BHUTA SHAH & CO LLP

CHARTERED ACCOUNTANTS

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BSC BEACON

TAX & REGULATORY INSIGHTS

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I. DIRECT TAXATION:
A. DOMESTIC TAX

1. *SC: Section 40(a)(i) disallowance cannot survive once no withholding obligation exists under Section 195*

LG Electronics India Pvt. Ltd. ("the Assessee") was subjected to reassessment proceedings for AYs 2006-07 to 2008-09 on the allegation that its Korean parent company and associated enterprises constituted a Permanent Establishment ("PE") in India. The Tax Authorities alleged that the Assessee ought to have deducted tax under Section 195 of the Act on remittances made to such entities and that failure to do so warranted disallowance of the related expenditure under Section 40(a)(i) of the Act. In parallel proceedings under Section 201 of the Act, however, the Hon'ble ITAT held that there was no tax liability in the hands of the Korean payee and, consequently, no obligation on the Assessee to deduct tax under Section 195 of the Act. Relying on the said decision, the Assessee challenged the reassessment proceedings before the Hon'ble SC.

The Hon'ble SC observed that once the Assessee could not be treated as an assessee-in-default under Section 201 of the Act, the consequential disallowance under Section 40(a)(i) of the Act could not survive. The Hon'ble SC further observed that the notice issued under Section 147 of the Act was founded specifically on the alleged default under Section 201 of the Act and the consequential disallowance under Section 40(a)(i) of the Act. Accordingly, having regard to the finding that no withholding obligation existed under Section 195 of the Act, the Hon'ble SC held that the reassessment proceedings initiated for the relevant assessment years were unenforceable and directed the AO to close the reassessment proceedings.

Principal Officer LG Electronics India Pvt. Ltd. [TS-1629-SC-2026]

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2. *Receipt on sale of self-generated trademarks and brands is not taxable as long term capital gain where the cost of acquisition is unascertainable.*

Shantaben K Patel (the Assessee) and Ramjibhai K. Patel ran a partnership firm, Nirma Chemical Works, engaged in the business of colour chemicals and washing powder. After Ramjibhai's death in 1974, the Assessee became the sole owner of the tenancy rights, goodwill, trademarks and brands (intangible assets) of the firm vide partnership deed executed on 12.11.1974 with other partners. The firm was dissolved by a deed dated 07.02.1980. The S.K. Patel Family Trust (Trust), with the Assessee as trustee, took over the business of the firm. Clause 7 of the dissolution deed entitled the Assessee to a yearly payment at higher of 2.5% of net profits or INR 10,000. The Assessee offered this payment to tax as income from other sources and accepted by tax authorities. The business later became Nirma Chemical Works Limited (NCWL).



In 2001, NCWL proposed to sell the brands owned by the Assessee. The dispute with respect to right of NCWL to sell intangible assets without the consent of Assessee arose. The Assessee and NCWL agreed to refer the dispute to arbitration and accordingly, a sole arbitrator (a retired Chief Justice of the Gujarat HC) was appointed. He ruled in favour of the Assessee considering that she owned the brands and NCWL had a perpetual right to use them. Therefore, the Assessee was held to be entitled to 10% of the total sale price (of INR 500 crore) – INR 50 crore. On 26.03.2001, the intangible assets were sold to Nirma Limited for INR 500 crore and the Assessee received INR 50 crore in the AY 2001-02.

The Assessee claimed the receipt as not taxable on the basis that the intangible assets were self-generated assets. Also, its cost of acquisition was unascertainable. Hence, the computation mechanism failed, and no capital gain arose relying on B.C. Srinivasa Setty[1]. During the assessment proceedings for the AY 2001-02, the AO held that the Assessee had sold the ownership of intangible assets in 1980 and that an amount of INR 50 crore was the price for giving up the right to receive the annual payment. Therefore, he taxed it as income from other sources. Alternatively, he also sought to tax the amount of INR 50 crore as long term capital gain considering cost of acquisition as NIL. Aggrieved, the Assessee filed an appeal before the CIT(A) who upheld the first view of the AO as taxable as income from other sources.

Aggrieved, the Assessee filed an appeal before the Hon'ble Ahmedabad ITAT. The Hon'ble ITAT noted the following factual position:

a. The Assessee has not sold the ownership rights in the intangible assets as per dissolution deed but assigned the user rights to the Trust in the capacity of licensee.

[1] *CIT v. B.C. Srinivasa Setty [TS-2-SC-1981]*

b. The receipt by the Assessee was not taxable as income from other sources.

c. The cost of acquisition of intangible assets was unascertainable on the date of acquisition, and the cost of improvement could not be determined.

d. The annual payment received by the Assessee received from 1974 till 1980 was revenue receipts in nature and claimed as revenue expenditure by the Firm.

e. The amount of INR 50 crore was on account of sale of ownership rights in the intangible assets in March 2001.

f. Trademarks and Tradenames are not part and parcel of goodwill and hence, the sale of intangible assets cannot be considered as sale of goodwill. Accordingly, the amendment in Section 55(2)(a) of the Act brought by Finance Act, 2001 were not applicable to AY 2001-02.

Accordingly, the Hon'ble ITAT held that receipt of INR 50 crore on account of sale of long-term capital assets (intangible assets) could be taxed under Capital Gains but since the cost of acquisition was unascertainable, the capital receipt was not taxable as long-term capital gains. Aggrieved, the Tax Authorities filed an appeal before the Hon'ble Gujarat HC.

The Hon'ble HC observed as follows:

a. Clause 7 of the dissolution deed neither fixed any sale price nor a time period. It was silent on the fate of the assets. Hence, the Assessee had assigned only the right to use the assets to the Trust. The Assessee has not sold the ownership. The INR 50 crore was not payment for giving up a right to receive a yearly amount. It was the Assessee's 10% share of the sale price under the arbitration award.

b. The yearly payment was variable. It was not an annuity. The INR 50 crore was the sale price of trademarks and brands. It was not royalty. Therefore, the Tax Authorities could not tax it as income from other sources.

c. The Tax Authorities were not parties to the arbitration. They had no evidence to doubt the award. The transaction was not a colourable device.



d. The assets were self-generated. The cost of acquisition was unascertainable. The sale covered only the trademarks and brands. It did not cover goodwill. The amendments to Section 55(2)(a) of the Act were not retrospective. Hence, the cost of acquisition cannot be taken as nil.

Accordingly, the Hon'ble HC agreed with the decision of the Hon'ble ITAT and dismissed the appeal of the Tax Authorities. Further, since the addition was deleted, the penalty could not be levied. Accordingly, it dismissed the penalty appeal as well.

[CIT v. Shantaben K. Patel – R/Tax Appeal No. 1439 of 2006 with R/Tax Appeal No. 1054 of 2007 (Hon'ble Gujarat HC)]

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3. *Where the main purpose of transactions is not to obtain a tax benefit, and such transactions does not satisfy prescribed conditions, it will not constitute 'impermissible avoidance arrangement'.*

EKGE Retail LLP (the Assessee) is an amalgamated entity comprising of New Meena Bazar International Pvt Ltd (NMB - engaged in manufacture, sale, distribution and trading of apparel under brand name of Mebaz) and Madevsag Retail (successor to NMB nurturing business of NMB). During the AY 2018-19, Vedant Fashions (engaged in business of celebration wear under brand name of 'Manyavar' and 'Mohey') offered to buy out the business of Assessee for a consideration of INR 210.46 crore and integrate with its own business. The Assessee earned LTCG on slump sale amounting to INR 175.92 crore out of the above transaction as computed under Section 50B of the Act.

The Assessee was left with huge surplus funds of INR 130 crore. Out of the said funds, the Assessee invested INR 106.31 crore in pre-bonus shares of a number of large listed companies from time to time and sold equivalent shares post-bonus thereby incurring a STCL of INR 49.32 crore. In the ROI, the Assessee claimed set-off of STCL (on sale of shares) against LTCG (on slump sale) and offered the net capital gains. In November 2018, a search operation was carried out at the premises of the Assessee. However, no incriminating material was found by the search party. However, assessments of 105 entities of the Assessee group were reopened, of which 104 assessments were concluded with nil / minimal adjustment to returned income. During the assessment proceedings, the Assessee received a SCN as to why GAAR provisions ought not to be invoked in respect of setoff of STCL against LTCG. The tax authorities referred the matter to GAAR Approving Panel (GAAR AP) disregarding the submission made by the Assessee. The GAAR AP passed directions alleging that the setoff of STCL against LTCG constituted an impermissible avoidance arrangement (IAA). Since the order passed under



Section 144BA of the Act is not an appealable order, the Assessee invoked extraordinary jurisdiction by filing a writ before the Hon'ble Telangana HC.

Before the Hon'ble HC, the Assessee contended that there was no tax benefit as the purchase and sale of large and reputed publicly listed companies were made through recognised stock exchange at open market being at arm's length in a transparent manner. The precise and exact quantum of profit / loss is not pre-ordained and cannot be termed as arrangement. Per contra, the tax authorities argued that incurring of STCL and subsequent setoff against LTCG was not for bona-fide purposes. The setoff was claimed with a view to gain tax benefit by abuse of provisions of the Act.

The Hon'ble HC noted that conditions prescribed under the GAAR provisions needs to be construed strictly as its consequences include disregard / re-characterization of transactions and denial of treaty benefits. The Hon'ble HC observed that transactions in shares is determined by the market as well as other factors and not by any concert between identifiable persons. Further, it is noted that the transactions undertaken by the Assessee cannot be more legit or transparent. After incurring the loss, the Assessee claimed the setoff in accordance with the provisions of the law. Further, it was observed that entire investment in shares was not disposed of by the Assessee as the investment worth INR 49.07 crore out of INR 106.31 crore were retained. The Hon'ble HC remarked "It is well settled that an assessee is entitled to so arrange its affairs as to attract the least incidence of tax, provided it does so within the four corners of the law, and that the mere circumstance that a lawful course adopted by an assessee also happens to be tax efficient does not render that course impermissible." The Hon'ble HC noted that a tax benefit under Chapter X-A must be secured by circumventing the scheme of the Act and not from an unavoidable operation of a computational provision. Therefore, there is no abuse or misuse of provisions of the Act and hence, the writ is allowed. The Hon'ble HC set aside the directions of GAAR AP.

EKGE Retail LLP TS-1668-HC-2026(TEL)

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4. *Audit Objection alone insufficient to reopen assessment beyond 3 years in absence of new evidence under Section 149(1)(b) of the Act*

Zydus Healthcare Limited ("the Assessee") challenged the reassessment proceedings initiated for AYs 2015-16, 2017-18 and 2018-19. The reassessment proceedings were initiated after expiry of three years from the relevant assessment years on the basis of audit objections relating, inter alia, to the treatment of excise duty refund and depreciation on goodwill. The Assessee contended that the issues sought to be reopened had already been considered during the original assessment proceedings and that the reassessment proceedings were based solely on audit objections without any fresh material. Aggrieved by the notices issued under Section 148 of the Act, orders passed under Section 148A(d) of the Act and consequential proceedings, the Assessee filed writ petitions before the Hon'ble Sikkim HC.

The Hon'ble Sikkim HC observed that while an audit objection may constitute "information" under Explanation 1 to Section 148 of the Act, it does not automatically qualify as the "books of account or other documents or evidence" contemplated under Section 149(1)(b) of the Act for reopening an assessment beyond three years. The Hon'ble HC held that Section 149(1)(b) of the Act requires the AO to possess new material revealing escapement of income and that a reassessment proceeding cannot be initiated merely on the basis of a different opinion formed on material already available during the original assessment. The Hon'ble HC further observed that an audit objection, being only an opinion on the existing record, cannot by itself constitute the new evidence contemplated under Section 149(1)(b) of the Act. Relying on the principles laid down in the case of Kelvinator of India Ltd.[2] and decisions dealing with reassessment based on audit objections, the Hon'ble HC held that the impugned reassessment proceedings amounted to a mere change of opinion. Accordingly, the Hon'ble HC quashed the notices issued under Section 148 of the Act, the orders passed under Section 148A(d) of the Act, and all consequential proceedings for the relevant assessment years.

Zydus Healthcare Limited [TS-1663-HC-2026(SIK)]

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5. *Adjustment of refunds under Section 245 of the Act amounts to coercive recovery and cannot be made against stayed demands or pending stay applications*

IMCD India Private Limited ("the Assessee"), engaged in the business of importing/trading specialty chemicals, including food pharmaceutical and personal care ingredients filed its ROI for the Assessment Years

[2] *CIT v. Kelvinator of India Ltd. [TS-5005-SC-2010-O]*

(AY) 2016-17 to 2018-19 and AY 2021-22 declaring losses or NIL income. These cases were selected for assessment. For AYs 2016-17 to 2018-19, the Tax Authorities disallowed depreciation claimed on goodwill and intangible assets. For AY 2021-22, additions were made on account of transfer pricing adjustments, and disallowing set-off of unabsorbed depreciation. Aggrieved by these additions and disallowances, the Assessee filed rectification applications under Section 154, applications for stay of demand and appeals before the CIT(A), which remained pending. By an order dated 19.09.2022, the AO recorded that the demands for AYs 2016-17 and 2017-18 were likely to be reduced to NIL after giving effect to brought forward losses and unabsorbed depreciation and that the issue involved in AY 2018-19 was covered in favour of the Assessee by earlier appellate decisions. Accordingly, the AO concluded that there was no collectible demand for those years. Further, the Assessee filed its ROI for the AYs 2024-25 and 2025-26, which were processed, resulting in refunds due. However, the Assessee received intimations under Section 245 proposing adjustment of refund against outstanding demand of earlier years. The Assessee has filed objections against the proposed adjustments. Despite these objections, the Tax Authorities adjusted the refund for AY 2024-25 against outstanding demands (including interest), for AYs 2016-17 to 2018-19. Similarly, the refund for AY 2025-26 was adjusted against the outstanding demand (including interest), for AY 2021-22. Aggrieved by these adjustments, the Assessee filed a writ petition before the Hon'ble Bombay HC.

The Assessee submitted that depreciation on goodwill/intangible assets for AYs 2016-17 to 2018-19 was covered by favourable Tribunal decisions. Given the unconditional stays and availability of brought-forward losses and unabsorbed depreciation, adjustment of refunds against such demands was impermissible.

The Assessee relied on CIT v. Smifs Securities Ltd.[3], wherein the Hon'ble SC held that goodwill constitutes an intangible asset eligible for depreciation under Section 32(1) of the Act. It was further submitted that the Hon'ble Delhi HC's decision in Sharp Business Systems v. CIT[4], concerning the treatment of non-compete fees, was subsequently reversed by the Hon'ble SC. For AY 2021-22, the Assessee contended that its stay and rectification applications were pending before the Tax Authorities and that no coercive recovery, including adjustment of refunds, should be undertaken without disposing of the stay applications. Without prejudice, the Assessee submitted that recovery should be restricted to 20% of the disputed demand in accordance with the CBDT Instruction[5].

The Hon'ble Court noted that the Tax Authorities had declared demands for AYs 2016-17 to 2018-19 non-recoverable and unconditionally stayed recovery. The Hon'ble Court held that once recovery of demand was stayed and there was no collectible demand, adjustment of refunds under Section 245 was not permissible. Accordingly, the adjustments made against the demands for AYs 2016-17 to 2018-19 were directed to be reversed.

