

Tax Glimpses 2018

We bring you a concise analysis of important judgements and noteworthy regulatory developments in corporate and financial services tax, global mobility, M & A tax, transfer pricing, indirect taxes and regulatory developments during 2018.

December 2018





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It gives me great pleasure to present our annual compilation, Tax Glimpses 2018.

During the year, we witnessed some significant developments on the tax and regulatory front at home and globally.

Around the world, the OECD BEPS Multilateral Instrument came into force from 1 July 2018 on its ratification by the fifth signatory jurisdiction. The US tax reforms, rolled out towards end of 2017, generated much discussion during the year on their impact on multinationals and the global tax order. European Union (EU) member states agreed on a directive that will impose mandatory reporting for taxpayers and intermediaries for cross-border transactions and arrangements, and automatic exchange of such information between tax

administrations across the EU. The UN released its 2017 update to the Model Double Taxation Convention between Developed and Developing Countries. The European Commission proposed new rules to ensure fair taxation in the digital economy, and the UK Budget announced the introduction of a 2% digital Service Tax on tech giants. The Mauritian Revenue Authority issued a Statement of Practice to determine the Place of Effective Management of a company incorporated in Mauritius.

On the home front, GST completed a year. Its journey has not been easy so far, with a number of challenges faced by taxpayers on compliance. However, a reduction in the tax rates for many goods brought some cheer. Following this, the implementation of the E-way Bill in 36 states from 1 April 2018 is an ample indication of the constant measures being adopted for successful implementation of phase 2 of GST.

The first income tax returns taking into account the Place of Effective Management provisions for residence of a foreign company under domestic tax laws got filed in 2018. Long-term capital gains on transfer of listed equity shares was brought back into the tax net. And the Parliament made retrospective amendments to partly overcome the effect of the Delhi High Court's judgment last year quashing some ICDS. The final Country by Country Report rules released last year were followed up this year by the CBDT releasing its instructions on "appropriate use of Country by Country Reports" as part of its commitment to the BEPS project. Taking the cue from the BEPS project, a 'significant economic presence' test has been introduced under domestic tax law to bring into the tax net, digital economy without any physical presence in India. The second APA report painted a positive picture with a distinct rise in the number of APAs signed and an

apparent shift from unilateral to bilateral APAs.

On the regulatory front, a proposed Bill on Data Protection Regulations was submitted to the Ministry of Electronics and Information Technology and the RBI announced a single master form to report all types of foreign investment in India. Rules for disclosure of the Significant Beneficial Owner of a company and compulsory dematerialisation of securities of unlisted public companies were other developments in the regulatory domain.

Tax Glimpses 2018 brings to you in brief some significant tax and regulatory developments which we shared with you over the year. A list of PwC's Thought Leadership reports released during the year is also included.

I hope you find this compilation useful and I look forward to your feedback and suggestions.

Wishing you all the very best and a very technology-enabled 2019!



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Judgement

Tax holiday

Expenses excluded in computing “export turnover” have to be excluded from “total turnover” in computing the deduction under section 10A

Civil Appeal Nos. 8489-8490 of 2013 (SC)

Expenses if any, excluded from “export turnover” have to be excluded from “total turnover,” while computing the deduction under section 10A of the Act as export turnover (being the numerator) is a component of total turnover (being the denominator) in the formula provided for computing the deduction under section 10A of the Act. Further, the SC observed that the definition of “total turnover” given under the explanation to sections 80HHC and 80HHE of the Act is applicable only for the purpose of those sections and cannot be adopted for the purpose of section 10A of the Act.

Tribunal holds that formative conditions for claiming deduction by SEZ units are required to be examined only in first year of claim

ITA No. 6794/Del/ 2017

Formative conditions for claiming deduction under section 10AA of the Act could be examined only in the first year of claim. If deduction has been allowed in the first year of claim, it cannot be withdrawn in subsequent AYs.

Deemed dividend

Issuance of cheque, not presented and subsequently returned, is not “payment” – not considered dividend under section 2(22)(e)

ITA No. 532 of 2011 (Allahabad HC)

Provisions of section 2(22)(e) of the Act cannot be attracted where a cheque is issued but not presented and subsequently returned, as it does not

amount to “payment” or actual receipt of money.

