

APRIL 2026

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CHARTERED
ACCOUNTANTS



Monthly E-Newsletter

BSC BEACON

TAX & REGULATORY INSIGHTS

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I. DIRECT TAXATION: A. CORPORATE TAX

1. *Reassessment on the same material already scrutinized, based solely on an audit objection taking a different view on deduction allowability, amounts to an impermissible review under Section 147 of the Act..*

Marico Limited ('the Assessee') filed its ROI for AY 2018-19. In the ROI, the Assessee disallowed CSR donations debited to the P&L Account in accordance with Explanation 2 to Section 37 of the Act. Further, eligible donations out of the above-mentioned CSR donations were claimed as deduction under Chapter VI-A in accordance with Section 80G of the Act.

The Assessee's case was selected for complete scrutiny, specifically for verifying the "Deduction from Total Income under Chapter VI-A". The Assessee had submitted complete details of the amounts claimed under Section 80G of the Act along with copies of donation receipts and certificates. After due verification and examination of the claim, the assessment order was passed under Section 143(3) of the IT Act, wherein the deduction under Section 80G was substantially allowed except for a minor disallowance pursuant to mismatch in donation amount and receipt, which the Assessee voluntarily conceded.

Subsequently, the Internal Audit Wing of the Department issued a memo taking the position that the contributions made towards CSR expenditure, which had been disallowed under Section 37 of the Act, had been claimed as deduction under Section 80G of the Act should be disallowed. Based on the aforesaid audit memo, the AO issued notice under Section 148A(b) of the Act, followed by an order under Section 148A(d) of the Act and a notice under Section 148, holding that income chargeable to tax had escaped assessment.

Aggrieved, the Assessee filed a writ petition with the Hon'ble Bombay HC against the order under Section 148A(d) of the Act.

The Hon'ble HC observed that prior to passing the original order, the tax authorities had looked into the relevant details and particulars of the deductions claimed under Section 80G of the Act and had taken a conscious decision to allow the same. The Hon'ble HC agreed with the Assessee's submission that donations given to eligible trusts qualify for deduction under Section 80G of the Act, even if the contribution is out of CSR funds is a possible view, and that the tax authorities had examined all these aspects while

passing the order.

On the question of the audit objection constituting independent "information" within the meaning of clause (ii) of Explanation 1 to Section 148 of the Act, the Hon'ble HC rejected the tax authorities' argument, observing that the reassessment had been initiated on the very same material which was examined during the scrutiny proceedings, merely because the audit party expressed a different view regarding the allowability of the deduction, and that such reopening would amount to nothing but a review of the earlier assessment order.

The Hon'ble HC also noted contradiction in the tax authorities' stand, as for AY 2016-17, the AO had himself dropped similar reassessment proceedings under Section 148A(d) of the Act on the ground that the deduction under Section 80G of the Act had been allowed only after due verification of documents during the original assessment,

Placing reliance on its co-ordinate bench rulings in *Castrol India Ltd. v. DCIT* [2024] 299 Taxman 71 (Bom)¹, *Sir Jamsetjee Jejeebhoy Charity Fund v. ITO* [2025] 180 taxmann.com 401 (Bom)² and *Siemens Financial Services (P.) Ltd. v. Dy. CIT* [2023] 457 ITR 647 (Bom)³, the Hon'ble reiterated the settled proposition that the AO cannot initiate proceedings under Section 148 of the Act to review the earlier stand adopted by him, that the reassessment proceedings cannot be initiated to have a re-look or re-examine the documents that were filed and considered in the original assessment proceedings, and that in the absence of any fresh tangible material not accessible to the AO during the original proceedings, reopening on a change of opinion is impermissible in law.

Accordingly, the notice under Section 148A(b), the order under Section 148A(d), and the consequent notice under Section 148 of the Act were quashed and the writ petition was allowed.

Marico Limited [TS-410-HC-2026(BOM)]

2. *Quashes assessment order passed subsequent to IBC resolution plan despite NCLT approval for continuation of adjudication*

A search operation under Section 132 of the Act was conducted on Diamond Power Infrastructure Limited ("the Assessee") on 10.04.2018. During that period, due to mounting financial distress, an application under Section 7 of the IBC was admitted by the NCLT,

¹ *Castrol India Ltd. v. DCIT* [TS-5157-HC-2024(Bombay)-O]

² *Sir Jamsetjee Jejeebhoy Charity Fund v. ITO* [TS-1478-HC-2025(BOM)]

³ *Siemens Financial Services (P.) Ltd. v. Dy. CIT* [TS-516-HC-2023(BOM)]

Ahmedabad, resulting in commencement of the CIRP and imposition of a statutory moratorium under Section 14 of the IBC. While the CIRP was ongoing, income-tax proceedings relating to assessment years prior to the insolvency commencement date remained pending. On an application by the tax authorities, the NCLT granted permission to the Income-tax department to continue adjudication proceedings for the limited purpose of determination of tax liability.

Subsequently, a resolution plan submitted was approved by the NCLT under Section 31 of the IBC. Such approval took place before finalization of the income-tax assessments for the relevant pre-CIRP assessment years. The approved resolution plan provided that all claims, including statutory dues, not specifically forming part of the plan would stand extinguished. The income-tax demands arising from the pending assessments did not form part of the approved resolution plan. Notwithstanding this, the AO

proceeded to pass an assessment order after approval of the resolution plan and raised demands pertaining to periods prior to CIRP.

On further appeal, both the CIT(A) and the Hon'ble Gujrat ITAT held that once the resolution plan had been approved, the tax authorities

could not enforce income-tax liabilities not provided for in the plan. Being Aggrieved by the Hon'ble Gujrat ITAT decision, the tax authorities filed an appeal before the Hon'ble Gujarat HC under Section 260A of the Act, contending that the NCLT's permission to continue assessment proceedings entitled it to complete the assessments and recover the dues, and that pendency of challenges to earlier Supreme Court decisions kept the issue open.

Relying on the law laid down by the Supreme Court in Ghanshyam Mishra and Sons (P) Ltd., the Hon'ble Gujrat HC held that once a resolution plan is approved under Section 31 of the IBC, all claims relating to the period prior thereto, including statutory dues, stand extinguished if not part of the resolution plan. The Hon'ble Gujrat HC also clarified that even though the NCLT had permitted continuation of assessment proceedings, such permission does not override the legal consequence of approval of a resolution plan. By

virtue of Section 238 of the IBC, the approved resolution plan prevails over the Income-tax Act. Finding no substantial question of law, the HC upheld the Hon'ble ITAT's order and dismissed the tax authorities appeal.

Diamond Power Infrastructure Limited [TS-430-HC-2026(GUJJ)]

3. Assessment proceedings quashed due to non-issuance of notice under Section 148 of the Act.

Gas Supply Co. Pvt. Ltd. ('the Assessee') a domestic company filed its ROI for AY 2022-23 declaring a total income of INR 4.05 lakhs. On 10-01-2023, a search and seizure operation was conducted by the Income Tax authorities at the Assessee's premises. The AO initiated assessment proceedings without properly issuing a mandatory notice under Section 148 as required by the Act and proceeded with a regular scrutiny assessment rather than the special procedure meant for search cases. The AO eventually made additions to the returned income, being INR 3.65 crores under Section 56(2)(x) of the Act and INR 71.52 lakhs as Capital Gains. The AO assessed the income at INR 4.40 crores.

Aggrieved, the Assessee challenged the assessment order before the CIT(A) who confirmed the additions made in the assessment order. On further appeal before the Hon'ble Delhi ITAT it observed that under the new tax regime [effective from 01.04.2021], the law regarding search assessments has changed completely. The Hon'ble ITAT emphasized that issuing a notice under Section 148 is a mandatory condition before initiating a search-based assessment, rather than continuing with a normal scrutiny under Section 143(3) of the Act. It also highlighted that failure to comply with this requirement goes to the root of jurisdiction and renders the entire assessment invalid. However, the Tax authorities supported the assessment order.

The Hon'ble ITAT ruled in favor of the Assessee and quashed the entire assessment order. The Hon'ble ITAT relied on the legal principle of "generalia specialibus non derogant", which means that a special law (the search assessment procedure under Section 148) overrides a general law (regular scrutiny). Referring to its previous decisions in Montage Enterprises Pvt. Ltd.⁴ and Homelife Buildcon⁵, the Hon'ble ITAT held that once the search has taken place, no normal assessment under Section 143(3) of the Act could have been framed. In result, the appeal of the Assessee was allowed.

Gas Supply Co. Pvt. Ltd [TS-523-ITAT-2026(DEL)]



⁴ Montage Enterprises Put. Ltd. v. DCIT [TS-7565-ITAT-2025(Delhi)-O]

⁵ Homelife Buildcon (P.) Ltd. Vs. DCIT, [TS-6408-ITAT-2025(Chandigarh)-O] and Jamna Das Nikkamal Jain Saraf Pot. Ltd. Vs DCIT [TS-7203-ITAT-2025(Chandigarh)-O]

4. *Buy-Back of own shares leads to capital reduction and not acquisition of property, not taxable under Section 56(2)(x) of the Act*

Globe Capital Market Ltd ('the Assessee') is a company engaged in stock broking activities and clearing of trades. During the AY 2018-19, the Assessee has made buy-back of its own shares amounting to INR 89.71 Crore (FMV – INR 106.04 Crore). The Assessee filed its ROI for the AY 2018-19 declaring business income of INR 93.82 Crore. A search was conducted on Globe Group on 20.07.2018 resulting into assessment proceedings under Section 153A of the Act.

During the assessment proceedings for the AY 2018-19, the AO treated the difference between the FMV of shares brought back and the actual buy-back consideration (i.e., INR 16.33 Crore) as deemed income under Section 56(2)(x) of the Act. Aggrieved, the Assessee filed an appeal before the CIT(A). The CIT(A) deleted the impugned addition based on various judicial precedents⁶ wherein it was held that Section 56(2)(x) of the Act was not applicable to the transaction of buy-back of shares. The rationale relied by various Hon'ble ITATs was that property as defined under Section 56(2)(x) of the Act shall include shares and securities, if the receipt of such shares becomes a property in the hands of the recipient. However, the Assessee does not acquire any property in the buy-back transaction. Further, it was observed that the transaction of buy-back of shares resulted in reduction of share capital of the company and not acquisition of any 'capital assets'. Aggrieved, the tax authorities filed an appeal before the Hon'ble Delhi ITAT.

The Hon'ble Delhi ITAT noted that similar issue came up for consideration before co-ordinate Benches of Delhi, Mumbai, Hyderabad and Chennai. These judicial precedents clearly stated that buy-back of own shares amounted to capital reduction and cannot be considered as property in the hands of the company. The provisions of Section 56(2) are applicable only in case where the purchased shares became property in the hands of buyer company. Accordingly, the Hon'ble ITAT followed these judicial precedents and in absence of any contrary view of higher judicial fora, upheld the order of the CIT(A).

Aggrieved, the tax authorities filed an appeal before the Hon'ble Delhi HC. The Hon'ble HC noted the provisions of Section 68 of the Companies Act, 2013 and the judicial precedents relied upon by the Hon'ble ITAT.

The Hon'ble HC held that view of tax authorities in

treating the buy-back of shares to be a transaction leading to generation of deemed profit is flawed and untenable. Accordingly, the Hon'ble HC upheld the order of the Hon'ble ITAT and dismissed the appeal of the tax authorities.

Globe Capital Market Ltd [TS-529-HC-2026(DEL)]

5. *TDS credit allowable despite timing mismatch between income recognition and deduction year*

BPTP Limited ('the Assessee'), engaged in the real estate business, filed its ROI for AY 2022-23 claiming TDS credit of INR 19.93 lakhs as reflected in Form 26AS. However, while processing the return under Section 143(1) of the Act, the CPC allowed TDS credit only to the extent of INR 18.14 lakhs, resulting in short grant of credit. Subsequent rectification applications under Section 154 of the Act led to further adjustments, including reduction in interest under Section 244A of the Act and increase in demand.

Aggrieved by the same, the Assessee filed an appeal before the CIT(A) which in turn upheld the action of the AO and confirmed the denial of TDS credit. Being Aggrieved, the Assessee filed an appeal before the Hon'ble Delhi ITAT.

The Assessee contended that due to the nature of its business and the method of revenue recognition (including application of Ind AS 115), revenue was recognised in earlier years based on offer of possession, whereas the corresponding TDS was deducted by customers in later years at the time of payment. As the time limit for revising returns of earlier years had expired, the Assessee claimed such TDS credit in the year of deduction.

The Hon'ble Delhi ITAT observed that there was no dispute regarding the deduction and deposit of TDS and found merit in the Assessee's explanation that the mismatch arose due to timing differences inherent in the business model. It held that the claim of the Assessee was reasonable and in accordance with law; however, since verification was required to ascertain whether the corresponding income had been offered to tax in earlier years, the matter was remanded to the file of the AO. The AO was directed to verify the claim and allow TDS credit where it is established that the income had been duly offered to tax in earlier years.

BPTP Limited [TS-505-ITAT-2026(DEL)]



⁶ DCIT vs. TPS Infrastructure Ltd [TS-7629-ITAT-2022(Delhi)-O], Vora Financial Services P Ltd vs. ACIT [TS-7463-ITAT-2018(Mumbai)-O], VITP Pvt Ltd vs. DCIT [TS-7371-ITAT-2022(Hyderabad)-O], DCIT vs. Venture Lighting India Ltd [TS-7399-ITAT-2022(Chennai)-O]

6. Agreement date to be considered for stamp duty valuation; Section 54 deduction allowable from date of registered transfer

Vijay Krishnaji Sawant ('the Assessee'), an individual, had entered into an agreement (MOU) in FY 2005-06 for sale of a residential flat for a consideration of INR 1.60 crore and received the entire consideration in that period. However, due to procedural requirements and regulatory approvals, the transfer deed was registered only in FY 2011-12, at which time the stamp duty authority valued the property at INR 2.37 crore. The AO invoked Section 50C of the Act and adopted the stamp duty value as on the date of registration for computing capital gains and further treated the gains as short-term capital gains. The AO also denied deduction under Section 54 of the Act on the ground that the investment was not made within the prescribed time reckoned from the year of receipt of consideration. Aggrieved by the same, the Assessee filed an appeal before the CIT(A) which in turn upheld the action of the AO and denied the deduction claimed under Section 54 of the Act. Being Aggrieved the Assessee filed an appeal before the Hon'ble Mumbai ITAT.

The Hon'ble Mumbai ITAT observed that the Assessee had entered into a binding agreement and received consideration much prior to the date of registration and had also parted with possession. It held that the first proviso to Section 50C(1) of the Act, being a beneficial provision, would apply retrospectively and accordingly, the stamp duty value as on the date of agreement should be adopted for the purpose of computing capital gains. The Hon'ble ITAT further held that since the property was held for more than 36 months, the gains were in the nature of long-term capital gains.

With regard to deduction under Section 54 of the Act, the Hon'ble ITAT held that since the Assessee had offered the capital gains in the year of registration of the transfer deed, the date of such registered transfer deed should be considered for determining the period for investment in the new residential property. Accordingly, as the investment was made within the prescribed time from such date, the Assessee was held to be eligible for deduction under Section 54 of the Act. The matter was remanded to the AO to recompute the capital gains and granting consequential relief.