For AY 2021-22, relying on UTI Mutual Fund v. ITO[6], KEC International Ltd. and Coca Cola (P.) Ltd., the Hon'ble Court reiterated that recovery should ordinarily be deferred while a stay application remains pending, or for a reasonable period thereafter to enable the Assessee to approach a higher forum. Coercive recovery may be resorted to where the authority reasonably apprehends that the Assessee may frustrate recovery, provided brief reasons are recorded. The Court held that refund adjustment constitutes coercive recovery and permitted retention of only 20% of the demand for AY 2021-22.



Accordingly, the Hon'ble Court directed refund of amounts adjusted against demands for AYs 2016-17, 2017-18 and 2018-19, along with applicable interest. For AY 2021-22, retention was restricted to 20% of the disputed demand, and the excess adjustment was directed to be refunded with interest. The balance demand was stayed pending disposal of the appeal.

6. *Penalty under Section 270A for misreporting of income cannot be levied merely on disallowance of deduction under Section 80GGC of the Act*

Yashkumar Nandubhai Patel ("the Assessee") filed his ROI for AY 2019-20 declaring total income of INR 10.87 lakhs after claiming deduction of INR 2 lakhs under Section 80GGC of the Act in respect of a donation made to a political party. During reassessment proceedings, the Assessee furnished the computation of income, ITR and bank statement evidencing payment through banking channel. Relying on information gathered during search proceedings in the case of certain Registered Unrecognised Political Parties ("RUPPs") and the alleged modus operandi of bogus donations, the AO disallowed the deduction under Section 80GGC

[3] *[TS-639-SC-2012]*
[4] *[TS-825-HC-2012(DEL)]*
[5] *CBDT Instruction No. 1914, dated 21.03.1996, as amended on 31.07.2017*
[6] *[TS-171-HC-2012(BOM)]*

of the Act. Thereafter, the AO initiated penalty proceedings under Section 270A of the Act and levied penalty of INR 1.24 lakhs by treating the disallowance as under-reported income in consequence of misreporting. Aggrieved, the Assessee preferred an appeal before the CIT(A), who upheld the penalty. Aggrieved by the order of the CIT(A), the Assessee preferred an appeal before the Hon'ble Ahmedabad ITAT.

The Hon'ble ITAT observed that the Assessee had disclosed the claim of deduction under Section 80GGC of the Act in the original ROI and had also furnished bank statements evidencing payment of the donation through banking channels. The Hon'ble ITAT further observed that the disallowance of deduction was based primarily on investigation findings relating to the recipient political party and the alleged general modus operandi of bogus donations. The Hon'ble ITAT held that, for levy of penalty under Section 270A of the Act at the enhanced rate applicable to misreporting of income, the AO was required to establish the specific ingredients of misreporting contemplated under Section 270A(9) of the Act on the facts of the Assessee's case. Mere disallowance of a claim, even if ultimately found to be inadmissible, could not automatically establish that the Assessee had misrepresented or suppressed facts or furnished inaccurate particulars.



The Hon'ble ITAT further observed that the material relied upon by the AO primarily related to the activities and modus operandi of the recipient political party and did not establish that the Assessee had personally or deliberately furnished false particulars in the ROI. The Hon'ble ITAT held that assessment findings and penalty findings cannot be treated as interchangeable and that penalty proceedings require an independent examination of the statutory conditions prescribed under Section 270A of the Act. The Hon'ble ITAT also observed that the distinction between an inadmissible claim and a claim amounting to misreporting had not been established by the AO. Accordingly, the Hon'ble ITAT held that penalty under Section 270A of the Act could not be sustained merely on the basis of disallowance of deduction under Section 80GGC of the Act. The penalty of INR 1.24 lakhs was therefore deleted, and the appeal of the Assessee was allowed.

Yashkumar Nandubhai Patel [TS-1615-ITAT-2026(Ahd)]

7. Section 50C of the Act applies to transfer of tenancy rights; Mumbai ITAT follows binding Hon'ble Bombay HC ruling in Vidarbha Veneer Industries Ltd.

Kashmira Rajnikant Doshi ("the Assessee") transferred tenancy rights in a residential premises under a registered deed. During assessment proceedings, the AO invoked Section 50C of the Act and adopted the stamp-duty value as the full value of consideration for computing capital gains. The Assessee contended that tenancy rights constitute a distinct capital asset and are neither land nor building and, therefore, fall outside the scope of Section 50C of the Act. In the alternative, the Assessee sought a reference to the Departmental Valuation Officer ("DVO") under Section 50C(2) of the Act. The CIT(A) upheld the applicability of Section 50C of the Act. Aggrieved, the Assessee preferred an appeal before the Hon'ble Mumbai ITAT.

Before the Hon'ble Mumbai ITAT, the Assessee relied on earlier Tribunal decisions which had held that tenancy rights are distinct from land or building and therefore outside the scope of Section 50C of the Act. The Tax Authorities relied upon the judgment of Hon'ble Bombay HC in the case of Vidarbha Veneer Industries Ltd. v. ITO[7] (ITA No. 34 of 2022), dated 1 April 2025. The Hon'ble Mumbai ITAT observed that the jurisdictional Hon'ble Bombay HC had interpreted Section 50C of the Act read with Section 2(14) of the Act and held that land or building may be held in different recognised modes, including as owner, lessee or tenant, and that the mode of holding cannot take the property outside the ambit of Section 50C of the Act. The Hon'ble Mumbai ITAT rejected the contention that the decision in Vidarbha Veneer Industries Ltd. (supra) was confined to leasehold rights and could not be extended to tenancy rights. It further held that once the jurisdictional Hon'ble Bombay HC had interpreted the scope of Section 50C of the Act, the earlier coordinate bench decisions taking a contrary view could not be followed. Accordingly, the Hon'ble Mumbai ITAT held that Section 50C of the Act applies to transfer of tenancy rights.

The Hon'ble Mumbai ITAT, however, accepted the Assessee's alternative plea and restored the valuation issue to the file of the AO with a direction to examine the Assessee's claim under Section 50C(2) of the Act and, if the prescribed conditions were satisfied, refer the matter to the DVO for determination of the fair market value. Accordingly, the appeal was partly allowed for statistical purposes.

Kashmira Rajnikant Doshi [TS-1627-ITAT-2026(Mum)]

[7] *[TS-363-HC-2025(BOM)]*

8. *Advertisement expenditure for promotion of websites and mobile applications allowable under Section 37(1) of the Act; absence of formal agreement not sufficient to disallow expenditure*

Innovative Tech Team Media Enterprises Private Limited ("the Assessee"), engaged in the business of sale of internet advertising space and online content, claimed deduction of advertisement and sales promotion expenses of INR 2.38 crore paid to its holding company, The Indian Express Private Limited, towards publication of advertisements promoting its websites and mobile applications. During the assessment proceedings, the AO observed that the expenditure was significantly higher than that incurred in the preceding year and held that the invoices issued by the holding company did not contain adequate particulars regarding the advertisements. The AO further noted the absence of any agreement; memorandum of understanding or other supporting documentation governing the advertisements and disallowed the expenditure under Section 37(1). The CIT(A) upheld the disallowance. Aggrieved, the Assessee preferred an appeal before the Hon'ble Mumbai ITAT.

Before the Hon'ble ITAT, the Assessee submitted that its business consisted of operating websites and mobile applications and earning revenue from the sale of advertising space. It contended that the advertisements were published for promoting its websites and applications and furnished invoices, newspaper and magazine copies containing the advertisements, and evidence of TDS deduction. The Assessee further explained that advertisement rates varied depending upon the publication, language, editions, geographical coverage, dimensions and placement of the advertisements. The Assessee also submitted that actual publication of advertisements was evidenced through newspaper and magazine copies and that separate agreements were not ordinarily executed for release of newspaper advertisements.



The Hon'ble ITAT observed that advertisements promoting the Assessee's websites and mobile applications had a direct nexus with its business of providing digital content and selling advertising space. The Hon'ble ITAT further observed that the Assessee had produced invoices as well as copies of newspapers and magazines evidencing actual publication of the advertisements. The Hon'ble ITAT held that the publication details, dimensions, editions, release dates and other particulars were available in the invoices through publication abbreviations and codes and could not be disregarded merely because they were recorded in abbreviated form. The Hon'ble ITAT also accepted the Assessee's explanation regarding variation in advertisement rates and observed that the difference in rates was attributable to differences in publication coverage, editions and placement of advertisements.



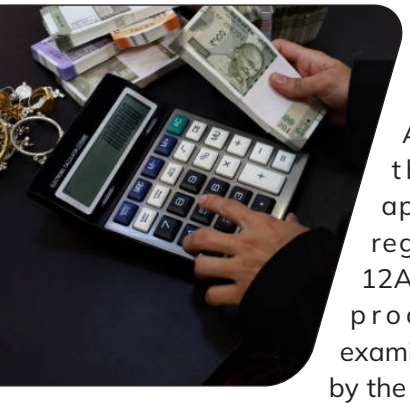
The Hon'ble ITAT further held that absence of a separate agreement or memorandum of understanding could not be decisive where actual publication of advertisements was established through invoices and published copies of newspapers and magazines. The Hon'ble ITAT also observed that the expenditure could not be disallowed merely because it was incurred with a related party or because the increase in expenditure was not accompanied by a proportionate increase in revenue. Since the Tax Authorities had neither invoked Section 40A(2) of the Act nor demonstrated that the expenditure was excessive or unreasonable, the disallowance under Section 37(1) of the Act was held to be unsustainable. Accordingly, the Hon'ble ITAT held that the Assessee had established the genuineness of the expenditure and its direct nexus with the business and directed deletion of the disallowance of INR 2.38 crore.

Innovative Tech Team Media Enterprises Private Limited v. ACIT [TS-1651-ITAT-2026(Mum)]

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9. *Hon'ble ITAT upholds rejection of renewal of registration under Section 12AB of the Act; holds that source of donations and genuineness of activities can be examined at the renewal stage*

Society For Bright Future ("the Assessee") is a society engaged in disaster relief, medical aid and educational support. The Assessee was granted registration under Section 12A of the Act on 03.09.2009 and subsequently migrated to the new registration regime



under Section 12AB of the Act on 24.09.2021. The registration was valid up to AY 2026-27. On 24.09.2025, the Assessee filed an application for renewal of registration under Section 12AB of the Act. During the proceedings, the CIT(E) examined the donations received by the Assessee during FYs 2022-23 to 2024-25 and observed that substantial donations had been received in cash. The CIT(E) further noted that the Assessee could not furnish PAN, Aadhaar or complete address details of a large number of donors. The CIT(E) also observed that most of the beneficiaries appeared to belong to one particular religious community and that the office bearers of the Assessee were common with certain organisations under scrutiny by investigative agencies. Accordingly, the CIT(E) rejected the application for renewal of registration. Aggrieved, the Assessee preferred an appeal before the Hon'ble Delhi ITAT.

The Assessee contended that the scope of enquiry at the stage of renewal was limited and that issues relating to anonymous donations could be examined only during the assessment proceedings. The Assessee further submitted that its charitable activities had been accepted in the earlier years and therefore renewal could not be denied merely on the basis of the source of donations. Reliance was placed on CIT, Ujjain v. Dawoodi Bohara Jamat[7], Social Educational and Welfare Association v. CIT(E)[8], Radhasoami Satsang v. CIT[9] and Ram Saran Das Kishori Lal Charitable Trust v. CIT(E)[10].

The Hon'ble ITAT observed that although the scope of enquiry at the stage of grant or renewal of registration is limited, examination of the genuineness of activities cannot be confined merely to the stated objects or activity reports furnished by an applicant. The Hon'ble ITAT held that the genuineness of charitable activities must also be examined with reference to the manner in which such activities are financed. The Hon'ble ITAT therefore rejected the Assessee's contention that the source of donations could not be examined at the stage of renewal.

The Hon'ble ITAT noted the donor details furnished by the Assessee:

FY	Total donors	Donors with PAN / Aadhaar
2022-23	739	188
2023-24	418	90
2024-25	495	174

The Hon'ble ITAT further noted that a substantial number of donors were located in Kerala whereas the Assessee was based in Delhi. The Hon'ble ITAT also observed that complete identifying details of a large number of donors were unavailable. Further, while activity reports were produced, the beneficiaries were not specifically identified and the expenditure incurred could not be linked to particular beneficiaries. The Hon'ble ITAT held that where substantial donations are stated to have been received in cash from numerous donors and adequate identifying particulars are not available, the prescribed authority is justified in examining whether such donations are genuine or attributable to anonymous sources.

The Hon'ble ITAT further held that grant of registration in earlier years does not create a vested right to renewal and that the principle of consistency cannot override the statutory duty of the prescribed authority to examine the genuineness of activities at the time of renewal. The Hon'ble ITAT observed that the common office bearers provided a relevant lead for examining the overall genuineness of the Assessee's activities. Since the Assessee failed to discharge its primary onus of establishing the genuineness of its activities and the genuineness of the source of donations, the Hon'ble ITAT upheld the order of the CIT(E) rejecting renewal of registration under Section 12AB and dismissed the appeal.

Society For Bright Future v. CIT(E) [TS-1649-ITAT-2026(DEL)]

B. INTERNATIONAL TAXATION

1. *Mumbai ITAT: Absence of TRC does not by itself create a Section 195 withholding obligation where income is not chargeable to tax in India*

Thrius Pharma Expertize LLP ("the Assessee"), engaged in project consultancy and export of pharmaceutical equipment, paid commission to a US entity and an Algerian entity in connection with overseas business transactions. During assessment proceedings, the AO disallowed the commission expenditure under Section 40(a)(i) of the Act for non-

[8] *CIT v. Dawoodi Bohara Jamat (SC) [TS-148-SC-2014]*
[9] *Social Educational and Welfare Association v. CIT(E), [TS-6422-ITAT-2026(Nagpur)-O]*
[10] *Radhasoami Satsang v. CIT [TS-12-SC-1991]*
[11] *Ram Saran Das Kishori Lal Charitable Trust v. CIT(E), [TS-1500-ITAT-2025(DEL)]*

deduction of tax under Section 195 of the Act, principally on the grounds that the Assessee had not furnished a Tax Residency Certificate ("TRC") of the US recipient for the relevant year and that the remittance had been described as "Consulting Services" in Form 15CB. Aggrieved, the Assessee preferred an appeal before the Hon'ble Mumbai ITAT.

Before the Hon'ble Mumbai ITAT, the Assessee submitted that the US entity had rendered services outside India in connection with overseas transactions and had no office, business operations or Permanent Establishment ("PE") in India. The Assessee relied on the agreement, invoices, shipping documents, Certificate of Status and Form W-9. The Hon'ble Mumbai ITAT stated that the Certificate of Status and Form W-9 did not constitute a TRC for the relevant year and relief could not be granted by treating those documents as compliance with Section 90(4) of the Act.

However, Hon'ble Mumbai ITAT, relying on GE India Technology Centre (P.) Ltd.[12], observed that Section 195 of the Act applies only where the sum paid is chargeable to tax in India. It further observed that absence of a TRC may affect a claim for treaty relief but cannot, by itself, create a tax liability under domestic law. Relying on CIT v. Toshoku Ltd.[13], the Hon'ble Mumbai ITAT noted that the Tax Authorities had not established that the US entity had rendered services in India or carried out any business operations in India. The Hon'ble Mumbai ITAT further observed that the description of the remittance as "Consulting Services" in Form 15CB could not, by itself, determine the true character of the payment and that the underlying agreement, invoices, actual services rendered and surrounding facts were required to be examined. Accordingly, the Hon'ble Mumbai ITAT held that the commission paid to the US entity was not held to be chargeable to tax in India and, therefore, no tax was deductible under Section 195 of the Act. Consequently, the related disallowance under Section 40(a)(i) of the Act was directed to be deleted, subject to verification of the computation by the AO.