Permanent Establishment

Permanence test to be linked to nature and requirements of the business for constitution of a PE

AAR No. 1330 of 2012

The degree of permanence for constituting a fixed place PE should be seen qua the nature and requirements of the business. The threshold of duration should not be linked to the constitution of a fixed place PE in India. The AAR relied on the principles laid down by the SC in the case of Formula One World Championship Limited v. CIT [2017] 394 ITR 80 (SC) and held that permanence test is tied to the nature of a project.

Indian subsidiary also negotiating contracts – constitutes DAPE; additional attribution of profits, as such functions not considered in FAR analysis of subsidiary

ITA No. 1623/Del/2015

An Indian subsidiary of the taxpayer constituted its DAPE, as the Indian subsidiary was identifying customers, negotiating and finalising prices with customers in India to whom the products were sold by the taxpayer.

Profits are to be attributed to the DAPE even if the taxpayer paid commission to the Indian subsidiary, as the benchmarking of commission was done without considering all the functions performed by the Indian subsidiary.

Preparatory activities performed prior to entering into contract cannot be included to compute duration for determining installation PE

ITA No. 5759/Del/ 2011

Activities carried out by the taxpayer’s employee in India before execution of the installation contract cannot be considered for the purpose of determining

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the threshold for installation of a PE, as provided in Article 5(2)(g) of the India-Cyprus tax treaty.

Further, the Tribunal held that the activities which were auxiliary and preparatory in nature, such as the tendering process, were carried out before initiation of work at the project site (i.e. before entering into the contract) could not be construed as carrying out any activity of installation or construction in India.

Furthermore, for the purpose of determining the threshold period in case of an installation PE, the date of commencement should have been reckoned from the effective commencement date provided in the contract (i.e. the date when the activity commenced), and the date mentioned in the completion certificate should have been reckoned as the date of completion since all the activities connected to the project were completed by then.

Non-resident controlling operation and management of a hotel in India shall constitute a PE in India

AAR No. 1010 of 2010

When a non-resident service provider has taken over all the essential functions relating to the operation and management of an Indian hotel by entering into different agreements and created a presence in India by rendering services to such Indian hotel –

- Such a presence would satisfy all the tests laid down by the SC; and
- A PE of the non-resident in India would come into existence under the India-Luxembourg tax treaty.

Further, the AAR held that any income received by such non-resident from the provision of any other incidental services would be attributable to such PE.

Domestic law restrictions on allowability of expenses are not applicable to PE in the absence of specific provision in the tax treaty

ITA No. 1388/Del/2012

The phraseology used in Article 7(3) of the India-Mauritius tax treaty provides for deduction of expenses incurred for the purpose of business of the PE without any restrictions on applying the limitation of domestic tax law. In the absence of such restrictions, the limitation under the Act could not be imported under the said Article of the tax treaty.

Business support/ marketing support activities undertaken by an Indian subsidiary do not create a PE in India for the foreign company

AAR No. 25 of 2016

Indian subsidiary (providing business/ marketing support activities) will not constitute a fixed place PE of the applicant

in India as neither its main business was carried out through its Indian subsidiary, nor the premises of the Indian subsidiary was at the applicant's disposal.

The AAR also held that the applicant would not constitute a service PE in India as the directors of the Indian subsidiary would not provide any services or render any technical assistance to the applicant's customers.

With respect to agency PE, the AAR held that as per the terms of the service agreement and addendum thereto, the applicant had retained with itself the authority, regarding its main business, to finalise its marketing strategies, to finalise terms of agreements/ contracts directly with customers and to accept or reject offers of customers. The Indian subsidiary would be left only to provide support services rather than act as an agent of the applicant and thus the Indian subsidiary would not constitute an agency PE.

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Transaction processing services provided to India customers – AAR rules that PE exists on multiple grounds

AAR No. 1573 of 2014

The presence of a card interface processor, and the presence of a global card network of a Singapore entity (applicant) constituted a PE of the applicant in India under Article 5 of the India-Singapore tax treaty. Further, the income from services rendered for use of such card interface processor and global card network for processing card payments would be attributable to tax in India notwithstanding significant operations occur outside India.