Vijay Krishnaji Sawant [TS-468-ITAT-2026(Mum)]

7. Rectification under Section 154 cannot withdraw Section 11 exemption once granted by CPC

Tehmina K. Katrak Charitable Trust ('the Assessee'), filed its ROI for AY 2021-22 on 11.02.2022 (within the

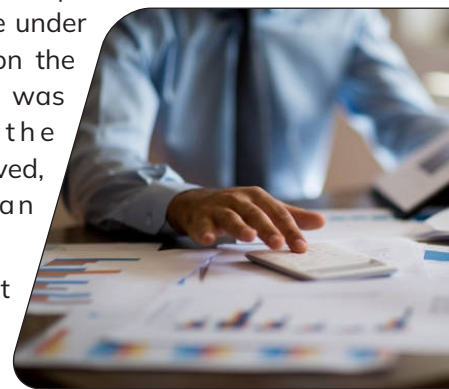
extended deadline), claiming exemption under Section 11 of the Act. The AO denied the exemption claimed by the Assessee under Section 11 on ground that Form 10B was filed belatedly on 19.02.2022. The Assessee submitted that Form 10B was filed along with ROI on 11.02.2022, due to technical glitches, the same was not reflected on the portal. Subsequently, the Assessee re-filed Form 10B on 19.02.2022. The Assessee further submitted that the initial intimation order passed by CPC on 10.08.2022 under Section 143(1) of the Act accepted the ROI filed by the Assessee and allowed the exemption claimed under Section 11 of the Act.

Subsequently, a Suo-moto rectification order was passed on 13.02.2023 by the AO under Section 154 of the Act, denying the exemption claimed by the Assessee under Section 11 of the Act on the ground that Form 10B was filed belatedly by the Assessee. Being Aggrieved, the Assessee filed an appeal before the CIT(A).

The CIT(A) observed that mere acceptance of assignment to file Form 10B by the Chartered Accountant does not constitute filing of audit report. Further, the CIT(A) also noted that no proof of filing Form 10B on 11.01.2022 was furnished by the Assessee. Hence, the CIT(A) upheld the rectification order passed by the AO. Being aggrieved, the Assessee filed an appeal before the Hon'ble Mumbai ITAT.

The Hon'ble Mumbai ITAT held that the issue relating to filing of Form No. 10B had already been examined at the time of processing of return under Section 143(1) of the Act and the explanation of the assessee regarding technical glitches in the portal was accepted. Re-examination of the same issue in proceedings under Section 154 of the Act amounts to review, which is impermissible in law. The question whether Form No. 10B was filed within time involves disputed facts and cannot be regarded as a mistake apparent from record. Further, no opportunity of being heard was granted to the assessee before passing the rectification order, in violation of principles of natural justice. Accordingly, the rectification order is set aside and exemption under Section 11 of the Act is restored.

Tehmina K. Katrak Charitable Trust [TS-406-ITAT-2026(Mum)]



B. INTERNATIONAL TAXATION

1. Transaction in the nature of buy-back of shares qualifies as corporate reorganization and eligible for DTAA benefit under India-Netherlands DTAA

Huntsman Investment [Netherlands] BV (the Assessee), a company incorporated in and resident of Netherlands is holding company (99.98% stake) of Huntsman International [India] Private Limited [HIPL]. During the FY 2006-07, HIPL received INR 18 Crore as

other borrowings and INR 168 Crore by way of issue of shares to the Assessee. The borrowings and share issue was made for the purpose of acquiring Textile Effects (TE) business of Ciba Specialities Chemicals (India) Ltd and Diamond Dye-chem Ltd for a total consideration of INR 166 Crore.

HIPL generated good profits in the succeeding years owing to TE business division. In the FY 2008-09, HIPL bought back its own shares from the Assessee at a consideration of INR 49.43 Crore at INR 23.10 per share. The LTCG on buy-back of shares was offered in ROI of the Assessee amounting to INR 6.17 Crore. During the assessment proceedings, on reference by the AO, the TPO determined the FMV at INR 80.77 per share leading to an upward adjustment of INR 1.23 Crore. The AO passed the draft assessment order after considering the above-mentioned TP adjustment.

Aggrieved, the Assessee filed its objections before the Hon'ble DRP. The Assessee submitted that LTCG on buy-back was erroneously offered for tax in its ROI. Therefore, the Assessee raised two additional grounds – (1) Buy-back of shares by HIPL qualifies as a tax-neutral transaction under Section 47(iv) of the Act, and (2) the buy-back of share transaction is covered within the ambit of Article 13(5) of India-Netherlands DTAA⁷ and hence, not taxable in India. The Hon'ble DRP analysed the provision of Section 47(iv) vis-à-vis Section 46A of the Act, Section 77A of the Companies Act, 1956 and Explanatory Circular no. 779. Based on the same, the Hon'ble DRP held that since a specific

provision on buy-back prevails – Section 46A mandates taxability of amount received on buy-back of shares as capital gains, the provision of Section 47(iv) will not apply.

The Hon'ble DRP opined that the term 'corporate reorganization' is not defined in the DTAA. Therefore, as per Article 3(2), this term derived meaning from tax laws of India. As per the Act, terms 'amalgamation' and 'demerger' were defined but 'corporate reorganization' is not defined. The Hon'ble DRP took a reference from 'Dictionary for Accountants' by Eric L. Kohler wherein 'reorganization' was defined to mean a major change in financial structure of a corporation or a group of associated corporations resulting in alterations in the rights and interest of security holders, a recapitalization, merger or consolidation. In absence of major change in capital structure, the transaction of buy-back of shares cannot be termed as corporate reorganization. Accordingly, the Hon'ble DRP dismissed the additional grounds by holding that Section 47(iv) of the Act as well as Article 13(5) of the India-Netherlands DTAA are not applicable to the share buy-back transaction of the Assessee.

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

The Hon'ble AM was of the view that Hon'ble DRP interpreted the Article 13(5) of the India-Netherlands DTAA in a narrow and restrictive manner. The Hon'ble AM relied on the definition of reorganization as provided by P. Ramanatha Aiyar's Major Law Lexicon as well as the guidance note issued by ICAI to held that buy-back of own shares falls within the ambit of Article 13(5) of the India-Netherlands DTAA.

On the contrary, the Hon'ble JM noted that benefit of Section 47(iv) of the Act can be claimed on satisfaction of 2 conditions mentioned therein. First condition mandates that parent co / its nominees hold the share capital of subsidiary company, and Second condition requires the subsidiary company to be an Indian company. The Hon'ble JM noted that since the Assessee holds 99.98% of HIPL, the condition is not satisfied and thus, the benefit under Section 47(iv) cannot be granted.

On the second additional ground, the Hon'ble JM noted that there was no major change in the financial structure of the Assessee and HIPL as well as the transaction of buy-back of shares did not result in alterations of rights and interest of securities holders. It was also observed that HIPL has not furnished any reason to pursue buy-back of shares in its minutes of

⁷ Article 13(5) of India-Netherlands DTAA is a residuary clause which states that gains from sale of any property (other than Para 1-4) by an entity [transferor entity] shall be taxable in country of residence [Netherlands]. However, the Source country may have the taxing rights in respect of sale of shares, if the transferor entity holds 10% or more shares in the transferee entity. However, if such sale of shares arises in course of corporate organization, reorganization, amalgamation, division or similar transaction, then the country of residence [Netherlands] only will have right to tax the capital gains.

meeting or resolution. The Hon'ble JM also opined that material published by ICAI & SEBI Guidelines has persuasive value but cannot be used as binding law or contravention to provisions of applicable laws. Thus, the Hon'ble JM dismissed both the additional grounds.

In view of dissenting views of the Hon'ble Members of ITAT, a Third Member was nominated to adjudicate the difference of opinion between Hon'ble AM and Hon'ble JM. The Hon'ble Third Member noted that proceed of issuance of equity shares was not utilized for buy-back transaction. On the other hand, the buy-back transaction was undertaken out of profit declared from the TE business and free reserves of HIPL in accordance with Section 77 of the Companies Act. The Hon'ble Third Member concurred with the view of the Hon'ble AM and held that transaction of buy-back of shares by HIPL from the Assessee results in transfer of shares within the same corporate group. Hence, the buy-back qualifies as corporate reorganization and is eligible to claim benefit under Article 13(5) of the India-Netherlands DTAA. Accordingly, the appeal of the Assessee is allowed.

Huntsman Investment [Netherlands] BV [TS-417-ITAT-2026(DEL)]

2. Architectural and consultancy services (incl. designs) rendered in connection with a specific project do not qualify as FTS under the India-Singapore DTAA, as the "make available" condition is not satisfied.

Forum Homes Private Limited ('the Assessee'), a real estate developer had undertaken a project at BKC, Mumbai during FY 2014-15 and engaged two Singapore-based entities namely, Arc Studio Architecture + Urbanism Pte. Ltd. and Web Structures Pte. Ltd. to provide architectural, consultancy, and structural design services such as drawings and GFC designs for the said project.

The Assessee had made certain payments to the aforesaid Singapore-based entities during FY 2015-16 without deduction of tax at source under Section 195 of the Act, on the basis that such payments were not taxable in India under the India-Singapore DTAA.

During the assessment proceedings the AO treated such payments as FTS and disallowed entire expenditure under Section 40(a)(i) for non-deduction of tax at source. Being Aggrieved, the Assessee filed an appeal before the CIT(A).

The CIT(A) examined the agreements and nature of services and accepted the Assessee's contention that the services were project-specific, confined to the BKC project, and incapable of independent application to

future projects. It was further noted that no technical knowledge, skill, or know-how was "made available" to the Assessee which is a significant requirement under Article 12(4) of the DTAA. Accordingly, the CIT(A) deleted the disallowance.

Subsequently, the tax authorities preferred an appeal before the Hon'ble ITAT wherein the Assessee submitted that the issue is squarely covered by the decision of the coordinate bench in Assessee's case in A.Y. 2015-16 in respect of the same project and same service providers. The tax authorities was unable to demonstrate any change in facts or contractual terms.

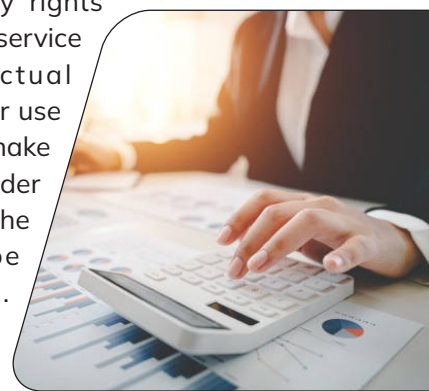
The Hon'ble ITAT held that the services were confined to providing drawing and designs for a specific project, with intellectual property rights retained by the foreign service providers and contractual limitations preventing their use in other projects. As the "make available" requirement under Article 12(4) was not met, the payments could not be classified as FTS. Thereafter, based on its earlier decision and finding complete parity of facts, the ITAT upheld the CIT(A)'s order, confirming that no tax was deductible under Section 195 of the Act and the disallowance under Section 40(a)(i) of the Act was unsustainable.

Forum Homes Pvt Ltd [TS-464-ITAT-2026(Mum)]

3. Mere provision of information sourced from publicly available databases does not constitute the use of, or the right to use, any commercial experience and, accordingly, does not qualify as "royalty" under the India-US DTAA

Coforge BPS America Inc. ("the Assessee") is a company incorporated in the United States of America, engaged in providing process solutions and digital platforms across various industries, including title, mortgage, and captive business development services. The Assessee renders title processing services and marketing support services to its associated enterprise in India.

During the A.Y. 2021-22 the Assessee received payments under two segments: INR 7.73 Crores for Title process services and INR 28.44 Crores for Marketing support services (MSS). The Assessee did not offer these receipts to tax claiming them to be non-taxable in India under India-US Double Taxation Avoidance Agreement (DTAA).



However, the AO held that the payments received by Assessee for title process service is in the nature of 'royalty' under Section 9(1)(vi) of the Act and Article 12(3) of the India-US DTAA. With respect to Marketing Support Services, the AO held that the payments are in the nature of 'Fee for Technical Services/Fee for Included Services' within the meaning of Article 12(4)(b) of the India-US DTAA.

Aggrieved, the Assessee filed an Application before the DRP, which was rejected by the the DRP and final order was passed by AO making the above additions.

Being Aggrieved, the Assessee filed an appeal before Hon'ble Delhi ITAT. Before the Hon'ble ITAT the Assessee argued that it provided title process services by collating and extracting property-related data such as title, mortgage status, and tax payment details and status from publicly available databases and shared it with its Indian AE, which used the data to prepare title search reports. No proprietary methodology, technique, or commercial experience was shared in the process. On contrary, the tax authorities argued that the payment are made for use of commercial knowledge and thus taxable as royalty.

The Hon'ble ITAT held that mere providing access to data sourced from the public domain does not amount to transfer of any intellectual property or commercial know-how. It emphasized that "commercial experience" under Article 12(3) requires imparting specialized knowledge enabling independent application by the recipient, which was absent in the present case. Accordingly, the Hon'ble ITAT held that the receipts for title process services do not qualify as royalty and therefore are not taxable in India.

With respect to marketing support service the Hon'ble ITAT observed that such services were in the nature of routine advisory and support functions, including customer identification and assistance in marketing

activities. It stated that for services to qualify as FTS/FIS, the "make available" condition must be satisfied, i.e., the recipient should be enabled to independently apply the technical knowledge or skill. Since no such technical knowledge or expertise was made

available, the Hon'ble held that the receipts could not be taxed as FIS/FTS.

Coforge BPS America Inc. [TS-446-ITAT-2026(DEL)]

4. Outright Transfer of Bridge Design not 'Royalty' under India-UAE DTAA

International Bridge Technologies Middle East DMCC ('the Assessee') is a company incorporated in UAE and is engaged in the business of designing bridges. The Assessee entered into a sub-consultancy agreement with an Indian entity for providing bridge design and consultancy services in relation to the Versova-Bandra Sea Link project. As per the sub-consultancy agreement, the Assessee was required to develop project-specific designs, drawings, reports, and related deliverables.

The AO treated the consideration received from the Indian entity for the design services as "royalty" under Section 9(1)(vi) of the Act and Article 12(3) of the India-UAE DTAA, primarily on the ground that the payments were for use of designs, plans, and technical know-how. This view was upheld by the DRP.

However, the Hon'ble Delhi ITAT allowed the Assessee's appeal and held that the payments were not in the nature of royalty. The Hon'ble Delhi ITAT emphasized the critical distinction between the consideration for the "use or right to use" a design, and the consideration for the "outright transfer of ownership" in such design. Based on the terms of the agreement, it observed that all project-specific designs, drawings, and deliverables were transferred to the Indian entity, with ownership vesting entirely with the recipient.

The Hon'ble Delhi ITAT noted that the services resulted in creation and transfer of project-specific designs which could not be commercially exploited beyond the specific project. Accordingly, it held that the transaction constituted an outright sale of designs rather than licensing of intellectual property. Relying on precedents including Gera Developments⁸, Aedas Pte Ltd.⁹, and Delhi HC's ruling in DCM Ltd.¹⁰, the ITAT reiterated that royalty arises only where there is a grant of right to use, not where there is a complete transfer of rights.