The Hon'ble Mumbai ITAT observed that, in respect of the commission paid to the Algerian entity, the assessment order specifically recorded that the Assessee had accepted the proposed variation during the assessment proceedings. Since no independent material or submissions had been placed before it to controvert the said factual position, the Hon'ble Mumbai ITAT found no reason to interfere with the disallowance sustained by the Tax Authorities in respect of the said payment. Accordingly, the appeal was partly allowed.

Thrius Pharma Expertize LLP [TS-1659-ITAT-2026(Mum)]

2. *Applicability of India-Mauritius DTAA benefits requires examination of substance and LOB conditions beyond TRC*

Emerging India Focus Funds ("the Assessee"), a Mauritius tax resident registered as a Category-I Foreign Portfolio Investor ("FPI") with SEBI, earned capital gains of approximately INR 289 crore on redemption of equity-oriented mutual funds during AY 2023-24. The Assessee claimed exemption from tax in India under Article 13(4) of the India-Mauritius DTAA.

During the assessment proceedings, the AO denied the exemption and subjected the gains to tax in India. The AO also held that gains arising from redemption of mutual fund units acquired after 01.04.2017 were taxable under Article 13(3A) of the India-Mauritius DTAA on the ground that units of equity-oriented mutual funds were akin to shares. The Revenue further relied on the fact that the Global Business Licence ("GBL") of Emerging India Fund Management Ltd. ("EIFML"), being the Assessee's controlling and management shareholder, had been revoked by the Mauritian regulator with effect from 13.04.2022. Further, SEBI had initiated proceedings against the Assessee for non-compliance with the "fit and proper person" criteria. The matter was subsequently settled upon payment of a monetary amount. According to the Revenue, these facts demonstrated a lack of commercial substance and disentitled the Assessee from claiming treaty benefits.



The Assessee contended that it continued to hold a valid TRC, GBL and FPI registration and was therefore entitled to treaty protection under the India-Mauritius DTAA. It argued that the SEBI proceedings and the revocation of EIFML's license were irrelevant for determining treaty eligibility. The Assessee further submitted that the Revenue could not expand the scope of the dispute at the appellate stage by questioning its substance and residency, particularly when its status as a Mauritius tax resident had been accepted by the lower authorities.

The Hon'ble Delhi ITAT followed its decision in the Assessee's own case for the immediately preceding year and held that units of equity-oriented mutual funds and shares are distinct financial instruments. Accordingly, gains arising on redemption of mutual fund units cannot automatically be treated as gains

[12] *GE India Technology Centre (P.) Ltd. v. CIT [TS-140-SC-2010]*
[13] *[TS-4-SC-1980]*



from alienation of shares for the purposes of Article 13(3A) of the India-Mauritius DTAA.

The Hon'ble Delhi ITAT observed that the decision of the Hon'ble SC in Authority for Advance Rulings v. Tiger Global International II Holdings[14] clarified that a TRC is only an eligibility requirement for claiming treaty benefits. It is not conclusive evidence of entitlement. The Tribunal noted that the Revenue is entitled to examine issues relating to abuse, commercial substance and the applicability of anti-avoidance provisions despite the existence of a valid TRC. However, it emphasized that the burden of establishing treaty abuse lies on the Revenue. The Tribunal further observed that treaty benefits cannot be denied merely because an entity lacks employees, tangible assets or an independently leased office.

The Tribunal noted that the Revenue had relied on factors such as the Assessee's shared registered office, absence of employees and physical assets, payment of management fees to related parties, and the revocation of EIFML's licence. While these factors could be relevant in evaluating commercial substance and the applicability of Article 27A, they were not sufficient by themselves to establish that the Assessee was a sham or conduit entity. The Tribunal also observed that there was insufficient clarity regarding who exercised decision-making authority over the Assessee's investment and redemption activities during the period for which the licence stood revoked. Likewise, the material on record did not clearly establish whether management and governance functions were being validly discharged during such period.

Considering that the issue required a detailed examination of the Assessee's commercial substance, control, management and treaty entitlement, the Tribunal deemed it appropriate to restore the matter to the AO. It held that the Assessee should be provided with a full opportunity to rebut the allegations relating to treaty abuse. Accordingly, the issue concerning the availability of treaty benefits and the applicability of the Limitation of Benefits ("LOB") provisions under Article 27A of the India-Mauritius DTAA was remanded to the AO for fresh adjudication.

Emerging India Focus Funds [TS-1594-ITAT-2026(DEL)]

[14] *[TS-38-SC-2026]*

3. Higher tax rate applicable to foreign companies not discriminatory under India-Netherlands DTAA; interest paid to Head Office deductible only subject to TDS compliance; ATMs eligible for depreciation as computers

The Royal Bank of Scotland N.V. ("the Assessee"), a company incorporated in the Netherlands, carried on banking operations in India through a branch constituting a Permanent Establishment ("PE") under the India-Netherlands DTAA. For AY 2003-04, the Assessee claimed that the profits attributable to its Indian PE should be taxed at the rate applicable to domestic companies by relying upon the non-discrimination clause under Article 24(2) of the DTAA. The Assessee also claimed deduction of interest paid by the Indian PE to its Head Office and overseas branches and contended that corresponding interest received from such entities could not be taxed as income. Further, the Assessee claimed depreciation on Automated Teller Machines ("ATMs") at the rate applicable to computers. The AO rejected the Assessee's contentions. The CIT(A) and the Hon'ble ITAT substantially upheld the findings of the AO. Aggrieved, the Assessee preferred an appeal before the Hon'ble Calcutta HC.

The Hon'ble HC rejected the Assessee's contention on the issue of tax rate and observed that the Assessee did not satisfy the conditions prescribed under Section 2(22A) of the Act to be regarded as a domestic company and continued to be a foreign company within the meaning of Section 2(23A) of the Act. The Hon'ble HC further noted that Explanation 1 to Section 90 specifically provides that charging a foreign company at a rate higher than that applicable to a domestic company shall not be regarded as less favourable treatment for treaty purposes. The Hon'ble HC also held that a foreign company and a domestic company are not in the "same circumstances" contemplated under Article 24(2), as a domestic company is generally taxable on its global income whereas a foreign company is ordinarily taxable only on income sourced from India. Accordingly, the Hon'ble HC held that the Assessee was liable to tax at the rate applicable to foreign companies and could not invoke the non-discrimination clause to claim the lower rate applicable to domestic companies.

On the issue of interest paid to the Head Office and overseas branches, the Hon'ble HC observed that Article 7 of the DTAA treats the PE and the Head Office as separate and distinct enterprises for attribution of profits. The Hon'ble HC held that once the Assessee sought deduction of interest paid to the Head Office by relying on such separate entity fiction, it was also

required to comply with the provisions relating to deduction of tax at source. Since tax was not deducted at source, the disallowance under Section 40(a)(i) of the Act was upheld. The Hon'ble HC further held that interest received by the Indian PE from the Head Office and overseas branches constituted taxable income of the PE and could not be excluded on the ground that it represented a payment to self.

On the issue of depreciation, the Hon'ble HC observed that an ATM functions through software, data processing systems and continuous communication with banking networks. Applying the functional test, the Hon'ble HC held that an ATM performs functions similar to a computer and therefore qualifies for depreciation at the rate applicable to computers.

Accordingly, the Hon'ble HC decided the issues relating to the tax rate applicable to foreign companies and the deductibility/taxability of interest in favour of the Tax Authorities. However, the claim for higher depreciation on ATMs was allowed in favour of the Assessee.

The Royal Bank of Scotland N.V. v. Director of Income Tax (International Taxation) [TS-1532-HC-2026(CAL)]

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4. *Customer referral commission not taxable as Fees for Technical Services in absence of 'make available' of technical knowledge.*

Mitsubishi Electric Europe B.V. ("the Assessee"), a company incorporated and tax-resident in the Netherlands, is engaged in the sale of industrial, electrical and electronic equipments. It also earns commission/referral fees from its group company, Mitsubishi Electric India Private Limited ("MEI"). The referral fees are calculated as a percentage of gross sales made by MEI to customers referred by the Assessee.

For AY 2022-23, the Assessee filed its ROI declaring NIL income, reporting commission income of INR 2.96 Crores from MEI as income not taxable to tax as per DTAA under Article 5 and Article 7 of the India-Netherlands DTAA ("the DTAA") in the absence of a Permanent Establishment ("PE") in India. During assessment proceedings, the AO treated the commission receipts as Fees for Technical Services ("FTS") under Section 9(1)(vii) of the Act read with Article 12 of the DTAA. The Assessee filed Objections against the Draft Assessment Order before the DRP which upheld the draft order in treating the commission as FTS under the Act as well as Netherlands Treaty. Aggrieved, the Assessee preferred an appeal before the Hon'ble Delhi ITAT.





Before the Hon'ble ITAT, the Assessee contended that it merely referred potential customers to MEI and earned commission linked to sales made by MEI. The Assessee submitted that it did not provide any design, technical or consultancy services to MEI and that the receipts constituted business income taxable in India only if it had a PE in India. The Assessee further contended that the conditions prescribed under Article 12(5)(b) of the India-Netherlands DTAA were not satisfied since no technical knowledge, experience, skill, know-how or process was made available to MEI.

The Hon'ble ITAT observed that the commission received by the Assessee was linked to sales made by MEI to customers referred by the Assessee and was computed at fixed rates ranging from 3.6% to 5.1% of the gross sales value. The Hon'ble ITAT noted that the commission invoices, sales reports and Memoranda of Understanding established that the Assessee earned referral commission and did not provide any design, technical or consultancy services to MEI. The Hon'ble ITAT further observed that the AO had failed to establish fulfilment of the "make available" condition contained in Article 12(5)(b) of the India-Netherlands DTAA. It was noted that there was no transfer of technology or imparting of technical knowledge which enabled MEI to apply any technology independently without recourse to the Assessee. Relying upon the decisions in DIT v. Guy Carpenter & Co. Ltd., CIT v. Bio-Rad Laboratories (Singapore) Pte. Ltd[15] and Tungsten Automation England Ltd. v. DCIT[16], the Hon'ble ITAT held that the referral services did not qualify as FTS under Article 12(5)(b) of the India-Netherlands DTAA or under Section 9(1)(vii) of the Act. Accordingly, the Hon'ble ITAT held that the commission receipts constituted business income and, in the absence of a PE in India, were not taxable in India. The appeal of the Assessee was allowed.

Mitsubishi Electric Europe B.V. v. ACIT [TS-1609-ITAT-2026(DEL)]

[15] *CIT v. Bio-Rad Laboratories (Singapore) Pte. Ltd. [TS-624-HC-2023(DEL)]*
[16] *Tungsten Automation England Ltd. v. DCIT [TS-917-HC-2025(DEL)]*

II. TRANSFER PRICING

1. *TP adjustment based on entity-wise benchmarking deleted for functionally distinct business divisions*

Frost & Sullivan (India) Pvt Ltd ("the Assessee") is engaged in the market research and allied services, operated through two divisions: the Consulting Practice (CP), serving group entities as well as unrelated customers, and the Global Innovation Centre (GIC), functioning as a captive back-office centre for overseas group entities. During the AY 2007-08, the Assessee had benchmarked the transactions of the CP division by applying the CUP method and the transactions of the GIC division by using TNMM. However, during the assessment proceedings for AY 2007-08, the TPO rejected the benchmarking done by the Assessee, aggregated the CP & GIC division and made the TP adjustment of INR 8.13 crore by applying the TNMM method. Accordingly, the AO passed the draft order by making the following disallowances:

a. Prior-period expenses of INR 7.73 lakhs relating to invoices from Frost & Sullivan, USA.

b. TP adjustment of INR 8.13 crore.

Aggrieved, the Assessee filed its objections before the Hon'ble DRP which granted working capital adjustments of 2.75% thereby reducing the alleged TP adjustment to INR 7.13 crore. The Assessee filed an appeal before the Hon'ble Mumbai ITAT. Before the Hon'ble ITAT, the Assessee contended that the liability became known and ascertainable only upon receipt of reconciliation from its parent company after the year end. Therefore, the said expense cannot be considered as prior-period item. Also, the Assessee contended that issue of separate benchmarking has been recognized and accepted in its own case for AY 2009-10[17]. The Assessee also relied on various judicial precedents to substantiate the exclusion of various companies selected in the benchmarking exercise by TPO. Per contra, the DR supported the assessment order.



The Hon'ble ITAT held that the two divisions operated with distinct functional profiles and, therefore, their aggregation for TP benchmarking was unwarranted. The Hon'ble ITAT took cognizance of decisions of co-ordinate bench in the Assessee's own case and observed that the tax authorities did not demonstrate any change in the functions performed, assets employed, or risks assumed by the respective divisions. The Hon'ble ITAT also accepted the Assessee's objections to certain comparable companies. Accordingly, the Hon'ble ITAT directed deletion of the alleged TP adjustment as well as the disallowance of prior-period expenses, holding that an expenditure is allowable in the year in which the liability crystallizes and cannot be disallowed merely because it relates to an earlier period.

Frost & Sullivan (I) P. Ltd. [TS-806-ITAT-2026 (Mum-TP)]

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2. *TP-adjustment relating to reimbursement of salary cost & travel expenses on cost-to-cost basis of seconded employees deleted.*

BA Continuum India Private Limited ('the Assessee') is a non-banking subsidiary of Bank of America engaged in the business of provision of Information Technology (IT) and IT-enabled services (ITeS).

During the AY 2016-17 the Assessee received reimbursement of INR 5.68 Crore from its AEs towards salary and travel expenses of employees temporarily seconded to the AEs. These expenses were recovered on a cost-to-cost basis, without any mark-up, as it had merely facilitated payments on behalf of its AEs and had not rendered any separate service warranting a profit margin. During the assessment proceedings, the TPO treated the reimbursements as a service transaction and proposed a 10% mark-up. Accordingly, the AO passed a draft assessment order under Section 144C(1), incorporating the proposed TP adjustment.

Aggrieved, the Assessee filed objections before the Hon'ble DRP which gave partial relief by reducing the mark-up from 10% to 5% by relying on the decision on Kirby Building Systems India Ltd. v. ACIT [(2014) 52 taxmann.com 409 (Hyderabad ITAT)]. Based on the DRP's direction, the AO passed the final assessment order.

Aggrieved, the Assessee filed an appeal before the Hon'ble Hyderabad ITAT. The Hon'ble ITAT observed that the employees were seconded to the AEs for a temporary period due to geographical proximity and administrative convenience. Also, the Hon'ble ITAT noted that the salary and travel expenses had been recovered without any mark-up. Accordingly, the amount received was in the nature of reimbursement of expenses, and imposing a mark-up on the assumption that the Assessee was providing services and earning

[17] *Frost & Sullivan (India) (P.) Ltd. v. DCIT reported in [TS-298-ITAT-2022(Mum)-TP]*

a margin was incorrect. The Hon'ble ITAT further noted the existence of bilateral Advance Pricing Agreement with the CBDT covering F.Y. 2021-22 to F.Y. 2025-26 wherein it has been clearly agreed that the salary and other employee-related costs incurred by the Assessee in respect of employees seconded to AEs are required to be recovered on a cost-to-cost basis. The Hon'ble ITAT also observed that similar reimbursement transaction came for adjudication before the TPO for AY 2018-19, AY 2020-21, and AY 2022-23 which was accepted without making any adjustment. Relying on the principle of consistency laid down by the Hon'ble SC in case of Radhasoami Satsang v. CIT [(193 ITR 321)], the Hon'ble ITAT directed the AO/TPO to delete the TP adjustment made on reimbursement of salary and travel expenses of seconded employees.

