JULY 2026

BHUTA SHAH & CO LLP

CHARTERED ACCOUNTANTS

Monthly E-Newsletter

BSC BEACON

TAX & REGULATORY INSIGHTS

WHAT'S INSIDE

I. DIRECT TAXATION:
A. CORPORATE TAX

1. ***Deduction under Section 54F of the Act cannot be denied merely because the construction was not completed within three years, where the delay was beyond the Assessee's control***

Sudhakar Reddy Mettu ("the Assessee"), a Non-Resident Indian (NRI), along with 45 other co-owners, entered into a Joint Development Agreement (JDA) dated 31.05.2016 for the development of a parcel of land. Under the terms of the JDA, the Assessee was entitled to receive a residential villa upon completion of the project, which was stipulated to be delivered within 36 months, i.e., by 31.05.2019. Subsequently, the AO reopened the assessment for AY 2017–18 and treated the Assessee's share in the JDA transaction as giving rise to long-term capital gains. In the reassessment proceedings, the Assessee accepted the taxability of the transaction and claimed exemption under Section 54F of the Act in respect of the residential villa receivable under the redevelopment arrangement. However, the AO denied the exemption on the ground that the Assessee had neither acquired legal ownership of the villa nor completed its construction within the period of three years prescribed under Section 54F. Further, the Assessee filed an appeal to DRP, who affirmed the AO's findings. On further appeal, the Hon'ble Telangana ITAT also rejected the claim for exemption, holding that the construction of the residential house had not been completed within the statutory timeframe. Aggrieved, the Assessee filed an appeal before the Hon'ble Telangana HC.

The Assessee contended that, though the JDA stipulated delivery of the villa within 36 months, the delay was caused by disputes among the developer's partners, which was beyond the Assessee's control. Per contra, the tax authorities argued that the construction was completed only in November 2023, no registration was carried out, and the Assessee failed to take any steps to compel the developers to honor the agreement. The Hon'ble Telangana HC held that Section 54F is a beneficial provision intended to encourage investment of capital gains in a residential house and must be construed liberally. It observed that where the Assessee has invested the capital gains towards purchase or construction of the residential house, exemption cannot be denied merely because construction, registration or possession was delayed due to reasons beyond the Assessee's control. Relying on the decision of the Hon'ble Karnataka High Court in CIT v. *C. Gopalaswamy*[1], the Court held that the delay was attributable to the developer and not the Assessee. Accordingly, it held that the denial of exemption under Section 54F was unsustainable in law and allowed the Assessee's appeal.

Sudhakar Reddy Mettu [TS-1077-HC-2026(TEL)]

2. ***Settlement of an assessment order under the DTVSV Scheme, 2020 does not prevent the AO from initiating reassessment proceedings on issues not covered by the settlement***

Bhima Jewellery ("the Assessee"), a partnership firm, filed its ROI for AY 2017–18, and the assessment was completed under Section 143(3) of the Act. Aggrieved by certain additions made during the assessment proceedings, the Assessee filed an appeal before the CIT(A). While the appeal was pending, the Assessee opted to settle the disputed issues under the Direct Tax Vivad Se Vishwas Act, 2020 ("DTVSV Act"). Upon payment of the amount determined by the Designated Authority, the Assessee was issued Form No. 5, confirming the full and final settlement of the disputed tax liability

Thereafter, the AO issued a notice under Section 148A(b) to reopen the assessment, alleging short disallowance of interest expenditure and delayed deposit of employees' provident fund contributions. While these issues were neither part of the original appeal nor covered under the DTVSV Scheme settlement, the Assessee challenged the reassessment proceedings before the Hon'ble Kerala HC. The Assessee contended that the settlement under the DTVSV Act had rendered the assessment final and, therefore, it could not be reopened through reassessment proceedings.

Before the Hon'ble HC, the Assessee argued that settlement under the DTVSV Scheme attained finality, and once Form No. 5 was issued, the tax authorities could not initiate reassessment proceedings except in situations specifically provided under the Scheme. Reliance was placed on the Supreme Court's decision in *Killick Nixon Ltd.*[2] and various rulings concerning the Settlement Commission to contend that reopening a settled assessment was impermissible. The tax authorities, however, contended that the DTVSV Act only settles the disputed tax involved in the pending appeals and does not nullify the assessment order or restrict the statutory power to reopen an assessment

[1] *[TS-5177-HC-2016(Karnataka)-O]*
[2] *[TS-18-SC-2002-O]*

on issues that were not part of the settlement.

The Hon'ble Kerala HC, after examining the DTVSV Scheme, held that the purpose of the scheme was to resolve disputed tax matters and not to confer finality on assessment proceedings. Interpreting the definitions of "disputed tax", "tax arrears", and Section 5(3) of the DTVSV Act, the Hon'ble HC held that the finality under the Scheme is limited to issues covered by the settlement. Accordingly, while the Scheme bars further proceedings on settled matters, it does not prevent the tax authorities from reopening assessments on independent and unrelated issues, subject to compliance with the DTVSV Act.

The Hon'ble HC further held that the DTVSV Act is confined only to settlement of disputed tax. Accordingly, the Hon'ble HC upheld the reassessment proceedings, holding that settlement under the DTVSV Scheme does not create a blanket bar against reassessment on unrelated issues, and dismissed the writ petition while leaving it open to the Assessee to challenge the reassessment on merits before the appropriate forum.

Bhima Jewellery [TS-966-HC-2026 (KER)]

3. *Derivative losses cannot be treated as speculative losses under explanation to Section 73(4) of the Act*

RAAG Vihar Apartments Private Limited ("the Assessee"), engaged in the business of real estate, filed its ROI for AY 2015-16 declaring business income after claiming losses arising from transactions in shares as well as derivatives (Futures & Options). During the assessment proceedings, the AO invoked the Explanation to Section 73(4) of the Act and treated the entire loss of INR 44.21 lakh arising from share and derivative transactions as speculation loss, thereby denying its set-off against normal business income. The AO further estimated INR 10 lakh of common expenses as attributable to share trading activities and disallowed the same. On further appeal, the CIT(A) upheld the additions made by the AO. Aggrieved, the Assessee filed an appeal before the Hon'ble Delhi ITAT.

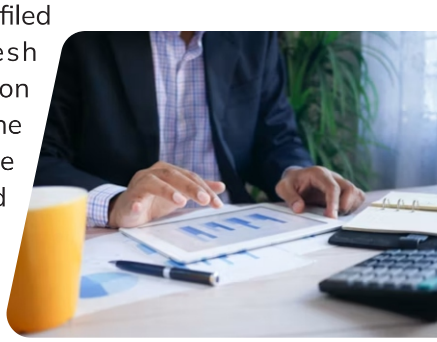
Before the Hon'ble ITAT, the Assessee contended that derivative transactions executed on recognised stock exchanges are specifically excluded from the ambit of speculative transactions under Section 43(5)(d) and therefore cannot be brought within the deeming fiction contained in the Explanation to Section 73(4), which is confined only to the purchase and sale of shares. Reliance was placed on the Bombay High Court's decision in *Souvenir Developers (India) Pvt. Ltd.*[3] The tax authorities, on the other hand, argued that the entire loss from share-related transactions was liable to be treated as speculation loss under the Explanation to Section 73(4) of the Act.

The Hon'ble Delhi ITAT observed that the language of the Explanation to Section 73(4) expressly refers only to the purchase and sale of shares of other companies and does not include derivative transactions. The Hon'ble ITAT held that transactions in the F&O segment carried out on recognised stock exchanges continue to be governed by Section 43(5)(d) and therefore cannot be regarded as speculative transactions merely because they are linked to shares. Accordingly, it directed that only the loss of INR 9.11 lakh arising from the purchase and sale of shares should be treated as speculation loss, whereas the balance loss attributable to derivative transactions should be allowed as a normal business loss. The Hon'ble ITAT further observed that the AO had not provided any basis for allocating INR 10 lakh of common expenses towards share trading and accordingly restricted the disallowance to INR 1 lakh.

RAAG Vihar Apartments Private Limited [TS-1044-ITAT-2026 (DEL)]

4. *ITAT grants Section 12A Registration to a vocational society despite lack of affiliation, owing to the absence of a profit motive*

The Early Childhood & Care Education ('the Assessee') is a society registered under the Societies Registration Act, 1860 and is engaged in conducting vocational and skill development courses, including courses in Information Technology, Computer Software, Financial Accounts, Advanced Desktop Publishing, and English-speaking, among others. The Assessee had earlier been granted registration under Section 12AA of the Act, which subsequently continued under the amended provisions and remained valid for AY 2022-23 to 2026-27, based on the same aims and objects of the society. Thereafter, the Assessee filed an application for fresh registration under Section 12A(1)(ac)(ii) of the Act. The CIT(E) rejected the application on the ground that the Assessee was neither affiliated with nor recognised by any



[3] *[TS-361-HC-2022(BOM)]*

Government Department, Board, University, or other recognised Educational Institution. The CIT(E) also observed that the Assessee was charging fees from students for imparting training and that its activities did not amount to "education" within the meaning of Section 2(15) of the Act. Consequently, the application for approval under Section 80G of the Act was got rejected on the same grounds.

Aggrieved by the order of the CIT(E), the Assessee filed an appeal before the Hon'ble Delhi ITAT. The Hon'ble ITAT observed that the Assessee's primary object was to conduct vocational courses and that it had already been granted registration under the earlier provisions based on the very same aims and objects. The Hon'ble ITAT further noted that the education system has undergone significant transformation over the years, particularly in the aftermath of the COVID-19 pandemic. The Hon'ble ITAT also relied upon the judgment of the Hon'ble Delhi High Court in Delhi Music Society v. *Director General of Income Tax*[4], wherein it was held that an institution is not required to be affiliated with any University, Board, or College to qualify as an Educational Institution, provided it exists for imparting systematic instruction. Accordingly, the Hon'ble ITAT held that the mere absence of affiliation or recognition could not be a valid ground for rejecting the assessee's application. It further observed that the CIT(E) had not brought any material on record to establish that the assessee existed solely for the purpose of earning profit. Therefore, the Hon'ble ITAT held that the application had been rejected without proper appreciation of the facts and remitted the matter to the CIT(E) with a direction to consider the relevant facts on record and grant registration in accordance with law. The issue relating to approval under Section 80G was also restored to the CIT(E) for fresh consideration. Accordingly, both the appeals filed by the Assessee were allowed.

The Early Childhood & Care Education [TS-1074-ITAT-2026(DEL)]

5. Assessee entitled to exemption under Section 54 for acquisition of multiple floors within a single residential building

Ranjan Sen Jain ('the Assessee') entered into a redevelopment agreement in 1999 under which the existing property was demolished and reconstructed, wherein the Assessee received the basement, ground floor, second floor and terrace, while the Builder acquired the first floor. In 2018, the Assessee and the first-floor owners executed a fresh redevelopment agreement. Under this arrangement, the Assessee became entitled to the entire basement, ground floor, third floor and terrace, the Builder acquired the second floor, and the first floor remained with its existing owners. The Assessee also received monetary consideration from the Builder and claimed exemption under Sections 54/54F on the entire redeveloped residential portion of his share in the building, ie; Ground Floor, Basement & Third floor.

The AO rejected the Assessee's fair market valuation, holding that the adopted methodology was unacceptable, and instead relied on the circle rate, which was incorrectly computed. The AO also restricted the exemption under Sections 54/54F to one residential house. The CIT(A) affirmed the assessment on both issues. Before the Hon'ble Delhi ITAT, the Assessee challenged the restriction of exemption under Section 54 as well as the recomputation of capital gains, contending that the registered valuer's reports and the Builder's cost certificate had been wrongly disregarded by the tax authorities.

The Hon'ble ITAT held that exemption under Section 54 cannot be denied merely because a redeveloped residential property comprises multiple floors. It observed that division into separate floors is only a mode of construction and does not change the character of the property as a single residential house. The Hon'ble ITAT emphasized that ownership, identity and the overall residential nature of the property are the decisive factors, not the number of floors. Relying on the Hon'ble Delhi High Court's decision in Pr. CIT v. *Lata Goel*[5], the Hon'ble ITAT held that multiple floors within the same property constitute one residential house for Section 54.

