March 2026 | GSTR – 1 (IFF)- QRMP | Aggregate Turnover is up to INR 5 crores |
| 05 | 13th April 2026 | March 2026 | GSTR – 6 (ISD) | Person registered as ISD |
| 06 | 20th April 2026 | March 2026 | GSTR – 3B | a) Taxable persons having annual turnover > INR 5 crores in FY 2024-25<br>b) Taxable persons having annual turnover ≤ INR 5 crores in FY 2024-25 and not opted for QRMP scheme |
| 07 | 13th April 2026 | March 2026 | GSTR - 5 (NRTP) | Non-resident taxable person (NRTP) |
| 08 | 20th April 2026 | March 2026 | GSTR - 5A (OIDAR) | OIDAR services provider |
| 09 | 25th April 2026 | March 2026 | GSTR – 3B - QRMP scheme- Monthly payment | Aggregate Turnover is up to INR 5 crores |

## C. Provident Fund (PF) / Employee State Insurance Corporation (ESIC)

| Sr. No. | Due Dates | Concerned (reporting) Period | Compliance Detail | Applicable to |
|---|---|---|---|---|
| 01 | 15th April | March 2026 | PF/ESIC Payment | All Assessee to whom respective laws of PF / ESIC are applicables |
| 02 | 25th April | March 2026 | PF Monthly Return | |

## D. FEMA Compliance

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

# GLOSSARY

| ABBREVIATION | FULL FORM |
|---|---|
| Act | Income-tax Act, 1961 |
| ACIT | Assistant Commissioner of Income Tax |
| AE | Associated Enterprise |
| AO | Assessing Officer |
| AY | Assessment Year |
| BLT | Bright Light Test |
| CBDT | Central Board of Direct Taxes |
| CBIC | Central Board of Indirect Tax and Customs |
| CIRP | Corporate Insolvency Resolution Process. |
| CCIT | Chief Commissioner of Income Tax |
| CDSCO | Central Drugs Standard Control Organization |
| CESTAT | Customs, Excise and Service Tax Appellate Tribunal |
| CGST | Central Goods & Services Tax |
| CIT (E ) | Commissioner of Income Tax (Exemption) |
| CSR | Corporate Social Responsibility |
| CIT | Commissioner of Income-tax |
| CIT(Appeals) / CIT(A) | Commissioner of Income-tax (Appeals) |
| CIF | Cost, Insurance and Freight |
| CUP | Comparable Uncontrolled Price |
| CPM | Cost Plus Method |
| DAPE | Dependent Agent Permanent Establishment |
| DCIT | Deputy Commissioner of Income Tax |
| DDIT | Deputy Director of Income Tax |
| DAPE | Dependent Agent Permanent Establishment |
| DGIT | Directorate General of Income Tax |
| DIN | Document Indentification Number |
| DIN | Director Identification Number |
| DRP | Dispute Resolution Panel |
| DTAA | Double Taxation Avoidance Agreement |
| ECB | External Commercial Borrowings |
| FAR | Functions, Asset and Risk Analysis |
| FEMA | Foreign Exchange Management Act |
| FY | Financial Year |
| GST | Goods & Service Tax |
| GSTAT | Goods and Services Tax Appellate Tribunal |
| HP | House Property |
| HC | High Court |

# GLOSSARY

| ABBREVIATION | FULL FORM |
|---|---|
| Hon'ble | Honourable |
| IBC | Insolvency and Bankruptcy Code |
| ICDR | Issue of Capital and Disclosure Requirements |
| IFSC | International Financial Service Centre |
| IFSCA | International Financial Services Centres Authority |
| ISD | Input Service Distributor |
| ITAT | Income Tax Appellate Tribunal |
| ITC | Input Tax Credit |
| ICD's | Inland Container Depot |
| ITR | Income Tax Return |
| IPO | Intital Punlic Offer |
| JAO | Jurisdictional Assessing Officer |
| JDA | Joint Development Agreement |
| KYC | Know your customer |
| LODR | Listing Obligations and Disclosure Requirements |
| LLC | Limited Liability Company |
| NFAC | National Faceless Assessment Centre |
| NCD | Non Convertible Debentures |
| NRI | Non- Resident Indians |
| NCLT | National Company Law Tribunal |
| NCLAT | National Company Law Appellate Tribunal |
| OFS | Offer for Sale |
| OTP | One-time Password |
| PCCIT | Principal Commissioner of Income Tax |
| PCIT | Principal Commissioner of Income Tax |
| PE | Permanent Establishment |
| ROI | Return of Income |
| Rules | Income-tax Rules, 1962 |
| SC | Supreme Court |
| SCN | Show Cause Notice |
| SEBI | Securities and Exchange Board of India |
| SGST | State Goods and Services Tax |
| SPV | Special Purpose Vehicle |
| TNMM | Transactional Net Margin Method |
| TP | Transfer pricing |
| TPO | Transfer Pricing Officer |
| TRC | Tax Residency Certificate |

BHUTA SHAH & CO LLP
CHARTERED ACCOUNTANTS

# About us

Bhuta Shah & Co LLP (BSC) is a dynamic professional Chartered Accountants firm with a distinctive blend of skill sets, experience and expertise. Established in the year 1986, we operate from our Head Office in Nariman Point, Mumbai while having 6 offices across India in Mumbai, Pune, Ahmedabad and New Delhi.

We offer our clients a wide range of services including Audit & Assurance, Direct Taxation, Indirect Taxation, Transaction Advisory, Corporate Finance, Corporate Advisory, Risk Advisory, Cyber Security and Resolution & Insolvency Advisory.

We provide services to a diverse set of leading Indian and Multinational Clients, including FPIs, Mutual Funds, Large Banks, Broking Institutions, Listed Companies including Pharmaceutical Companies, Manufacturing Companies, Insurance Companies, Realty Companies, Jewellery Companies, Hospitals and several other Large and Medium Businesses.

Our forte is high quality services to our clients based on the core principles of Quality, Focus, Timeliness and Commitment.

The Leadership Team comes with rich experience and is supported by a competent and efficient team of Professionals including Chartered Accountants, Professionals with Big-4 Consulting and Industry experience, Advocates, Company Secretaries, MBAs, Former IRS Officers, who are committed to providing timely, professional and quality services to our clients.

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