BA Continuum India Private Limited TS-803-ITAT-2026(HYD)-TP

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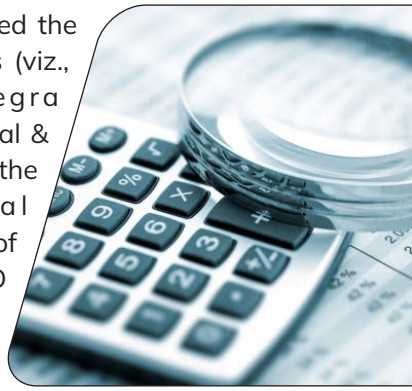
3. ***Companies cannot be rejected merely because of their absence in the search matrix. Delayed receivables is an international transaction benchmarked at LIBOR+200 bps charged on receivables outstanding for more than 60 days.***

Quantium Analytics Private Limited ('the Assessee') is engaged in the business of providing ITeS. During the AY 2021-22, it entered into international transactions with its AE for providing ITeS.

The Assessee benchmarked the international transactions by adopting TNMM as MAM with OP/OC as the PLI. The Assessee selected 12 comparable companies and determined the arm's length margin range of 8.75% to 15.44% with median margin of 12.97%. During the TP proceedings, the TPO rejected Assessee's benchmarking, conducted fresh search and selected 14 comparable companies (which included 2 comparables selected by the Assessee) for computing the revised arm's length margin range of 16.76% to 29.93% with median of 22.73%. Accordingly, the TPO proposed the differential adjustment for the transactions with AEs. Further, the TPO also made adjustments on delayed receivables from AEs by computing notional interest at SBI short-term deposit rate as an arm's length rate after allowing a credit period of 60 days. The AO incorporated these adjustments in the draft assessment order.

The Assessee filed its objections before the Hon'ble DRP which confirmed the adjustment pursuant to which the AO passed the final assessment order.

Aggrieved by the order, the Assessee filed an appeal before the Hon'ble Hyderabad ITAT. Before the Hon'ble ITAT, the Assessee contested the inclusion of 4 comparables (viz., Infosys BPM Ltd, Integra Software, Vitae International & MPS Ltd) by the TPO on the grounds of functional dissimilarity and exclusion of 5 companies by the TPO despite comparables passing all the filter criteria.



The Hon'ble ITAT gave partial relief by relying on the decision of coordinate bench in the case of PCIT Vs. Future First Information Services Private Limited[18], and the Hon'ble Delhi HC decision in the case of Parexel International India Private Limited Vs. ACIT[19] and directed the exclusion of Infosys BPM Limited on the grounds of its significantly larger size, diversified operations, valuable brand and significant intangible assets. It further directed the exclusion of Vitae International Accounting Services Private Limited and MPS Limited on the grounds of business activities being functionally different from that of the Assessee. However, the Hon'ble ITAT upheld the view of TPO in including Integra as comparable company due to functional similarity despite absence of segmental information.

For the exclusion of comparables by TPO, the Hon'ble ITAT observed that the Ld. TPO had rejected few comparables on the ground that they did not appear in the search matrix of TPO, despite passing all filter criteria and available in the Prowess and Capitaline databases. Accordingly, the Hon'ble ITAT, relying on the decisions of Invesco India Private Limited v. DCIT[20] and Networks Private Limited v. ACIT[21] held that companies should not be excluded merely because they were not part of the initial search matrix. The Hon'ble ITAT directed the AO/TPO to freshly examine comparables based on their functional profile, assets employed, risks assumed (FAR), annual reports and other relevant information of the aforesaid companies and reconsider their inclusion in the final set of comparables.

For delayed receivables, the Hon'ble ITAT held that outstanding receivables from AEs constitute separate international transactions. Accordingly, relying on the decision of Hyderabad Infrotech Private Limited v. DCIT,[22] directed the AO/TPO to compute the notional interest by adopting LIBOR plus 200 basis points after allowing 60 days credit period.

Quantium Analytics Private Limited TS-795-ITAT-2026(HYD)-TP

[18] *(2023) 157 Taxmann.com 526 (Delhi)*
[19] *(2023) 156 Taxmann.com 609 (Delhi)*
[20] *ITA No.1320/Hyd/2024 dated 08.10.2025*
[21] *(IT(TP)A No. 349/Bang/2021)*
[22] *(2025) 171 taxmann.com 385.*

III. GOODS & SERVICES TAX

I. GST – Case Laws

1. *An SCN issued Head office services to branches valued at 'Nil' where no invoice is issued*

The Assessee has its Head Office (HO) at Anand, Gujarat and branches across India. Between July 2017 and March 2019, the HO incurred common expenses on advertisement and publicity, IT infrastructure, IBM and SAP annual maintenance, audit, legal fees and litigation, which the branches also used. The HO recorded these costs in its books but neither cross-charged them nor issued invoices to the branches. Treating the HO and branches as distinct persons, the Department apportioned the expenses on branch turnover and confirmed the tax liability, with interest and penalty, under Section 74 of the CGST Act, 2017.

The principal questions were whether such services are valued at 'Nil' when no invoice is issued, and whether the extended limitation period under Section 74 of the CGST Act, was validly invoked.

The Assessee relied on Central Board of Indirect Taxes and Customs (CBIC) Circular Nos. 199/11/2023-GST and 210/4/2024-GST, which deem such value 'Nil', and denied fraud or suppression. The Department alleged deliberate non-cross-charging and argued that the circulars apply only where the branch is eligible for full input tax credit (ITC).

The Court held that an HO and separately registered branches are distinct persons, and services between them are a supply even without consideration, valued under Rule 28 of the CGST Rules. Under the circulars, this value is deemed 'Nil' where the branch is eligible for full ITC and no invoice is issued. While allowing the petitions, the Court relied upon the decision of the Delhi HC in Metal One Corporation India (P.) Ltd. v. Union of India[23], wherein it was held that the value was 'Nil' and there is no basis to accept the turnover-based valuation.

Gujarat Co-operative Milk Marketing Federation Ltd. vs Union of India, HC of Gujarat, decision dated 14.10.2026 reported at [2026] 191 taxmann.com 417 (Gujarat)

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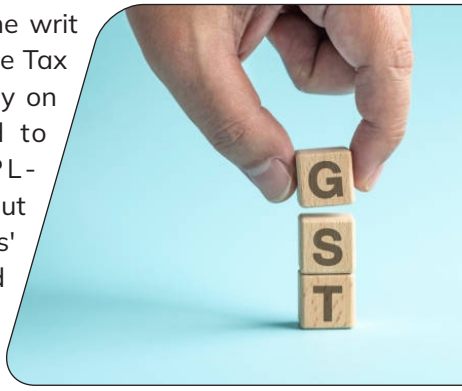
2. *Advocate–client privilege does not bar a GST search where material points to the advocate's own involvement, data of other clients must remain protected*

The Petitioner, an advocate, occupied a cabin in the office of Bass Legal LLP, a tax consultancy firm set up by his father. Matkarma Technology Pvt. Ltd. (MTPL), a gaming company, had engaged the Petitioner for GST and other compliance work. After searching MTPL's premises in September 2024, the Tax Authorities summoned the Petitioner several times. On 25.07.2025, they searched the office of Bass Legal under Section 67(2) of the CGST Act, 2017 and seized MTPL's documents and the CPU from his cabin.

The question before the Court was whether the search and seizure were illegal because the Petitioner is an advocate and the seized material might contain privileged client communications.

The Petitioner argued that the CPU held confidential data of MTPL and other clients. He also relied on the absence of a SCN to MTPL and on alleged breaches of departmental instructions. The Tax Authorities contended that the search was validly authorised and that the material showed his involvement in MTPL's affairs went beyond that of its lawyer.

The Court found that the recorded reasons justified searching the Bass Legal premises, of which the Petitioner's cabin formed part. His status as an advocate did not make the search unauthorized and that privilege protects confidential client communications and belongs to the client. It depends on the nature of the material, not where it is kept, and gives no immunity from an investigation into the advocate's own conduct. The absence of an SCN to MTPL did not affect the search, and a departure from departmental instructions did not, by itself, invalidate a duly authorised search.



The Court dismissed the writ petition and directed the Tax Authorities to work only on the cloned data and to examine only MTPL-related material, without accessing other clients' data. It was clarified that advocate–client privilege protects communications, not premises. The Court confined its ruling to the facts; it neither permits unrestricted searches of an advocate's office nor dilutes the protection for genuinely privileged material.

Puneet Batra vs Union of India, HC of Delhi, decision dated 18.09.2026 reported at [2026] 190 taxmann.com 664 (Delhi)

[23] *([2024] 168 taxmann.com 20 (Delhi)*

3. *Food supplied by an outsourced caterer to hospital in-patients is taxable and is not part of the hospital's composite healthcare supply*

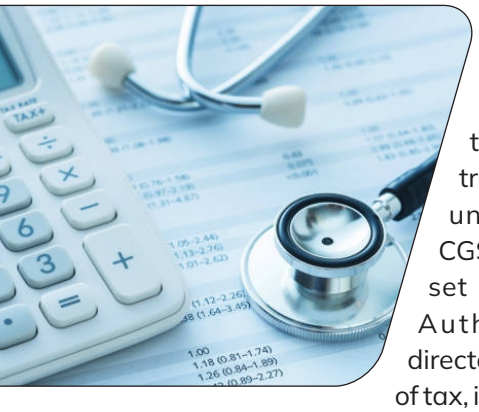
The Assessee supplied food at MGM Hospital under an agreement. From January 2018 to November 2021, there was no tax on food supplied to in-patients. The Department invoking Section 74 of the CGST Act, 2017, confirmed the demand as restaurant service, but dropped the proposed penalty under Section 122. The First Appellate Authority (FAA) set aside the demand, treating the food as part of a composite healthcare supply. Aggrieved by the same, the Tax Authorities appealed to the Tribunal.

The principal question was whether food supplied by an outsourced caterer to hospital in-patients is taxable.

The Department argued that Circular No. 32/06/2018-GST dated 12.02.2018 covers only healthcare providers, and that the caterer supplied food to the hospital, not to patients. The Assessee argued that the circular treats in-patient food given on medical advice as part of composite healthcare supply. Relying on letters from the Principal Accountant General and the hospital, it also argued that Section 74 could not apply to a bona fide interpretation issue.

The Tribunal held that a composite supply need two or more naturally bundled taxable supplies, one being principal. The Assessee made only one supply, namely food to the hospital under contract, so the test failed. The circular covers food supplied by the healthcare provider itself, not by an outsourced caterer, and the letters had no legal authority. The Assessee was liable to tax.

However, finding no deliberate evasion, as the Assessee had relied on the circular, albeit mistakenly, the Tribunal treated the notice as issued under Section 73(1), using its power under Section 75(2). Since no tax was charged separately, the invoice value was treated as tax-inclusive under Rule 35 of the CGST Rules. The Tribunal set aside the Appellate Authority's order and directed fresh computation of tax, interest and penalty.



Boilla Venkataramana Reddy vs Shivenari Canteen Services, GST Appellate Tribunal, Hyderabad Bench, decision dated 18.09.2026 reported at [2026] 190 taxmann.com 676 (GSTAT - HYDERABAD)/[2026] 113 GSTL 313 (GSTAT - HYDERABAD)

4. *SC issues notice on levy of GST on annuity received for NHAI road projects; no further coercive steps in the meantime.*

The Assessee entered into a concession agreement with the National Highways Authority of India (NHAI) to design, build, operate and maintain a road. It invested about half the project funds, and NHAI was to pay the balance as annuity during the operation period. As per the Concession Agreement, 50% of the Project Cost was payable during the Construction Period in five equal instalments linked to specified physical progress milestones, and the remaining 50% was payable in 20 biannual instalments over a period of 10 years from the Commercial Operation Date, along with interest on the reducing balance of the Completion Cost at the applicable Bank Rate plus 2%. The dispute arose on Entry 23A of Notification No. 12/2017-Central Tax (Rate) which exempts service by way of access to a road or bridge on payment of annuity, and an advance ruling dated 12.02.2019 had held it applicable. Later, Circular No. 150/06/2021-GST clarified that deferred annuity for construction services falls outside Entry 23A of the Notification. The Department pursuant to the circular issued a SCN and a recovery order to the Assessee.

The principal question before the Hon'ble Court was whether annuity received under such a concession agreement for construction, operation and maintenance of a road is exempt under Entry 23A of Notification No. 12/2017-Central Tax (Rate).

The Hon'ble Rajasthan HC dismissed the writ petitions, holding that the activity undertaken by the Assessee constituted works contract services under Heading 9954, whereas Entry 23A covered only services by way of access to a road or bridge under Heading 9967.

The Court observed that the annuity payments were intrinsically linked to the construction of the road and represented deferred consideration for construction services. Merely describing such payments as annuity or deferring them until the operation period would not change the nature of the underlying supply. The Court further held that the fact that the Assessee had invested approximately 50% of the project cost and borne the corresponding investment risk did not alter the classification of the services as works contract services.

The Court also distinguished construction services under Heading 9954 from operation and access-related services under Heading 9967. It held that the exemption under Entry 23A could not be extended to construction services merely because the consideration was payable in the form of annuity. With

regard to the advance ruling, the Court held that an erroneous advance ruling could not prevail over the correct interpretation of the statutory exemption. It further observed that the Board was empowered to issue clarifications under Section 168 of the CGST Act to ensure uniformity in the implementation of the Act. The circular did not amend the Notification but clarified the scope of Entry 23A.

Accordingly, the Court upheld the levy of GST on annuity payments, holding that such payments constituted deferred consideration for construction services and were not exempt under Entry 23A of Notification No. 12/2017-Central Tax (Rate).

Subsequent development before the Hon'ble SC: Aggrieved by the Rajasthan HC judgment, the Assessee filed a Special Leave Petition before the Hon'ble SC. Vide order dated 21.09.2026, the Hon'ble SC issued notice, returnable on 01.12.2026, and directed that no further coercive steps be taken against the Assessee in the meantime.

The issue of GST applicability on annuity payments under road concession agreements is therefore pending consideration before the Hon'ble SC. The interim protection granted does not constitute a final determination on the taxability of such payments.

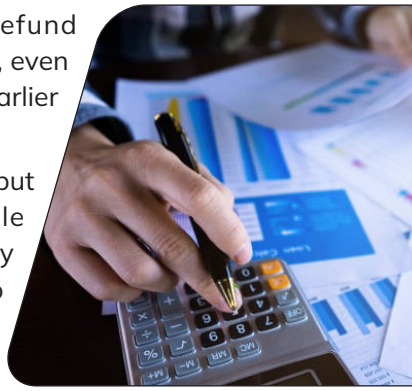
Nagaur Mukundgarh Highways (P.) Ltd. vs Central Board of Indirect Taxes and Customs, SC of India, order dated 21.09.2026 reported at [2026] 191 taxmann.com 365 (SC), arising from order issued in D.B. Civil Writ Petition No. 10055/2024 dated 17.08.2026

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5. *Reversal of credit relating to earlier periods does not reduce Net ITC of the refund period under Rule 89(4)*

The Assessee manufactures and exports mild steel billets under a Letter of Undertaking (LUT). Its main input, coal, attracts compensation cess, while its output does not, hence, unused cess ITC accumulated. The Assessee claimed a refund for the period October 2023 to March 2024 under Section 54(3) of the CGST Act, 2017 read with Rule 89(4) of the CGST Rules. The adjudicating authority sanctioned the refund after a notice and reply. On review, the Department appealed, relying on paragraph 43(c) of Circular No. 125/44/2019-GST dated 18.11.2019, to argue that reversals during the period must reduce Net ITC. The First Appellate Authority rejected the appeal, and the Department approached the GST Appellate Tribunal (GSTAT), Ranchi.