International Bridge Technologies Middle East DMCC [TS-393-ITAT-2026(DEL)]

5. Disallowance of interest under Section 94B of the Act, being applicable only to borrowings from non-resident AEs, violates the non-discrimination clause under Article 24(4) of the India-Denmark DTAA and hence is not sustainable

Vestas Wind Technology India Pvt. Ltd. ('the Assessee') is a subsidiary of Vestas Denmark, is engaged in manufacturing, assembling, and maintaining wind turbine generators in India. To finance its operations, it



borrowed funds through ECBs from its Danish parent and paid interest on the same.

For AY 2018–19, the Assessee, while filing its ROI made a suo motu disallowance under Section 94B of the Act. The case was selected for scrutiny and referred to the TPO, who accepted that the interest paid was at arm's length and made no transfer pricing adjustment. However, TPO recomputed the disallowance under Section 94B of the Act. Based on this provision, there was a disallowance of INR 18.47 crore, a figure enhanced from the Assessee's own suo motu disallowance of INR 9.34 crore. Aggrieved by the same the Assessee filed an appeal with CIT challenging both the applicability of Section 94B to its case and the correctness of the TPO's computation. The CIT(A) rejected all grounds raised by the Assessee and upheld the TPO's Order.

The Assessee challenged the matter before the Hon'ble Chennai ITAT, arguing that Section 94B is discriminatory because it applies only to non-resident AEs, while interest paid to resident AEs is fully deductible. Relying on Article 24(4) of the India–Denmark DTAA (Non-Discrimination clause), OECD commentary, and judicial precedents such as Herbalife, Mitsubishi, Cognizant, and LinkedIn, the assessee contended that such restriction violates treaty protection. It also pointed out that Article 12(7) of the DTAA, invoked by the tax authorities, was irrelevant since the interest was already accepted as arm's length and the disallowance arose only due to the EBITDA cap.

The Hon'ble Chennai ITAT held that Section 94B results in discriminatory treatment and violates Article 24(4) of the DTAA. It rejected the tax authority's reliance on Article 12(7) and emphasized that, in the absence of a specific treaty carve-out, such thin-capitalization rules cannot override the non-discrimination clause.

The Hon'ble ITAT directed deletion of the entire disallowance of INR 18.47 crore, thereby allowing the Assessee appeal.

Vestas Wind Technology India Private Limited [TS-377-ITAT-2026 (Chennai)]

6. Underwriting Commission not taxable as Fees for Technical Services (FTS)

Merrill Lynch International ('the Assessee'), a company incorporated in the UK, is registered as a Foreign Institutional Investor ('FII') with the Securities and Exchange Board of India ('SEBI'),

For AY 2017-18, the Assessee earned underwriting commission amounting to INR 8.24 crore, for undertaking subscription of shares that remained unsubscribed in an Indian public issue. The AO, relying on GVK Industries Ltd. v. ITO contended that underwriting involves provision of financial and managerial expertise. Accordingly, the AO treated the entire amount as taxable in India as Fees for Technical Services under Section 9(1)(vii) of the Act.

Aggrieved by the same, the Assessee filed an appeal before the CIT(A). The CIT(A) deleted the said addition, holding that underwriting merely involves assuming financial risk and does not amount to rendering technical or consultancy services. The CIT(A) further observed that no technical knowledge was made available under the India–UK DTAA, and since the Assessee had no Permanent Establishment (PE) in India, the income could not be taxed as business profits in India as per the Article 7 of the India UK DTAA.

Aggrieved by the order of the CIT(A), the tax authorities preferred an appeal before the Hon'ble Mumbai ITAT. The ITAT upheld the order of the CIT(A) and ruled that the underwriting commission of INR 8.24 crore is not taxable as FTS under Section 9(1)(vii) of the Act, as it is consideration for assuming a financial obligation rather than for rendering services. Further, it was held that the “make available” condition under the DTAA was not satisfied and, applying Section 90(2) of the Act, the Assessee was entitled to the more beneficial treaty provisions. Additionally, in the absence of a PE in India, the said income also not taxable as business profits. Accordingly, the Hon'ble Mumbai ITAT dismissed the appeal of the tax authorities.

Merrill Lynch International [TS-432-ITAT-2026(Mum)]

⁸ [TS-7526-ITAT-2025(Pune)-O]

⁹ [TS-8485-ITAT-2023(Delhi)-O]

¹⁰ [TS-108-HC-2011(Delhi)-O]

II. TRANSFER PRICING

1. *RBI-approved all-in-cost held as arm's length benchmark, in case where TPO's benchmarking contains material deficiencies*

Vodafone Idea Ltd. (the 'Assessee') is engaged in the business of providing telecom services. The Assessee filed its ROI for AY 2011–12. During the year, the Assessee had availed ECB from its AE under an agreement duly approved by the RBI. The loan was denominated in foreign currency and disbursed in tranches pursuant to the RBI approval. The Assessee paid interest within the all-in-cost ceiling of LIBOR plus 500bp as prescribed by RBI (i.e. at LIBOR plus 460 basis points) and incurred an upfront fee of 220 basis points. It treated the upfront fee as part of the borrowing cost and amortized it over the loan tenure. The Assessee also supported its position through external benchmarking using the Reuters LPC LoanConnector database and claimed adjustments for country risk, currency risk, and subordination.

During the scrutiny proceedings, the TPO rejected the benchmarking analysis of the Assessee and made an upward adjustment of INR 16.15 Crores. The TPO rejected both the RBI-based benchmarking as well as the external study and determined the arm's length interest rate at LIBOR plus 385 basis points based on a fresh search. The TPO assumed the loan to be effectively secured due to guarantees and selected comparables accordingly. The TPO also emphasized the importance of purpose of borrowing as a filter but did not demonstrate adequate comparability on such

basis in his final set of comparables selected by him. The TPO treated the upfront fee separately without amortization, thereby increasing the effective cost of borrowing. Further, the TPO rejected the adjustments claimed by the Assessee on account of country risk, currency risk and subordination, and allowed only a restricted adjustment of 50 bp on an ad hoc basis. The AO passed the draft assessment order incorporating the proposed TP adjustments. Aggrieved, the Assessee filed objections before the Hon'ble DRP, which upheld the TP adjustments. Pursuant to the Hon'ble DRP directions, the AO passed the final assessment order. Aggrieved, the Assessee filed an appeal before the Hon'ble Mumbai ITAT.



subordination, and allowed only a restricted adjustment of 50 bp on an ad hoc basis. The AO passed the draft assessment order incorporating the proposed TP adjustments. Aggrieved, the Assessee filed objections before the Hon'ble DRP, which upheld the TP adjustments. Pursuant to the Hon'ble DRP directions, the AO passed the final assessment order. Aggrieved, the Assessee filed an appeal before the Hon'ble Mumbai ITAT.

The Hon'ble ITAT observed that although RBI approval cannot be considered automatic substitute for TP purposes, it remains a relevant and weighty factor in evaluating ECB transactions. It noted that the (1) TPO's benchmarking suffered from material deficiencies, (2) included an incorrect assumption that the loan was secured, despite evidence showing it to be unsecured, (3) inconsistencies in the application of the purpose filter and held that the comparables selected by the TPO did not align with the purpose, tenor, currency, risk profile, (4) TPO's rejection of the Assessee's subordination claim on the basis of unavailability of data in the comparables and (5) the ad hoc approach of allowing limited adjustments for country and currency risk 50 bp.

With respect to upfront fee, the Hon'ble ITAT held that it forms an inherent and integral part of the borrowing cost and must be evaluated over the tenure of the loan. It observed that evaluating the upfront fee in isolation, without spreading it over the loan tenure, leads to distortion in determining the effective interest rate. The Hon'ble ITAT emphasized that the transaction should be evaluated on a holistic basis by considering both interest and upfront fee together.

The Hon'ble ITAT referred to judicial precedents of Karnataka HC ruling in case of GE India Technology Centre (P.) Ltd. which emphasizes examining the real nature of a transaction and relied on coordinate bench rulings in Ion Exchange (I) Ltd. and Firmenich Aromatics India Pvt. Ltd., which recognize RBI-approved ECB rates as a strong indicator of arm's length pricing.

Accordingly, the Hon'ble ITAT held that the effective all-in-cost of LIBOR plus 500 basis points, being within the RBI approved ceiling for the ECB, represents a more reliable arm's length benchmark than the rate determined by the TPO. The TP adjustment on ECB interest and upfront fee was deleted. Thus, the appeal of the Assessee will be allowed.

Vodafone Idea Ltd [TS-292-ITAT-2026(Mum)-TP]

2. *BAPA – determined margin constitutes a persuasive benchmark for determining ALP in transactions not covered under BAPA in the absence of any distinguishing feature*

Synchrony International Services Pvt. Ltd. ('the Assessee') is engaged in the business of providing Information Technology Enabled Services (ITES) and has provided ITES to its AEs during the AY 2016-17. The Assessee has entered into Bilateral Advance Pricing Agreement ('BAPA') with the Central Board of Direct Taxes ('CBDT') covering the international transactions with US-based AEs. During the year,

approximately 95.75% of the Assessee's revenue was from US-based AEs (covered under BAPA) and 4.25% of the revenue from non-US based AEs (not covered under BAPA).

During the scrutiny proceedings the Assessee contended that since transactions with non-US based AEs constituted a very small portion of the total revenue and the functional, assets, and risks (FAR) profile of the transactions with both non-US based AEs and US based AEs are identical, the margin agreed under the BAPA for US based AEs should be applied over the margins earned from non-US based AEs. However, the TPO did not accept the view of the Assessee and made the TP adjustment of INR 26.24 Crore which was incorporated in the final assessment order by the AO.

Aggrieved, the Assessee filed an appeal before the Hon'ble CIT(A). The Assessee contended that the transactions with non-US based AEs constituted a very small portion of the total turnover and the TPO had also not applied separate benchmarking for transactions with non-US based AEs. The Assessee contended that margin agreed under BAPA be applied to the transactions with non-US based AEs. In this context, the Assessee placed its reliance on the decisions of the coordinate bench in the case of Texas Instruments (India) Pvt. Ltd. v. ACIT¹¹ and JCB India Ltd. v. ACIT¹².

The CIT(A) rejected the contention of the Assessee on the grounds that the case laws relied upon by the Assessee were in the context of Mutual Agreement Procedures ('MAP') and not BAPA. Accordingly, the Hon'ble CIT(A) upheld the order of the TPO and held that the margins determined under BAPA shall be binding only on transactions specifically covered therein and cannot be extended to other international transactions.

Aggrieved, the Assessee filed an appeal before the Hon'ble Hyderabad ITAT. The Hon'ble ITAT observed that there was no dispute regarding the applicability of the BAPA. The Hon'ble ITAT noted that the TPO had not undertaken any separate benchmarking analysis for the transactions not covered under BAPA and that the TPO failed to demonstrate any difference in the FAR profile between covered and non-covered transactions. Relying on the above decisions, the Hon'ble ITAT held that although the BAPA is not strictly binding on the transactions outside its scope, however the margin agreed therein is the result of a detailed and mutually accepted TP analysis, constituting a reliable and persuasive benchmark. Accordingly, applying the principle of consistency and in the absence of any distinguishing facts, the Hon'ble ITAT allowed the

appeal of the Assessee and directed the TPO to adopt the BAPA margin for determining the ALP of transactions with non-US AEs.

Synchrony International Services Pvt. Ltd [TS-284-ITAT-2026(HYD)-TP]

3. The forex gain/loss resulting from the business transaction with AE, held as operating in nature. Further when no interest is recovered from non-AEs on outstanding dues and no interest was paid to AE on outstanding dues, no TP adjustment in respect of notional interest on outstanding receivables from AEs is required.

SAME Deutz Fahr India Private Limited ('the Assessee') is engaged in the trading of parts and accessories of motor vehicles and engines and has entered into international transaction with AEs. The Assessee filed its ROI for AY 2021-22. For the sale of tractor to AE, the Assessee adopted TNMM as the MAM. Further, the Assessee calculated the margin of 3.69% earned from AE vis-à-vis the arm's length margin range of the comparable companies. The Assessee did not consider the outstanding receivables as international transaction. During the scrutiny proceedings, on reference by AO, the TPO rejected the benchmarking study done by the Assessee and revised the Assessee's margin to 2.85% by treating export incentives and miscellaneous expenses as non-operating income/expense in nature. The TPO further conducted fresh search and calculated the revised comparable margin range of 5.71% to 10.81%. Based on the search results, the TPO made the TP additions relating to sale transaction with AE.

In respect to the outstanding receivables, the TPO treated outstanding receivables from AEs as a separate international transaction and computed notional interest at the rate of LIBOR+350 bps (4.186%) on delayed receivables from AEs. Pursuant to the TPO's order the AO passed the draft assessment order.

Aggrieved, the Assessee files its objections against the draft assessment order before the Hon'ble DRP. The Hon'ble DRP rejected the objections filed by the Assessee and upheld TPO's order in respect to sale transaction subject to a direction to apply parity in treatment of miscellaneous expenses as non-



¹¹ [TS-420-ITAT-2022(Bang)]

¹² [TS-168-ITAT-2016(DEL)]

operating for both the assessee and the comparables. Further it also revised the interest rate on outstanding receivables to LIBOR + 450 bps (5.186%), after considering foreign currency risk. Accordingly, the AO passed the final Assessment order.

Aggrieved, the Assessee filed an appeal before the Hon'ble Chennai ITAT. Before the Hon'ble ITAT, the Assessee relying on the decision of coordinate bench in the case of Caterpillar India Ltd¹³ filed an additional ground of treating foreign Exchange gain/loss as operating in nature. The Assessee contended that if the forex gain was held to be operating in nature, the Assessee's margin of 6.46% will fall within the Arm's length margin range of 5.29% to 9.05% of comparable



companies as identified by the TPO.

The Hon'ble ITAT admitted the additional ground raised by the Assessee considering the details of the additional ground of forex gain/loss was available in the financials during the TP Assessment,

the issue being decided by the court has become a factual cum legal issue and came to Assessee's attention later.

The Hon'ble ITAT noted held that foreign exchange fluctuation gain/loss should be treated as operating in nature as it has accrued in the normal course of business operations with AE. The Hon'ble ITAT relying on judicial precedents in the case of Caterpillar India Ltd¹⁴ and Hyundai Motor India Ltd¹⁵ held that foreign exchange gain should be treated as operating income for the Assessee as well as for the comparable companies. Accordingly, the Hon'ble ITAT allowed the Assessee's appeal as the forex gain was held to be treated as operating in nature resulting the assessee's margin fall within the arm's length margin range of the comparables.

On the issue of outstanding receivables, the Hon'ble ITAT held that although such receivables constitute an international transaction post amendment to Section 92B, no separate adjustment is warranted where the primary transaction has been benchmarked at arm's length under TNMM. The Hon'ble ITAT further applied the parity principle (internal CUP methodology), noting that the Assessee had not charged interest from non-AEs and AEs had also not charged interest on

payables, thereby issued directions to delete the adjustment.