Mere presence of a subsidiary and virtual projection of an enterprise in India, in the absence of other relevant factors does not constitute a PE in India

ITA No. 1963 & 1964/Del/2001

The relevant and determinative factor in a transaction involving sale of goods would be where the property in goods passes, immaterial from where the signing, network planning and negotiation of such supply contracts was carried out. Further, the independent onshore activities and virtual projection by the subsidiary will not lead to an inference of a PE unless other essential ingredients of a PE exist.

Geophysical services performed through vessels constitute a Fixed Place PE; Service PE clause under India-UAE tax treaty not applicable

AAR No. 1295 of 2012

In the absence of a specific clause dealing with the activities in connection with exploration, exploitation or extraction of mineral oil etc., as per Article 5 of the India-UAE tax treaty by vessels present in Indian territory for carrying out geophysical activities would constitute a fixed place PE in India.

Make available

Marketing and business development services do not pass the test of make available

ITA No. 3511/Mum/ 2015

Fees paid to non-residents for marketing and business development services did not pass the test of “make available.” Therefore, they could not be regarded as FTS as per Article 12 of the India-Singapore tax treaty.

Royalty

Reimbursement of lease line charges to an AE not taxable as “royalty” under tax treaty; TPO’s acceptance of nature of expense binding

ITA No. 826/Pune/2015

Reimbursement of lease line charges to US parent could not be characterised as “royalty” as per the India-USA tax treaty. It rejects the Revenue’s contention that the

taxpayer routed payments to a third-party service provider through its AE to avoid withholding tax obligations. In light of the fact that the reimbursement was on cost without a mark-up, the same was not subject to withholding tax.

Further, determination of the nature of an international transaction as “reimbursement” by the TPO was binding on the TO.

AAR rules that income earned under non-exclusive reseller agreement for rendering technology services is neither taxable as FIS nor as royalty

AAR No. 1107 of 2011

Payments received by the applicant for providing technology services (i.e. accelerating content and business processes online) on automatic and continuous basis through the use of software and servers from its Indian affiliate under a non-exclusive reseller

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agreement does not tantamount to FTS/ FIS or royalty both under the Act and under the India-US tax treaty.

Fees for technical/ included services

Erection, installation, testing and commissioning charges not taxable as FTS

ITA Nos. 2922 to 2924/Del/2016

Deployment of technical personnel for execution of erection, installation, testing and commissioning contracts could not be regarded as supply of technical services.

Erection and commissioning charges not taxable as FTS

ITA No. 2347/Chy/2017

Payment made to a non-resident entity for erection and commissioning services outside India would not be taxable as FTS in India under the Act.

Fee for training provided to hotel staff relating to general management and access to computerised systems is not FTS

ITA No. 7159/Mum/2012

Consideration received by a Dutch company (which is a part of a global hotel chain group) to provide training services, and access to computerised reservation systems, property management systems and other systems to Indian hotels, did not qualify as FTS under Article 12 of the India-Netherlands tax treaty.

Referral fees received by an overseas branch of the taxpayer is not taxable in India

ITA No. 1247/Mum/2016

The referral fee received by the Dubai branch of the taxpayer from the Indian company was not accepted as FTS and instead qualified as business income. Further, since the Indian PE of the

taxpayer played no role in the referral activity, the said business income could not be subject to tax in India.

Tribunal holds that refuge under contractual format cannot be taken to avoid rigor of withholding tax, when nature of services suggest otherwise

ITA Nos. 192 to 196 & 235 to 239/Ahd/2015

The information technology infrastructure and support services (IT infrastructure and support services) rendered under an annual maintenance contract were to be treated as FTS under the provisions of the Act. It was observed that it is not only the medium of contract but the nature of services that determines whether or not the services tantamount to technical or professional services.

Financial, legal and risk management services are not covered within the meaning of FIS under the India-USA tax treaty

ITA No. 38 of 2014 (Kerala HC)

Management services such as (i) management decision making, (ii) financial decision making, (iii) legal matters and public relation activities, (iv) treasury services and (v) risk management services provided by a non-resident would not be covered within the meaning of FIS, as defined under Article 12 of the India-USA tax treaty.