The question before the Tribunal was whether every reversal shown in the refund period must reduce Net ITC, even where it relates to credit of earlier periods.



The Tribunal held that 'input tax credit availed' in Rule 89(4) means credit actually availed and attributable to the refund period. The authority must check whether a reversal relates to credit availed in that same period. Here, the reversal is related to earlier periods and could not logically reduce Net ITC for the refund period. Circulars bind the department but cannot override the statute, and paragraph 43(c) cannot be read to subtract every reversal regardless of when the credit was availed. Indeed, the circular itself states that reversed credit is not 'availed' in the period. The refund had been computed strictly under Rule 89(4). The Tribunal accordingly dismissed the departmental appeal.

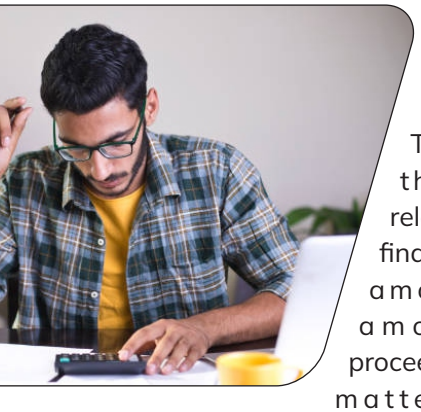
Principal Commissioner of CGST & CX vs Shivam Iron & Steel Co. Ltd., GST Appellate Tribunal, Ranchi Bench, decision dated 23.09.2026 reported at [2026] 190 taxmann.com 835 (GSTAT - RANCHI)

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6. *Central and State proceedings on the same ITC are not barred under Section 6(2)(b) where they concern different contraventions*

The Assessee, a Delhi-based proprietorship concern engaged in the manufacture of plastic products, claimed ITC on invoices issued by M.R. Enterprises for FY 2017-18. The State GST authority issued a SCN dated 23.09.2023 under Section 73 of the CGST Act, 2017, covering the ITC claimed from M.R. Enterprises. After the Assessee challenged the initial adjudication before the HC, the matter was remanded for fresh adjudication, and a fresh order was passed on 29 July 2024. Subsequently, DGGI and CGST Delhi North issued separate SCNs dated 2 August 2024 and 4 August 2024 under Section 74, alleging that the Assessee had fraudulently availed ITC on invoices without actual supply of goods. The proceedings culminated in orders dated 31 January 2025 and 10 January 2025, respectively, confirming the demand of Rs. 6,12,000 along with applicable interest and penalty. Aggrieved, the Assessee filed a writ petition before the Delhi HC.

The principal question before the Court was whether the Central GST proceedings were barred under Section 6(2)(b) of the CGST Act, since the State GST authority had already initiated proceedings concerning



ITC claimed from the same supplier for the same financial year.

The Assessee contended that both proceedings related to the same Assessee, financial year, supplier and ITC amount and, therefore, amounted to parallel proceedings on the same subject matter. The Department contended that the State proceedings under Section 73 had not examined whether the transactions were bogus or whether the invoices were unsupported by actual supply of goods. The subsequent Central proceedings under Section 74 were based on separate intelligence and investigation revealing alleged fraudulent availment of ITC. It was also pointed out that the proceedings concerned M.R. Enterprises bearing different GSTINs.

Following the principles laid down by the Hon'ble Apex Court in Armour Security (India) Ltd. v. Commissioner, CGST, the HC held that the expression 'same subject matter' under Section 6(2)(b) must be understood with reference to the particular liability, deficiency or contravention sought to be adjudicated. Distinct infractions do not become the same subject matter merely because they involve the same Assessee, financial year or tax liability. The Court observed that the Central proceedings alleged fraudulent availment of ITC through invoices without actual supply of goods, which was materially different from the subject matter examined in the State proceedings. The Assessee had failed to establish that this specific contravention had already been adjudicated by the State authority. The difference in GSTINs was a relevant circumstance, though not conclusive. The Court further clarified that merely changing the statutory provision cannot defeat Section 6(2)(b); however, the underlying liability and alleged contravention must be examined to determine whether the proceedings concern the same subject matter.

Accordingly, the Delhi HC dismissed the writ petition, holding that the Central proceedings were not barred under Section 6(2)(b). However, liberty was granted to the Assessee to file an appeal under Section 107 of the CGST Act.

Krishna Industries vs Commissioner of Central Goods and Services Tax, HC of Delhi, decision dated 18 September 2026 reported at [2026] 190 taxmann.com 626 (Delhi)

7. *SEZ unit can claim refund of unutilized ITC, Rule 89 does not confine refunds to suppliers to SEZ units*

The Assessee, a Special Economic Zone (SEZ) unit, applied for a refund of unutilized ITC under Section 54 of CGST Act, 2017 and Rule 89 of the CGST Rules. The adjudicating authority rejected the claim, holding that Section 16 of the IGST Act, 2017, Section 54 and Rule 89 permit refunds only to suppliers making supplies to SEZ units. The appellate authority upheld the rejection, aggrieved the Assessee filed a writ petition before the Madras HC.

The question before the Court was whether an SEZ unit can claim a refund of unutilised ITC.

The Assessee relied on the Court's earlier rulings in Platinum Holdings[24] and Urjita Electronics[25], which had decided the same issue in favour of the taxpayer. The Tax Authorities stated that a writ appeal against Platinum Holdings was pending but admitted that no interim order had been granted in that appeal.

The Court noted that Platinum Holdings had held that Rule 89(1) does not confine refund applications to suppliers. The reference to a supplier to an SEZ in the second proviso does not exclude other applicants, and the word 'only' cannot be read into the rule. Hence, on a combined reading of Section 54 and Rule 89, an SEZ unit can apply for a refund. Further, the decision in the matter of Urjita Electronics had reiterated this view, and the Court saw no reason to depart from it.

The Court set aside the impugned orders and directed the Tax Authorities to process the refund application within two months.

McKinsey Global Services India Pvt. Ltd. vs Joint Commissioner (Appeals II), HC of Madras, decision dated 18 September 2026 reported at [2026] 190 taxmann.com 842 (Madras)

8. *Electronically authenticated GST notices and orders are valid without a visible signature, and portal upload constitutes valid service*

A large batch of writ petitions challenged show cause notices (SCNs) and adjudication orders, including summaries in Forms DRC-01 and DRC-07, on the ground that the PDFs available on the GST portal did not bear any visible physical or digital signature. The Assessees contended that such documents were unsigned and, therefore, non est in law under the CGST Act and the Information Technology Act, 2000. Some Assessees also challenged the validity of service through mere portal upload and raised objections regarding absence of a Document Identification

[24] 2021 (47) GSTL 30 (Mad.)
[25] 2025 (29) Centax 360

Number (DIN). A Division Bench referred the matter to a Full Bench in view of conflicting decisions, particularly Bigleap Technologies and Solutions Pvt. Ltd.[26].

The questions before Full Bench were whether electronically authenticated notices and orders without a visible digital signature were invalid and whether making such documents available on the common GST portal amounted to valid service under Section 169(1)(d) of the CGST Act.

The Assessees argued that the prescribed forms required signatures and that electronic authentication through the backend system could not substitute a digitally signed document. They further contended that taxpayers could not be expected to regularly monitor multiple tabs on the GST portal. The Tax Authorities and GSTN demonstrated that proper officers authenticate documents through their digital signature certificates and secure login credentials, following which the GST system generates and stores the documents electronically with a Reference Number (RFN).

The Full Bench held that Chapter XVIII of the CGST Rules provides for electronic issuance and service of notices and orders relating to demands and recovery. The requirement of a visible signature is not prescribed for such documents. The Court clarified that Rule 26(3), which provides for authentication through digital signature or other prescribed methods, relates to documents issued under Chapter III (Registration) and cannot be mechanically applied to proceedings under Chapter XVIII.

The Court further held that electronic authentication through the GST portal constitutes a valid and secure electronic record under Sections 3, 3A and 5 of the Information Technology Act, 2000. The statutory framework does not require the signature to be visibly reproduced on the PDF document. Accordingly, notices and orders electronically authenticated by the proper officer through the common portal cannot be treated as unsigned or invalid merely because they do not display a visible digital signature.



Regarding service, the Court held that Section 169(1)(d) expressly recognises making a notice or order available on the common portal as a valid mode of service. The different modes prescribed under Section 169(1) are independent and can be resorted to alternatively. Consequently, service is complete on the date the document is uploaded on the common portal.

The Court specifically considered the GST portal clarification dated 16 January 2024, which identifies the documents available under the "Additional Notices and Orders" tab. It held that taxpayers cannot plead ignorance of service where the portal itself specifies the relevant tab. The objection regarding non-service of notices uploaded in that tab after the said clarification would, therefore, not be sustainable. Earlier uploads and specific grievances concerning service were left open for consideration by the appropriate appellate forum.

Regarding DIN, the Court observed that every document must quote a DIN or verifiable RFN. Documents lacking both are not fit to be relied upon, and the issue was left open for consideration before the appropriate forum. The Court also clarified that objections concerning non-compliance with Form DRC-01A, jurisdiction of the proper officer and alleged misuse of authority would require examination on their individual facts.

The Court further held that non-compliance with the requirement of prior intimation in Form DRC-01A under Rule 142(1A) would have to be examined on the basis of prejudice caused to the taxpayer, particularly since the word "shall" was substituted with "may" with effect from 15 October 2020.

The Full Bench held that the contrary view taken in Bigleap Technologies and Solutions Pvt. Ltd. was not the correct position of law. It accordingly upheld the validity of electronically authenticated notices and orders without visible signatures and recognised portal upload as valid service under Section 169(1)(d) of the CGST Act.

The Court disposed of the writ petitions, granting liberty to the Assessees to avail the statutory remedy of appeal within two weeks. All other grounds relating to DIN/RFN, jurisdiction, procedural irregularities and factual disputes were kept open for consideration by the appropriate forum.

Gudla Vanaja vs Assistant Commissioner (ST), HC of Telangana (Full Bench), decision dated 30 September 2026 reported at [2026] 191 taxmann.com 70 (Telangana)

[26] *[2025] 142 GSTR 608 (Telangana)*

IV. NOTIFICATIONS, CIRCULARS & INSTRUCTIONS – GST

A. 57th GST Council: Circulars and Notifications at a Glance

The 57th GST Council meeting, held on October 8, 2026, made a wide set of recommendations on registration, refunds, input tax credit, classification and the taxability of certain services. Since then, the Central Board of Indirect Taxes and Customs (CBIC) has moved quickly to put these into effect. The notifications include the Central Goods and Services Tax (Amendment) Rules, 2026, which change registration, refund and recovery procedures and many forms. The circulars clarify the treatment of certain goods and services.

Item	Change	Effective date
Notification No. 05/2026-Central Tax (CGST Amendment Rules, 2026) dated 26.10.2026		
Rule 14B (new): E-Commerce Sellers	• Registration in other States on same PAN, using ECO warehouse as principal place of business; output tax to registered persons up to INR 2.5 lakh a month and subject to ECO consent. • There is one Rule 14B registration per State per PAN allowed and books kept at home-State premises, additionally no name-board at ECO warehouse.	1 November 2026
Rule 19: Amendment of registration	• Changes in registration particulars must be reported in REG-14 within 15 days. • Officer approves the REG-15 or issues REG-03 within 15 days; reply in REG-04 within 7 working days; decision within 7 working days. • No reply to REG-03 results in application deemed rejected (REG-05A); no action by officer within time implies certificate deemed amended. • Rule 14A registrants: change of principal place also automatic under Rule 19(3).	1 November 2026 **Rule 19(3):** 1 December 2026
Rule 20: cancellation on request	• Application in REG-16 to be made within 30 days, not applicable for death of sole proprietor, subject to all returns filed first and suspension on filing.	1 November 2026
Rules 21, 21A, 22, 23A: cancellation, suspension, revocation	• Rule 21 lists the grounds on which registration is liable to be cancelled. • **Rule 21A:** the officer can suspend a registration when cancellation proceedings begin. • **Rule 22:** the show cause notice is in FORM GST REG-17, with seven working days to reply. The officer must drop the proceedings (REG-20) or cancel (REG-19) within 30 days. If the taxpayer does not cure the default within 30 days of suspension, the portal cancels the registration automatically. • **Rule 23A:** where the portal cancels a registration, the taxpayer can apply for revocation in FORM GST REG-21 within 180 days. Revocation is then deemed approved by the portal (FORM GST REG-22). Returns for the period of cancellation are due within 30 days of revocation.	**Rule 21:** 1 November 2026; Rules 21A, 22, 23A: 1 April 2027

Item	Change	Effective date
Rule 89(4), (5): refund of accumulated ITC	• Zero-rated supplies: the alternative cap of 1.5 times the value of like goods supplied domestically is omitted from Rule 89(4)(C) • Inverted duty structure formula: maximum refund = (turnover of inverted rated supply × Net ITC ÷ adjusted total turnover) – tax payable on inverted rated supply. 'Net ITC' means ITC on inputs and eligible input services in the relevant period, plus the capital goods ITC above. 'Eligible input services' means services on which ITC was availed on or after November 1, 2026. • ITC on capital goods attributable to the relevant period is included in 'Net ITC' for the refund of accumulated ITC.	Input Services: 1 November 2026 Capital goods: 1 April 2027
Rules 89(2), 90, 91, 92: refund process	• New FORM GST RFD-01 introduced, and Rule 89(2) is amended to ask for 'details' of invoices instead of 'number and date'. • From April 1, 2027, a further declaration is required, where the claim includes capital goods ITC. • The time limit for issuing the acknowledgement or deficiency memo down from 15 days to 10 days, or else deemed.	1 November 2026 RFD-01 and documents: 1 December 2026)
ISD: Rules 36, 39, 54(1A), 60; GSTR-6, 6A	• Rule 54(1A) and the related clause now refer to credit of input services 'attributable to one or more distinct persons' instead of 'common input services'. The word 'common' is also dropped from Rule 39(1A). • Rule 36(1) and (2) are amended so that the documentary rules for ITC also cover credit distributed by the ISD. Rule 39(1)(i) now refers to credit of integrated tax or central tax. • **Rule 60(2):** supplier details will also be made available to the ISD in FORM GSTR-6A. GSTR-6A will be auto-drafted from GSTR-1, GSTR-1A and GSTR-5, and no longer from GSTR-7. • **FORM GSTR-6:** Tables 7 and 11 are omitted. Instruction 6 no longer requires distribution to units in the same tax period in which the inward supplies were received.	1 November 2026
Composition and returns	• CMP-08 and GSTR-4 show services supplied through ECO under Section 9(5) separately. • Due date for GSTR-4 revised to 30 June and GSTR-5 revised to 13th of the month.	1 November 2026
Rule 86A: credit ledger block	• The power to block ITC under Rule 86A to be exercised by the 'proper officer', an officer not below Assistant Commissioner. • DRC-26 order to be valid for one year.	**GSTR-7A:** 1 January 2027 1 April 2027