On the computation issue, the Hon'ble ITAT held that the tax authorities had failed to properly appreciate the evidence produced by the Assessee. It noted that although the AO accepted the superstructure cost as per the earlier valuation report, he arbitrarily replaced the land value with an estimate based on circle rates despite the availability of valuation reports from Government-registered valuers. The Hon'ble ITAT held that where such reports are rejected, the appropriate course is to obtain a valuation from the Departmental Valuation Officer (DVO) rather than adopt an ad hoc estimate. It further observed that the builder's certificate was vital evidence regarding the actual construction cost of the assessee's share and had been

[4] [TS-5799-HC-2011(Delhi)-O]
[5] [TS-572-HC-2025(DEL)]

ignored. Accordingly, the Hon'ble ITAT accepted the assessee's computation framework and directed the AO to recompute the capital gains based on the unrebutted valuation report.

The Hon'ble ITAT allowed the assessee's appeal, holding that Section 54 exemption was available for the entire redeveloped residential property and not restricted to one floor.

Hence, it was concluded that a multi-floor residential property qualified as a single residential house under Section 54 of the Act. It was also directed to tax authorities to fairly compute capital gains by properly considering valuation reports and builder cost certificates before determining exemption eligibility.

Ranjan Sen Jain (TS-1064-ITAT-2026(DEL)

6. *Rebate under Section 87A of the Act shall not be denied in respect of short-term capital gains taxable under Section 111A of the Act up to AY 2025–26*

Lisha Gajendra Marlecha ("the Assessee"), a resident individual, filed her ROI for AY 2024-25 under the new tax regime pursuant to Section 115BAC(1A) of the Act, declaring total income of INR 5.28 lakhs, which included the STCG of INR 1.42 lakhs under Section 111A of the Act arising out of sale of equity shares. While processing the return under Section 143(1) of the Act, the Central Processing Centre (CPC) denied the rebate under Section 87A in respect of the tax payable on such STCG. Aggrieved by the intimation order, the Assessee filed an appeal before the CIT(A), who upheld the adjustment, holding that the rebate under Section 87A is not available against income chargeable at special rates under Chapter XII of the Act. Aggrieved, the Assessee has filed an appeal before the Hon'ble Mumbai ITAT.

The Assessee contended that neither Section 87A nor Section 111A contained any express restriction on granting rebate in respect of STCG taxable under Section 111A of the Act. The tax authorities argued that income chargeable at special rates under Chapter XII falls outside the scope of rebate under Section 87A and relied upon the amendment introduced by the Finance Act, 2025. The Hon'ble Mumbai ITAT observed that, for AY 2024–25, Section 87A did not contain any express exclusion in respect of tax payable on STCG taxable under Section 111A of the Act. Further, the Hon'ble ITAT noted that while the legislature had specifically restricted the rebate in respect of long-term capital gains taxable under Section 112A, no such restriction existed under Section 111A of the Act.

Relying on the decision of the co-ordinate bench in *Jayshreeben Jayantibhai Palsana v. ITO*[6], the ITAT held that, in the absence of an express statutory prohibition, the rebate under Section 87A cannot be denied in respect of tax payable on STCG taxable under Section 111A of the Act. The Hon'ble ITAT further held that the amendment introduced by the Finance Act, 2025 is prospective in nature and cannot be relied upon to deny a benefit available under the unamended provisions.

Accordingly, the Hon'ble ITAT held that the Assessee was entitled to claim the rebate under Section 87A in respect of STCG taxable under Section 111A of the Act

Lisha Gajendra Marlecha [TS-1051-ITAT-2026 (Mum)]

7. *Failure to provide the search material to the Assessee renders the reassessment proceedings invalid in law*

The Tax Authorities conducted a search under Section 132 of the Act on certain finance brokers, based on which it was alleged that the Mr. Piyush Agrawala ('the Assessee') had taken unaccounted cash loans through rukkas. The show cause notices under Section 148A(b) were issued to the Assessee for AY 2016-17, 2017-18 and 2019-20, without enclosing the material or information relied upon, despite the Assessee specifically objecting to this before the AO. The AO nevertheless passed orders under Section 148A(d), issued notices under Section 148 and completed the reassessments making additions under Sections 69A and 69C of the Act. On appeal, the CIT(A) held the entire proceedings to be bad in law, holding that no material was supplied to the Assessee along with the notice under Section 148A(b), and deleted the additions on merits.

Aggrieved, the tax authorities filed an appeal before the Hon'ble Kolkata ITAT, also contesting the CIT(A)'s jurisdiction to examine the validity of the order under Section 148A(d) of the Act.

The Hon'ble ITAT held that supplying the show cause notice under Section 148A(b) without the underlying material/rukkas/reports rendered the notice, the consequent order under Section 148A(d), the notice under Section 148 and the assessment itself unsustainable in law, relying on the Hon'ble Supreme Court's rulings in Ashish Agarwal and Rajeev Bansal,

[6] *[TS-1054-ITAT-2025(Ahd)]*

which require the AO to furnish the relevant material along with the Section 148A(b) notice. The Hon'ble ITAT rejected the argument that mere existence of information on the Insight Portal/RMS sufficed, holding that the deeming fiction under Explanation 1 to Section 148 does not dispense with the AO's obligation to independently verify such information and provide it to the Assessee. On the jurisdictional objection, the Hon'ble ITAT held that since the Assessee had not separately appealed the Section 148A(d) order, and the CIT(A) had only adjudicated the appeal filed under Section 246A, the CIT(A) had rightly examined the legality of the reassessment proceedings. On merits, the Hon'ble ITAT sustained deletion of the additions, noting that the seized material constituted "dumb documents" lacking corroborative value, that the Assessee's identity was never conclusively established in the brokers' statements, and that the Assessee (as an alleged borrower) could not be treated as "owner" of unexplained money for invoking Section 69A of the Act for AY 2016-17. It further held that denial of an opportunity to cross-examine the persons whose statements were relied upon violated natural justice. Additionally, allowing the Assessee's application under Rule 27 of the ITAT Rules, 1963, the Hon'ble ITAT held the reassessment proceedings for 2017-18 and 2019-20 to be barred by limitation under Section 149 of the Act, since the notices under Section 148 were issued beyond the permissible time limit. Accordingly, all three appeals filed by the tax authorities were dismissed.

Piyush Agarwala [TS-1000-ITAT-2026(Kol)]

B. INTERNATIONAL TAXATION

1. ***Hon'ble Delhi HC holds EY US secondment reimbursements taxable as FTS; remands issue of professional service receipts to ITAT (batch of 5 appeals covering AY 2018-19 to 2022-23)***

Ernst & Young U.S. LLP (EY US) ('the Assessee'), a USA based member of the EY global network, seconded employees to various EY India entities under deputation agreements. EY Indian entities reimbursed the Assessee on a cost-to-cost basis towards salary and related costs of the secondees. The Assessee contended that the secondees functioned as employees of the EY India entities during the secondment period and, therefore, the reimbursements could not be taxed as FTS under Section 9(1)(vii) the Act and under Article 12(4)(b) of the India-USA DTAA (DTAA). The Assessee also claimed that certain professional receipts from services rendered to Indian clients from the USA were exempt under Article 12(5)(e) of the DTAA. In scrutiny, the AO held that the reimbursement of salary and related employment costs constituted FTS under Section 9(1)(vii) of the Act and Article 12 of the DTAA and also treated a part of the professional service receipts as taxable FTS. The DRP upheld the action of the AO, placing reliance on the substance over form doctrine and the Hon'ble Supreme Court's ruling in Northern Operating Systems. The Hon'ble ITAT, however, accepted the Assessee's contentions and deleted the additions made by the AO. Aggrieved, the tax authorities filed appeals before the Hon'ble Delhi HC.

The primary issue before the Hon'ble HC was whether reimbursements received by the Assessee in respect of seconded employees were taxable as FTS under Section 9(1)(vii) of the Act and Article 12 of the DTAA. The second issue related to the taxability of receipts earned by the Assessee from services rendered to Indian clients from the USA and the applicability of the professional services exemption under Article 12(5)(e) of the DTAA.

The Hon'ble HC reversed the ITAT's findings on the secondment issue. The Hon'ble HC observed that the secondees continued to retain their employment lien with the Assessee and remained entitled to social security and other benefits from the Assessee during the assignment period. The Hon'ble HC also noted that the EY India entities could not permanently terminate the services of the secondees and could only discontinue the secondment arrangement. Based on the deputation agreements, the Hon'ble HC concluded that the Assessee retained overarching control over the secondees and that they never ceased to be employees of the Assessee. Further, the secondees were involved in implementing EY group policies, quality standards, processes and training functions within the EY India entities. The Court referred to the “statement of work” in Engagement Letter between “EY and Infosys” and observed that training rendered by the Assessee basically provides enduring benefits to recipient and thereby qualifies Make Available Test and referred to the Hon'ble Karnataka High Court in “*De Beers India Minerals*[7]” case for “make Available” test conditions. The Court held that such activities resulted in a transfer of technical knowledge, experience and skills and

[7] *[TS-312-HC-2012(KAR)]*

consequently satisfied the "make available" condition under Article 12 of the DTAA. Relying on the Delhi High Court decision in "*Centrica India Offshore Pvt. Ltd.*[8]", which has since been affirmed by the Supreme Court, the Court held that the reimbursements received by the Assessee in respect of seconded employees constituted FTS under the Act as well as the DTAA. The Court rejected the contention of the Assessee that the absence of a mark-up or characterization of the payments as reimbursements altered their taxability. The Court also distinguished the Assessee's reliance on decisions in the case of *Boeing*[9], *Bio-Rad Laboratories*[10], *RELX Inc.*[11], *and Aecom Technical Services*[12].

On the issue relating to receipts from professional services rendered to Indian clients from the USA, the Hon'ble High Court observed that the AO had already granted treaty relief for certain services qualifying as professional services and taxed only specific receipts as FTS. The Hon'ble HC held that the ITAT had failed to adequately examine the nature of the underlying services, the applicability of the "make available" test, and the distinction between professional services and taxable technical or consultancy services. Accordingly, the Court remanded these issues to the ITAT for fresh adjudication.

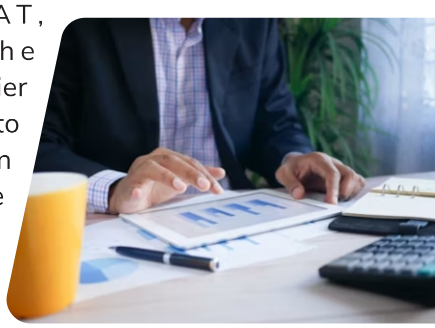
Ernst And Young U.S. LLP [TS-903-HC-2026(DEL)]

2. Income from rendering ground handling and engineering services to other airlines held taxable in India under India-UK DTAA

British Airways Plc. ('the Assessee'), a company incorporated in the United Kingdom is engaged in the business of operation of aircraft in international traffic including rendering ground handling and engineering services ('GHE Services') to other airlines operating in India. The Assessee contended that its income from operation of aircraft in international traffic, including participation in pools of any kind, was exempt in India under Article 8 of the India-UK DTAA, and that the GHE Services rendered to other airlines were ancillary to its main activity of aircraft operation, falling within pooling activity, and therefore equally eligible for exemption under Article 8(2) of the DTAA.

The AO, for AYs 2009-10 and 2010-11, held such GHE receipts to be taxable in India, denying treaty benefit, based on the position first taken against the Assessee in AY 1996-97 and following consistently thereafter. Aggrieved, the Assessee filed an appeal before the CIT(A), who upheld the AO's order.

Aggrieved, the Assessee filed an appeal before the Hon'ble Delhi ITAT, contending that the coordinate bench's earlier ruling for AY 1996-97 to 1998-99 was based on an incorrect factual premise that the Assessee only rendered, and did not also receive, similar services under the International Airlines Technical Pool ('IATP') pool arrangement. Further, it stated that the expression 'operation of aircraft' under Article 8(1) ought to be construed broadly to include such ancillary services, drawing support from OECD Commentary on Article 8 and from the Delhi High Court's decisions in *KLM Royal Dutch Airlines*[13] and *Lufthansa German Airlines*[14], where similar IATP pool receipts were held exempt under the India-Germany/Netherlands DTAA.