SAME Deutz Fahr India Private Limited [TS-303-ITAT-2026(CHNY)-TP]

4. Factors like change of lender, modification of floating to fixed rate needs to be considered in the benchmarking analysis of the loan transaction

Goldman Sachs Services Pvt. Ltd ('the Assessee') is engaged in the business of providing information technology enabled services which is in the nature of administrative and support services to the group companies. The Assessee has availed 2 ECBs from its AEs for which the details are furnished below:

Particulars	ECB1	ECB2
Loan Facility	USD 75 Million	USD 200 Million
Raised vide Loan Agreement dated	01.12.2014 [FY 2014-15]	30.05.2019 [FY 2019-20]
ECB availed from	Goldman Sachs {Mauritius} LLC – GSML	Goldman Sachs Funding LLC [GSFL]
Purpose	General Corporate purpose including Working Capital	Working Capital requirements and refinancing of Indian Rupee loans.
Basis for Rate of Interest	Floating Rate – LIBOR-6m + 490 bps pa payable biannually till 16.03.2021 – INR 31,93,19,997	Fixed Rate – 7% p.a. INR 94,49,90,054
ECB Transferred to	Goldman Sachs International Service Entities Holdings Ltd [GSISEHL]	NA
Basis for Rate of Interest changed to	Fixed Rate – 3.30% - From 17.03.2021 till 31.03.2021 - INR 79,81,576	NA

The Assessee benchmarked the same under CUP method, claiming the interest rates to be at arm's length

¹³ [TS-245-ITAT-2024(CHNY)-TP]
¹⁴ [TS-331-ITAT-2025(CHNY)-TP]
¹⁵ [TS-828-ITAT-2021(CHNY)]

and falling within RBI's all-in cost ceiling limits. During the assessment proceedings, the TPO rejected Assessee's benchmarking as the Assessee has not used country of lender in the search criteria thereby ignoring lender jurisdiction, use of synthetic credit ratings to search comparable companies, use of tenor adjustment at the 6 months LIBOR was not impacted by loan tenor. Accordingly, the TPO conducted a fresh search on Bloomberg database to determine the arm's length interest rate of 6-month LIBOR plus 294.80 bps (i.e. 3.63%) for ECB1 and 6-month LIBOR plus 294.80 bps (i.e. 2.44%) for ECB2 [different rates on account of different years of issue of ECBs].

Aggrieved, the Assessee filed its objections before the Hon'ble DRP. The Hon'ble DRP rejected the objections and upheld the order of the TPO holding that RBI guidelines prescribe a regulatory ceiling and cannot be equated with arm's length price. To demonstrate the arm's length of the transaction, the Assessee further conducted corroborative benchmarking search on Bloomberg database for both the ECBs and determined the Arm's length interest rate on floating basis at LIBOR +490 bps for ECB1 and fixed rate of 7% for ECB2. However, the Hon'ble DRP rejected the corroborative benchmarking search done by the Assessee citing over-reliance on RBI Master Circular by the Assessee and justifying the TPO's Benchmarking exercise. Accordingly, the Hon'ble DRP affirmed the order of the TPO.

The Hon'ble DRP also held that since the change in lenders jurisdiction came only in current FY 2020-21, at the stage where substantial portion of loan period remains governed by the original terms. Hence, the filter of 'Country/Region of Incorporation' cannot be applied.

Aggrieved the Assessee filed an appeal before the Hon'ble Bangalore ITAT. Before the Hon'ble ITAT, the Assessee contended that the TPO failed to follow the principle of consistency, as interest on ECB1 had been accepted in prior years and no TP adjustment was made for ECB2 in AY 2020-21. In absence of any change in facts for AY 2021-22, a consistent approach ought to have been maintained. Also, TPO failed to appreciate critical changes in the terms of ECB1, including change in lender from a Mauritius entity to a USA entity, change in interest rate from floating to fixed, and extension of loan tenure. The Hon'ble ITAT found merit in this contention and held that the TPO had proceeded on an incorrect understanding of facts by considering Mauritius as the lender's jurisdiction despite the assignment of loan to US entity. It also observed that such changes in legal and economic conditions materially affect comparability and must be

factored into benchmarking. At the same time, it was noted that the Assessee had also failed to fully incorporate these changes, particularly in relation to tenor and economic adjustments, in its own corroborative benchmarking analysis.

Accordingly, the Hon'ble ITAT restored the issue relating to ECB1 to the file of the TPO/AO for fresh determination of ALP after due consideration of all relevant changes, including change of lender, jurisdiction, tenure, and interest structure. With regard to ECB2, it held that the TPO erred in benchmarking the transaction using floating

interest rates despite the loan being on a fixed interest basis and also erred in considering the incorrect issue year of ECB. The Hon'ble ITAT directed the TPO to consider the search done by the Assessee for ECB2 after verification of the required loan adjustments such as interest rate swaps.

On the issue of reliance on RBI's all-in-cost ceiling, the Hon'ble ITAT held that while such ceiling acts as a regulatory cap and cannot by itself determine arm's length price, it remains a relevant corroborative factor in benchmarking analysis. It also rejected the Assessee's plea on rule of consistency, holding that TP analysis must be carried out independently for each AY, especially where there are material changes in facts.

In conclusion, the Hon'ble ITAT set aside the TP adjustment and remanded the matter back to the TPO/AO for fresh adjudication in accordance with law. Thus, appeal of the Assessee was partly allowed for statistical purposes.

Goldman Sachs Services Pvt. Ltd [TS-247-ITAT-2026(Bang)-TP]

5. ITAT Chennai on Transfer Pricing: Key Rulings on Forex Loss, Capacity Utilisation & Adjustments

Joyson Anand Abhishek Safety Systems Pvt. Ltd. (earlier known as Takata India Pvt. Ltd.) ('the Assessee'), is engaged in manufacturing and supplying of safety products for automotive original equipment manufactures in India. For AY 2014-15, the Assessee filed its ROI declaring a loss of about INR 21.86 Crores. During the year under consideration, it had entered into international transactions with its AEs amounting to INR 179 Crores. During the assessment proceedings, on reference made by the AO, the TPO proposed a TP



adjustment of about INR 52 Crores. The dispute primarily centered on the treatment of specific items for computing operating margins, including foreign exchange loss, customs duty adjustment, capacity utilization adjustment, price penetration adjustment, and write-back of liabilities.

The AO passed the final assessment order on the basis of TP adjustment. Aggrieved, the Assessee filed an appeal before the CIT(A) who dismissed the appeal. On further appeal, the Hon'ble Chennai ITAT remitted the matter back to CIT(A) for fresh adjudication. During the remand proceedings, on capacity utilization, the CIT(A) accepted the Assessee's contention in principle, recognizing that differences in capacity utilization between the Assessee and comparable companies can materially impact margins, particularly in manufacturing businesses where fixed costs such as depreciation and overheads remain constant despite lower production levels. The CIT(A) acknowledged that the Assessee operated at sub-optimal capacity during the year due to reduced demand from key customers, which resulted in under-absorption of fixed costs. Accordingly, the CIT(A) accepted that an adjustment is warranted to improve comparability.

Further, on write-back of trade payables, the CIT(A) held that such write-back arises from normal business operations and has a direct nexus with earlier operating expenses. It observed that these liabilities were originally recorded in relation to operating transactions and, therefore, its reversal retains the same character. On this basis, the Hon'ble CIT(A) treated the write-back as operating income.

However, the Hon'ble CIT(A) rejected other claims of the Assessee, including treatment of foreign exchange loss as non-operating, denial of customs duty adjustment due to lack of evidence demonstrating impact on margins, and rejection of price penetration adjustment due to absence of reliable quantification. As a result, the overall TP adjustment was reduced to about INR 8.37 Crores.

Aggrieved, both the Assessee and the Tax Authorities filed cross appeals before the Hon'ble Chennai ITAT. The Hon'ble ITAT examined the issues in detail. With respect to capacity utilization, the Hon'ble ITAT agreed with the CIT(A) that adjustment is justified in principle, as differences in capacity levels can distort profit margins and affect comparability under transfer pricing provisions. However, the Hon'ble ITAT found that the methodology adopted by the Assessee, i.e., comparing depreciation as a percentage of sales, does not provide a reliable basis for adjustment since the relationship between depreciation and sales may vary

across comparable companies. The Hon'ble ITAT, therefore, allowed an alternative approach by directing the use of cash PLI, excluding depreciation, for benchmarking, especially considering that such an approach had been accepted in earlier years.

On write-back of trade payables, the Hon'ble ITAT upheld the finding of the CIT(A) that such write-back should be treated as operating income, as it is intrinsically linked to earlier operating expenses. However, the Hon'ble ITAT directed the TPO to verify whether the write-back pertains to items originally recognized as operating expenses in earlier years. It clarified that appropriate evidence should be examined to ensure correct classification.

Accordingly, while the Hon'ble ITAT upheld the principles laid down by the Hon'ble CIT(A) on the above issues. The appeal was partly allowed for statistical purposes, with several issues such as treatment of forex loss, customs duty adjustment, and price penetration adjustment being remanded to the TPO for fresh examination.

Joyson Anand Abhishek Safety Systems Pvt. Ltd [TS-276-ITAT-2026(CHNY)-TP]

III. GOODS AND SERVICES TAX / CUSTOMS

1. GST – Case Laws

1.1 No profiteering is established under Section 171 if the entire spectrum of booking, agreement, and payment occurs wholly in the post-GST period

The Assessee, a real estate developer, was alleged to have indulged in profiteering in contravention of Section 171 of the CGST Act, by failing to pass on the benefit of ITC upon introduction of GST with effect from 1 July 2017, by way of commensurate reduction in the price of a duplex villa booked by the Complainants in the Assessee's project 'International City' situated at Sector 106, 108 & 109, Gurugram. The Complainants had submitted an application for allotment of Duplex Villa No. E-61A on 17 June 2019 and entered into the Builder Buyer Agreement with the Assessee on 8 July 2019, with payment scheduled under a construction-linked plan at the GST rate of 12%. The Occupation Certificate was issued on 26 February 2024.

The matter was referred by the Standing Committee on Anti-Profiteering to the Director General of Anti-Profiteering (DGAP) under Rule 129(1) of the CGST Rules. DGAP as per report dated 21 August 2025,

computed the ratio of credit availed to purchase value at 12.26% in the pre-GST period and 11.02% in the post-GST period, reflecting a negative differential of 1.24%, and concluded that no incremental ITC benefit



accrued to the Assessee and no question of passing on benefit arose. The matter came before the Principal Bench of the GSTAT, which had been empowered to examine anti-profiteering cases with effect from 01 October 2024.

The issue before the Hon'ble GSTAT was whether the

Assessee was liable to pass on the benefit of ITC under Section 171 of the CGST Act read with Rule 129 of the CGST Rules in respect of a unit where booking, allotment, execution of agreement, entire construction and receipt of payments under a construction-linked plan transpired wholly in the post-GST regime, and whether the Complainants had locus standi to contest the DGAP report when the price was fixed after factoring available ITC.

The Hon'ble Tribunal, placing heavy reliance on paragraph 128(d) of the Hon'ble Delhi HC's judgment in *Reckitt Benckiser India Pvt. Ltd. v. Union of India*¹⁶, held that the expression 'flat constructed in the post-GST period' does not by any means imply that the flat was already constructed at the time of agreement, and the term 'upfront payment of the full price' cannot be interpreted to mean that the entire payment must be made in a single lumpsum, but extends to construction-linked installments availed through housing finance in the ordinary course. What is crucial is that the entire spectrum of activities from inception to completion must have taken place during the post-GST period. The Hon'ble Tribunal observed that booking of the unit, allotment, execution of the BBA on 8 July 2019, the entire construction activity, as well as the receipt of payments, all transpired in the post-GST era, and the price was determined after factoring the benefit of ITC available to the Assessee in the post-GST regime which was not admissible under the pre-GST regime. Following the coordinate Bench decision in *DGAP v. Pyramid Infratech (P.) Ltd*¹⁷, the Hon'ble Tribunal reiterated that Section 171 of the CGST Act, applies only in cases involving reduction in tax rate or increase in ITC, particularly in projects spanning pre-GST and post-GST periods, and where the project commences wholly in the post-GST regime, no comparative ITC

benefit arises for passing on. Since the price was fixed after taking into account the incremental ITC and accepted by the Complainants without objection, the Complainants had no locus standi to contest the DGAP report, and the DGAP's finding of -1.24% differential confirmed absence of profiteering. The preliminary objections of the Assessee were accepted, and the DGAP report dated 21 August 2025 was accepted with no contravention of Section 171 of the CGST Act read with Rule 129(6) of the CGST Rules established.

DG Anti Profiteering v. Sobha Ltd., GST Appellate Tribunal, Principal Bench, New Delhi, NAPA No. 98 (PB) of 2025, decided on 2 April 2026 [TS-214-GSTAT(DEL)-2026-GST]

1.2 SLP dismissed as infructuous where the GST registration is revoked by the department during the pendency of proceedings, leaving the question of law on limitation open

The Assessee, Rana Engineering, had its GST registration cancelled by an order dated 3 February 2023 for non-filing of returns for a continuous period of more than six months. The Assessee preferred an appeal on 26 August 2023, i.e. within seven months of the cancellation order, which was dismissed by the Appellate Authority on the ground that it was barred by limitation. The Hon'ble HC of Jharkhand, in *Rana Engineering v. Union of India*¹⁸, held that under Section 107(3) and (4) of the CGST Act, the prescribed three-month period for filing appeal could be extended by another three months, and further by one month, and accordingly the appeal filed within seven months from the date of the cancellation order was maintainable and could not have been rejected on the ground of delay. The Hon'ble HC additionally held that the Assessee could alternatively be granted opportunity to approach the appropriate authority under Section 30 of the CGST Act, for revocation of cancellation after paying applicable penalty, fines and interest, and directed that an application be filed within thirty days. Aggrieved, the Revenue preferred a Special Leave Petition (SLP) before the Hon'ble Supreme Court.

The issue before the Hon'ble Supreme Court was the maintainability and continuance of the SLP challenging the Hon'ble HC's interpretation of Section 107 of the CGST Act, 2017 and the directions for revocation under Section 30, in light of subsequent developments during the pendency of the SLP.

The Hon'ble Supreme Court noted that during the pendency of the SLP, the Appellate Authority had passed an order revoking the cancellation of GST registration of the Assessee. In view of this

¹⁶ [TS-24-HC(DEL)-2024-GST]

¹⁷ [TS(DB)-GST-GSTAT-2026-53]

¹⁸ [TS(DB)-GST-HC(JHA)-2026-418]

development, the Hon'ble Court held that the SLP had become infructuous and was accordingly dismissed. However, the Hon'ble Court expressly kept open the question of law relating to interpretation of Section 107 of the CGST Act, which pertains to limitation, for being considered in an appropriate case. The Hon'ble Court further clarified that the impugned judgment and order dated 23 February 2024 passed by the Hon'ble HC of Jharkhand at Ranchi in Writ Petition (T) No. 6387 of 2023 shall not be treated as a precedent.