Item	Change	Effective date
Forms DRC-01, 01A, 07, 22	• DRC-01 asks for the proceeding under which the SCN is issued, whether DRC-01A was issued, the brief facts, a ground selected from a list, and a tax-period-wise table of tax, interest, penalty and fee. • FORM GST DRC-01A also asks for the proceeding and ground. • FORM GST DRC-07 begins with the details of the SCN (number and date). • **Rule 159 and FORM GST DRC-22:** an officer can reject, in Part B of DRC-22, an application to restore a provisionally attached property or bank account, if not satisfied with the submission.	**DRC-01, 01A, 07:** 1 April 2027 **DRC-22:** 1 November 2026
Rule 138(2A): e-way bill	• Amended to include metro railway alongside railways.	1 November 2026
Notification No. 04/2026-Central Tax dated 26.10.2026		
E-invoicing	• Supplies received from an unregistered person on which the recipient pays tax under reverse charge, and import of services included. • FORM GST INV-01 moves to schema version 1.2 and new supply type codes cover domestic reverse charge supplies from unregistered persons (RCMDOM) and import of services (RCMIMP).	1 January 2027
Notification No. 03/2026-Central Tax dated 26.10.2026		
Section 153 to 155 of Finance Act, 2026 given effect	• Section 153 replaces Section 15(3)(b) of CGT Act- A discount given after the supply is excluded from value if the supplier issues a credit note and the recipient reverses the ITC on it. The earlier conditions of an agreement at or before the supply, and linkage to specific invoices, no longer apply. • Section 154 amends Section 34(1) to allow a credit note for such discounts. • Section 155 amends Section 54 of CGT Act- Provisional refund of 90% under Section 54(6) extends to unutilized ITC under clause (ii) of the first proviso to Section 54(3), which covers inverted duty refunds. The INR 1,000 minimum refund limit does not apply to goods exported with payment of tax.	1 November 2026

Item	Change	Effective date
Notification Nos. 06/2026 and 07/2026-Central Tax dated 27.10.2026		
Scrap and waste goods (oil, plastic, tyre, metal, e-waste)	• Notification 06/2026-CT substitutes the proviso to Notification 5/2017-CT. The exemption from registration given by that notification will not apply to any person supplying these goods: used cooking oil (heading 1518); waste and scrap of plastics (3915); waste and scrap of tyres (4004); metal scrap (Chapters 72 to 81); and electrical and electronic waste and scrap (8549). • Notification 07/2026-CT substitutes clause (d) of Notification 50/2018-CT. A registered person receiving any of these goods from another registered person is now covered as a person who must deduct tax at source under Section 51.	1 November 2026
Circular No. 257/03/2026-GST dated 26.10.2026		
REG-01: names and constitution	Legal name as per PAN and MCA certificate; constitution documents; promoter details, DIN for directors and designated partners; photographs; up to ten authorised signatories.	Guidelines
Principal place of business	• owned – property tax receipt/khata/electricity or water bill • family-owned – consent letter & owner's document • rented – registered agreement, or unregistered agreement & landlord's document • no agreement – undertaking & bill in applicant's name • deceased ancestor – affidavit & death certificate • co-working – membership agreement & provider's document/lease	Guidelines
Timelines	• Aadhaar-authenticated: 7 working days • Otherwise or risk-flagged: 30 days • Rules 14A and 9A: 3 working days	Guidelines
Officer queries	REG-03 only for illegible documents, address mismatch or vague address and reply in 7 working days.	Guidelines
Other	• Rule 14A exits in Form GST REG-32. • Grievance to Chief Commissioner or Commissioner of State Tax	Guidelines
Circular No. 258/04/2026-GST dated 26.10.2026 (demand, adjudication and appeals)		
Show cause notices	• Pre-SCN intimation in FORM GST DRC-01A • SCN should state facts, specific provisions, the role of each noticee and quantified demand • Summary to be issued in FORM GST DRC-01 / DRC-02 does not apply to goods exported with payment of tax.	Guidelines

Item	Change	Effective date
Fraud and suppression	• SCN itself sets out specific evidence of intent to evade tax (G.R. Infra Project Ltd. v. State of M.P., SC, 19.08.2026) • Second SCN on the same facts invoking fraud for a later period is not valid • Section 74A applies from FY 2024-25 with a single 42-month period from the due date of the annual return	Guidelines
Parallel proceedings	No parallel CGST and SGST proceedings on same subject	Guidelines
Hearing and orders	• Up to four hearings with a virtual option may be offered • Order preferably within one month • It should be a speaking order without generic remarks such as 'reply has been considered'	Guidelines
Rectification under Section 161	• Only by issuing authority to correct only apparent errors • Application in three months and to be disposed of in DRC-08	Guidelines
First appeal	• Limitation to be decided first, no rejection on merits at admission. • Rule 109C withdrawal to be decided in 7 days and disposal within one year.	Guidelines
Circular No. 259/05/2026-GST, dated 26.10.2026 (pre-deposit)		
Admitted amount and pre-deposit	• 'Admitted amount' is the tax, interest, fine, fee and penalty the taxpayer acknowledges as payable. It must be paid in full. • Pre-deposit is 10% of the remaining tax in dispute. Appellant decides the split while filing in APL-01 Table 14 / APL-05 Table 20.	Clarificatory
Tribunal stage	10% computed on liability confirmed by Appellate Authority, in addition to earlier amount	Clarificatory
Refund	No express direction needed, claim in RFD-01 (S. No. 7) to be allowed and cannot be denied for Department appeal unless stayed.	Clarificatory
Interest and remand	• Interest under Section 115 runs from the actual date of each deposit, the first appeal and GSTAT counted separately. • Remand by GSTAT- pre-deposit is refundable.	Clarificatory
Circular No. 260/06/2026-GST, dated 26.10.2026 (Input Service Distributor)		
ISD registrations	• More than one ISD registration per State allowed depending on the vertical. Conditions under Section 16 and 17 are for the recipient units, not the ISD.	Clarificatory

Item	Change	Effective date
Distribution	Credit is 'available for distribution' when the ISD ascertains it to be prima facie eligible. And eligible and ineligible credit separately and reported in FORM GSTR-6.	Clarificatory
Compliance and reversals	Reversals under Section 17(1), 17(2) or 17(4) are to be made by the recipients, not the ISD.	Clarificatory
Rule 54(1A) invoices	Invoices, credit notes or debit notes issued under Rule 54(1A) by a same-PAN, same-State registrant to the ISD are only a credit-transfer mechanism. They are excluded from 'turnover in State / UT', adjusted total turnover and 'Net ITC' for refund under Rule 89. The transferor need not make reversals under Section 17.	Clarificatory
Circular No. 261/07/2026-GST, dated 26.10.2026 (banks and financial institutions)		
Who can opt	Registrations not engaged in accepting deposits or extending loans and advances can neither opt for nor are required to comply with Section 17(4). If one registrant of the entity opts, all such registrants of the entity must comply.	Clarificatory
Second proviso	Relaxation only for supplies from same-PAN registrant who has also opted.	Clarificatory
GSTR-3B reporting	Avail 50% of the remainder and reverse the balance in Table 4(B)(1). Credit not yet eligible is temporarily reversed in Table 4(B)(2) and reclaimed in Table 4(A)(5),	Clarificatory
Past practice	No adverse view if credit availed follows these principles.	Clarificatory
Circular No. 262/08/2026-GST, dated 26.10.2026 (demo vehicles)		
ITC on demo vehicles	• Para 4.6 of Circular 231/25/2024-GST is withdrawn. • ITC on demo vehicles is not blocked under Section 17(5)(a) for dealers in the dealer-agency model. Demo vehicles serve the same purpose in both the dealer-agency and traditional dealership models.	Clarificatory
Circular No. 263/09/2026-GST, dated 26.10.2026 (export payments)		
Export of services	• Payment in convertible foreign exchange or repatriable INR accounts (SNRR, Nostro, SRVA) meets Section 2(6)(iv) of IGST Act	Clarificatory
Stockbrokers, set-off, reinsurance	• Brokers paid via SNRR or NRE (NRO routed through them); set-off per RBI directions; reinsurance net retention accepted	Clarificatory
Export of goods	• Rule 96B period as per RBI FED Master Direction 16/2015-16; no recovery if written off by AD bank.	Clarificatory

Item	Change	Effective date
Circular No. 264/10/2026-GST, dated 26.10.2026 (Rule 96(10))		
Omission of Rule 96(10)	The omission is effective retrospectively from October 23, 2017, in line with the decision of the SC in the matter of Goodluck India Ltd. v. Union of India, wherein it was held that an omission without a saving or sunset clause applies to all proceedings pending on the date of omission.	From 23 October 2017
Rules 89(4A), 89(4B)	Same treatment as Rule 96(10)	From 23 October 2017
Circular No. 265/11/2026-GST, dated 28.10.2026		
Sublimation paper	To be classified under Heading 4809 at 18% and past period regularised on 'as is where is' basis.	Clarificatory
Toys	S.No. 497 Sch. I (5%) and S.No. 616 Sch. II (electronic toys, 18%) cover all toys of heading 9503- not only tricycles, scooters and pedal cars.	Clarificatory
Margin scheme: used vehicles	Restriction applies only to tax paid on the second-hand vehicles bought and suppliers can claim ITC on other inputs and services	Clarificatory
Seaweed bio-stimulants	To be classified under Heading 3101 and past period regularized.	Clarificatory
Circular No. 266/12/2026-GST, dated 28.10.2026		
R&D versus consultancy	Institution head's certificate that the work is R&D, not consultancy, may suffice.	Clarificatory
Shipping company imports	Import of services by a foreign shipping company's Indian establishment from related persons, without consideration: exempt from November 1, 2026. Past period regularised.	1 November 2026
Vehicle leasing recoveries	Registration, road tax, insurance and FASTag form part of leasing value and are to be taxed at leasing rate	Clarificatory
TRAI	Not 'Government' under Section 2(53) of CGST Act	Clarificatory
Bank fund transfer pricing	Notional interest between branches is exempt 'interest'	Clarificatory
NBFC co-lending	NBFC's services to banks taxable and the value is the contract value.	Clarificatory

V. REGULATORY UPDATES

1. Labour and Employment Law update

IN BRIEF

- Minimum wages have gone up from 1 October 2026, both for the Central Government sectors and in several states.
- New labour laws are still rolling out. The Central Government asked all states to finalise their rules under the new Labour Codes by 31 October 2026, but most states are not ready yet.
- Courts were active. Among other rulings, a trade union has asked the SC to examine which organisations are covered by the new industrial relations law.

a) The new labour codes: where things stand

In November 2025, India replaced 29 older labour laws with four new Labour Codes. These cover wages, industrial relations, social security, and workplace safety. The Central Government issued its detailed rules in May 2026.

However, labour is a subject on which both the Centre and the states make laws. So in most cases, an employer must also follow the rules made by the state where it operates. The Central Government had asked all states to issue final rules by 31 October 2026. As of late October, only a handful had done so.

Status of state rules (as of 27 October 2026)

Status	States / Union Territories
Final rules issued under all four Codes	Andhra Pradesh, Arunachal Pradesh, Bihar, Gujarat, Ladakh, Uttar Pradesh
Final rules issued under some Codes	Rajasthan, Uttarakhand, Mizoram, Lakshadweep, Sikkim
Only draft rules so far	All other states, including Maharashtra, Karnataka, Tamil Nadu, Haryana, Punjab and Delhi

b) Minimum wages revised from 1 October 2026

Minimum wages in India include an allowance (called the Variable Dearness Allowance, or VDA) that is revised twice a year to keep pace with inflation. From 1 October 2026, this allowance has been increased.

Central Government sectors. These rates apply to establishments such as central public sector companies, railways, mines, major ports and airports, and their contractors. The new rates will apply until 31 March 2027. Examples for large cities (Area A) are below.

New daily minimum wages, Area A (Central sectors)

Skill level	Construction, cleaning, loading	Agriculture
Unskilled	₹840	₹537
Semi-skilled	₹933	₹587
Skilled / clerical	₹1,024	₹637
Highly skilled	₹1,111	₹705

Several states have also increased minimum wages from 1 October 2026:

State	Change from 1 October 2026	Unskilled worker rate
Uttar Pradesh	Allowance revised	₹13,883.59 per month
Gujarat	Special allowance of up to ₹72.50 per day	₹524.50 per day (Zone I)
Madhya Pradesh	Allowance up by ₹150 a month	Not yet reported
Andhra Pradesh	Allowance up by ₹224 a month	Not yet reported
Odisha	Up by ₹6 per day	₹478 per day

What this means for you: Pay the revised wages from 1 October 2026. If October salaries were paid at old rates, pay the difference in the next pay cycle. A higher wage may also increase PF, ESIC, bonus and gratuity amounts.

c) Important Court decisions:

- **SC to examine which organisations are covered by the new industrial relations law.**

On 28 October 2026, a trade union (AITUC, Tamil Nadu) asked the SC to examine the definition of "industry" in the Industrial Relations Code, 2020. The union argues that the definition wrongly leaves out charitable and certain government activities. The Chief Justice said the Court would first study the provision. The final outcome may decide whether charitable hospitals, trusts and similar organisations are covered by the law's dispute-resolution system.

- ***Workers made permanent cannot be denied benefits because they began as daily wagers***

(Chhaganbhai Kohyabhai Pateliya v. State of Gujarat,

decided on 6 October 2026). The SC held that workers who started as daily-wage staff and were later made permanent are entitled to the annual increment due at retirement, just like other permanent staff.

- ***Excess salary can be recovered if the employee signed an undertaking.***

(Dr M.K. Ravi Varma v. National Institute of Technology, October 2026). The SC allowed recovery of extra pay wrongly given to teachers, because they had signed written undertakings to refund any excess. Without such an undertaking, courts often do not allow employers to recover excess pay.

- ***A post cannot be abolished without giving prior notice to workers.***

(Mool Chand Kharaiti Ram Hospital v. Indiver, Delhi HC, decided on 27 October 2026). The hospital abolished an employee's post without giving the legally required notice of change in service conditions, while a dispute was pending. The Court held this was invalid and awarded the employee ₹3,00,000 as compensation. The new Industrial Relations Code contains a similar notice requirement.

2. Key MCA Regulatory updates:

a. Extension of Time for Filing Financial Statements and Annual Returns for FY 2025–26

Circular / Notification:	General Circular No. 05/2026; File No. Policy-17/111/2022-CL-V-MCA
Issue Date:	24th October 2026
Effective date:	24th October 2026

The Ministry of Corporate Affairs (MCA), vide General Circular No. 05/2026 dated 24 October 2026, has permitted companies to file financial statements for FY 2025-26 in Forms AOC-4, AOC-4 (CFS), AOC-4 (XBRL), AOC-4 NBFC (Ind AS) and AOC-4 CFS NBFC (Ind AS) up to 31 December 2026, without payment of additional fees. Annual returns in Forms MGT-7 and MGT-7A for FY 2025-26 may be filed up to 31st January 2027 without additional fees. The Circular does not extend the statutory timeline for holding Annual General Meetings. Filings made after the respective extended dates will attract applicable fees, including additional fees, as prescribed under the Companies (Registration Offices and Fees) Rules, 2014.