The Hon'ble Delhi ITAT, examining Article 8 of the India-UK DTAA and the record, held that the Assessee's submissions were materially identical to those already rejected by the coordinate bench for AY 1996-97 to 1998-99, and noted that the Hon'ble Delhi High Court, while deciding KLM Royal Dutch Airlines and Lufthansa German Airlines, had specifically considered and distinguished the Assessee's own case. holding that Article 8 of the India-UK DTAA was not pari materia with Article 8 of the India Germany/Netherlands DTAA and did not extend to pooling services in the manner contemplated under Article 8(4) of those treaties. The Hon'ble ITAT further held that OECD Commentary was not a binding precedent, and that since the Assessee had placed no material on record to show that the coordinate bench's findings for AY 1996-97 to 1998-99 were ever challenged before a higher appellate forum, those findings had attained finality. The Appeal of the Assessee was therefore dismissed.

British Airways Plc. [TS-1061-ITAT-2026(DEL)]

3. Salary for services rendered in Australia not taxable in India under Article 15 of India-Australia DTAA

Kapil Gupta ('the Assessee'), a resident of India, went abroad during the AY 2020-21 for employment

[8] [TS-237-HC-2014(DEL)-O]
[9] [TS-790-HC-2022(DEL)]
[10] [TS-624-HC-2023(DEL)]
[11] [TS-5083-HC-2024(Delhi)-O]
[12] [TS-6522-HC-2025(Delhi)-O]
[13] [TS-5072-HC-2017(Delhi)-O]
[14] [TS-5070-ITAT-2004(Delhi)-O]

purposes and took up employment in Australia with M/s Modis Consulting Pvt. Ltd. The Assessee filed his ROI for AY 2020-21 declaring a sum of INR 14.16 lakhs received from the Australian employer and inadvertently offered the said salary for taxation in India. Subsequently the Assessee filed Form 67 on 19.02.2022 to claim foreign tax credit of INR 3.40 lakhs for taxes paid in Australia.

The Assessee thereafter filed a rectification application seeking exclusion of the said salary income from taxation in India on the ground that, as per Article 15 of the India-Australia DTAA, salary is taxable only in the state where services are rendered, and since the services were undisputedly rendered in Australia to an Australian employer, the salary was not liable to tax in India.

The rectification application was rejected by the CPC, against which the Assessee filed an appeal before the CIT(A). The CIT(A) disposed of the appeal on an entirely different footing, holding that the delayed filing of Form 67 was liable to be condoned since Rule 128(9) mandating timely furnishing of the form was directory and not mandatory, and accordingly granted foreign tax credit of INR 3.40 lakhs without addressing the Assessee's core contention on non-taxability of the salary itself.

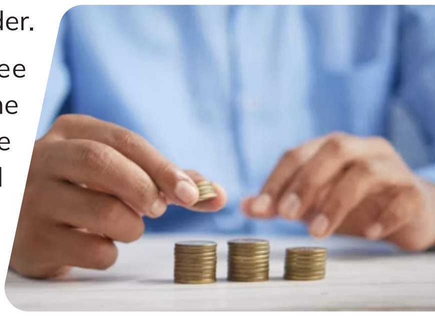
Aggrieved, the Assessee filed an appeal before the Hon'ble Delhi ITAT. The Hon'ble ITAT observed that there was no dispute that the Assessee, though a resident of India, had rendered services in Australia to an Australian employer and received salary which was subjected to tax in Australia under its domestic tax laws. The Hon'ble ITAT held that the CIT(A) had erred in confining the adjudication only to the question of grant of foreign tax credit, whereas the core issue was that the salary income received in Australia for services rendered in Australia was not taxable at all in India in the Assessee's hands, in view of the Article 15 of the India-Australia DTAA.

Accordingly, the Hon'ble Delhi ITAT directed the AO to exclude the Salary income received from Australian employer from the total income of the Assessee and held that, consequent to such exclusion, the foreign tax credit of INR 3.40 lakhs would also not be eligible to be granted to the Assessee.

Kapil Gupta [TS-974-ITAT-2026(DEL)]

4. ***Fees for Professional services held to be taxable as FTS/FIS and addition in respect of software subscription receipts as Royalty / FTS deleted***

Cloudera Inc. ("the Assessee"), a company incorporated in and a tax resident of the USA, is engaged in providing data software solutions and derives revenue from software product subscriptions and related services, including professional and training/educational services. For AY 2022–23, out of its total receipts, it offered INR 69.51 Lakhs from the sale of training material was offered to tax as FTS, while software subscription receipts of Rs. 59.68 crores (comprising of INR 56.62 crores for software subscription and INR 3.05 crores towards supply of professional services) arising from software subscriptions, were claimed as non-taxable by relying upon the decision of the Hon'ble Supreme Court in Engineering Analysis Centre of Excellence Pvt. Ltd. v. *CIT*[15], on the basis that such receipts did not constitute either Royalty or FTS. The AO treated the receipts from software subscription and related services as royalty and/or FTS under the Act and the India-USA DTAA. Before the DRP, the Assessee argued that under the Enterprise Subscription Master Agreement (ESMA), customers were granted only a limited, non-transferable right to access and use the software for internal business purposes, without any transfer of copyright, technology, or technical know-how. The DRP upheld the AO's view, leading to the final assessment order.



Aggrieved, the Assessee filed an appeal before the Hon'ble Delhi ITAT. The Hon'ble ITAT examined the terms of the ESMA and held that the software subscription receipts amounting to INR 56.62 crores were not chargeable to tax in India either as FTS or as Royalty. The Hon'ble ITAT observed that the customers were merely granted a limited and non-transferable right to access and use the software for their own business purposes and that no copyright, technology, or technical know-how was transferred to them. Relying upon the decision of the Engineering Analysis Centre of Excellence Pvt. Ltd. (supra) the Hon'ble ITAT held that the subscription receipts could not be characterised either as Royalty or as FTS and, accordingly, deleted the addition made by the AO in respect of such receipts.

On the receipts towards professional services amounting to INR 3.05 crores, the Hon'ble ITAT took a different view. It noted that such services were availed only by certain customers, the fees varied significantly, and in some cases constituted nearly 40% of the subscription charges. This indicated that the services were customised, customer-specific, and independent

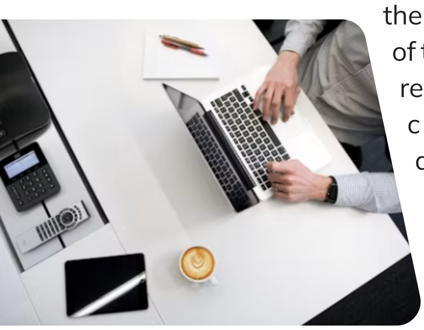
[15] *[TS-5222-SC-2022-O]*

of the software subscription rather than merely incidental to software implementation or migration. The Hon'ble ITAT therefore held that these services involved specialised technical and professional consultation, qualifying as FTS under the Act as well as DTAA. Accordingly, the professional services receipts were held to be taxable in India at the rate of 10% in terms of the DTAA. The Hon'ble ITAT partly allowed the appeal. The Hon'ble ITAT also directed the refund of the proportionate Equalisation Levy attributable to the receipts held taxable as FTS.

Cloudera Inc. [TS-962-ITAT-2026(DEL)]

5. *Legal services rendered by foreign law firms do not constitute FTS leading to remand of matter to AO*

Herbert Smith Freehills LLP ("the Assessee"), a UK-based law firm providing legal services globally, rendered legal services in relation to Indian engagements through its partners and employees. Being a fiscally transparent entity under the UK tax laws, the income of the Assessee was taxable in the hands of its partners based on their respective profit-sharing ratios. The Assessee claimed exemption under the India-UK DTAA in respect of the profit attributable to UK resident partners. It further claimed that the profit attributable to partners resident in Australia, France, Belgium, China and Japan was not taxable in India under the respective DTAAs.



However, the Assessee offered the share of income pertaining to the partner resident in Germany due to absence of 'make available' clause in India-Germany DTAA.

During the scrutiny proceedings for the AY 2015-16, the AO accepted the exemption in respect of share of profits of UK-based partners and the income offered to tax in respect of German partner. However, the AO treated the income attributable to the remaining non-UK partners as FTS under Section 9(1)(vii) of the Act and made an addition to the extent of 14.25% of the total income pertaining to partners resident in Australia, France, Belgium, China and Japan amounting to INR 3.59 Crores. Aggrieved, the Assessee filed an appeal before the CIT(A) who upheld the assessment order. Aggrieved, the Assessee filed an appeal before the Hon'ble Delhi ITAT.

The Hon'ble Delhi ITAT observed that a UK partnership is a tax-transparent entity, and the taxability of its income depends upon the residential status of each partner. Accordingly, the Hon'ble ITAT relied on the decision of *Linklaters LLP*[16] wherein it was held that applicability of the relevant DTAA must be examined separately with reference to the country of residence of each partner. The Hon'ble ITAT further held that professional legal services rendered by lawyers and law firms are distinct from managerial, technical or consultancy services and, therefore, cannot be characterised as FTS under Section 9(1)(vii) of the Act.

It also noted that Article 13 of the India-UK DTAA specifically excludes professional services from the scope of FTS. Accordingly, the Hon'ble ITAT held that the addition made by the AO by treating the receipts as FTS was unsustainable. The matter relating to the taxability of the non-UK partners was restored to the AO for examination under the applicable DTAAs of their respective countries of residence, while the addition made under Section 9(1)(vii) of the Act was deleted.

Herbert Smith Freehills LLP v. DCIT [TS-920-ITAT-2026 (DEL)]

6. *Receipts from Borrowed service held to be not taxable as FTS in India in absence of 'make available' under India-UK DTAA or business profits in absence of a PE in India*

M/s. Mckinsey & Company LME Limited ('the Assessee'), a UK tax resident company, rendered advisory support and data-related assistance to McKinsey India group entities in connection with consultancy assignments undertaken in India during the AY 2018-19. The Assessee considered the receipts from such 'borrowed services' along with reimbursement of expenses were not taxable in India under Article 13 of the India-UK DTAA as the services did not “make available” any technical knowledge, experience, skill, know-how or process to the Indian entities. Also, the Assessee did not have a PE in India, and such receipts were not taxable in India under Article 7 of the India-UK DTAA. During the scrutiny proceedings, the Tax Authorities treated the receipts from borrowed services, as well as reimbursement of expenses, as FTS taxable in India. Aggrieved, the Assessee filed an appeal before the CIT(A), who deleted the additions by following the orders passed in the Assessee's own case for earlier years and in the cases of other group companies. Aggrieved, the Tax Authorities filed an appeal before the Hon'ble Mumbai ITAT.

The Hon'ble ITAT noted that the Tax Authorities had not brought any material on record to establish that the services rendered by the Assessee satisfied the 'make

[16] *[TS-35-ITAT-2010(Mum)]*

available' test under Article 13(4) of the India-UK DTAA. It observed that mere rendering or use of advisory or consultancy services does not by itself mean that technical knowledge or skill stands made available to the recipient.

The Hon'ble ITAT also took cognizance of the decisions in the Assessee's own case for AY 2016-17 and in the cases of other group companies, where similar borrowed service receipts were held to be non-taxable as FTS by the co-ordinate bench of the Hon'ble ITAT. On the issue of PE, the Hon'ble ITAT rejected the contention of the Tax Authorities that a PE existed merely because of the holding-subsidiary relationship. It examined the Article 5(6) of the India-UK DTAA which clearly provides that control or shareholding by itself does not create a PE. As no evidence of a PE in India was placed on record, the Hon'ble ITAT held that the receipts could not be taxed as business profits under Article 7. Accordingly, the Hon'ble ITAT upheld the order of the CIT(A) and dismissed the appeal of the Tax Authorities.

Mckinsey & Company LME Limited [TS-933-ITAT-2026(Mum)]

II. TRANSFER PRICING

1. ***RPM held to be most appropriate method in case where imported finished goods resold in India without any physical alteration or value addition irrespective of substantial distribution and AMP expenditure.***

Beam Global Spirits and Wine (India) (P.) Ltd. (the Assessee) is engaged in the production and sale of alcoholic beverages in India. The Assessee imported Bottle-in-Origin alcoholic beverages from its AE and resold them in India under a distributorship arrangement. The goods were purchased on a principal-to-principal basis and resold without any physical alteration or processing.