Union of India v. Rana Engineering, Supreme Court of India, SLP (Civil) Diary No(s). 36341 of 2024, decided on 2 April 2026

1.3 Writ remedy not maintainable once GSTAT becomes functional – statutory appeal must be pursued with pre-deposit

The Assessee challenged the order dated 30 March 2022 passed by the Section Officer, CT & GST Circle, Bhadrak under Section 74 of the CGST Act, for the tax periods July 2017 to March 2018, which was affirmed in first appeal by the Appellate Authority on 28 November 2023. The Assessee invoked writ jurisdiction before the Hon'ble HC of Orissa contending that although the remedy of second appeal under Section 112 of the GST Act, before the GST Appellate Tribunal was provided, such remedy could not be availed as the GSTAT had not been constituted and made functional. The Department of Revenue had subsequently issued Notification S.O. No. 4220(E) dated 17 September 2025 under Section 112(1) of the CGST Act notifying 30 June 2026 as the cutoff date for filing appeals where the impugned order was communicated before 01 April 2026, and a three-month limit thereafter for orders communicated on or after 01 April 2026. A User Advisory for the GSTAT e-Filing Portal was also issued prescribing staggered filing windows based on the date of filing of the first appeal in Form APL-01/03 or notice in RVN-01. The Revenue, while not disputing the earlier non-functionality of the GSTAT, insisted on strict compliance with the pre-deposit mandate under Section 112(8) of the CGST Act requiring payment of admitted tax in full and ten per cent of the disputed amount subject to a maximum of twenty crore rupees.

The issue before the Hon'ble HC was whether the writ petition could continue to be entertained when the GSTAT had since become functional and statutory timelines along with pre-deposit conditions under Section 112 of the CGST Act had been duly notified, and whether the Assessee could be permitted to bypass the statutory machinery by invoking writ jurisdiction.

The Hon'ble HC held that while it is no longer res

integra that the Writ Court can be approached assailing an order for which the forum of appeal is provided when such forum is not made functional or constituted, since the person cannot be rendered remediless, it is equally true that where conditions are attached to filing an appeal, the Writ Court must ensure strict compliance and a litigant cannot be permitted to steal a march by taking shelter under writ jurisdiction so as to take a departure from statutory provisions. The Hon'ble Court observed that the forum had now been made functional and

the period for filing appeal had been extended in a fragmented manner under the notification dated 17 September 2025 read with the User Advisory. Accordingly, the writ petition was disposed of with directions that the Assessee shall make the statutory pre-deposit as required under Section 112(8) of the CGST Act before the GSTAT, file the appeal within the timeline specified under the User Advisory, and the GSTAT shall entertain the appeal if found to be in order under Section 112 read with the relevant Rules.

Ghanashyama Sahoo v. Commissioner of CT & GST, HC of Orissa, W.P. (C) No. 16823 of 2025, decided on 23 March 2026

1.4 The statutory mandate of three personal hearings under Section 75(4) cannot be bypassed even if the assessee initially opts for 'No' personal hearing

The Assessee was issued a SCN on 16 October 2023 under the CGST Act, 2017, fixing the date of personal hearing on 06.11.2023 at 11 a.m. The Assessee filed reply in Form GST DRC-06 on 21 October 2023, opting "No" for personal hearing. The authority fixed only one date of personal hearing on 06 November 2023, and on the Assessee's non-appearance on the said date, the impugned adverse order was passed without granting any further opportunity. The Assessee challenged the order before the Hon'ble HC of Gujarat alleging breach of the statutory mandate of three opportunities of personal hearing under Section 75(4) of the CGST Act.

The issue before the Hon'ble HC was whether the option of "No" personal hearing exercised by the Assessee in Form GST DRC-06 could override the statutory mandate under Section 75(4) of the CGST Act of granting three opportunities of personal hearing



where an adverse decision is contemplated, and whether granting only a single hearing date prior to passing of an adverse order vitiates the proceedings on the ground of breach of natural justice.

The Hon'ble HC, on perusal of the Rojnama recording the proceedings, found that the Assessee had been granted opportunity of hearing only once. The State counsel categorically accepted that three personal hearings as envisaged under Section 75(4) of the CGST Act were not provided. The Hon'ble Court held that the option of "No" personal hearing taken by the Assessee in Form GST DRC-06 cannot override the effect of the statutory mandate under Section 75(4) of the Act. Where the authority did not accept the submissions made in the reply filed in Form GST DRC-06, it ought not to have decided the matter on the very first date of personal hearing and was bound to follow the mandate of Section 75(4) by granting opportunity of further hearing. Placing reliance on the coordinate Bench



decision in *Yadav Trailor Transport Co. v. UOI*¹⁹, which in turn followed the principle laid down in *Regent Overseas Pvt. Ltd.*²⁰, the Hon'ble Court reiterated that the proviso to sub-Section (5) of Section 75 envisages grant of not more than three adjournments, which translates to four dates

of personal hearing, and where a notice for personal hearing was not duly served and the adjudicating authority proceeded ex parte on the assumption of three adjournments, such order is in breach of the principles of natural justice.

The Hon'ble Court accordingly held that non-compliance with Section 75(4) vitiated the impugned order, which was quashed and set aside, and the matter was remanded to the respondent authorities to pass a fresh order within twelve weeks after affording adequate opportunity of hearing.

Shree Gurukrupa Tradelink (P.) Ltd. v. State of Gujarat, HC of Gujarat, R/Special Civil Application No. 6483 of 2024, decided on 18 March 2026

1.5 Bail is generally granted in CGST fraud cases where the maximum punishment is five years and the accused has undergone significant custody without trial

The Assessee, Aman Singhania and Aavesh Agarwal,

were prosecuted in 2© CC Case No. 51 of 2025 pending before the Court of the SDJM, Panposh, for commission of offences punishable under Section 132(1)(b), 132(1)(c), 132(1)(f) and 132(1)(i) of the CGST Act, on the main allegation of fraudulently availing ITC of approximately INR 92 Crores. The Assessee had been in custody since 28 November 2025, i.e. for around four months. The offences alleged were triable by Magistrate with maximum prescribed punishment of imprisonment for five years. The Assessee affirmed by way of affidavit that they had no criminal antecedents of similar nature, which was not disputed by the Revenue. Co-accused Subham Agarwal had already been granted interim protection in ABLAPL No. 1114 of 2026. Bail was sought under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

The issue before the Hon'ble HC of Orissa was whether the Assessee were entitled to be enlarged on bail in respect of offences under Section 132(1) of the CGST Act, 2017 punishable up to five years, having regard to the period of custody undergone, the absence of criminal antecedents, the grant of interim protection to the co-accused, and the absence of any extraordinary circumstance demonstrated by the Revenue.

The Hon'ble HC placed significant reliance on the decision of the Hon'ble Supreme Court in *Vineet Jain v. Union of India*²¹, wherein it was held in paragraph 4 that in cases involving such offences, in the normal course before the Trial Courts the accused should get bail unless there are some extraordinary circumstances. The Hon'ble Court observed that the offences alleged against the Assessee were akin to those alleged against the appellant in *Vineet Jain*, and that no material or document was produced by the Union of India to indicate any extraordinary circumstance warranting continued detention. Taking into consideration the fact that the offences were not punishable beyond five years, the Assessee had already been detained for around four months, no criminal antecedents had been reported, and following the binding guidelines laid down by the Hon'ble Supreme Court in *Satender Kumar Antil v. CBI*²², the Hon'ble Court without expressing any view on merits admitted each of the Assessee to bail on furnishing bail bonds of INR 5,00,000/- with two solvent sureties each for the like amount, on such terms and conditions as deemed fit by the Court in seisin of the case.

Aman Singhania v. Union of India, Hon'ble HC of Orissa, BLAPL No. 204 and 495 of 2026, decided on 18 March 2026 [TS(DB)-GST-HC(OR)-2026-417]

¹⁹ R/Special Civil Application No. 3027 of 2025, dated 16.10.2025

²⁰ 2017 (6) G.S.T.L. 15 (Guj.)

²¹ [TS-322-SC-2025-GST]

²² (2022) 10 SCC 51

1.6 Interim protection against coercive measures and blocking of electronic credit ledgers may be granted when the validity of limitation extensions under Section 168A is challenged

The Assessee, filed a writ petition before the Hon'ble HC of Bombay challenging the Notification dated 31 March 2023 and the Notification dated 28 December 2023 issued by the Central Government under Section 168A of the CGST Act, contending that Section 168A does not confer power to extend the time limit for passing orders under Section 73(4) of the CGST Act, and the said notifications are accordingly ultra vires. Pursuant to the extended timeline under the impugned notifications, an order dated 23 July 2024 was passed against the Assessee, consequent to which coercive measures including blocking of the electronic credit ledger under Rule 86A of the CGST Rules and attachment proceedings were initiated. The Assessee sought interim protection pending final disposal of the writ petition, drawing attention to the fact that the identical issue had earlier been admitted and interim protection granted by the same Hon'ble Court in similar matters.

The issue before the Hon'ble HC of Bombay was whether interim relief in the nature of stay of the impugned order and consequential coercive measures was warranted, in light of the challenge to the vires of the notifications issued under Section 168A of the CGST Act, and the precedential interim orders passed by the same Hon'ble Court in similarly placed matters.

The Hon'ble HC took note of the prior order of the coordinate Bench in *Shyam Udyog v. UOI*²³ wherein on a similar challenge to the Section 168A notifications the writ petition was admitted and interim protection was granted. Further, the recent order of the same Bench in *Rite Equipments (P.) Ltd. v. State of Maharashtra*²⁴, followed *Shyam Udyog* and granted similar interim relief. The Hon'ble Court was of the opinion that a similar course of action was required to be followed in the present proceedings. Accordingly, pending hearing and final disposal of the petition, the impugned order dated 23 July 2024 was stayed. As a consequence, all coercive measures adopted, namely the blocking of the electronic credit ledger of the Assessee under Rule 86A and the attachment, if any, also stood stayed and/or vacated. The petition was tagged for final hearing along with Writ Petition (L) No. 10058 of 2025 in *Shyam Udyog*.

Gulermak TPL Pune Metro Joint Venture v. Union of India, HC of Bombay, Writ Petition No. 493 of 2025, decided on 18 March 2026

²³ [TS-286-HC(BOM)-2025-GST]

²⁴ [TS(DB)-GST-HC(BOM)-2026-416]

1.7 An assessment order is liable to be quashed if the personal hearing is fixed on a date prior to the expiry of the time granted to file a reply

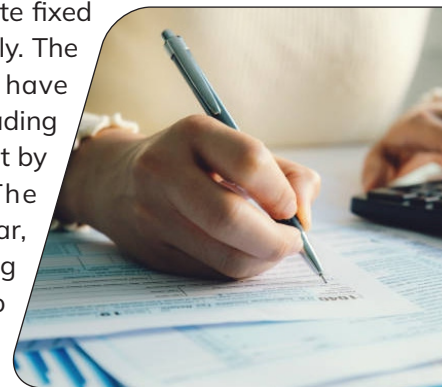
The Assessee, Abuturrab Agencies, was issued an SCN on 09 May 2024 under Section 73 of the CGST Act, whereby time was granted to the Assessee to submit its reply by 09 June 2024. By the very same notice, the date of personal hearing was fixed for 27 May 2024, i.e. on a date prior to the date fixed for submission of the reply. The notice was alleged to have been served only by uploading on the GST portal and not by any physical mode. The Assessee did not appear, and the assessing authority proceeded to pass the order dated 21 August 2024 under Section 73(9) of the GST

Act, confirming a demand along with interest and penalty. The Assessee challenged the said order before the Hon'ble HC of Uttarakhand, contending breach of the statutory mandate of an effective hearing.

The issue before the Hon'ble HC was whether the assessment order passed under Section 73(9) of the CGST Act could be sustained when the date of personal hearing was fixed earlier in time than the date by which the Assessee was permitted to file its reply to the show cause notice, thereby rendering the opportunity of hearing ineffective and in breach of Section 75 read with Section 169 of the CGST Act.

The Hon'ble HC placed reliance on the coordinate Bench decision in *Modine Thermal Systems (P.) Ltd. v. State of Uttarakhand*, wherein on a conjunctive reading of Sections 73, 74 and 75 of the CGST Act, it was held that Section 75(4) entitles the Assessee to a personal hearing where any adverse decision is contemplated, and sub-Section (5) thereof, succeeding sub-Section (4), provides for grant of adjournments not exceeding three times during the proceedings, and that where the statute stipulates a matter to be performed in a particular manner, the same shall be performed in that manner only. The counsel for the Revenue was not in a position to dispute that since the date of personal hearing was fixed prior to the date of submission of reply, the personal hearing allegedly afforded was not effective and resulted in breach of the principles of natural justice.

²⁵ [TS-402-HC(UTT)-2025-GST]



Consequently, the Hon'ble Court held that the assessment order could not be sustained, quashed the same, and remitted the matter back to the Assessing Officer to proceed afresh from the stage of the show cause notice, grant opportunity to the Assessee to file its reply, and thereafter fix a date for personal hearing in accordance with law.

Abuturrab Agencies v. Commissioner, State Tax, HC of Uttarakhand, [TS(DB)-GST-HC(UTT)-2026-415]

2. GST – Notification

2.1 Goods and Services Tax Settlement of Funds Rules, 2026, have been notified vide Notification G.S.R. 225(E) [F. NO. S-31011/96/2025-ST-I-DOR] dated 30 March 2026

The Central Government, on the recommendation of the GST Council, has, in exercise of the powers conferred by Section 164 read with Sections 53 and 53A of the Central Goods and Services Tax Act, 2017 and Sections 17, 17A, 18 and 22 of the Integrated Goods and Services Tax Act, 2017, notified the Goods and Services Tax Settlement of Funds Rules, 2026, in supersession of the Goods and Services Tax Settlement of Funds Rules, 2017 (except as respects things done or omitted to be done before such supersession). The new Rules are deemed to have come into force with effect from 01.04.2025.

The Rules prescribe a comprehensive framework for electronic transmission of settlement reports by the common portal to the Authorities (i.e. the Board, the State Tax Nodal Authority, the Principal Chief Controller of Accounts, CBIC and State Accounting Authorities) by the 25th of the month in which GST returns are furnished, with appropriate provision where the said date is a holiday or where the date of filing of return is itself extended.

Key Provisions:

- **Standardized Forms:** The rules introduce a comprehensive suite of reporting forms (FORM GST STL-1.01 to GST STL-7.02) to track the monthly cross-utilization of Integrated Tax (IGST) for the payment of Central Tax (CGST) and State Tax (SGST), and vice versa.
- **Apportionment and Recovery:** Specific protocols are established for the apportionment of tax in complex scenarios, including inter-State inward supplies where ITC remains un-availed, cases where the place of supply is unidentifiable, and recoveries made against demand orders or during appeal proceedings.

- **Discrepancy Resolution:** A strict timeline is set for reconciliation. State and Central Accounting Authorities must reconcile data by the 20th of the month following the report. The RBI is designated to execute the final fund settlement between the Consolidated Fund of India and the respective State Funds based on the 'Clearance Memo' generated by the Central Accounting Authority.
- A separate three-month reconciliation timeline has also been prescribed for discrepancies in respect of lists generated under the Standard Operating Procedure framed under the Rules.

Customs – Case Laws

1. Reclassification of imported goods from Mineral Spirit to HSD cannot be sustained on test report covering only 6 out of 21 parameters required under BIS IS 1460:2005

The Assessee imported petroleum products declaring them as “Mineral Spirit” and classifying the goods under CTH 2710 1990. Acting on intelligence received by the DRI suggesting that the Assessee was involved in smuggling diesel under CTH 2710 1930 by mis declaring it as Mineral Spirit, samples of the imported goods were drawn and tested at the Customs Laboratory. The laboratory tested the samples against only 6 parameters – density at 15°C (0.8350 g/cc), flash point (PMCC) exceeding 66°C, kinematic viscosity at 40°C (3.5 CST), distillation v/v recovered at 350°C (90%), ash (Nil), and inorganic acidity (Nil) – and reported that the samples were other than Mineral Spirit and could be considered as Diesel Oil. Relying on this report, the adjudicating authority reclassified the goods as High Speed Diesel (HSD) under CTH 2710 19 30 and confirmed the demand.