Form	Purpose	Original Date of Filing	Extended Date Without Additional Fees
AOC-4 and applicable variants	Filing of financial statements for FY 2025–26	30th October, 2026	31st December 2026
MGT-7 / MGT-7A	Filing of annual return for FY 2025–26	29th November, 2026	31st January 2027

Note: The above relaxations relate to filing without additional fees only. They do not extend the statutory timeline for holding the AGM. Companies should refer to the respective MCA circulars for complete details.

b. Extension of Time for Filing Form CRA-4 for FY 2025–26

Circular / Notification:	General Circular No. 06/2026; F. No. Policy-17/52/2020-CL-V
Issue Date:	27th October 2026
Effective date:	27th October 2026

The MCA, vide General Circular No. 06/2026 dated 27 October 2026, has provided that Form CRA-4 (Cost Audit Report in XBRL format) for FY 2025-26 may be filed up to 31 December 2026 without payment of additional fees. Any filing made after this date will attract applicable fees, including additional fees, calculated from the date on which the form was originally due under Rule 6(6) of the Companies (Cost Records and Audit) Rules, 2014.

Form	Purpose	Original Date of Filing	Extended Date Without Additional Fees
CRA-4	Filing of Cost Audit Report for FY 2025–26	within 30 days from the date of receipt of the Cost Audit Report	31st December 2026

Note: The statutory deadline remains 30 days from receipt of the Cost Audit Report; the relaxation is for additional fees, not a change to the statutory due date.

3. Key SEBI updates:

a. Exemption from the requirement of mandatory merchant banker appointment for debt issued through private placement

Circular / Notification:	HO/17/11/24(7)2026-DDHS-POD1/I/23122/2026
Date:	07 October 2026

Applicability: Eligible listed issuers proposing to issue debt securities through private placement.

Key update: SEBI has introduced a relaxation from the mandatory appointment of a merchant banker, subject to specified eligibility conditions.

Key eligibility conditions:

- The Issuer must be registered with or regulated by an Indian financial sector regulator, such as SEBI, RBI, IRDAI or PFRDA.
- The Issuer must have been listed on a recognized Stock Exchange(s) for at least one year, with no pending fines or penalties imposed for non-compliance with applicable SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 ('SEBI LODR'). The Stock Exchange(s) must confirm this at the in-principal approval stage.
- The Issuer must not have defaulted during the preceding three financial years or the current financial year on specified redemption, repayment, interest or dividend obligations. A Statutory Auditor's certificate is required.
- The debt security issued must be senior or unsubordinated and secured by a first or pari passu charge over identifiable assets. Specified exemptions apply to CPSEs, PSUs and statutory bodies.
- The debt security must carry a credit rating of at least AA– on the date of private placement. Where multiple ratings exist, the lowest rating will determine eligibility.

Further, stock exchange(s) shall specify suitable operational requirements such as disclosure formats/ submissions required to be made by the issuer to comply with the conditions specified above.

b. Introduction of Credit Risk-o-Meter as an additional disclosure mechanism for debt securities

Circular No.:	HO/17/11/22(1)2026-DDHS-POD1/I/23092/2026
Date:	07 October 2026
Effective date:	21 November 2026

Applicability: Issuers of debt securities and entities operating as Online Bond Platform Providers (OBPPs)

SEBI has introduced a mandatory colour-coded Credit Risk-o-Meter to help investors assess the credit risk of debt securities before investing.

The disclosure is required in the following:

- Offer document.
- Abridged Prospectus
- Private Placement Memorandum
- All advertisements of Issuer/OBPPs
- Web and mobile platforms of OBPP

4. Export Declaration Form (EDF) under the New FEMA Export–Import Regulations, 2026: What Exporters Must Do from 1 October 2026

If you export goods or services from India, 1 October 2026 is a date worth remembering. On that day, a single rulebook, the Foreign Exchange Management (Export and Import of Goods and Services) Regulations, 2026 (the "Principal Regulations"), replaced the many regulations, Master Directions and circulars that exporters had learned to work with over the years. The change you are most likely to feel in your day-to-day work is the Export Declaration Form (EDF), which now applies to services, including software, as well as goods.

In this article we walk through what the EDF requires, who receives it, and how the revised realisation timelines work. We have included worked examples throughout; the names and figures in them are illustrative only.

The framework in brief

- The Principal Regulations (Notification No. FEMA 23(R)/2026-RB dated 13 January 2026) and the Amendment Regulations (Notification No. FEMA 23(R)/(1)/2026-RB dated 22 September 2026) both came into effect on 1 October 2026 [1][2].
- Together they supersede the 2015 export regulations and the Master Directions on Export (No. 16/2015-16) and Import (No. 17/2016-17) [1][3].
- Exporters of services, including software, must file an EDF within 30 days from the end of the month in which the invoice is raised.
- Export proceeds must be realised within 9 months, or 12 months where the export is invoiced and/or settled in INR. The January text had provided 15 and 18 months, but the September amendment shortened these before the regime began [2].
- Smaller transactions, up to ₹10 lakh per invoice or shipping bill, benefit from simplified closure.

Who is an exporter, and what counts as software?

Section 2(l) of FEMA, 1999 describes export as taking goods out of India to a place outside India, or providing services from India to a person outside India. Service is defined in section 2(zb) and covers a wide range of activities, from banking, insurance and transport to legal and medical assistance and the supply of information. It excludes services rendered free of charge and services under a contract of personal service [4].

The Principal Regulations add a definition of software in Regulation 2(1)(e): any computer programme, database, drawing, design, audio/video signal or information, in or on any medium other than a physical medium [1]. The distinction matters in practice.

Example 1. A Chennai design studio emails finished artwork files to a client in Germany. That is an export of software. If the same studio instead couriers a pen drive containing the same files, it is an export of goods, and the goods rules apply.

Where does the EDF go?

The EDF is submitted to the "specified authority" defined in Regulation 2(1)(f) [1]:

Nature of export	DTA	SEZ
Goods	Commissioner of Customs	Development Commissioner
Services (other than software)	Authorised Dealer (AD)	Development Commissioner
Software	AD or STPI	Development Commissioner

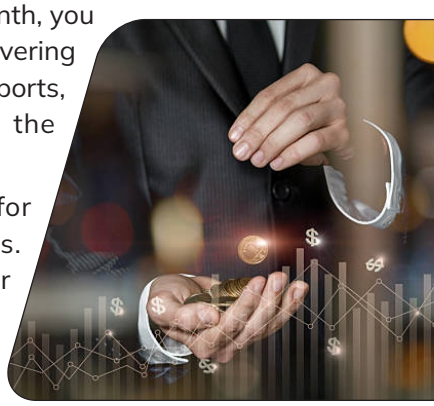
In simple terms, if you are outside an SEZ, goods go through Customs and services go through your bank. If you are inside an SEZ, the Development Commissioner is your point of contact.

When must the EDF be filed?

Goods (Regulation 3(1)). The EDF must state the full export value at the time of export. If you ship through an EDI port, the shipping bill itself is treated as the EDF, so there is nothing separate to file. For non-EDI ports, the EDF goes to the Commissioner of Customs (DTA) or the Development Commissioner (SEZ). A traveller carrying personal effects is not treated as an exporter and does not need to file [1].

Services, including software (Regulation 3(2)). The EDF must state the full export value within 30 days from the end of the month in which the invoice is raised [1]. A few features make this easier to manage:

- Consolidated filing. If you export services to one or more recipients in a month, you may file a single EDF covering all of that month's exports, whatever the size of the individual invoices.
- Alternative deadline for non-software services. You may instead file on or before the date you receive payment.
- Extension. Your AD may extend the time if it is satisfied with the reasons for delay.



Example 2: software consultant (DTA). A Pune-based consultant invoices a US client for USD 18,000 on 12 November 2026. The EDF is due to the AD by 30 December 2026, which is 30 days after the end of November. Because this is software, the 'file on receipt of payment' alternative is not available.

Example 3: several clients in one month. A Mumbai agency raises invoices on three European clients during November 2026. Instead of three filings, it submits one consolidated EDF by 30 December 2026.

Example 4: non-software services paid late. A marketing support provider raises an invoice in November 2026, and the client pays on 15 January 2027. Since these are non-software services, the provider can choose to file its EDF on or before 15 January 2027 rather than by 30 December 2026.

Example 5: SEZ software exporter. A software unit in an SEZ raises an invoice on 25 October 2026. Its EDF is due to the Development Commissioner by 30 November 2026.

Example 6: goods through an EDI port. An apparel exporter ships through an EDI-enabled port. The shipping bill is the EDF, and no separate filing is needed.

Export type	EDF deadline
Goods, EDI port	At export (the shipping bill is the EDF)
Goods, non-EDI port	At export
Software	Within 30 days from the end of the invoice month
Non-software services	Within 30 days from the end of the invoice month, or on/before receipt of payment

Realisation: 9 and 12 months

The Amendment Regulations replaced the 15 and 18 months originally notified with 9 and 12 months, with effect from 1 October 2026 [2]. For goods the clock starts at shipment; for services it starts at the invoice date.

Scenario	Period	Counted from
Goods, ordinary	9 months	Date of shipment
Goods, invoiced/ settled in INR	12 months	Date of shipment
Services, ordinary	9 months	Date of invoice
Services, invoiced/ settled in INR	12 months	Date of invoice
Goods sent to an overseas warehouse	9 / 12 months	Date of sale from the warehouse

Example 7: services. The Pune consultant in Example 2 invoiced on 12 November 2026 in US dollars. The proceeds should be realised by 12 August 2027. Had the invoice been raised or settled in INR, the deadline would have been 12 November 2027.

Example 8: goods. The apparel exporter in Example 6 ships on 10 December 2026. Proceeds are due by 10 September 2027, or 10 December 2027 if the export is invoiced and settled in INR.



If you need more time, you can ask your AD to extend the period. The AD may do so if satisfied with your reasons, in line with its own policy and without RBI approval. The Amendment Regulations also contain transitional provisions (Regulation 20) under which ADs may handle certain transactions that pre-date 1 October 2026, and which earlier needed RBI approval [2], so please check the applicable period invoice by invoice for older exports.

Relief for smaller transactions

Two provisions are particularly helpful for smaller exporters [1]:

- **Regulation 6 (proviso).** Where the export value is up to ₹10 lakh per shipping bill (goods) or per invoice (services), the AD may allow under-realisation or non-realisation on the strength of your declaration.
- Regulation 4(2) (provisos). Export Data Processing and Monitoring System (EDPMS) entries for exports of up to ₹10 lakh per shipping bill or invoice may be closed on a declaration, including through quarterly bulk declarations.

The ₹10 lakh limit applies to each document, not to your total exports for the year.

Example 9. A freelance illustrator invoices a UK publisher ₹8 lakh. The publisher deducts ₹30,000 for a rights adjustment. As the invoice is under ₹10 lakh, her AD can accept her declaration and allow the shortfall. A ₹14 lakh invoice from the same illustrator would not qualify, however small her overall business.

Set-off, third-party payments and advances

- **Set-off (Regulation 7).** Export receivables may be set off against import payables with the same overseas party, or with its group or associate companies, within the realisation period or any extension granted by the AD. The Regulations do not bar cross-classification (for instance, a goods receivable against a services payable), subject to AD policy.
- **Third-party receipts and payments (Regulation 8).** The AD may permit these where it is satisfied about the bona fides of the transaction. No tripartite agreement is expressly required.
- **Advances (Regulation 10).** Advance and subsequent export payments should be routed through the same AD, unless the exporter has intimated a change to both ADs. Interest on an export advance is capped by reference to the all-in-cost ceiling for trade credit under the FEMA (Borrowing and Lending) Regulations, 2018. Older material that refers to a LIBOR-based ceiling should no longer be relied upon.

Example 10. An Indian software company has USD 40,000 receivable from its UK parent and owes USD 25,000 to a UK group affiliate for licences. With its AD's agreement, and within the realisation period, it can set off USD 25,000 and reconcile the balance in the usual way.

What if the proceeds do not come in?

Under Regulation 13, where export proceeds remain unrealised for more than one year beyond the due date (or any extended due date), further exports are permitted only against full advance payment or an irrevocable letter of credit [1].

Example 11. A services invoice dated 1 March 2027 falls due on 1 December 2027 (nine months from the invoice date). If it is still unpaid after 1 December 2028 and no extension has been granted, the exporter's next

exports can proceed only against full advance or an irrevocable LC.



The Amendment Regulations also added a proviso to Regulation 13 for exporters who were on RBI's Caution List as on 30 September 2026. They remain governed by the earlier RBI orders under Regulation 16 of the 2015 Regulations until they are removed from the list [2].

Outside the Regulations themselves, unreconciled EDF and EDPMS entries can, in practice, delay generation of the electronic Bank Realisation Certificate (eBRC) and complicate GST refund claims and tax assessments. Regular reconciliation is the simplest protection.

A brief word on imports and merchanting trade

- Imports. Payment timelines now follow the underlying contract rather than a fixed statutory period. ADs monitor Import Data Processing and Monitoring System (IDPMS) entries and follow up for closure. If an advance is paid and the import does not materialise, the advance should be repatriated; otherwise future advances may need a standby LC or guarantee [1].
- Merchanting trade (Regulation 16). The gap between the outward and inward remittances, in either order, may not exceed six months, extendable by the AD [1].
- Project exports (Regulations 5(1)(c) and 15). Payment terms follow the contract, and the 9/12-month realisation periods do not apply [1].

What we suggest you do now

1. Map your invoices to EDF dates. Set a monthly reminder, and use a consolidated EDF where it suits you.
2. Reset your receivable alerts to 9 months (12 for INR) from the shipment or invoice date.
3. Move software exports onto the EDF route. Please confirm with your AD or STPI how filings should be made.
4. Review your contracts. Look at advance, set-off and third-party payment clauses against the new AD-led framework.
5. Check your ageing. Flag any invoice approaching its due date so that you can request an extension in good time.
6. Speak to your AD early. Many practical details, such as extensions and set-off, depend on the bank's own policy.

In closing

The 2026 framework places more trust in Authorised Dealers and, in turn, expects exporters to be organised and prompt. The good news is that the requirements are manageable once they are built into your month-end routine.

Disclaimer: This article is for general information only and is not professional advice. Provisions are summarised and should be read with the original notifications and your AD's procedures before you act.

References

1. Reserve Bank of India, Foreign Exchange Management (Export and Import of Goods and Services) Regulations, 2026, Notification No. FEMA 23(R)/2026-RB dated 13 January 2026.

   https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=13277&Mode=0

2. Reserve Bank of India, Foreign Exchange Management (Export and Import of Goods and Services) (Amendment) Regulations, 2026, Notification No. FEMA 23(R)/(1)/2026-RB dated 22 September 2026.

   https://www.rbi.org.in/scripts/NotificationUser.aspx?Id=13714&Mode=0

3. Reserve Bank of India, A.P. (DIR Series) Circular No. 20 dated 16 January 2026 (RBI/2025-26/194), Export and Import of Goods and Services.

   https://website.rbi.org.in/web/rbi/foreign-exchange-management/ap-circulars-display?delta=20

4. Foreign Exchange Management Act, 1999, sections 2(l) (export) and 2(zb) (service).

5. Insolvency Proceedings Under the IBC

THE SUBHASH CHANDRA PERSONAL GUARANTOR CASE

Background

Dr. Subhash Chandra Goenka, founder of Essel Group and Zee Entertainment, personally guaranteed loans that Essel Group companies took (2015-2018) for infrastructure, power and solar projects.

These loans were secured twice. Once by the promoter family's pledged Zee shares, and then by Dr. Chandra's personal guarantees on top of that pledge.

2. How the Debt and Guarantee Built Up

On 14 November 2018, Indiabulls flagged a shortfall. The pledged Zee shares had fallen below the minimum-security cover and Dr. Chandra signed a personal guarantee shortly after as added security. Weeks later, in January 2019, he publicly admitted a group-wide asset-liability mismatch with Essel Group's debt at ₹45,000 crore, triggering "standstill" agreements with lenders. By May 2020, the group defaulted on ₹616 crore of secured NCDs, hitting 3 lakh retail investors.