The Assessee applied RPM as MAM for benchmarking its international transaction, using GP to sales as the PLI. During the scrutiny assessment for the AY 2011-12, the TPO rejected MAM, contending that the Assessee was not a routine distributor as it incurred substantial selling, distribution, advertising and promotional expenditure (INR 8.02 crores against turnover of INR 9.30 crores). The AO alleged that the Assessee developed local intangibles thereby giving value addition to products and accordingly, applied TNMM which resulted in an addition of INR 4.08 Crore. Aggrieved, the Assessee filed an appeal before the CIT(A) who upheld the assessment order.

Aggrieved, the Assessee filed an appeal before the Hon'ble Delhi ITAT. The Hon'ble ITAT noted that the Assessee merely imported finished goods and resold them without any physical alteration or value addition. Further, the tax authorities failed to establish that the Assessee employed any intangible assets to add economic value to the traded goods. The Hon'ble ITAT observed that substantial selling and distribution expenses are irrelevant under RPM, as this method compares only GP. Such expenses are debited below the GP line in the P&L A/c and therefore do not affect the GP margin comparison. The Hon'ble ITAT noted that the Assessee performed routine distribution functions, used routine tangible assets, and assumed normal business risks. The functional analysis confirmed the Assessee's characterization as a routine distributor. The Hon'ble ITAT also noted that RPM was accepted by the TPO in the Assessee's own case for AY 2012-13 and 2013-14, with no change in facts. Relying on the various decisions[17], the Hon'ble ITAT held that RPM was the MAM for benchmarking such international transaction and accordingly allowed the appeal of the Assessee.

Beam Global Spirits and Wine (India) (P.) Ltd. ***[TS-500-ITAT-2026(DEL)-TP]***

2. ***Final Assessment order passed without following DRP directions held to be bad in law and quashed. Subsequent corrigendum held as beyond jurisdiction.***

Syniverse Technologies Services (India) Pvt. Ltd. (the Assessee) filed its ROI for AY 2018-19. During the scrutiny proceedings, the AO passed a draft assessment order on 17.09.2021 under Section 144C of the Act. The Assessee filed its objections before the Hon'ble DRP.

The Hon'ble DRP directed the AO/TPO to incorporate its findings suitably in the final assessment order vide its order dated 25.04.2022. The TPO passed an OGE to his initial order on 17.06.2022. However, the AO passed the final assessment order on 30.06.2022 without incorporating the OGE or DRP directions. The final assessment order was identical to the draft

[17] *PCIT v. Burberry India Pvt. Ltd. [TS-6778-HC-2024(Delhi)-O], CIT v. L'Oreal India (P.) Ltd. [TS-376-HC-2014(BOM)-TP], CIT v. Luxottica India Pvt. Ltd [TS-532-HC-2015(DEL)-TP]*

assessment order. Thereafter, the AO passed a corrigendum on 27.07.2022 attempting to rectify this non-compliance.

Aggrieved, the Assessee challenged the final assessment order before the Hon'ble Delhi ITAT on the grounds that final assessment order passed by the AO without following DRP directions is beyond jurisdiction and bad in law as well as illegal. Also, the corrigendum to such an assessment order is also bad in law.

The Hon'ble ITAT noted the prescribed limitation period under the statutory scheme enunciated under Section 144C of the Act. The Hon'ble ITAT observed that limitation period for passing the final assessment order after incorporating the DRP directions expired on 30.06.2022. However, the AO reproduced the draft assessment order in his final assessment order without considering the directions of DRP. To cover up the statutory functions under Section 144C of the Act, the AO issued a corrigendum on 27.07.2022 (after the deadline of 30.06.2022).

The Hon'ble ITAT relied on the decision of Hon'ble Bombay HC in case of PCIT vs. Lionbridge Technologies Pvt Ltd[18] wherein it was held that in case a final assessment order was issued without an initial draft order, a subsequent corrigendum to such final order issued beyond the limitation period cannot convert a final assessment order into a draft order. The Hon'ble ITAT also relied on I.A.R. System Aktiebolag Deloitte[19] wherein it was held that passing a final order without following DRP directions violates Section 144C(13) and such violation cannot be remedied by subsequent procedural corrections.

Syniverse Technologies Services (India) Pvt. Ltd. [2026] 187 taxmann.com 1072 (Delhi - Trib.)

3. *Segmental margin cannot be rejected by the TPO without providing the nature of fault/errors*

Worley Services India (P.) Ltd ("the Assessee") is engaged in the business of providing integrated consulting engineering, design, architecture and project management services for hydrocarbons, architectural, civil, marine, industrial and structural works. The Assessee provided design and engineering services to its AE. The matter was referred to the TPO for determination of the ALP. The Assessee adopted TNMM as MAM and computed the arm's length margin range of 13% to 14.64% considering 6 comparables. The margin on AE transaction was 22.84% and thus the transaction was concluded to be at arm's length. However, the TPO rejected the benchmarking of the Assessee on the grounds of differences in the profit earned by the Assessee from AE and Non-AE transactions at 22.84% and -17.5% respectively contending the segmental margin furnished to be inaccurate. The TPO recalculated the arithmetic mean at 22.15% on the basis of 4 comparables by rejecting and adding new comparables. The TPO made the differential adjustment and based on the same, the AO passed the draft assessment order. Aggrieved, the Assessee filed its objections before the DRP, which was subsequently rejected.

Aggrieved by the above order, the Assessee filed an appeal before the Hon'ble Mumbai ITAT. Before the Hon'ble Mumbai ITAT, the Assessee submitted that it had undertaken design and engineering service transactions with both AEs and non-AEs, each involving materially different functional and risk profiles. In the AE segment, the Assessee functioned as a low-risk subcontractor providing routine engineering and drafting services based on inputs received from its AEs, while the AEs acted as principal contractors bearing customer, contractual, commercial and credit risks. Conversely, in the non-AE segment, the Assessee operated as a full-fledged entrepreneur responsible for business development, project execution, project management and assumption of all commercial and contractual risks, thereby warranting separate segmental profitability. The Assessee further submitted that common costs were allocated between the AE and non-AE segments based on actual man-hours recorded through the Assessee's robust system. It was also explained that the higher costs in the non-AE segment were attributable to exceptional factors including project delays arising from the COVID-19 pandemic, increased project complexity necessitating deployment of senior personnel and liquidated damages for delayed execution. The Assessee also furnished segment-wise hourly margin analysis further bifurcated between government and private projects, demonstrating that losses in government contracts adversely affected the overall non-AE margins. The Ld. AR further submitted that the non-AE segment made profits in subsequent years and that the segmental working was accepted by the TPO in earlier years.

The Hon'ble Mumbai ITAT observed that the TPO passed an order in an arbitrary manner without considering the detailed explanation submitted before the TPO and DRP justifying the difference in profit margin from AE and non-AE transaction. The Hon'ble Mumbai ITAT relying on the decision of Tata Communication Transformation Services Ltd[20], Spectrum Technologies (P) Ltd[21] and SMA Nutrition

[18] [TS-1267-HC-2018(BOM)-TP]
[19] [TS-6027-ITAT-2023(Mumbai)-O]
[20] [TS-6020-ITAT-2014(Mumbai)-O]
[21] [TS-101-ITAT-2024(DEL)-TP]

India (P) Limited[22] held that segmental profitability cannot be rejected without pointing out any specific defect/error/fallacy. The Hon'ble Mumbai ITAT further held that the segmental data backed by independent audit report bears high evidentiary value. Considering no defects were identified by the TPO in the segmental margin and no variations in the facts as compared to earlier years, directed the AO to accept the segmental margin following principle of consistency and recompute the adjustment considering arithmetic mean of 4 comparables.

Worley Services India (P.) Ltd [TS-495-ITAT-2026 (Mum)-TP]

4. ***Assessee can resile from the MAM adopted by it in the TPSR depending on the facts of the case***

Yizumi Advanced Processing Technology Private Limited ("the Assessee") is engaged in the business of manufacturing and trading machinery for the plastics industry. The Assessee had availed an ECB loan from its AE at an interest rate of 5%. To benchmark the interest paid to the AE, the Assessee adopted the Other Method as the MAM based on data available on the RBI website. During the scrutiny proceedings, the TPO rejected the Assessee's benchmarking analysis and, using the Bloomberg database, determined the arm's length interest rate at 3.5958% by applying the LIBOR-plus approach. Accordingly, the TPO made a TP adjustment for the differential interest amount.

During the scrutiny proceedings, the Assessee made an alternative plea that the transaction should be benchmarked under the CUP Method using the LIBOR-plus approach. However, the TPO rejected this request considering it as an afterthought and passed an order making the aforesaid adjustment.

Aggrieved by the order, the Assessee filed objections before the DRP. The DRP upheld the adjustment made by the TPO.

The Assessee subsequently filed an appeal before the Hon'ble Ahmedabad ITAT. The Hon'ble ITAT held that, for benchmarking interest paid on an ECB loan to an AE, the CUP Method is the MAM, in line with the generally accepted position in the Indian TP jurisprudence, as it provides the most direct comparison with interest rates charged in comparable uncontrolled transactions. The Hon'ble ITAT further observed that the most relevant benchmark for such transactions is the LIBOR-plus spread, which should be determined after considering factors such as the borrower's credit rating, loan tenure, security/collateral, subordination, and prevailing market conditions.

Accordingly, the Hon'ble ITAT held that the Assessee's alternative benchmarking request should have been accepted, as Assessee is entitled to depart from the MAM adopted in its TPSR. Therefore, the Hon'ble ITAT set aside the matter and remanded it to the TPO with directions to recompute the ALP of the Assessee's international transaction by applying the CUP Method based on the LIBOR-plus approach.

Yizumi Advanced Processing Technology Private Limited [TS-510-ITAT-2026(Ahd)-TP]

III. GOODS AND SERVICES TAX – UPDATES

A. GST – Case Laws

1.1 Section 93 permits fresh proceedings to be initiated against the legal heir after the death of the taxable person even where the business stands discontinued and nothing was commenced during his lifetime

The Assessee, V. Damayanti, is the widow of V. Vasudevan, the proprietor of M/s. Vasu Chemicals, which was engaged in supplying industrial soaps and polishes. The Assessee's husband died on 5 March 2019, after which the business was discontinued, and the registration was cancelled with effect from 31 December 2019. The Department issued a communication dated 10 March 2025 followed by a notice in Form DRC-01A, alleging that M/s. Vasu Chemicals had not filed returns in respect of certain e-way bills generated during the FY 2018-19. The Assessee replied that the business had closed on her husband's death and that she was neither involved in nor aware of its dealings. A SCN in Form DRC-01 followed on 26 June 2025. Rejecting her explanation, the Department passed an order dated 11 December 2025 under Section 74 of the CGST Act, determining liability of Rs. 3,42,355 with interest and penalty.

The issue before the Hon'ble Court was whether

[22] *[TS-503-ITAT-2022(DEL)-TP]*

assessment proceedings could be initiated from the very beginning against the legal heir of a deceased taxable person where the business had been discontinued and no part of the proceedings had been commenced during the lifetime of the taxable person.

The Assessee contended that Section 93 has to be read harmoniously with Sections 73 and 74, which require a notice to the “person chargeable with tax”, and that the words permitting determination after death applied only where proceedings were already pending at the time of death. Further reliance was placed on the decision in the matter of Peekay Re-Rolling Mills (P) Ltd. v. Assistant Commissioner[23] on the distinction between levy and collection. The Hon'ble Court held that Section 74 deliberately employs the wider expression “person chargeable with tax” rather than “taxable person” as defined in Section 2(107) of the CGST Act, and that it takes in every person on whom the Act fastens the obligation to discharge tax, including a legal heir, a recipient liable under reverse charge and an electronic commerce operator.