The Tribunal set aside the reclassification, holding that since the Customs Laboratory had tested only 6 of the 21 parameters as required under Supplementary Note (e) to Chapter 27 and BIS IS 1460:2005, and the distillation percentage recovered at 360°C (95%) was not met (the test report showing only 90%), the reclassification could not be sustained. The Department appealed before the Hon'ble Supreme Court.



The issue before the Hon'ble Supreme Court was whether the reclassification of the imported goods from Mineral Spirit under CTH 2710 19 90 to HSD under CTH 2710 19 30, based on a test report that did not cover all the parameters prescribed under BIS IS 1460:2005, could be sustained.

The Hon'ble Supreme Court, following its earlier decision in *Gastrade International v. Commissioner of Customs, Kandla*²⁶, held

that there was no good ground or reason to interfere with the CESTAT's order. The Department's appeal was accordingly dismissed, thereby affirming that reclassification on the basis of an incomplete laboratory test covering only a fraction of the parameters prescribed under the relevant BIS standard is

legally unsustainable.

Additional Director General (Adjudication) v. N.V. Rambabu, Supreme Court of India, Civil Appeal Diary No. 10390 of 2026, decided on 20 March 2026

2 SEZ to DTA clearances of laptops, desktops and monitors are not classifiable under Heading 9804 as "goods imported for personal use"; IGST liability does not render goods "dutyable" under Section 2(14) of the Customs Act

The Assessee operated a SEZ unit in Kancheepuram engaged in the manufacture and sale of IT products including laptops, desktops and monitors. The Assessee cleared these goods from its SEZ unit to individual customers in the Domestic Tariff Area, classifying laptops under CTH 8471 3010, desktops under CTH 8471 5000, and monitors under CTH 8528 5200, with IGST discharged at 18%. Following a post-clearance audit, the Department issued a SCN seeking reclassification of the subject goods under CTH 9804 9000 as "dutyable goods imported for personal use", proposing a differential duty demand of INR 82.78 Crores along with interest, confiscation under Sections 111(m) and 111(o), and penalty under Section 112(a) of the Customs Act, 1962. The Principal Commissioner of Customs, Chennai, vide order dated 12 July 2023 confirmed the demand, reasoning that the goods were cleared to individuals for personal use and were "dutyable" because IGST at 18% was applicable.

The issues before the Tribunal was whether the subject

goods cleared from SEZ to DTA were classifiable under CTH 9804 as "dutyable goods imported for personal use" or under their respective specific CTH 8471 and 8528; whether the levy of IGST rendered the goods "dutyable goods" within the meaning of Section 2(14) of the Customs Act; and whether the adjudicating authority had jurisdiction under the SEZ Act, 2005 and SEZ Rules, 2006 to impose interest, penalty, and order confiscation.

The Tribunal after hearing the parties, held that for goods to be classifiable under Heading 9804, three conjunctive conditions must be satisfied – the goods must be "dutyable", they must be "imported", and such import must be for "personal use". On the first condition, the Tribunal held that the term "duty" under Section 2(15) read with Section 2(14) refers only to duty leviable under the Customs Act, and the levy of IGST under Section 5(1) of the IGST Act read with Section 3(7) of the Customs Tariff Act, does not render goods "dutyable". Relying on the Hon'ble Supreme Court's decision in *Associated Cement Companies Ltd. v. Commissioner of Customs*²⁷, the Tribunal held that where goods are not subject to duty by virtue of a free rate or an exemption, they cannot be regarded as "dutyable goods". Since laptops and desktops carried a free rate of duty, and monitors were exempted under Serial No. 17 of Notification No. 24/2005-Cus. dated 01 March 2005, the goods were not "dutyable". On the second condition, the Hon'ble Tribunal held that "personal use" under CTH 9804 connotes use by the importer himself, and not by a downstream customer. Goods manufactured by the Assessee and sold to customers in the ordinary course of business cannot be characterised as "baggage" or goods imported for the importer's personal use. Relying on the Hon'ble Supreme Court's decision in *Adani Power Ltd. v. Union of India*²⁸, the Hon'ble Tribunal further observed that Section 30 of the SEZ Act, 2005 does not extend the legal fiction to create a customs levy that would not otherwise exist, and the customer cannot be deemed the importer. On the burden of proof, the Hon'ble Tribunal held that when the Revenue disputes a declared classification, the burden lies on the Revenue not only to establish that the declared classification is wrong but also to justify the proposed reclassification. The Revenue had failed to discharge this burden. On jurisdiction, the Hon'ble Tribunal held that while Section 30 of the SEZ Act provides for levy of Customs duty on SEZ-DTA clearances, it does not provide a recovery mechanism, and any recovery invoking the SEZ Act without following the machinery under Section 28 of the Customs Act is barred under Article 265 of the Constitution. Under Rule 47(5) of the SEZ Rules, 2006,

²⁶ [TS-244-SC-2025-CUST]

²⁷ [2001 (128) E.L.T. 21 (S.C.)]

²⁸ [TS-1-SC-2026-CUST]

the jurisdictional Customs and Central Excise authorities are empowered only to deal with Refund, Demand, Adjudication, Review and Appeal. The SEZ Act does not provide for levy of interest, penalty, or confiscation, and relying on *Commissioner v. Inter Globe Aviation Ltd.*²⁹ and *Maithan Alloys Limited v. Union of India*³⁰, the Hon'ble Tribunal held that the adjudicating authority's levy of penalty, charging of interest and order of confiscation was a stark violation of the SEZ framework. The appeal was allowed with consequential relief.

Dell International Services India Pvt. Ltd. v. Principal Commissioner of Customs, Chennai, CESTAT, South Zonal Bench, Chennai, Final Order No. 40372/2026 in Appeal No. C/40646/2023, decided on 17 March 2026

Relevant Customs Notifications, Circulars & Instructions

1. Circular No. 18/2026–Customs dated 1 April 2026

The CBIC has issued this circular mandating faceless assessment for Bills of Entry filed by SEZ units for goods manufactured and cleared to the DTA under concessional rate of duty in terms of Notification No. 11/2026–Customs dated 31 March 2026.

The notification extends concessional duty benefits to eligible SEZ manufacturing units for DTA clearances, subject to prescribed conditions including the filing of Bills of Entry for home consumption on the common portal and their assessment by the proper officer under Section 2(34) of the Customs Act, 1962, read with Rule 47(4) of the SEZ Rules, 2006. The provisions mandate that valuation and assessment of goods cleared into DTA shall follow the Customs Act and Rules and that the Board has decided that corresponding Bills of Entry will be routed through the Risk Management System and assigned by the Customs Automated System to faceless assessment officers.

The existing procedure for filing of Bills of Entry by SEZ units and all compliance requirements under the SEZ Act and SEZ Rules, 2006 remain unchanged, and the specific conditions under Notification No. 11/2026–Customs must be followed to avail the concessional rate. Post-assessment formalities such as examination, out-of-charge, and other functions not related to assessment will continue to be handled by the jurisdictional specified officer or authorised officer at the SEZ location. Trade grievances may be addressed through the ICEGATE Helpdesk, which will forward matters to the Turant Suvidha Kendras.

²⁹ [TS-58-SC-2026-CUST]

³⁰ [TS-677-HC(AP)-2023-GST]

2. Circular No. 17/2026–Customs dated 31 March 2026

The CBIC has issued this circular to enable ease of doing business for e-commerce and courier operations, introducing three key reforms. The earlier value cap of INR 10 lakhs for commercial export consignments through courier mode have been removed by amending the Courier Imports and Exports (Electronic Declaration and Processing) Regulations, 2010 and the Courier Imports and Exports (Clearance)

Regulations, 1998 vide Notification Nos. 33/2026-Cus (NT) and 34/2026-Cus (NT) dated 31 March 2026.

Further, the Return to Origin (RTO) has been permitted for uncleared or unclaimed imported goods lying at International Courier Terminals for more

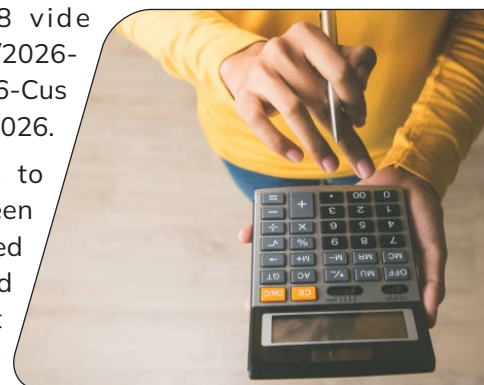
than 15 days, provided

the goods are not prohibited, restricted or intercepted by any enforcement agency. The procedure requires the Authorised Courier to make a request to the jurisdictional DC/AC, execute a new Airway Bill, file Courier Shipping Bill IV (CSB IV), and upload the original invoice, Customs permission, and old and new AWBs in the Express Cargo Clearance System. Necessary amendments to Section 84 of the Customs Act have been made vide the Finance Act, 2026 to enable RTO.

The process of re-importing returned and rejected goods in courier mode, including e-commerce returns, has been simplified through a risk-based approach. Notification No. 45/2017-Customs dated 30 June 2017, which previously required verification that re-imported goods were the same as those exported, has been amended via Notification No. 08/2026-Customs dated 30.03.2026, with corresponding changes made to Courier Bill of Entry – XIV (CBE XIV). DG Systems has developed a separate “Return Module” in the ECCS to facilitate courier returns and rejects.

3. Circular No. 16/2026–Customs dated 30 March 2026

The CBIC has extended the transitional provisions of the Sea Cargo Manifest and Transshipment Regulations (SCMTR), 2018, issued vide Notification No. 38/2018-Customs (N.T.) dated 11 May 2018, until 30 June 2026 vide Notification No. 31/2026-Customs (N.T.) dated 30 March 2026. The Board has noted that SCMTR



messages relating to cargo movement between gateway ports and foreign ports (both arrival and departure) have been successfully implemented across the country and Stuffing (SF) messages are operational at all sites, although uniformity in filing SF messages is yet to be achieved.



Since certain messages are still under development and require comprehensive testing across ICDs, CFSs, SEZs and gateway ports, the extension has been granted. During this period, stakeholders must file complete and correct declarations electronically in the prescribed format, and Chief Commissioners of Customs are to conduct weekly outreach programs in coordination with DG Systems to ensure smooth implementation.

4. Circular No. 14/2026–Customs dated 27 March 2026

The CBIC has clarified that self-sealing permission granted to eligible exporters and merchant exporters under Circular No. 26/2017–Customs dated 01 July 2017 read with Circular No. 36/2017–Customs dated 28 August 2017 does not carry any prescribed validity period. Once granted, the permission continues to remain valid unless specifically withdrawn, suspended, or cancelled by the jurisdictional Customs authority on grounds of non-compliance, misuse, or any other valid reason. Field formations have been directed to extend the facility in a facilitative manner while maintaining necessary checks, and to address any instances of misuse by withdrawing the facility where warranted.

5. Notification No. 30/2026–Customs (N.T.) dated 24 March 2026 & Circular No. 13/2026–Customs dated 24 March 2026

The CBIC has amended the Customs (Electronic Cash Ledger) Regulations, 2022 ('ECL Regulations') to enhance the payment mechanism for customs duties and hence introduced the Payment Aggregator mode on the ICEGATE e-Payment platform as an additional authorised mode for payment of customs duty, supplementing the existing modes of internet banking through authorised banks and NEFT/RTGS through RBI. For the first time, customs duty payment is now permitted through credit card, debit card, or Unified Payment Interface (UPI). Internet banking through the

Payment Aggregator mode extends coverage to 41 banks, significantly expanding the 23-bank network previously available under direct integration.

As per the Explanation to Regulation 3 of the ECL Regulations, any commission payable to the bank will be borne by the person making the deposit. Currently, ICICI, IOB, SBI, and HDFC banks have been onboarded, with additional banks to be added upon completion of testing. Necessary legal changes have been carried out in the ECL Regulations vide Notification No. 30/2026–Customs (N.T.) dated 24 March 2026, which amends Regulation 3 to insert clause (d) "through payment aggregator" in sub-regulation (6) and to add corresponding language in sub-regulation (7). A user manual has been uploaded on the ICEGATE platform for ease and reference.

6. Circular No. 11/2026–Customs dated 16 March 2026

The CBIC has issued this circular as a one-time facilitation measure to permit the import of pet dogs and pet cats accompanying stranded Indian nationals returning from war-hit Middle East countries, based on the Office Memorandum dated 12 March 2026 issued by the Department of Animal Husbandry and Dairying. The relaxation acknowledges that pre-export formalities ordinarily required for import of pets may not be fulfilled due to the extraordinary situation.

Pre-import conditions require the owner to declare that the pet has been residing with him or her for at least one month and to produce a vaccination certificate, pet book, or pet passport indicating the vaccination history. Post-import, the Animal Quarantine and Certification Services will grant clearance at the airport after examination of documents and clinical examination. Pets arriving without a veterinary health certificate or with delayed vaccinations exceeding 15 days will be vaccinated for rabies at the port of entry at the owner's cost. In case of abnormal findings during clinical examination, the pet will be quarantined at AQCS with all expenses borne by the owner. The DAHD has clarified that this facilitation is a one-time measure and will not be treated as a precedent.

7. Instruction No. 2/2026–Customs dated 19 March 2026

The CBIC has directed all field formations to scrupulously comply with the Hon'ble Delhi HC's order dated 13 February 2025 in WP (C) No. 9461/2023 concerning duty drawback on the export of unlocked mobile handsets by merchant exporters. The said order

has been upheld by the Hon'ble Supreme Court vide order dated 18 July 2025 in SLP Diary No. 30758/2025, and the review petition has also been dismissed by the Hon'ble Supreme Court vide order dated 29.01.2025 in Review Petition (Civil) Diary No. 69677/2025. Field formations must ensure compliance with the judicial directions.

IV. REGULATORY UPDATES

A. IFSC

1. Framework for Preferential Issues and Qualified Institutions Placement in IFSC

Circular / Notification	F. No. IFSCA-PLNP/16/2024-Capital Markets
Date	22 April 2026
Effective From	Immediate effect

The International Financial Services Centres Authority (IFSCA) has issued a framework governing preferential issues and Qualified Institutions Placements (QIP) under the IFSCA (Listing) Regulations, 2024. This circular applies to listed entities whose specified securities are listed solely on recognised IFSC stock exchanges, excluding issuers with secondary listings.

Key Features of the Framework:

- **Eligibility Conditions:** Issuers must have no outstanding dues to the Authority, stock exchanges, or depositories. Securities must be fully paid-up at allotment, and prior shareholder approval and in-principle stock exchange approval are mandatory.
- **Tenure of Convertible Securities:** Capped at 18 months (preferential issue) and 60 months (QIP) from the date of allotment.
- **Warrant Payment Terms:** A minimum of 25% consideration is payable upfront at allotment; the remaining 75% is due upon exercise. Unexercised warrants result in forfeiture of the upfront payment.
- **Preferential Issue — Additional Requirements:** Mandatory disclosures include objects of the issue, pricing basis (supported by a valuation report), beneficial ownership details, and post-issue shareholding pattern. A lock-up of six months applies to allotments made to promoters and controlling shareholders.
- **QIP — Additional Requirements:** One or more IFSCA-registered investment bankers must be appointed as lead managers. Placement

documents must be circulated only to select investors and hosted on stock exchange and issuer websites with a prescribed disclaimer.