Separately, Indiabulls recalled the Vivek Infracon loan on 4 February 2019.This was later treated as the official default date. Almost three years on, on 18 January 2022, it sent Dr. Chandra a Form-B demand notice as guarantor, then filed under Section 95 of the IBC, starting insolvency proceedings against him at the NCLT. Other lenders holding his guarantees joined in, pushing total admitted claims to ₹22,006.57 crore, even though Essel Group had separately repaid ₹43,000 crore of its ₹45,000 crore group debt by 2026, which didn't discharge his personal guarantees.

3. Legal Framework in Brief

A personal guarantee is a liability independent of the borrowing company's own debt. Section 95 of IBC lets a creditor apply to the NCLT to start insolvency proceedings against a guarantor. Once admitted, creditors vote on a Repayment Plan and NCLT's scrutiny is largely limited to process and not commercial adequacy.

Further, section 79(2)(g) of IBC narrowly defines 'associate' of a debtor and section 419(5), Companies Act, 2013 governs how NCLT benches resolve differing member views.

4. The Creditor Vote and the Courtroom Contest

Creditors holding 80.81% of the total claim value voted “Yes” accepting Dr. Chandra's ₹6.5 crore repayment plan as full and final settlement of his personal guaranteed liability, despite it covering barely 0.03% of the ₹22,006.57 crore they collectively owed. However, dissenting creditors like LIC Housing Finance, HDFC Bank, Axis Bank, Canara Bank, RBL Bank and Union Bank, challenged the order before the NCLAT.

a) Objection 1: Dissenting creditors claimed some "Yes" votes came from entities linked to Dr. Chandra, inflating the majority in his favour. The tribunal rejected this stating that those entities didn't meet the law's narrow and specific definition of "associate" under Section 79(2)(g), so their votes were allowed to stand.

b) Objection 2: Dissenting creditors claimed that certificates from RBL and Canara Bank put Chandra's net worth at Rs 45,888 crore and Rs 40,562 crore respectively. However, at the time of plan, Chandra's net worth was disclosed only of Rs 31.79 crore. The tribunal held that a steep drop in net worth alone isn't proof that assets were hidden and doesn't automatically call for a full forensic investigation. It accepted that years of asset sales used to pay group debt was a reasonable and credible explanation for the fall.

5. The NCLT Order and Its Stay



a) On 3rd Sept 2025 the original two-member bench gave a split verdict, where Ashok Kumar Bhardwaj approved the plan, but Reena Sinha Puri rejected it, citing irregularities in claims and voting.

b) Later, on 25th Aug 2026 the third and tie-breaking member Nilesh Sharma approved the plan of Rs 6.5 crore against Rs 22,006.57 crore admitted claims i.e., 99.97% haircut and only 0.03% recovery.

c) On 1st Sept 2026 a specially constituted five-member NCLT bench, headed by President Justice Anupinder Singh Grewal, stayed the order holding that no 'clear majority view' had emerged among the members under Section 419(5), Companies Act, 2013. This was a procedural ruling, separate from the substantive objections above. Dr. Chandra was barred from disposing of any assets until the matter is resolved.

d) The dissenting lender's appeal (LIC Housing Finance, Canara Bank, Union Bank etc.), argued by Solicitor General Tushar Mehta, was already pending before the NCLAT. On being informed of the stay, the NCLAT bench (Officiating Chairperson Justice Yogesh Khanna) kept it pending rather than deciding it, since the NCLT would re-hear the matter itself.

6. Current Status

The Rs 6.5 crore repayment plan remains stayed. Dr. Chandra cannot dispose of assets until the matter is resolved. Pursuant to the order dated 23 September 2026, the five-member Special Bench of the NCLT directed issuance of notice to the Central Bureau of Investigation (CBI), noting that its investigation may have a bearing on the proceedings. The Tribunal further ordered that the interim directions issued on 1 September 2026 shall continue until final disposal of the matter and has listed the case for arguments on 19 November 2026.

VI. COMPLIANCE CALENDAR - NOVEMBER 2026

A. Income tax

Sr No.	Due Dates	Concerned (reporting) Period	Compliance Detail	Applicable to
01	7th November	October 2026	TDS / TCS Payment	Non-Government Deductors
02	21st November (Note)	Financial Year 2025-26	ITR due date for corporate and tax audit taxpayers	For corporate taxpayers and other taxpayers, subject to tax audit (and not subject to Transfer Pricing provisions)
03	30th November	Financial Year 2025-26	ITR due date for corporate and tax audit taxpayers	For corporate taxpayers and other taxpayers, required to furnish report under Section 92E (Transfer Pricing provisions)
04	30th November	Financial Year 2025-26	Form 3CEAA (Transfer pricing Master)	For corporate taxpayers and other taxpayers, covered under Transfer pricing
05	30th November	Financial Year 2025-26	Form 3CEFA (Safe Harbour Form)	For corporate taxpayers and other taxpayers, covered under Transfer pricing
06	30th November	Financial Year 2025-26	Form 3CEAD (Country-by-Country-reporting)	For corporate taxpayers and other taxpayers, covered under Transfer pricing

Note: *As per the CBDT Circular dated 28.09.2026, the due date for furnishing the return of income for taxpayers subject to tax audit (excluding taxpayers who are subject to transfer pricing) has been extended from* ***31.10.2026 to 21.11.2026.***

B. Goods and Service Tax

Sr No.	Due Dates	Concerned (reporting) Period	Compliance Detail	Applicable to
01	10th Nov. 2026	October 2026	GSTR – 7 (TDS)	Person required to deduct TDS under GST
02	10th Nov. 2026	October 2026	GSTR – 8 (TCS)	Person required to collect TCS under GST
03	11th Nov. 2026	October 2026	GSTR 1	a) Taxable person having annual turnover > INR 5 crores in FY 2024-25 b) Taxable persons having annual turnover ≤ INR 5 crores in FY 2024-25 and not opted for Quarterly Return Monthly Payment (QRMP) Scheme
04	13th Nov. 2026	October 2026	GSTR - 5 (NRTP)	Non-resident taxable person (NRTP)
05	13th Nov. 2026	October 2026	GSTR – 6 (ISD)	Person registered as ISD
06	20th Nov. 2026	October 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 Nov. 2026	October 2026	GSTR - 5A (OIDAR)	OIDAR services provider
08	25th Nov. 2026	October 2026 (QRMP)	PMT – 06	Quarterly return for persons who have opted for QRMP scheme

C. FEMA, SEZ and STPI Compliance

Sr No.	Compliance	Compliance Detail	Due Date / Timeline
01	ECB-2 Reporting	Submission of the ECB-2 return under FEMA (External Commercial Borrowings) for the month of October 2026, through the AD Category-I bank.	07-11-2026
02	SEZ Monthly Performance Report (MPR)	Submission of the monthly performance report by SEZ units for the month of October 2026.	10-11-2026
03	STPI Monthly Performance Report (MPR)	Submission of the monthly performance report by STPI units for the month of October 2026.	10-11-2026
04	STPI/SEZ SERF Return	Filing of the SERF (Service Export Reporting Form) return for STPI/SEZ units for the month of October 2026.	10-11-2026

D. Labour Law Compliance

Sr No.	Compliance	Compliance Detail	Due Date / Timeline
01	PF Payment	Deposit of Provident Fund contributions (employer and employee shares) and filing of the ECR for October 2026 wages under the EPF & MP Act, 1952.	15-11-2026
02	ESI Payment	Deposit of Employees' State Insurance contributions (employer and employee shares) for October 2026 wages under the ESI Act, 1948.	15-11-2026
03	Professional Tax Payment (Maharashtra PTRC)	Payment of Professional Tax under the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975, for October 2026 under the PTRC (Registration Certificate).	15-11-2026



GLOSSARY

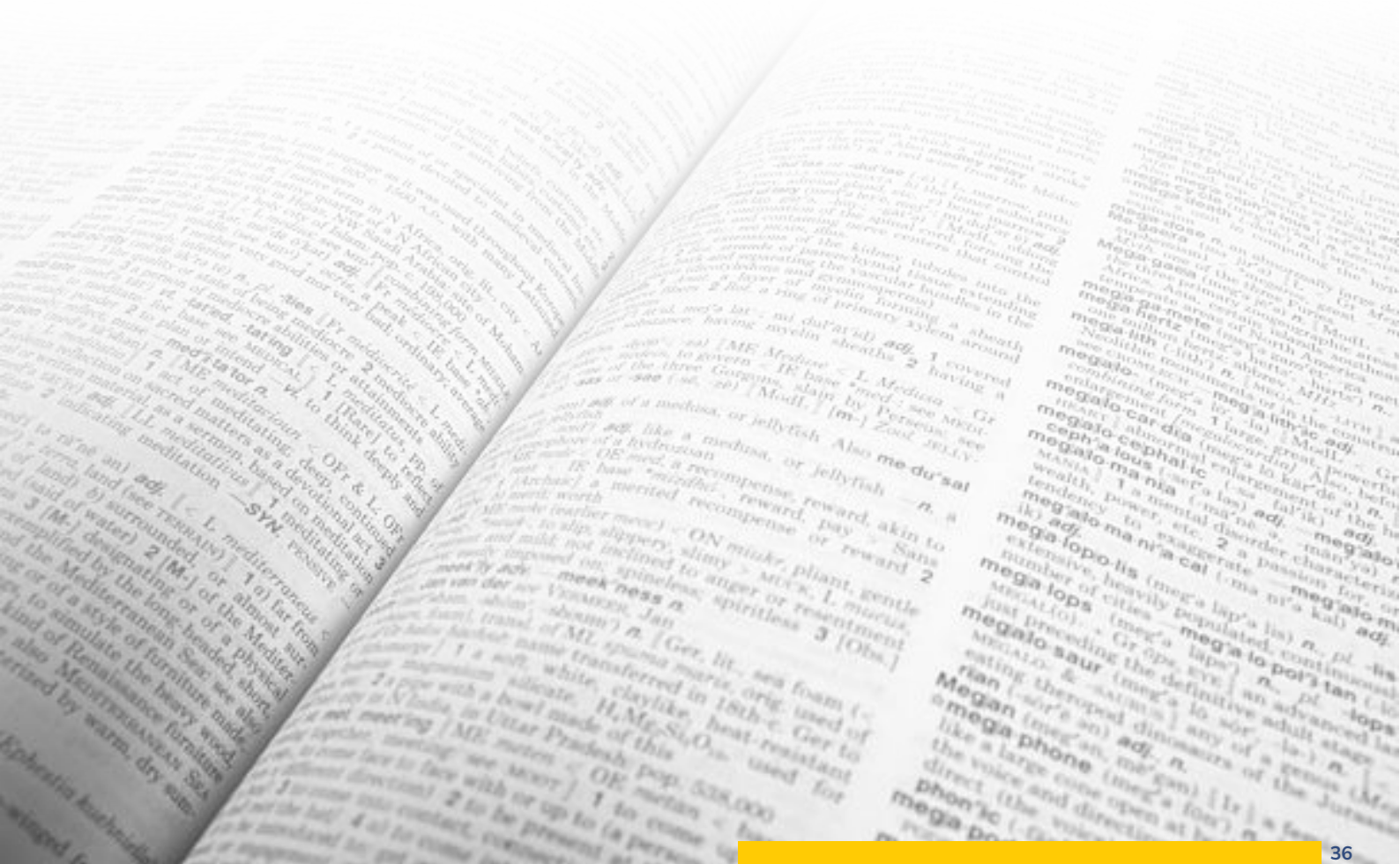
ABBREVIATION	FULL FORM
ALP	Arm's Length Price
AO	Assessing Officer
AY	Assessment Year
AE	Associated Enterprise
CGAS	Capital Gain Account Scheme
CBDT	Central Board Of Direct Taxes
CBIC	Central Board of Indirect Taxes and Customs
CDSCO	Central Drugs Standard Control Organisation
CGST	Central Goods And Service Tax
CIT(E)	Commissioner of Income Tax (Exemptions)
CIT	Commissioner Of Income-Tax
CIT(Appeals) / CIT(A)	Commissioner Of Income-Tax (Appeals)
CoC	Committee of Creditors
CCD	Compulsorily Convertible Debenture
CIRP	Corporate Insolvency Resolution Process
CAAR	Customs Authority for Advance Rulings
CCFC	Customs Clearance Facilitation Committee
DCIT	Deputy Commissioner of Income Tax
DCF	Discounted Cash Flow
DRP	Dispute Resolution Panel
DTAA	Double Taxation Avoidance Agreement
EMI	Eligible Manufacturer Importers
ESOPs	Employee Stock Options
EXIM	Export-Import
ECB	External Commercial Borrowings
FTS	Fees for Technical Services.
FY	Financial Year
FPIs	Foreign Portfolio Investment
FOB	Free on Board
FCL	Full Container Load
FAR	Fully Accessible Route
FCCD	Fully Compulsorily Convertible Debenture
GST	Goods & Services Tax
GST-RFD	Goods and Services Tax – Refund
GSTAT	Goods and Services Tax Appellate Tribunal
GSTR	Goods and Services Tax Return
GSTIN	Goods and Services Tax Identification Number

GLOSSARY

ABBREVIATION	FULL FORM
HSN	Harmonized System of Nomenclature
HC	High Court
Hon'ble	Honourable
ITAT	Income Tax Appellate Tribunal
ITO	Income Tax Official
ITR	Income Tax Return
Act	Income-Tax Act, 1961
IND-AS	Indian Accounting Standard
INR	Indian Rupee
InvITs	Infrastructure Investment Trusts
ITC	Input Tax Credit
ISD	Input Service Distributor
IBC	Insolvency and Bankruptcy Code
ICAI	Institute of Chartered Accountants of India
IGST	Integrated Goods and Services Tax
LCL	Less than Container Load
LLC	Limited Liability Company
LLP	Limited Liability Partnership
MOA	Memorandum of Association
MSME	Micro, Small, and Medium Enterprises
NACs	National Assessment Centres
NFAC	National Faceless Assessment Centre
NCLT	National Company Law Tribunal
NAV	Net Asset Value
NPA	Non-Performing Asset
NRTP	Non-resident taxable person
OM	Office Memorandum
OIDAR	Online Information and Database Access or Retrieval
OIO	Order-in-Original
OTC	Over-the-Counter
PE	Permanent Establishment
PTFC	Permanent Trade Facilitation Committee
QRMP	Quarterly Return Monthly Payment
REITs	Real Estate Investment Trusts
ROC	Registrar of Companies
RBI	Reserve Bank of India
ROI	Return Of Income

GLOSSARY

ABBREVIATION	FULL FORM
SCMTR	Sea Cargo Manifest and Transshipment Regulations
SEIS	Service Exports from India Scheme
SCN	Show Cause Notice
SWIFT 2.0	Single Window Interface for Facilitating Trade 2.0
SLP	Special Leave Petition
SC	Supreme Court
TAR	Tax Audit Report
TCS	Tax Collected at Source
TDS	Tax Deducted at Source
TRC	Tax Residency Certificate
TP	Transfer Pricing
TPO	Transfer Pricing Officer
UDIN	Unique Document Identification Number
VAT	Value Added Tax
WOS	Wholly Owned Subsidiary



BHUTA SHAH & CO LLP
CHARTERED ACCOUNTANTS

About us

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

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

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

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

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

Our Locations

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

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

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

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

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

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

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

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

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