Under Section 9(1) of the CGST Act, the levy is on the supply while the liability to pay rests on the taxable person or such other person as the Act provides, and Section 93(1)(b) expressly authorises recovery from the legal representative of a discontinued business to the extent the estate inherited can meet the charge. Since Section 93 of the CGST Act, contemplates a liability “determined after his death”, that expression covers the whole adjudicatory process under Sections 73, 74 or 74A, including the issue of notices and every step preceding determination. The Hon'ble Court found Peekay Re-Rolling Mills (P) Ltd. inapplicable and dismissed the writ petition.

V. Damayanti v. Superintendent of GST and Central Excise, Madurai, Hon'ble Madras High Court [TS-442-HC(MAD)-2026-GST]

1.2 CGST waiver of interest and penalty cannot be denied where proceedings were initiated under Section 73 and not Section 74

The Assessee is the proprietor of Tvl. Best Lab Instruments Furniture and received an assessment order dated 25 April 2024 for the assessment period 2018-19. Before any appellate order came to be passed, the Assessee applied for waiver of interest and penalty under Section 128A of the CGST Act, 2017, the application falling under clause (b) of sub-section (1) of that Section, which covers an order passed under Section 73(9) where no order under Section 107(11) or Section 108(1) has yet been made. The Department rejected the application dated 19 February 2025 and recorded that the Assessee was ineligible because ITC had been availed from non-existing taxpayers, cancelled dealers and return defaulters. The Assessee approached the writ court contending that the ground assigned for rejection did not answer with anything contained in Section 128A of the CGST Act.

The issue before the Hon'ble Court was whether the application for waiver of interest and penalty under Section 128A could be rejected on the ground that credit had been availed from non-existent taxpayers, cancelled dealers and return defaulters, when the underlying demand had been raised under Section 73 of the CGST Act.

The Hon'ble Court examined Section 128A of the CGST Act, which begins with a non obstante clause and covers tax payable in accordance with a notice or statement issued under Section 73, an order passed under Section 73(9), or an order under Section 107(11) or Section 108(1), for the period from 1 July 2017 to 31 March 2020 or a part of it, and provides that on payment of the full amount of tax payable as per that notice, no interest under Section 50 and no penalty shall be payable and the proceedings shall be deemed to be concluded. Since the assessment order was made on 25 April 2024, the Assessee had properly applied under clause (b), and the period in question fell within the sweep of sub-section (1) of Section 128A.

The Hon'ble Court held that the reason recorded for rejection did not sit within the statutory scheme, because allegations of the kind relied upon, namely availment of credit from non-existing taxpayers, cancelled dealers and return defaulters, would call for proceedings under Section 74, whereas the record showed that the proceedings against the Assessee had in fact been initiated under Section 73. The basis on which the waiver was refused therefore could not be sustained. The rejection order was set aside and the Department was directed to reconsider the application for waiver in the light of these observations.

A. Gurusamy, Proprietor of Tvl. Best Lab Instruments Furnitures v. State Tax Officer (ST), Chenani, Hon'ble Madras High Court, W.P. No. 21488 of 2026, decided on 16 June 2026

[23] [(2007) 4 SCC 30]

1.3 Bureau of Investigation officer may investigate, but authority to issue a show cause notice under Section 73 was prima facie questioned; assessee was directed to participate, while enforcement of any decision was stayed

The Assessee, Jac Olivol Products Private Limited, was issued a SCN by the Joint Commissioner, State Tax, Bureau of Investigation for the tax period from October 2022 to March 2023. The Assessee approached the writ court contending that although the officer had been conferred jurisdiction to investigate non-payment and short payment of tax, the notification dated 20 November 2019 issued under Section 4(2) of the WBGST/CGST Act, 2017, which came into force on 1 December 2019, did not empower him to issue a show cause notice for determining short payment or non-payment. Clauses 2 and 3 of the notification deal with territorial jurisdiction and Clauses 4 and 5 deal with the of the jurisdiction exercisable, which is confined to enforcement activity in respect of storage, transportation or movement of goods and to investigation including input tax credit investigation, the Assessee argued that the proceeding under Section 73 before that officer was a non-starter.

The issue before the Hon'ble Court was whether the SCN issued by an officer of the Bureau of Investigation for determination of short payment or non-payment of tax under Section 73 was without jurisdiction, and what interim arrangement ought to govern the proceedings in the meantime.

The Hon'ble Court noted that a jurisdictional issue had been raised and that a coordinate Bench had entertained writ petitions on an identical set of facts in S-Gen Consortium Infra Private Limited v. State Tax Officer, Bureau of Investigation (SB), Durgapur Zone[24]. On the prima facie case made out, the Hon'ble Court held that the writ petition deserved to be heard. At the same time, since the show cause notice had already been issued, it was thought prudent to require the Assessee not merely to respond to the notice but to participate in the proceedings, and the officer was left at liberty to decide the show cause notice. To preserve the subject matter of the challenge, the Hon'ble Court directed that any such decision would not be enforced against the Assessee until the disposal of the writ petition or until further order, whichever was earlier.

Jac Olivol Products Private Limited v. Joint Commissioner of State Tax, Bureau of Investigation, Hon'ble Calcutta High Court, WPA 12919 of 2026, decided on 8 July 2026

[24] WPA 4428 of 2026
[25] W.P. No. 28437 of 2020, order dated 29.09.2020

1.4 A discrepancy between GSTR-3B and GSTR-2A, resulting in availment and utilisation of ineligible ITC, attracts interest under Section 50(3) read with Rule 88B(3), and does not warrant interference under Article 226

The Assessee, Jayashree Enterprises, received an order dated 12 February 2025 wherein the assessing officer proceeded on a discrepancy between the ITC reflected in the GSTR-3B return and the credit auto-populated in GSTR-2A, and computed interest along with penalty. The assessing officer recorded that the tax due had been set off against the credit available in the ledger, that the CGST credit had already been utilised against other dues before the date on which it was applied to the demand in question. The Assessee assailed the order in so far as interest was concerned, contending that a liability arising from a mere mismatch between the two returns could not be characterised as wrongful availment and utilisation of credit. The Assessee relied upon Circular F. No. CBEC-20/01/08/2019-GST dated 18 September 2020, and on the proviso to Section 50(1) of the CGST Act, to argue that the interest was payable only on the portion of tax discharged by debiting the electronic cash ledger, whereas its liability had been met from the electronic credit ledger. The Assesee also placed reliance on the decision of the Court in the matter of Maansarovar Motors Private Limited v. Assistant Commissioner, Poonamallee Division[25].

The issue before the Hon'ble Court was whether a liability arising from a discrepancy between GSTR-3B and GSTR-2A amounted to ITC wrongly availed and utilised so as to attract interest under Section 50(3) read with Rule 88B(3), rather than under Section 50(1).

The Hon'ble Court held that Section 50(1) deals generically with belated payment of tax and prescribes a ceiling of eighteen per cent, whereas Section 50(3) deals specifically with ITC wrongly availed and utilised and fixes a higher ceiling of twenty-four per cent, which itself indicates that the general provision is not attracted. Under the CGST Act, input tax credit is defined under Section 2(63), but does not define wrongful availment and utilisation, and examined the expression "wrongly availed and utilised", the Court observed that the expression should be confined only to fraudulent or bad-faith cases. That conclusion was fortified by the separate treatment of bad faith availment under Section 74, which prescribes a higher penalty. The Court also referred to Rule 88B(3) of the CGST Rules, which governs computation of interest in such cases from the date of utilisation of wrongly availed credit till the date of reversal or payment. On the facts, the assessing officer had recorded that although the tax due was set off against available ITC, the CGST credit had already been utilised against other tax dues before the actual date on which the credit was used to set off the tax due. On that basis, interest was held to be leviable since the utilisation in such a case is necessarily by debit to the credit ledger and not the cash ledger, the assessing officer's recourse to Section 50(3) was in order, and no infirmity warranting interference under Article 226 was found.

Jayashree Enterprises v. Assistant Commissioner, Hon'ble Madras High Court [TS-457-HC(MAD)-2026-GST]

1.5 Amendment to Rule 89(5) by Notification No. 14/2022-Central Tax dated 5 July 2022 is curative and applies retrospectively, so the refund formula is no bar to a claim for credit attributable to input services

The Assessee, Pranav Overseas LLP, had claimed refund of unutilised ITC accumulated on account of an inverted duty structure for the years 2017-18 and 2018-19, including the credit attributable to input services. The Department issued a deficiency memo in Form GST RFD-03 for both years basis the formula prescribed in Rule 89(5) of the CGST Rules, confining the refund of "Net ITC" to credit availed on inputs and excluding input services. The Assessee approached the writ court seeking a declaration that the definition of "Net ITC" in Rule 89(5) was ultra vires Section 54(3) of the CGST Act, and the legislative scheme, and also sought quashing of the deficiency memo and a direction to grant the refund attributable to input services.

The issue before the Hon'ble Court was whether the amendment carried out in Rule 89(5) of the CGST Rules, applied to refund claims relating to periods before the amending notification, so that the restriction in the refund formula would not stand in the way of the Assessee's claim for credit attributable to input services.

The Hon'ble Court proceeded on the subsequent development in the law and placed reliance on the decision of the Hon'ble Supreme Court in the matter of Union of India v. VKC Footsteps India Pvt. Ltd.[26], wherein the Court had declined to read down the formula, holding that it was neither ambiguous nor unworkable and that recrafting it would amount to stepping into the shoes of the legislature, and urging the GST Council to reconsider the formula. Acting on that suggestion, Rule 89(5) was amended by Notification No. 14/2022-Central Tax dated 5 July 2022, to substitute the expression relating to tax payable on the inverted rated supply with a formula factoring "Net ITC" against the credit availed on inputs and input services. The question of the reach of that amendment was answered by a coordinate Bench in Ascent Meditech Ltd. v. Union of India[27], which held the amendment to be curative and clarificatory and therefore retrospective, applicable to rectification applications filed within the two-year period under Section 54(1) of the Act. The challenge to that decision failed, the Special Leave Petition No. 8134 of 2025 having been dismissed on 28 March 2025 and the review petition on 2 December 2025. With that position not being controverted by the Revenue, the Hon'ble Court quashed the deficiency memo in Form GST RFD-03 for 2017-18 and 2018-19 and directed the Department to process the refund claim in the light of VKC Footsteps and Ascent Meditech Ltd. and in terms of the notification dated 5 July 2022 within twelve weeks.

Pranav Overseas LLP v. Union of India, Hon'ble Gujarat High Court [TS(DB)-GST-HC(GUJ)-2026-690]

1.6 Retrospective cancellation of GST registration and suspension during pendency of cancellation proceedings are permissible under Section 29(2) of the CGST Act, 2017

The Assessee, Reberoshine International (OPC) Pvt. Ltd., receive a SCN dated 10 June 2026 proposing cancellation of its GST registration, the registration having been suspended with retrospective effect. The notice proceeded with an allegation of fraud, the Department's case being that the Assessee had deliberately suppressed its address and other particulars relating to its place of business. The SCN granted an opportunity to file a reply and also afforded a personal hearing, but the Assessee filed no reply and instead moved the writ court, challenging the SCN. The contention of the Assessee was that even if

[26] [(2022) 2 SCC 603]
[27] [(2025) 145 GSTR 246]

cancellation of registration with retrospective effect might be permissible under Section 29(2), suspending the registration with retrospective effect was impermissible in law.

The issue before the Hon'ble Court was whether the suspension of registration with retrospective effect was permissible, and whether the challenge to Section 29(2) and Rule 21(a) merited entertainment in a writ petition directed against a show cause notice.

The Hon'ble Court held that Section 29(2) of the CGST Act permits cancellation of registration from any date, which may include a retrospective date, so that retrospective cancellation is plainly permissible. As regards the second proviso to Section 29(2) of the CGST Act, the law empowers the officer, during the pendency of proceedings relating to cancellation, to suspend the registration for such period and in such manner as may be prescribed, and the expression “as may be prescribed” was construed as referring to the prescription under Section 29 itself, thus the Section dealing not only with cancellation but with suspension as well. The challenge to Section 29(2) and Rule 21(a) of the GST Rules was not entertained. The Court found no sufficient ground to invoke writ jurisdiction on that count, particularly when the impugned show cause notice granted the Assessee an opportunity to file a reply and also afforded an opportunity of personal hearing. The Court specifically recorded that the petitioner had failed to file any reply to the show cause notice and observed that the pleas raised in the writ petition could very well have been taken in the show cause reply.