2. Framework for Rights Issues under the IFSCA (Listing) Regulations, 2024

Circular / Notification	F. No. IFSCA-PLNP/16/2024-Capital Markets
Date	22 April 2026
Effective From	Immediate effect

The IFSCA has issued a framework governing rights issues by listed entities under the IFSCA (Listing) Regulations, 2024. The circular applies to entities whose specified securities are listed solely on recognised IFSC stock exchanges, excluding issuers with secondary listings. Issuers whose equity shares are suspended from trading as a disciplinary measure are not eligible.

Key Features of the Framework:

- **Record Date & Pricing:** The issuer must announce a record date for determining eligible shareholders and fix the issue price prior to such determination. Withdrawal after record date announcement disqualifies the issuer from seeking fresh listings for six months.
- **Rights Entitlements (REs):** REs must be credited to shareholders' demat accounts before issue opening. Both on-market and off-market renunciation of REs is permitted. All allotments must be made in dematerialised form only.
- **Subscription & Allotment:** The issue must remain open for a minimum of seven days. Allotment must be completed within eight working days from issue closure, following a prescribed order of priority among eligible shareholders, renounces, and disclosed specific investors
- **Post-Issue Obligations:** A post-issue report must be submitted to recognised stock exchanges within fifteen working days of issue closure. Promoter/controlling shareholder transactions during the offer period must be reported within twenty-four hours.



3. Guidelines on Cyber Security and Cyber Resilience for Market Infrastructure Institutions (MIIs) in IFSC

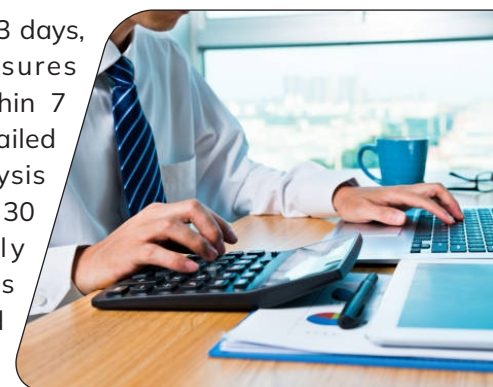
Circular No.	IFSCA-CSD/MS/2/2026-DCS
Press Release Date	20 April 2026
Circular Date	20 April 2026
Effective From	01 April 2026

The IFSCA has issued comprehensive, prescriptive cybersecurity guidelines for Market Infrastructure Institutions (MIIs) — comprising Stock Exchanges (including the Bullion Exchange), Clearing Corporations, and Depositories — in GIFT IFSC. Building upon the baseline cybersecurity framework issued for all Regulated Entities on March 10, 2025, these guidelines prescribe a heightened and more granular set of obligations, recognising the systemic criticality of MIIs. The framework is structured around seven core functions: Govern, Identify, Protect, Detect, Respond, Recover, and Resilience.

Key Features:

- **Board-Level Governance:** MIIs must formulate a Board-approved Cyber Security and Cyber Resilience Policy. A dedicated Chief Information Security Officer (CISO), reporting directly to the MD/CEO, must be appointed. The Standing Committee on Technology (SCOT) shall review policy implementation bi-annually.
- **Post-Quantum Cryptography (PQC):** MIIs must conduct annual Cryptographic Risk Assessments and establish roadmaps for adopting PQC standards (e.g., NIST FIPS 203, 204, and 205) to future-proof critical systems against quantum computing threats.
- **Access Controls & Network Security:** System access must follow the Principle of Least Privilege (PoLP) with a maker-checker mechanism for critical systems. MIIs must implement Defense-in-Depth architecture, network segmentation, application whitelisting, and enterprise-wide email security controls.
- **24x7 Cyber Security Operations Centre (C-SOC):** MIIs must maintain a round-the-clock C-SOC with contingent capabilities at Disaster Recovery sites, and implement User and Entity Behaviour Analytics (UEBA) for advanced threat detection.
- **Incident Response & Reporting:** Any cyber incident must be notified to IFSCA and CERT-In within 6 hours of detection. An interim report must be

submitted within 3 days, mitigation measures implemented within 7 days, and a detailed root cause analysis submitted within 30 days. Quarterly incident reports must be submitted to IFSCA within 15 days of each quarter-end.



- **Third-Party Risk Management:** A risk-based approach to third-party and supply chain risk is mandated, including concentration risk management and contractual cybersecurity obligations for all Critical Service Providers (CSPs).
- **Periodic Audit & ISO Certification:** Cyber security audits must be conducted annually by CERT-In empanelled auditors, with audit reports submitted to IFSCA within 120 days of financial year-end. All MIIs must obtain ISO 27001 certification within two years of issuance of these guidelines.

4. Governance and Oversight of Schemes in IFSC — Segregation of the Role of Fiduciaries

Circular / Notification	F. No. IFSCA-IF-10PR/7/2024-Capital Markets/10042026
Date	10 April 2026
Effective From	Immediate effect

The IFSCA has issued a clarification to Fund Management Entities (FMEs) regarding the segregation of fiduciary roles under the IFSCA (Fund Management) Regulations, 2025. Fiduciaries include trustees (for trust-structured schemes), board of directors (for company-structured schemes), and designated partners (for LLP-structured schemes).

Key Features:

- **Conflict of Interest Prohibition:** An FME shall not appoint an entity serving as a fiduciary to a scheme to also provide fund administration, valuation, audit, or lending/financing services to that same scheme — either directly or through an associate.
- **Basis in Existing Regulations:** The clarification draws from Regulation 17(2), which mandates fiduciary appointments, and Regulation 17(5), which requires fiduciaries to exercise independent professional judgment and due diligence as per the Third Schedule Code of Conduct.

- **Compliance Deadline for Existing Schemes:** FMEs with schemes already taken on record or filed with the Authority as of the date of this circular must align with these requirements by 30 September 2026.

5. Reporting Norms for Capital Market Intermediaries in IFSC

Circular / Notification	F. No. 1/IFSCA/CMI Supervision/2023-24
Date	08 April 2026
Effective From	01 April 2026

The IFSCA has revised and superseded the earlier circular dated February 08, 2024, updating the quarterly reporting norms for Capital Market Intermediaries (CMIs) in IFSC. The revision incorporates new CMI categories introduced under the IFSCA (Capital Market Intermediaries) Regulations, 2025, including Global Access Provider, Credit Rating Agency, ESG Ratings and Data Products Provider, and Research Entity.

Key Features:

- **Quarterly Report Structure:** All CMIs must submit a common set of sheets (General Information, Complaint Handling, V-CIP Reporting, AML/CFT/KYC Compliance, and a signed undertaking), along with registration-specific sheets applicable to their category. Reports must be submitted in editable Excel format.
- **AML/CFT/KYC Compliance Sheet:** To be submitted half-yearly — specifically with the quarterly reports for July–September and January–March quarters.
- **Submission Channels:** Broker Dealers, Clearing Members, and Depository Participants must submit reports to their respective Market Infrastructure Institutions (MIIs). All other CMIs must submit directly to IFSCA within 21 calendar days from the end of each quarter.
- **Newly Registered CMIs:** Must submit their first quarterly report from the date of registration to the end of that quarter, within 21 calendar days of quarter-end.
- **Supersession:** This circular supersedes the February 08, 2024 circular with effect from April 01, 2026. CMIs must submit their March 31, 2026 quarter report under the earlier circular.

6. Consultation Paper on Mapping of SAC Codes and Introduction of Foreign Currency Expense Reporting for IFSC Units

Consultation Paper	IFSCA (SERF & MPR)
Date	08 April 2026
Comments were required to be shared by	29 April 2026

The IFSCA has released a consultation paper proposing standardisation of Service Accounting Codes (SAC) for revenue reporting under the Service Exports Reporting Form (SERF) and the introduction of foreign currency expense reporting under the Monthly Performance Report (MPR) for IFSC units. The objective is to enable consistent, comparable, and analytically useful reporting of foreign currency value creation across the IFSC ecosystem.

Key Proposals:

- **SAC Code Standardisation:** A sector-wise indicative mapping of existing GST-framework SAC codes to financial services and income streams of IFSC units is proposed, covering banking, capital markets, fund management, insurance, finance companies, fintech, and ancillary services. No new SAC codes are being created.
- **Foreign Currency Expense Reporting:** A new field — "Expenses (paid in foreign currencies, converted into USD)" — is proposed to be introduced in the MPR format to capture aggregate monthly foreign currency expenses across all IFSC unit categories.
- **Net Value Estimation:** Foreign currency value creation (FCVC) will be derived as: **FCVC = Gross Foreign Currency Revenues (FCGR) – Foreign Currency Expenses (FCEXP)**, enabling sectoral and system-wide analysis.
- **Scope Clarification:** The proposals do not involve creation of new SAC codes, changes to tax treatment, or determination of any liability or incentives.



Stakeholders are invited to submit comments by **April 29, 2026** to dept-epa@ifsc.gov.in.

7. Grant of Qualifying Central Counterparty (QCCP) Status to IIBX in GIFT IFSC

Press Release Dated 25 March 2026

The IFSCA has granted Qualifying Central Counterparty (QCCP) status to India International Bullion Exchange (IIBX) Limited (IIBX) operating in GIFT IFSC. IIBX holds recognition under the Securities Contracts (Regulation) Act, 1956, read with the IFSCA Act and IFSCA (Bullion Market) Regulations, 2025, to function as both a Bullion Exchange and a Bullion Clearing Corporation.

Key Features:

- **QCCP Recognition:** IIBX's clearing corporation has qualified as a QCCP, being regulated by IFSCA under the IFSCA Act, 2019, and applicable rules and regulations.
- **PFMI Alignment:** IIBX is governed by rules and regulations aligned with the Principles for Financial Market Infrastructures (PFMIs) issued by CPMI and IOSCO in April 2012, which aim to enhance safety and efficiency in clearing and settlement arrangements and limit systemic risk.
- **Systemic Importance:** IIBX is designated as a Market Infrastructure Institution (MII) by IFSCA, recognising its systemic importance in GIFT IFSC, and is subject to regulation and supervision within the PFMI framework.

8. Support for Alternative Trade Instruments under Export Promotion Mission (EPM) — Niryat Protsahan

Circular / Notification	F. No. IFSCA-FCR0ITFS/3/2025-Banking
Date	19 March 2026
Effective From	19 March 2026

The IFSCA has directed all IFSC Banking Units (IBUs) and Finance Companies/Units (FC/FUs) undertaking factoring activities to extend benefits under the Government of India's Niryat Protsahan scheme, announced by DGFT vide Trade Notice No. 25/2025-26 dated February 20, 2026. The scheme operates on a pilot basis and aims to improve access to export finance for MSMEs involved in international value chains.

Key Features:

- **Eligible Instruments:** Both recourse and non-recourse export factoring arrangements, denominated in Indian Rupees or freely convertible

foreign currencies, are covered under the scheme.

- **Eligible Counterparties:** Factoring arrangements must be between eligible MSMEs involved in international value chains and RBI- or IFSCA-regulated entities.
- **Benefits to be Extended:** Eligible financial institutions must provide interest subvention or equivalent cost support on the export factoring interest cost element to eligible MSME exporters, in accordance with the scheme's provisions.
- **Compliance Obligations:** Eligible financial institutions must adhere to all operational requirements under the scheme, including claim submissions, reporting obligations, and prescribed timelines.

9. Consultation Paper on Proposed Regulatory Framework for Trust and Company Service Providers (TCSPs) and Special Purpose Vehicles (SPVs) for Leasing Activities in IFSC

Circular / Notification	Consultation Paper — IFSCA
Date	17 March 2026
Comments were required to be shared by	06 April 2026

The IFSCA has released a consultation paper proposing a regulatory framework for Trust and Company Service Providers (TCSPs) under the IFSCA (TechFin and Ancillary Services) Regulations, 2025, and Special Purpose Vehicles (SPVs) under the IFSCA (Finance Company) Regulations, 2021, to strengthen the leasing ecosystem — particularly aircraft leasing — in IFSC, and align it with global jurisdictions such as Ireland, Singapore, and the UAE.

Key Proposals:

- **TCSP Framework:** TCSPs must obtain registration from IFSCA, valid for five years. Permissible services include entity formation, provision of registered office, and acting as trustee, director, nominee shareholder, or designated partner for SPVs undertaking leasing activities. Services must be conducted as a distinct, separately identifiable business unit.
- **Eligibility & Fit and Proper Requirements:** TCSPs must be incorporated in IFSC as a company or LLP. Promoters must not be from FATF high-risk jurisdictions. Principal and Compliance Officers must be full-time IFSC-based employees with prescribed qualifications and experience.

- **SPV Framework:** SPVs registered as Finance Companies under IFSCA may undertake leasing or financing activities as permitted by the Authority. Minimum owned fund requirements are aligned with paid-up share capital requirements under the Companies Act, 2013.
- **Governance & AML/CFT:** TCSPs must maintain robust governance frameworks, segregation of duties, risk-based client acceptance policies, beneficial ownership records, and AML/CFT compliance, with records retained for a minimum of five years.
- **Supervision & Reporting:** TCSPs are subject to on-site and off-site supervision by IFSCA and must submit monthly reports, quarterly compliance certificates, and such other information as specified by the Authority.

B. SEBI

1. SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015- Relaxation from the applicability on non-compliance with the Minimum Public Shareholding (MPS) requirements

Circular / Notification	Circular No. HO/49/14/14(13)2026-CFD-POD2/I/8772/2026
Date	07 April 2026
Effective From	07 April 2026

The Securities and Exchange Board of India (SEBI), vide its circular, has provided a one-time relaxation to listed entities in relation to non-compliance with the Minimum Public Shareholding (“MPS”) requirements.

As per the SEBI Master Circular dated July 11, 2023, stock exchanges and depositories are required to

initiate certain penal actions against listed entities failing to meet MPS requirements, including imposition of fines, freezing of promoter shareholding, and other consequential measures.

However, SEBI considering the capital market volatility arising from ongoing geopolitical tensions in the Middle East the noted that

listed entities are facing challenges in achieving compliance with MPS norms.

In view of the above and considering representations received from industry bodies, SEBI has granted a one-time relaxation from the applicability of penal provisions under the Master Circular for entities whose due date for compliance with MPS requirements falls during the period April 1, 2026 to September 30, 2026. Accordingly the recognised stock exchanges and depositories have been advised not to initiate any penal action against such entities for non-compliance with MPS requirements during the aforesaid period. Further, any penal actions already initiated during the period from April 1, 2026 till the date of the circular shall be withdrawn.