The HC held that the mere fact that the provision of a service may require technical input by the service provider does not per se mean that the technical knowledge, skills, etc., are made available to the person availing such services.

Expense not includible in total income

SC dismisses revenue's appeal in a batch of over 80 cases, holding that Rule 8D is prospective in operation

Civil Appeal No. 2165 of 2012 (SC)

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Revenue's appeal was dismissed against the Bombay HC decision wherein it was held that the applicability of Rule 8D of the Rules is prospective in operation, and hence, applicable for AY 2008-09 and onwards only.

SC upholds applicability of section 14A to acquisition of shares - rejects dominant purpose test

Civil Appeal Nos. 104-109 of 2015 (SC)

The dominant object of investing in shares is irrelevant for interpreting the words "in relation to" as contemplated in section 14A of the Act. Section 14A has been introduced to bifurcate the expenditure between taxable and non-taxable income and to disallow the expenditure relating to exempt income. The SC held that Rule 8D of the Rules is prospective in nature and needs to be applied from AY 2008-09.

Depreciation

Tribunal holds that depreciation cannot be claimed on non-compete fee as it is not an intangible asset

ITA No. 1801/Del/2011

Non-compete fees paid for acquiring a running business as a going concern does not qualify as an intangible asset eligible for claim of depreciation under section 32 of the Act. In doing so, the Tribunal relied on the jurisdictional Delhi HC decision in the case of Sharp Business Systems v. CIT [2012] 254 CTR 233 (Delhi).

Depreciation claimed under a State enactment ought not to be reduced while calculating WDV under a central enactment, especially when provisions of Central enactment are silent

ITA No. 29 of 2018 (Kerala HC)

For the purpose of computing WDV, depreciation allowed under a State

enactment not specifically covered by section 43(6) of the Act should not be considered.

The prospective amendment in section 43(6) of the Act was made to ensure that no double deduction benefit of depreciation accrues to the taxpayer but was not applicable for the relevant AY and, thus, not applicable in the present case.

Existence of depreciation rate in Income-tax Rules for software is not conclusive evidence of the nature of expenditure

ITA Nos. 129/2018, 415/2017 and 56/2018 (Delhi HC)

Mere existence of depreciation rates for software in the annexure to the Rules was not a conclusive evidence to determine the nature of expenditure. Capitalisation of software expenditure had to be seen comprehensively after taking into account the principles laid down by the SC in the case of Alembic Chemicals Works Co. Limited v. CIT [1989] 177 ITR 377 (SC).

Bonus – Life insurance business

Amount allocated as bonus to policyholders and amount appropriated as funds for future appropriation do not form part of actuarial surplus that is chargeable to tax

ITA No. 142/Del/2017

The amount allocated as bonus to policyholders and the amount appropriated as funds for future appropriation do not form part of the actuarial surplus that was chargeable to tax under section 44 read with Rule 2 in the First Schedule to the Act.

The Tribunal inter alia held that the profit disclosed in the shareholder's account was taxable as profit of the business, and disallowance of provision for doubtful debts and share issue expenses was not attracted, in view of the special provision applicable to a life insurance company.

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The Tribunal also made passing comments that royalty paid could not be regarded as an expense relating to the life insurance business.

Freebies to doctors

CBDT's circular denying deduction on "freebies" given to medical professionals by pharmaceutical companies is violation of MCI Regulations

ITA No. 1532/Pune/2015

The Pune bench of the Tribunal observed that the circular (Circular No. 5/ 2012 dated 1 August, 2012) issued by the CBDT, denying the claim of freebies given to medical practitioners as expenses, was enlarging the scope of the provisions of Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002 read with subsequent circular issued by MCI (Circular of MCI dated 10 December, 2009) by making it applicable to the pharmaceutical

companies or allied health care sector industries.

Expenses incurred by pharmaceutical companies in providing freebies to medical practitioners are not subject to disallowance under section 37(1) of the Act. Hence, it was held that pharmaceutical companies are outside the scope of circulars issued by the MCI.