In view of the above, the Bombay High Court held that the writ petition was devoid of merit and dismissed it, while keeping the questions of law open to be decided in an appropriate proceeding.

Reberoshine International (OPC) Pvt. Ltd. v. Commissioner of State Tax, Hon'ble Bombay High Court, Writ Petition (L) No. 20652 of 2026, decided on 30 June 2026

1.7 Retrospective Relief Under Section 16(5) Quashes Delayed ITC Demand; Short-Payment, Mismatch and Penalty Remanded for Fresh Adjudication

The Assessee, Santu Das, received a SCN dated 6 July 2021 under Section 73(1) of the WBGST/CGST Act, 2017 raising three grounds- (a) irregular availment of input tax credit of Rs. 33,49,590 for the period November 2018 to March 2019, on the footing that the returns under Section 39 had been filed beyond the period prescribed by Section 16(4) (b) excess availment of credit of Rs. 40,414 for 2017-18 traced to a mismatch between Table 8 of the annual return in GSTR-9, the credit disclosed in Table 4A of GSTR-3B and the details auto-populated in GSTR-2A by the service provider and (c) short payment of Rs. 52,208 for August 2017. The proper officer raised a demand of Rs. 19,02,986 by order under Section 73(9) with DRC-07 and imposed a penalty of Rs. 1,00,000. The Assessee's appeal was rejected on 22 March 2023, and on the Department's own appeal the Appellate Authority enhanced the penalty to Rs. 3,80,597, holding that the mandatory penalty under Section 73(9) was ten per cent of the tax or Rs. 10,000, whichever is higher.

The issue before the Hon'ble Court was whether the demand found on the late filing of returns survived the retrospective insertion of Section 16(5) of the CGST Act, and whether the remaining grounds and the enhanced penalty could be sustained.

The Hon'ble Court held that the first ground rested on the impediment created by Section 16(4), a position altered by the insertion of Section 16(5) by the Finance (No. 2) Act, 2024 dated 16 August 2024, brought into force from 27 September 2024. Since the record showed that the returns for 2018-19 had been filed before 30 November 2021, the Assessee was entitled to the benefit of that provision and the demand of Rs. 33,49,590 was quashed.

On the short payment, the Assessee relied on a voluntary payment made in Form GST DRC-03 dated 31 January 2020, and although the figures matched, the Hon'ble Court considered it prudent to remand to the adjudicating authority since the same was essentially a factual question. On the mismatch, the ITC related to services purchased from Aircel, whose failure to upload returns during insolvency proceedings could not be visited on the Assessee, and as the insolvency matter was pending before the Hon'ble Supreme Court and the orders contained little discussion of the point, that issue too was remitted for reconsideration. Since the demand on the first ground had been set aside and the quantum of penalty depends on the demand, the penalty as enhanced could not stand and was set aside, with the question of penalty remanded for re-adjudication. The orders of the adjudicating authority and the Appellate Authority were set aside and the writ petition disposed of.

Santu Das v. Assistant Commissioner of CGST & C. Ex., Chandannagore Division, Hon'ble Calcutta High Court [TS(DB)-GST-HC(CAL)-2026-691]

1.8 IGST demand on CRS transactions raises a substantial question whether the Indian airline entity is the "recipient" of the service, and maintainability of the writ was kept open

The Assessee, Singapore Airlines Ltd., is the operator of Singapore Airlines in India and a distinct legal entity. The Additional Commissioner vide order dated 4 February 2025, confirmed a demand of IGST of Rs. 24,41,60,160 under Section 74(9) of the CGST Act, together with an equal penalty and applicable interest, in respect of services supplied by Computerised Reservation System (CRS) companies. The Assessee's case was that those services were supplied pursuant to an agreement entered directly by the CRS companies, that it was neither the recipient of the service nor the person who paid for it, and that a demand under Section 74(2) was therefore not maintainable. The Department resisted the petition, contending that the transaction had taken place in the Assessee's office in India and hence it could not avoid the IGST liability, and that the Order-in-Original being appealable, the petition ought to be dismissed on the ground of maintainability.

The issue before the Hon'ble Court was whether the Assessee came within the definition of "recipient" so as to be saddled with the IGST levied on the transaction, and whether the writ petition should be entertained notwithstanding the alternative remedy, having regard to the challenge to the jurisdiction of the adjudicating authority.

The Assessee placed reliance on British Airways v. Commissioner of Central Excise (Adjn.), Delhi[28] and on the decision in Singapore Airlines v. Commissioner of Service Tax, Mumbai-I, dated 26 September 2022, to submit that it was not liable to tax as it was not the recipient of the services, and that the impugned order was without jurisdiction. The Hon'ble Court took the view that the core question falling for determination was whether the Assessee would come within the definition of "recipient", and whether an entity that is neither the recipient nor the payer of the service provided by the CRS could be held liable to discharge GST liability for the transaction. Even on a cursory reading of the impugned order, the Hon'ble Court found that the question called for deeper consideration. Since the question as formulated also went to the jurisdiction of the adjudicating authority, the Hon'ble Court held that it needed to be examined notwithstanding the alternative remedy available to the Assessee. Notice was accordingly issued, and the reply tendered by the Department was taken on record, the question of maintainability was expressly kept open for consideration on the next date, ad-interim relief was granted till then, and the Assessee was given liberty to file an affidavit-in-rejoinder.

Singapore Airlines Ltd. v. Union of India, Hon'ble Bombay High Court [TS(DB)-GST-HC(BOM)-2026-688]

B. Customs – Case Laws

2.1 A writ against final anti-dumping findings and the consequential notification will not be entertained where the interested parties were heard and the non-confidential material was shared; disputes over methodology, non-injurious price and injury margin belong to the Tribunal under Section 9C

The Assessee, Lanxess Belgium N.V., a company incorporated under the laws of Belgium and the European Union, manufactures Sulphenamides Accelerators, an essential input for rubber products made to European quality standards. On an application by a domestic producer under Rule 5 of the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, the Designated Authority initiated an anti-dumping investigation by the Initiation Notification dated 31 December 2024 and, vide notice dated 10 February 2025, settled the scope of the product under consideration on the Product Control Number methodology.

The investigation culminated in Final Findings dated 20 March 2026 and Notification No. 11/2026-Customs (ADD) dated 19 June 2026. The Assessee challenged both, contending that the pre-initiation scrutiny mandated by Rule 5(3) had not been undertaken, and that the working and computation behind the exporter-specific dumping and injury margins had not been disclosed as required by Rule 16, and that a lower landed value for imports from China coupled with a higher recommended duty was arithmetically irreconcilable under Rule 11, pointing to a fundamental error in the landed value, the non-injurious price, the injury margin or the lesser duty rule under Section 9A(1) read with Rule 17(1)(b).

The issue before the Hon'ble Court was whether the writ petition against the final findings and the consequential notification was maintainable in view of the appeal provided by Section 9C of the Customs Tariff

[28] *[2014 (36) S.T.R. 598 (Tri.-Del.)]*

Act, 1975, and whether the case fell within the recognised exceptions to the rule of alternative remedy.

The Hon'ble Court held that nothing under Section 9C of the Customs Tariff Act, prevented CESTAT from examining the legality of the disclosure statement, the final findings and the notification, while acknowledging on the authority of Whirlpool Corporation v. Registrar of Trade Marks, Mumbai[29], relied on with Radha Krishan Industries v. State of Himachal Pradesh[30], that writ jurisdiction survives an alternative remedy where there is gross violation of natural justice, breach of the statutory process, or want of jurisdiction.

It was observed that the disclosure statement showed that the Designated Authority had considered the submissions of all interested parties, and the non-confidential version of the information had been circulated under Rule 6(7). Further, the transaction-wise data procured from the Government was withheld from every interested party including the domestic industry, and that injury-period information was supplied on an indexed basis under Rule 7. The Hon'ble Court held that it could not venture into terra incognita by doubting the methodology or valuation, which lies within the domain of an expert authority, and that questions on the landed value, the non-injurious price, the injury margin and the lesser duty rule were for the Tribunal. The pendency of a challenge to the same final findings by the Automotive Tyre Manufacturers Association before CESTAT weighed further against interference. The petition was dismissed with liberty to appeal.

Lanxess Belgium N.V. v. Union of India, Hon'ble Gujarat High Court, R/Special Civil Application No. 8794 of 2026, decided on 7 July 2026

2.2 Anti-dumping duty survives expiry of notification; EOU exemption, manufacture claim and duty-equivalent penalty rejected

The Assessee, Tonira Pharma Ltd., a 100% Export Oriented Unit and private bonded warehouse licensee, imported 29,000 kgs of 3,4,5 TMBA between February and September 2000 and 1,48,000 kgs of Ascorbic Acid between July 2000 and November 2001, free of duty under Notification No. 53/97-Cus. dated 3 June 1997. Following a visit by Central Excise officers on 4 and 5 January 2001, a SCN proposed levy of duty of Rs. 8,84,16,660 on the ground that the imported goods had been cleared into the Domestic Tariff Area without any manufacturing process. The Commissioner confirmed the demand under Section 28 of the Customs Act, 1962 by order dated 18 February 2005 with an equal penalty under Section 114A. The CESTAT, by majority order affirmed the anti-dumping duty for the period before 11 May 2001, and set aside the demand thereafter by reference to Section 9A(2A) of the Customs Tariff Act, 1975, reduced the penalty to ten per cent as excessive, and excluded the anti-dumping duty from the assessable value for CVD and SAD. Cross appeals followed, along with a writ petition against the order dated 25 June 2008 on rectification.

The issue before the Hon'ble Court was whether anti-dumping duty could be demanded on imports made while the notification was in force although the notice and adjudication followed its expiry, whether Section 9A(2A) exempted the goods, whether the imported goods had been subjected to manufacture under the EXIM Policy, whether the penalty under Section 114A was rightly reduced, and whether the anti-dumping duty formed part of the assessable value for CVD and SAD.

The Hon'ble Court held that liability to pay anti-dumping duty arose upon import during the subsistence of the Notification issued under Section 9A(1) of the Customs Tariff Act, 1975, and expiry of the Notification did not obliterate duty already attracted by imports made while it was operative. Further, Section 9A(2A) did not assist the Assessee because the goods were diverted to the Domestic Tariff Area contrary to the conditions of the exemption and without the requisite manufacturing activity. Mere repacking or relabelling, without a new product with a distinctive name, character or use emerging, did not amount to manufacture under the EXIM Policy. The penalty under Section 114A was restored at the duty-equivalent rate, the reduction by the Tribunal to 10% being unsupported by reason and contrary to the statutory scheme. Anti-dumping duty was excluded from the base for computing CVD and SAD. Duty paid on DTA clearances being excise duty, no cross-adjustment against the confirmed customs demand was permissible.

Tonira Pharma Ltd. v. Union of India, Hon'ble Gujarat High Court (TS-192-HC-2026(GUJ)-CUST)

[29] *[(1998) 8 SCC 1]*
[30] *[(2021) 6 SCC 771]*

2.3 LCD touch-panel modules specifically covered by Customs Tariff Heading 9013; automotive use does not displace Chapter 90 classification

The Assessee, Mobis India Limited, is registered with the Directorate General of Foreign and deals in global automotive parts and accessories in the Indian and overseas markets. Between May 2018 and December 2021, it imported Liquid Crystal Display Touch Panel Modules, variously described as "Assy LCD", "Liquid Crystal Displays", "Touch Panel Module" and "LCD Touch Panel Module", for use as part of audio systems in automobiles, and classified them under Customs Tariff Heading 9013 80 10, claiming the benefit of Serial No. 29 of Notification No. 24/2005-Cus. dated 1 March 2005. The DRI took the view that the goods were a combination of a touch sensitive device and a liquid crystal device, technically a programmed switchboard or programmable controller, and were appropriately classifiable under CTH 8537 10, hence, the exemption did not apply and basic customs duty was leviable at 7.5%. A SCN issued proposed reclassification and recovery of differential duty along with confiscation and penalty. The adjudicating authority confirmed the proposals by Order-in-Original dated 29 April 2024.