2. Review of requirement relating to registration for a Not for Profit Organization on Social Stock Exchange (SSE) and minimum subscription requirement for issuance of Zero Coupon Zero Principal Instruments

Circular / Notification	Circular No. HO/49/14/(10)2026-CFD POD1/ I/ 9380/ 2026
Date	15 April 2026
Effective From	15 April 2026

In order to promote the Social Stock Exchange (SSE) and to facilitate ease of fund raising and encourage greater participation by Not for Profit Organizations (NPOs) on SSE, SEBI in consultation with the Social Stock Exchange Advisory Committee (SSEAC) has recommend the following changes under the SSE framework:

1. Extension for registration of Not for Profit Organizations from two years to three years without undertaking fund raising through SSE.
2. The minimum subscription threshold for issuance of Zero Coupon Zero Principal (ZCZP) Instruments has been reduced from 75% to 50%, provided that, the SSE shall prior to granting in-principle approval for such partial fund raising, undertake due-diligence to satisfy themselves that the funds raised towards the object(s) are capable of being deployed in a meaningful manner, taking into consideration the subscription scenarios disclosed in the Fund Raising Document.

These amendments aim to enhance flexibility in fundraising while ensuring accountability and effective utilization of funds for social impact.



C. IBC

1. CoC may conduct multiple e-challenge rounds even after highest bid is declared- Regulation 39(1A)(b) imposes no numerical cap

Background

Future Enterprises Limited is undergoing CIRP before NCLT Mumbai. Its assets were divided into three clusters, with Cluster 3 attracting two resolution applicants - Orissa Metaliks Pvt. Ltd. (OMPL) and Uniworth Finlease Ltd. After a protracted first round of litigation (which travelled up to the NCLAT), the CoC was permitted to conduct an e-challenge mechanism, which was duly held on 18.07.2025. OMPL emerged as the highest bidder at INR 148 crore against Uniworth's INR 146 crore -a remarkable jump from their original bids of INR 30 crore and INR 15.10 crore respectively. Despite this, the CoC, at its 38th meeting, resolved to conduct a second e-challenge, characterising the first as "sub-optimal." OMPL challenged this decision before the NCLT.

Issues

I. Does a second e-challenge violate Regulation 39(1A) of the CIRP Regulations?

The Tribunal held no. The restriction "not more than once" appears only in clause (a) of Regulation 39(1A) - which governs plan modification by the RP -and is

conspicuously absent from clause (b), which governs the challenge mechanism. The Tribunal refused to read in words omitted by the legislature. Crucially, Regulation 39(1A) addresses the RP's role; it does not fetter the CoC's independent powers.

Reliance was placed on *Vistra*

ITCL v. Torrent Investments [2023 SCC OnLine NCLAT 110] and *Sagar Stone Industries v. Sajjan Kumar Dokania* [CA (AT)(Ins) No. 524/2025], both of which affirm that the CoC retains unfettered negotiating powers even after a challenge mechanism concludes.

II. Was the CoC's decision arbitrary or contrary to the Code's objectives?

Again, no. The RFRP conferred wide and explicit discretion on the CoC to negotiate, adopt any process (including multiple challenge rounds), and even annul the entire process. OMPL, having submitted its plan, was bound by the RFRP's terms. The Tribunal also declined to equate the insolvency resolution process

with a public auction -rejecting OMPL's reliance on *Golden Food Products v. State of UP* [CA Nos. 56-57/2026] and *Eva Agro Feeds v. PNB* [(2023) 10 SCC 189] on the ground that those cases arose from public auction contexts, not IBC negotiations. Reiterating the primacy of commercial wisdom, the Bench cited the Supreme Court's recent observation in *Torrent Power v. Ashish Rathi* (27.02.2026) that neither the NCLT, nor the NCLAT, nor the Supreme Court may substitute its assessment for that of a CoC majority. The Tribunal also noted that until a resolution plan is formally approved by the CoC, no restriction arises on further negotiations -following *AMTEK Auto* [(2021) 4 SCC 457] and *Ebix Singapore* [2021 SCC OnLine SC 707].

Allegations of collusion between the CoC and Uniworth were rejected as unsubstantiated.

Outcome

IA dismissed. The CoC's decision to conduct a second e-challenge was upheld. However, the Tribunal directed the CoC to conclude the resolution process expeditiously, noting that considerable time has already elapsed in the CIRP.

Key takeaway

The judgment reinforces that Regulation 39(1A)(b) places no numerical cap on the use of the challenge mechanism, and the CoC's negotiating powers under the RFRP operate independently of that provision. A resolution applicant -even one who is the declared highest bidder -has no vested right to compel the CoC to proceed to voting. The commercial wisdom of the CoC in seeking better value remains largely insulated from judicial interference, so long as no plan has yet been approved.

Orissa Metaliks Pvt. Ltd. v. Avil Jerome Menezes (RP) & Ors. (2026) ibclaw.in 1023 NCLT | NCLT Mumbai | Decided: 08.04.2026



D. FEMA

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

Circular / Notification	RBI/2025-26/253 A.P. (DIR Series) Circular No. 25
Date	30 March 2026
Effective From	01 April 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 with effect from 01st April 2026.

Key Amendments:

- Form ECB 1 Re-classified - Form ECB 1 and Revised Form ECB 1 shall be treated as returns which do not capture flows. Late Submission Fee for delayed submission of these forms shall be computed accordingly;
- Computation and Payment of Late Submission Fees (LSF) - The LSF for delayed submission of Form ECB 2 will now be calculated on a "per return" basis. Each delayed submission under a single Loan Registration Number (LRN) will be considered a separate instance for calculating the fixed component of the LSF. The LSF is payable only after the RBI acknowledges the receipt of the return.
- Responsibilities for AD Category I Banks – The designated AD Category I Banks shall submit ECB returns received from the eligible borrower, along with due certification, to the Reserve Bank within seven calendar days from the date of its receipt. The designated AD Category I bank is responsible to monitor the payment of applicable LSF by their customers in case of delayed submission of returns.

2. Foreign Exchange Management (Guarantees) Regulations, 2026

Circular / Notification	RBI/2026-27/02 A.P. (DIR Series) Circular No. 01
Date	01 April 2026
Effective From	01 April 2026

The Reserve Bank of India has issued a Circular prescribing reporting requirements for reporting guarantees under the Foreign Exchange Management (Guarantees) Regulations, 2026. The amendments shall come into force with immediate effect.

Key Amendments:

- Persons obligated to report guarantees in terms of Regulation 7 of FEMA 8 (R) must use specified forms:
 - a) Form GRN Issue' – For reporting issuance of Guarantee.
 - b) Form GRN Modification' – For reporting any subsequent change in guarantee terms
 - c) Form GRN Invocation' – For reporting invocation of guarantee.
- For each guarantee issuance, reported through 'Form GRN Issue', the authorised dealer bank shall

provide a unique Guarantee Transaction Number before submission of the return to the Reserve Bank in the manner provided in the operational guidelines.

- The authorised dealer bank is required to submit such returns to RBI through the Centralised Information Management System (CIMS) within 30 days from the end of the respective quarter.
- The circular also contains the provisions for the purpose of computation of Late Submission Fees for delayed reporting of Form GRN Invocation and Form GRN Modification.

3. Limits for investment in debt and sale of Credit Default Swaps by Foreign Portfolio Investors (FPIs)

Circular / Notification	RBI/2026-27/07 A.P. (DIR Series) Circular No. 05
Date	06 April 2026

The Reserve Bank of India has issued a Circular wherein it has prescribed the revised investment limits in debt instruments which includes Government Securities (G-Secs), State Government Securities (SGSs) and corporate bonds (long term and short term) and the limits for selling Credit Default Swaps by Foreign Portfolio Investors (FPIs). Further, the A.P. (DIR Series) Circular No. 01 dated 03 April, 2025, which notified the limits for investment in debt instruments and sale of Credit Default Swaps by FPIs for financial year 2025-26 stands withdrawn.



V. COMPLIANCE CALENDAR FOR MAY 2026

A. Income tax

Sr. No.	Due Dates	Concerned (reporting) Period	Compliance Detail	Applicable to
01	7th May	April 2026	TDS / TCS Payment	Non-Government Deductors
02	15th May	January 2026 to March 2026	TCS Return	All Assessee to whom TCS provisions are applicable
03	30th May	January 2026 to March 2026	TCS Certificate	All Assessee to whom TCS provisions are applicable
04	31st May	January 2026 to March 2026	TDS Return	All Assessee to whom TDS provisions are applicable
05	31st May	FY 2025-26	SFT Return	<ol style="list-style-type: none"> 1. Any person covered under audit under Section 44AB of the Act 2. A Banking company, Cooperative bank 3. Any institution issuing credit card 4. A company issuing shares or bonds or debentures 5. Listed companies purchasing its own shares under Section 68 of Companies Act 2013 6. Trustee of Mutual Fund 7. Any other authorized person.

B. Goods and Service Tax

Sr. No.	Due Dates	Concerned (reporting) Period	Compliance Detail	Applicable to
01	10th May 2026	April 2026	GSTR – 7 (TDS)	Person required to deduct TDS under GST
02	10th May 2026	April 2026	GSTR – 8 (TCS)	Person required to collect TCS under GST
03	11th May 2026	April 2026	GSTR 1	<ol style="list-style-type: none"> a) Taxable persons having annual turnover > INR 5 crores in FY 2024-25 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 May 2026	April 2026	GSTR – 1 (IFF)- QRMP	Aggregate Turnover is up to INR 5 crores
05	13th May 2026	April 2026	GSTR – 6 (ISD)	Person registered as ISD
06	20th May 2026	April 2026	GSTR – 3B	<ol style="list-style-type: none"> a) Taxable persons having annual turnover > INR 5 crores in FY 2024-25 b) Taxable persons having annual turnover ≤ INR 5 crores in FY 2024-25 and not opted for QRMP scheme

Sr. No.	Due Dates	Concerned (reporting) Period	Compliance Detail	Applicable to
07	13th May 2026	April 2026	GSTR - 5 (NRTP)	Non-resident taxable person (NRTP)
08	20th May 2026	April 2026	GSTR - 5A (OIDAR)	OIDAR services provider
09	25th May 2026	April 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 May	April 2026	PF/ESIC Payment	All Assessee to whom respective laws of PF / ESIC are applicable
02	15th May	April 2026	PF Monthly Return	
	12th May	October 2026 to March 2026	ESIC half-yearly 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
ACIT	Assistant Commissioner Of Income Tax
Act	Income-Tax Act, 1961
AE	Associated Enterprise
ALP	Arm's Length Price
AML	Anti-Money Laundering
AM	Accountant Member
AO	Assessing Officer
AY	Assessment Year
BAPA	Bilateral Advance Pricing Agreement
bps	Basis Points
CBDT	Central Board of Direct Taxes
CBIC	Central Board of Indirect Taxes and Customs
CERT	Computer Emergency Response Team
CFT	Countering the Financing of Terrorism
CIRP	Corporate Insolvency Resolution Process
CIT (E)	Commissioner Of Income Tax (Exemption)
CIT(Appeals) / CIT(A)	Commissioner Of Income-Tax (Appeals)
CMI	Capital Market Intermediaries
CMI	Cash Management Instrument
COC	Committee of Creditors
CPC	Civil Procedure Code
CSP	Critical Service Providers
CSR	Corporate Social Responsibility
CUP	Comparable Uncontrolled Price
DCIT	Deputy Commissioner Of Income Tax
DGAP	Director General of Anti-Profiteering
DGFT	Directorate General Of Foreign Trade
DRP	Dispute Resolution Panel
DTAA	Double Taxation Avoidance Agreement
ECB	External Commercial Borrowings
ECL	Electronic Cash Ledger
EBITDA	Earning Before Interest, Taxes, Depreciation and Amortization
FAR	Functions, Asset And Risk Analysis
FCEXP	Foreign Currency Expenses
FCGR	Foreign Currency Gross Revenues
FEMA	Foreign Exchange Management Act, 1999
FII	Foreign Institutional Investor

GLOSSARY

ABBREVIATION	FULL FORM
FME	Fund Management Entities
FMV	Fair Market Value
FTS	Fees for Technical Services
FY	Financial Year
GRN	Goods Received Note
GST	Goods & Service Tax
GSTAT	Goods And Services Tax Appellate Tribunal
GSTR	Goods And Service Tax Return
HC	High Court
Hon'ble	Honourable
IBC	Insolvency And Bankruptcy Code
ICAI	Institute of Chartered Accountants of India
ICEGATE	Indian Customs Electronic Data Interchange Gateway
IFSC	International Financial Service Centre
IIBX	Indian International Bullion Exchange
ITAT	Income Tax Appellate Tribunal
ITC	Input Tax Credit
ITR	Income Tax Return
JM	Judicial Member
KYC	Know Your Customer
LIBOR	London Interbank Offered Rate
LLC	Limited Liability Company
LLP	Limited Liability Partnership
LRN	Loan Registration Number
LSF	Late Submission Fee
MAP	Mutual Agreement Procedures
MII	Market Infrastructure Institutions
MOU	Memorandum Of Understanding
MPR	Monthly Performance Report
MPV	Multi Purpose Vehicle
MSMEs	Micro Small and Medium Enterprises
NCLAT	National Company Law Appellate Tribunal
NCLT	National Company Law Tribunal
OECD	Organisation For Economic Co-Operation And Development
OTP	One-Time Password
PE	Permanent Establishment
PFMI	Principles For Financial Market Infrastructures

GLOSSARY

ABBREVIATION	FULL FORM
QCCP	Qualifying Central Counterparty
QIP	Qualified Institutions Placements
QRMP	Quarterly Return Monthly Scheme
RFRP	Risk Free Rate Of Return Premium
ROI	Return Of Income
Rules	Income-Tax Rules, 1962
SAC	Service Accounting Codes
SC	Supreme Court
SCN	Show Cause Notice
SEBI	Securities And Exchange Board Of India
SEZ	Special Economic Zone
SFT	Statement Of Financial Transactions
SGST	State Goods And Services Tax
SLP	Special Leave Petition
SPV	Special Purpose Vehicle
SSE	Social Stock Exchange
SSEAC	Social Stock Exchange Advisory Committee
TCPS	Trust and Company Service Providers
TCS	Tax Collected At Source
TDS	Tax Deducted At Source
TNMM	Transactional Net Margin Method
TP	Transfer Pricing
TPO	Transfer Pricing Officer
UEBA	User And Entity Behaviour Analytics
UPI	Unified Payment Interface
USD	US Dollars



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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.

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Mumbai

Head Office

Second Floor, Bajaj Bhawan, Jamnalal Bajaj Road, 226, Nariman Point, Mumbai – 400 021.

Suburban

3rd Floor, Solitaire Corporate Park no. IV, Andheri Kurla Road, Chakala, Andheri East, Mumbai – 400 093.

New Delhi

E-6, First floor, Connaught Place, New Delhi – 110 001.

Ahmedabad

813, Shree Balaji Heights, Besides IDBI Bank, C G Road, Ahmedabad – 380 006.

Pune

501-502, Building # B3, Pride Kumar Senate II, CTS # 970, Senapati Bapat Road, Shivajinagar, Pune- 411 016.

Jaipur

309-B, Windsor Plaza, Sansar Chandra Road, Jaipur, Rajasthan – 302 001.

Bengaluru

151, 5th Floor, Moksha Mansion 1st Cross, Sarjapur, Sarjapur - Marathahalli Road, 1st Block Koramangala, Bengaluru, Karnataka – 560 034.

Hyderabad

VVC Konark, 2nd Floor, Plot, 5, Hitech City Road, Jubilee Enclave, Madhapur, Hyderabad, Telangana – 500 081.

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