Loan waiver

Waiver of loan taken for procuring assets not taxable as business income

Civil Appeal Nos. 6949-6950 of 2004 (SC)

The SC upheld the Bombay HC decision [R.A. No. 1561 (Bombay)/1982 and R.A. No. 5161/B/80] holding that waiver of the principal portion of loan for procuring assets by the lender is neither taxable under section 28(iv) nor under section 41(1) of the Act.

Taxability of subsidy

"Purpose" is the conclusive test for determining nature of subsidy for income tax purposes

Civil Appeal Nos. 6513-6514 of 2012 (SC)

Government subsidy is capital in nature if it was granted to promote construction in capital intensive industries (i.e. multiplex theatres, in the instant case). The SC reiterated the principles laid down in earlier SC decisions that the purpose of the subsidy and not the form in which it was granted should be examined for determining the nature.

Amount not deductible as business income

SC upholds that the amendment relaxing the disallowance under section 40(a)(ia) was retrospective in nature

Civil Appeal Nos. 4339-4340 of 2018 (SC)

Provision of section 40(a)(ia) of the Act amended vide the Finance Act, 2010 should have been interpreted liberally and equitably and have retrospective application from the date of insertion of section 40(a)(ia) of the Act, that is, with effect from AY 2005-06.

Presumptive taxation

Income from provision of cementing services and construction of mineral oil and gas wells is taxable under section 44BB of the Act

ITA Nos. 732/JP/2015 & 02/JP/2017

Cementing services that are inextricably linked with activities of prospecting for, extraction or production of mineral oil would not qualify as FTS as defined under Explanation 2 to section 9(1)(vii) of the Act and accordingly, the provisions of section 44BB of the Act would apply instead of the provisions of section 44DA of the Act.

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Predatory pricing – not a capital expenditure

Losses incurred on account of predatory pricing could not be construed as capital expenditure

ITA No. 202/Bang/2018

The loss incurred by a taxpayer by selling goods to retailers at a price less than the cost price could not be construed as capital expenditure on building brand image or goodwill, as there was no accrual of liability or actual outflow in the form of payment. Further, it held that unless the revenue authorities rejected the books of accounts as provided under section 145(3) of the Act they could not resort to a process of estimating the total income of the taxpayer on a notional/ hypothetical basis, except in certain situations where the Act specifically provides for taxing the income not earned by way of deeming fiction.

Reimbursement

Reimbursement to parent company on cost-to-cost basis not taxable

ITA Nos. 2935 & 2937/Del/2013

In the absence of any income element, taxes would not be withheld on actual cost of purchase reimbursed to the parent company.

Capital gains

Capital gains on indirect transfer of shares by non-resident not taxable in India since it did not meet the criteria of “substantial value” as per the Act; Tax treaty benefit available

AAR No. 1232 of 2012

Transfer of shares in a German company by German residents was not taxable in India since it did not meet the criteria of “substantial value,” as provided under the Act. Additionally, the said transaction was held not taxable in India under the

India-Germany tax treaty, considering the language employed therein.

Co-ownership of property to be determined from documents and not intent; Tribunal rejects splitting of capital gains between husband and wife

ITA No. 2007/Bang/2016

The Bangalore bench of the Tribunal rejected both husband’s (taxpayer) and wife’s claim that LTCG arising on sale of property, which was registered in the name of the husband, should be split equally in their hands and taxed accordingly. The Tribunal rejected the taxpayer’s co-ownership plea and denied the exemption claimed under section 54EC/ 54F of the Act in the hands of the wife.

AAR rules that LTCG from listed securities arising to a non-resident taxpayer entitled to tax rate of 10%, without indexation benefit

AAR No. 1375 of 2012

Tax payable by a non-resident taxpayer on LTCG, arising on the transfer of equity shares of an Indian listed company, is required to be computed at a concessional rate as per the proviso to section 112(1) of the Act.

The AAR held that the decision of the HC in the case of Cairn UK Holdings Limited v. DIT [Civil Writ Petition No. 6752 of 2012 (Delhi HC)] was applicable to the facts of the applicant, and the benefit under the proviso to section 112(1) of the Act could not be denied to the applicant.