The issue before the Hon'ble Court was whether the imported liquid crystal display touch panel modules were liable to be reclassified under CTH 8537 as programmable controllers or switchboards, or remained classifiable under CTH 9013 80 10 within Chapter 90.

The Hon'ble Court found on a perusal of the reply to the SCN that the Assessee had clearly explained its basis for classifying the goods under CTH 9013 80 10, and place reliance on the decision of the Hon'ble Court in the matter of Commissioner of Central Excise, Aurangabad v. Videocon Industries Ltd.[31]. It was observed in the case that where goods are excluded from a particular chapter, the "pull in" through a chapter note must be narrowly construed, otherwise the basis of the exclusion would be defeated and the earlier note of exclusion rendered redundant. Applying Note 2(a) to Chapter 90, parts and accessories which are themselves goods included in a heading of that Chapter fall in their respective headings and displays used as parts are therefore to be classified under Heading 9013, Note 2(b) applies only to other parts and accessories to which Note 2(a) does not extend. The Hon'ble Court held that this proposition was squarely applicable and set aside the Order-in-Original, allowing the writ petitions, directing the adjudicating authority to decide the question of classification in terms of Chapter 90 and to pass fresh orders within six weeks of receipt of a copy of the order.

Mobis India Limited v. Commissioner of Customs, Directorate of Revenue Intelligence, Chennai, Hon'ble Madras High Court, W.P. Nos. 22817 and 22822 of 2024, decided on 15 June 2026

[30] *[2023 (3) TMI 1338 (SC)]*

C. GST – Notifications, Circulars & Instructions

3.1 GSTAT Order No. 156/2026 dated 10 July 2026

The GST Appellate Tribunal, Principal Bench, New Delhi has introduced a token generation facility as an additional route for filing appeals under Section 112 of the CGST Act, 2017. The order comes under Rule 123 of the Goods and Services Tax Appellate Tribunal (Procedure) Rules, 2025, as directed by the Hon'ble President. The e-filing portal has been running since 24 September 2025, and the due date for appeals under Sections 112(1) and 112(3) was extended till 31 July 2026. An appellant who wants to record the intent to appeal by that date may now do so by filling in a few basic details and generating a token on the GSTAT e-filing portal.

A token generated on or before 31 July 2026 counts as sufficient compliance with the due date. The appeal itself may then be completed within sixty days of generating the token, and a filing made within that window is treated as filed in time. Each appeal needs its own token, and one token cannot serve more than one appeal. If the first appellate order is available on the GST portal, the sixteen-digit ARN or CRN must be given. If it is not, the appellant should enter the order number, reference number or file number along with the relevant tax period. The facility is open to taxpayers holding a GSTIN, a Temporary ID or a UIN, and to tax officials holding a TDS Registration Number.

3.2 GSTN Advisory dated 1 July 2026

The Goods and Services Tax Network has rescheduled the window for amending the Aggregate Annual Turnover for the financial year 2025-26. Taxpayers can apply between 1 July 2026 and 31 July 2026, and jurisdictional officers will review the amended figures between 1 August 2026 and 15 August 2026. The change follows an upgraded AATO functionality deployed from 1 July 2026, under which the turnover updates on its own as later returns are filed once the window closes. The earlier advisory dated 2 May 2022 had allowed amendments during May, for financial years up to 2024-25.

D. Customs – Notifications, Circulars & Instructions

4.1 Circular No. 33/2026-Customs dated 13 July 2026

The CBIC has issued guidelines for self-certification of Origin Declarations under the Comprehensive Economic and Trade Agreement between India and the United Kingdom. The agreement entered into force on 15 July 2026 and is given effect by the Customs Tariff (Determination of Origin of Goods under the India-UK CETA) Rules, 2026, notified by Notification No. 62/2026-Customs (N.T.) dated 3 July 2026.

Under the new framework, eligible UK exporters or producers can self-certify the origin of goods through an Origin Declaration, replacing the conventional Certificate of Origin. To claim preferential tariff benefits, the declaration must be electronically authenticated by CBIC, following which a Unique Reference Number (URN) is generated and quoted in the Bill of Entry. The guidelines also require exporters to share the Origin Declaration with both CBIC and the Indian importer through the registered ICEGATE email, while importers must ensure their email details are up to date. The authenticated declaration remains valid for 12 months and is also applicable to eligible warehoused and in-transit goods. The new procedure aims to simplify documentation, facilitate faster customs clearance, and strengthen the implementation of the India–UK CETA through a secure and efficient digital authentication process.

4.2 Circular No. 32/2026-Customs dated 11 July 2026

The CBIC discontinues the manual submission of documents and statements that shipping lines had to file for containers imported under Notification No. 104/94-Customs dated 16 March 1994, read with Circular No. 31/2005-Customs dated 25 July 2005 and Circular No. 51/2020-Customs dated 20 November 2020. That notification exempts durable containers from the whole of the customs duty and the additional duty. The exemption is conditional and a bond must be executed, and the containers should be re-exported within six months, failing which the duty becomes payable. Until now a shipping line had to inform the Custom Authorities manually about how many containers were being moved out of the customs area and which ones, and the bond was debited and credited by hand for every transaction.

Monitoring will now run on system-generated reports. The Directorate General of Systems will prepare reports of containers not re-exported within the six-month period, with the necessary details, and publish them on the ICEGATE portal. While the existing requirement of executing bonds without surety by shipping lines, NVOCCs and steamer agents continues, the manual process of bond debit and credit for individual transactions has been dispensed with. The circular also directs Customs field formations to coordinate with DG Systems and port/terminal operators for the implementation of electronic gate systems and maintenance of digital records of container movements, in line with the 'One Nation One Port Process' initiative. The new procedure aims to enhance ease of doing business by reducing paperwork, promoting automation, and improving the efficiency and transparency of container monitoring.

4.3 Circular No. 30/2026-Customs dated 3 July 2026

CBIC has clarified on the procedure for granting drawback under Section 74 or refund under Section 27 of the Customs Act, 1962, where the import duty was originally paid through Duty Credit Scrips. The circular provides that importers are eligible to claim drawback or refund even when the duty has been discharged using Duty Credit Scrips, subject to fulfillment of the prescribed conditions under the Customs Act. It also prescribes the manner of calculating the admissible amount and ensures that the refund or drawback is granted in a manner that prevents double benefits while maintaining the integrity of the duty remission schemes. The clarification is intended to bring uniformity in customs practices, address field-level ambiguities, and facilitate legitimate refund and drawback claims by importers.

4.4 Notification No. 62/2026-Customs (N.T.), dated 3 July 2026

The Central Government has notified the Customs Tariff (Determination of Origin of Goods under the Comprehensive Economic and Trade Agreement between India and the United Kingdom) Rules, 2026, which come into force on 15 July 2026. The Rules prescribe the criteria for determining the originating status of goods traded under the India–UK CETA. Goods qualify as originating if they are wholly obtained or produced in either Party, produced entirely from originating materials, or manufactured using non-originating materials that satisfy the prescribed Product Specific Rules (PSRs) set out in Annexure A. The Rules also prescribe the methodology for calculating Qualifying Value Content (QVC) under the build-down and build-up methods, along with permissible tolerance limits for the use of non-originating materials.

The Rules further lay down the documentary requirements for claiming preferential tariff treatment, including the use of an Origin Declaration for imports into India. They incorporate provisions relating to bilateral cumulation, direct consignment, origin verification, and record-keeping. Detailed Product Specific Rules covering HS Chapters 1 to 98 specify the applicable tariff classification changes, value addition requirements, wholly obtained criteria, and sector-specific conditions. Supporting records relating to origin claims are required to be retained for a period of five years.

4.5 Circular No. 29/2026-Customs, dated 1 July 2026

CBIC has issued Circular No. 29/2026-Customs to facilitate the nationwide implementation of the Sea Cargo Manifest and Transhipment Regulations, 2018 (SCMTR). With effect from 1 July 2026, all prescribed electronic messages relating to the arrival and departure of vessels, cargo reporting, and export transhipment are required to be filed electronically, except for import transhipment (ITP) messages, which are yet to be operationalized. The circular also notes the successful rollout of additional export transhipment messages from 30 June 2026. To ensure a smooth transition, the validity of the transitional arrangements has been extended until 31 August 2026, during which no penal action will be initiated for technical or procedural difficulties in electronic filing. Customs Zones have been directed to conduct regular stakeholder outreach programmes and coordinate with DG Systems to promptly resolve implementation issues, thereby facilitating seamless adoption of the SCMTR framework across the country.

IV. REGULATORY UPDATES

1. ***Update in transfer of shares (Procedure to be followed in case of transfer of interest of a member in a company not having share capital)***

Date: 08th May, 2026

Source: Ministry of Corporate Affairs (Updates)

Section 56 of the Companies Act, 2013 provides that a proper instrument of transfer is required to be executed in case of transfer of the interest of a member in case of a company having no share capital. Such instrument is required to be executed by or on behalf of the transferor and the transferee and must be delivered to the company in terms of the said provision.

Rule 11 of the Companies (Share Capital and Debentures) Rules, 2014 provides that form SH-4 shall be the format for transfer of securities held in the physical form. Rule 11(2) of the said rules clarifies that the same form is also required to be used in case of transfer of interest of a member in a company not having Share capital. The said provision clarifies that the reference to securities shall be read as reference to "interest of the member of the company".

Accordingly, stakeholders are advised to use form SH-4 for transfer of interest of member in case of a company limited with guarantee in terms of rule 11(2).

2. ***Amendments in Registered Valuers and Valuation***

Circular / Notification: G.S.R. 432(E)

Date: 1st June 2026

Effective From: Date of publication in the Official Gazette (i.e., 1st June 2026)

In exercise of the powers conferred by Section 247 read with Sections 458, 459 and 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules further to amend the Companies (Registered Valuers and Valuation) Rules, 2017, namely:

In the Companies (Registered Valuers and Valuation) Rules, 2017, in rule 12, in sub-rule (1), for clause (i) the following clause shall be substituted, namely:

(i) it has been registered under Section 25 of the Companies Act, 1956 (1of 1956) or Section 8 of the Companies Act, 2013 (18 of 2013), having,

(a) a minimum paid-up share capital of twenty-five lakh rupees;

(b) the sole object of dealing with matters relating to regulation of valuers of an asset class or asset classes; and

(c) bye-laws containing the requirements specified in Annexure–III:

Provided that a registered valuer organisation which does not have the specified minimum paid-up capital as on the date of the commencement of the Companies (Registered Valuers and Valuation) Amendment Rules, 2026 shall comply with this requirement on or before 31st March, 2028.

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3. ***Relaxation in paying additional fees in case of delay in filing DPT-3 for Financial Year ended on 31 March 2026 up to 31st July 2026-reg.***

Circular No: **General Circular No. 02/2026**

Date: **19th June 2026**

The due date for filing Form DPT-3 (Return of deposits) is 30th of June 2026 for the Financial Year 2025-2026. In view of the capacity enhancement/restoration activities being done at Data Center consequent to a fire incident on 05/06/2026, it has been decided to allow companies to file Form DPT-3 for the financial year 2025-2026 without paying additional fees up to 31st July 2026.

2. This issues with the approval of the competent authority.

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4. ***Extension of Companies Compliance Facilitation Scheme, 2026 (CCFS- 2026) up to 31st August 2026-reg.***

Circular No: **General Circular No. 03/2026**

Date: **8th July 2026**

The Ministry of Corporate Affairs had introduced the Companies Compliance Facilitation Scheme, 2026 (CCFS-2026) to provide an opportunity to companies to complete pending statutory filings. The Scheme is presently valid up to 15th July, 2026.

2. In view of the capacity enhancement/restoration activities being done at data center consequent to a fire incident on 05.06.2026, it has been decided to extend the validity of the Companies Compliance Facilitation Scheme, 2026 (CCFS-2026) up to 31st August, 2026

3. This issues with the approval of the competent authority.

5. ***Page RECALIBRATING INDIA'S INSOLVENCY FRAMEWORK***

A Perspective on the Insolvency and Bankruptcy Code (Amendment) Act, 2026

Introduction

The Insolvency and Bankruptcy Code, 2016 (“IBC”) introduced a unified, time-bound mechanism for resolving stressed corporate debt. A decade of practice revealed bottlenecks-protracted admissions, uncertainty in plan implementation and gaps around guarantors and avoidance transactions. The Insolvency and Bankruptcy Code (Amendment) Act, 2026 (“Amendment Act”) recalibrates the Code around four themes: tighter statutory timelines, a more empowered Committee of Creditors (“CoC”), a streamlined liquidation process and greater finality for approved resolution plans. This write up examines the key changes and their implications.

Chapter I — Preliminary: Sharper Definitions, Fewer Ambiguities

The Amendment Act closes interpretive gaps left to courts:

- **Registered Valuer:** Aligned with Chapter XVII of the Companies Act, 2013 anchoring the term to a person with the requisite qualifications, experience and organisational affiliation, duly registered in the prescribed manner.
- **Service Provider:** Broadened to cover insolvency professionals, agencies, information utilities, registered valuers and any other notified category registered with the Board.
- **Security Interest:** Excludes interests arising merely by operation of law; confined to those created by agreement-affecting creditor classification and voting rights.
- **Avoidance Transaction & Fraudulent/Wrongful Trading:** Initiation date in multiple applications for PUFE Transactions is fixed as the date of the first filing. Resolution plans may now expressly permit sale of one or more assets of the corporate debtor.

Chapter II — Corporate Insolvency Resolution Process

Faster, More Accountable Admissions

Sections 7, 9 and 10 impose a uniform 14-day timeline for the Adjudicating Authority to admit or reject applications. Applicants get seven days to cure defects. Where the Authority cannot decide in time, it must

record reasons. Rejection on grounds beyond statutory requirements is barred once those requirements are met.

Withdrawal, Moratorium and the Role of the Interim Resolution Professional

- **Section 12A:** Bars CIRP withdrawal once CoC is constituted or after the first invitation for plans; applications to be decided within 30 days.
- **Section 14:** Moratorium extends to proceedings by a surety under a guarantee.
- **Sections 18 & 19:** IRP duties include verification and valuation of claims; cooperation obligation extends to promoters, former personnel and service-contract personnel.

Strengthening the Committee of Creditors and the Resolution Professional

- **Section 21:** CoC supervisory mandate extends, in specified cases, into liquidation.
- **Section 25:** RP must file applications for avoidance transactions and fraudulent/wrongful trading. Section 26 insulates these from the CIRP timeline.
- **Section 28A:** Permits transfer of personal and corporate guarantor assets (subject to creditor approval) for value maximisation. Removes the interim moratorium shielding personal guarantors, enabling immediate recovery action upon filing.

Resolution Plans: Protection and Certainty

- **Section 30:** Minimum payout to dissenting financial creditors; CoC must record reasons for approval; implementation and supervision committee mandatory.
- **Section 31:** Two-stage approval-implementation first, distribution within 30 days; CoC may rectify defects before rejection; Authority to decide within 30 days. Licences, permits and approvals protected; claims outside the plan stand extinguished (clean-slate principle).

Chapter III — Liquidation Process

- **Section 33:** Before ordering liquidation, Authority may (with CoC approval) permit one opportunity to restore CIRP to the stage of inviting plans, to conclude within 120 days. Liquidation orders within 30 days.
- **Section 34:** Liquidator appointed on IBBI recommendation; RP who conducted CIRP barred from serving as liquidator (conflict safeguard). Section 34A empowers CoC to replace liquidator by ≥66% vote.
- **Sections 43–51:** Common framework for preferential, undervalued, extortionate and fraudulent transactions. Look-back reckoned from initiation date (filing date), not commencement date. Authority may restore the pre-transaction position-capturing a wider set of pre-insolvency conduct.

Chapter IV — Omission of the Fast-Track Process and Introduction of the Creditor-Initiated Insolvency Resolution Process

- The fast-track process (erstwhile Chapter IV / s.56) is omitted entirely. In its place, new Chapter IV-A introduces CIIRP-allowing specified financial creditors to commence insolvency without prior adjudicatory admission.
- **Eligibility (s.58A):** Only for corporate debtors in categories notified by the Central Government (asset/income thresholds, debt class/quantum, etc.). Bar on overlap: cannot initiate where the debtor is already in insolvency/liquidation or has undergone CIIRP, pre-pack or completed CIRP within the preceding three years.
- **Initiation (s.58B):** Notified financial institutions may appoint RP after ≥51% approval of the relevant class, giving the debtor ≥30 days to represent and obtaining fresh 51% approval thereafter. Process deemed to commence on public announcement. No parallel CIRP or pre-pack may be filed/admitted while CIIRP is underway.
- **Objections & Timelines (s.58C–58D):** Debtor may object within 30 days. If no default, process declared void ab initio; if irregularly initiated, convertible to full CIRP. Ordinary timeline: 150 days, extendable once by up to 45 days with 66% CoC approval. Management remains with board/partners (s.58F), subject to RP oversight. Moratorium available under s.58G.

- **Conversion, Withdrawal & Plan Approval (s.58H-58K):** No approved plan, non-cooperation or rejection triggers mandatory conversion to full CIRP. Withdrawal mirrors s.12A (90% CoC approval). Approved plans (66% CoC) submitted under s.31 mutatis mutandis. Wide range of Chapter II/III/VI/VII provisions (avoidance, guarantor assets, AA powers) applied to CIIRP.

Chapter V — Voluntary Liquidation and the New Framework for Group Insolvency

- **Section 59:** Voluntary liquidation must complete within a specified period not exceeding one year. New sub-ss.(5A)–(5C) permit termination before dissolution application if members pass a special resolution, creditors representing two-thirds of outstanding debt approve within seven days and other conditions are met. Liquidator intimates Board and RoC; termination takes effect from RoC intimation.
- New Chapter VA - Group Insolvency (s.59A): Central Government may prescribe rules for simultaneous Part II proceedings of corporate debtors forming a "group" (control or significant ownership ≥26% voting rights; holding/subsidiary/associate under Companies Act). Rules may provide for common adjudicating bench, transfer of proceedings, coordination between CoCs and IPs, common IP, joint CoC, binding group coordination agreements and cost apportionment. Draft and notified rules subject to parliamentary scrutiny (30-day laying period).

Chapter VI — Adjudicating Authority: Deterring Frivolous Litigation

- A new Section 64A introduces a penalty regime for frivolous or vexatious proceedings instituted under Part II of the Code, empowering the Adjudicating Authority to impose a penalty ranging from a minimum of one lakh rupees up to two crore rupees. This provision is squarely aimed at deterring tactical or dilatory litigation that has, in practice, congested the docket of the National Company Law Tribunal and delayed genuine insolvency proceedings.

Perspective: What the Amendments Signal

- The 2026 amendments prioritise speed, certainty and creditor empowerment over open-ended judicial discretion. Firm timelines at admission, withdrawal, plan approval and liquidation address delay. The strengthened CoC role (including into liquidation), enhanced RP duties on avoidance transactions and the treatment of guarantors under s.28A (removal of interim moratorium) will require practitioners to revisit guarantee structures and recovery strategies. The two-stage approval under s.31 and protection of licences/approvals should improve resolution-applicant confidence.
- Replacement of the fast-track process with CIIRP is the boldest reform - enabling notified financial creditors to commence and substantially conduct insolvency before adjudicatory scrutiny, subject to limited objection and conversion safeguards. The time-bound exit for voluntary liquidation and the dedicated group insolvency framework under Chapter VA modernise previously neglected areas, aligning India's regime more closely with international approaches to enterprise-group resolution.
- Creditors, insolvency professionals and resolution applicants should re-examine internal processes, timelines and risk allocations built around the pre-amendment Code. While full impact will emerge through judicial interpretation and practice, the direction is clear: a more time-bound, creditor-oriented and commercially predictable insolvency regime.

V. COMPLIANCE CALENDAR FOR THE MONTH AUGUST 2026

A. Income tax

Sr. No.	Due Dates	Concerned (reporting) Period	Compliance Detail	Applicable to
01	7th August	July 2026	TDS / TCS Payment	Non-Government Deductors
02	14th August	July 2026	Issue of TDS Certificate for TDS deducted under section 194-IA, 194-IB, 194M and 194N in Form 16B, 16C, 16D and 16E respectively	Assessee who deducted TDS under this Section
03	15th August	July 2026	Provident Fund (PF) and Employee State Insurance Corporation (ESIC) Returns and Payment	All deductors
04	30th August	July 2026	TDS Payment in Form 26QB (Property), Form 26QC (Rent), Form 26QD (Contractor Payment)	Non-Government deductors
05	31st August	FY 2025-26	All individuals earning income from a business or profession, as well as partners of a partnership firm or LLP, who are not subject to a tax audit under the Income-tax Act, 1961.	All Assessee

B. Goods and Service Tax

Sr. No.	Due Dates	Concerned (reporting) Period	Compliance Detail	Applicable to
01	10th Aug 2026	July 2026	GSTR – 7 (TDS)	Person required to deduct TDS under GST
02	10th Aug 2026	July 2026	GSTR – 8 (TCS)	Person required to collect TCS under GST
03	11th Aug 2026	July 2026	GSTR 1	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	13thAug 2026	July 2026	GSTR - 5 (NRTP)	Non-resident taxable person (NRTP)
05	13thAug 2026	July 2026	GSTR – 6 (ISD)	Person registered as ISD
06	20th Aug 2026	July 2026	GSTR – 3B	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
07	20th Aug 2026	July 2026	GSTR - 5A (OIDAR)	OIDAR services provider

GLOSSARY

ABBREVIATION	FULL FORM
Act	Income-Tax Act, 1961
AE	Associated Enterprise
ALP	Arm's Length Price
AO	Assessing Officer
AY	Assessment Year
CBDT	Central Board Of Direct Taxes
CBIC	Central Board of Indirect Taxes and Customs
CESTAT	Customs, Excise and Service Tax Appellate Tribunal
CRS	Computerised Reservation System
CGST	Central Goods And Service Tax
CIT	Commissioner Of Income-Tax
CIT(Appeals) / CIT(A)	Commissioner Of Income-Tax (Appeals)
CIT(E)	Commissioner of Income Tax (Exemptions)
CPC	Centralized Processing Centre
COC	Committee of Creditors
CUP	Comparable Uncontrolled Price
CCFS	Companies Compliance Facilitation Scheme
CIRP	Corporate Insolvency Resolution Process
DGGI	Directorate General of GST Intelligence
DRP	Dispute Resolution Panel
DVO	Departmental Valuation Officer
DTAA	Double Taxation Avoidance Agreement
DTVSV	Direct Tax Vivad se Vishwas
DTA	Domestic Tariff Area
ESMA	Enterprise Subscription Master Agreement
ECB	External Commercial Borrowing
FTS	Fees for Technical Services.
GST	Goods & Services Tax
GSTAT	Goods and Services Tax Appellate Tribunal
GP	Gross Profit
GSTR	Goods and Services Tax Return
HC	High Court
HO	Head Office
Hon’ble	Honourable
IBBI	Insolvency and Bankruptcy Board of India
ITC	Input Tax Credit
IBC	Insolvency and Bankruptcy Code

GLOSSARY

ICEGATE	Indian Customs Electronic Data Interchange Gateway
IGST	Integrated Goods and Services Tax
ICEGATE	Indian Customs Electronic Gateway
INR	Indian Rupee
ITAT	Income Tax Appellate Tribunal
ITO	Income Tax Official
JDA	Joint Development Agreement
LLP	Limited Liability Partnership
LIBOR	London Interbank Offered Rate
MAM	Most Appropriate Method
NRI	Non- Resident Indian
OECD	Organisation for Economic Co-operation and Development
OGE	Order Giving Effect
PE	Permanent Establishment
PLR	Prime Lending Rate
PLI	Profit Leval Indicator
QVC	Qualifying Value Content
RPM	Resale Price Method
ROI	Return Of Income
SCN	Show Cause Notice
STCG	Short Term Capital Gain
TDS	Tax Deducted At Source
TPSR	Transfer Pricing Study Report
TNMM	Transactional Net Margin Method
TP	Transfer Pricing
TPO	Transfer Pricing Officer

BHUTA SHAH & CO LLP
CHARTERED ACCOUNTANTS

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

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

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