Derivatives

Trading in commodity derivatives prior to insertion of clause (e) of proviso to section 43(5) to be regarded as speculative transaction

ITA No. 5179/Mum/2016

Losses from commodity derivatives business can be set-off against the profits of the same business where transactions

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were carried out prior to insertion of clause (e) of proviso to section 43(5) of the Act. [Clause (e) of the proviso to section 43(5) of the Act was inserted by Finance Act 2013 to provide that trading in commodity derivatives carried out through a recognised association should not be regarded as a speculative transaction.]

FMV determination

TO is required to accept the prescribed method adopted by the taxpayer for determining FMV of shares

ITA No. 4854/Mum/2016

It was held that the taxpayer had the option to choose any of the prescribed methods under the law to determine the FMV of unquoted shares, and it was beyond the jurisdiction of the tax authority to insist on a particular method.

The Tribunal observed that Rule 11UA(2) of the Rules read with section 56(2)(viib) of the Act provides an option to the taxpayer

to opt for a method for determining FMV of shares. The Tribunal also held that the TO could not adopt a method of his choice, especially when the Act allows to choose one of the two methods.

Valuation of shares

Section 56(2)(viib) – Tribunal upholds rejection of valuation report by TO, where no evidence provided to substantiate numbers

ITA No. 2189/Del/2018

To determine the FMV, the TO could reject the method of valuation adopted by the taxpayer if the taxpayer failed to produce evidences to substantiate the basis of data supplied to arrive at the FMV.

Share premium

Provisions of section 56(2)(viib) can apply to excess consideration despite satisfactory explanation provided under section 68

WA No. 1297 of 2018 in WP (C) No. 3485/2018 (Kerala HC)

Whether the amount received by the taxpayer in the form of share premium has been correctly offered to tax, is an issue to be examined with reference to section 56(2)(viib) of the Act and if it is found that the share premium has not been correctly offered to tax as provided therein, the taxpayer has to be assessed in accordance with the said provision.

Share sale to subsidiary

Share-sale to second step down 100% subsidiary not to be considered as “transfer”

ITA No. 880/Kol/2014

Benefit of section 47(iv) of the Act will be available on the transfer of capital asset to its second step down 100% subsidiary. The transaction of sale of capital asset, being shares of a listed company, by the taxpayer to its second step down

subsidiary, was not regarded as transfer under section 47(iv) of the Act. Therefore, the question of computing either capital gain or loss does not arise in the case of the taxpayer.

Withholding tax

Advance payments for work, even without contractual arrangement, liable to withholding tax

ITA Nos. 798 & 799/Del/2013 & 1576/Del/2015

The taxpayer (formed for organising an international sports event) was liable to withhold tax under section 194C of the Act on amount tendered as advances to various PSUs to conduct infrastructure work for the winter games. The Tribunal rejected the taxpayer's plea that it was merely a pass-through entity that had received grants/ sponsorships for organising the Winter Games and that it did not enter into any contract with the

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parties to whom payments were made. Further, the Tribunal clarified that the mere fact that the taxpayer was provided grants for onward distribution to the parties carrying out the construction work did not exclude it from the liability of withholding tax under section 194C of the Act.

Payments made by a channel operator to secure advertisements held liable to withholding tax as “commission” was based on specific facts

Civil Appeal Nos. 3496-3497 of 2018 (SC)

Payments made by a channel operator (taxpayer) to appoint third party advertising agencies for securing advertisement business constitutes “commission” and accordingly subject to withholding tax under section 194H of the Act.

Service of notice

Notice served on authorised representative of taxpayer deemed to be a valid service of notice

Civil Appeal No. 2262 of 2012 (SC)

Service of notice under section 143(2) of the Act on the authorised representative (later disowned by the taxpayer) would be deemed as service of notice on the taxpayer.

Error/ mistake in addressing the notice in the name of erstwhile entity not a jurisdictional error but a procedural irregularity and is curable under section 292B

Writ Petition No. 10870 of 2017 (Delhi HC)

Service of notice for initiating re-assessment proceedings on a dissolved company was a technical lapse that could not invalidate re-assessment proceedings, and accordingly, was a curable defect under section 292B of the Act.

Issuance of demand notice

Issuing notice of demand and penalty along with draft assessment order revokes

the requirement of law and is not a curable defect

ITA No. 467/Pune/2015

A draft assessment order passed by the TO along with a notice of demand without providing any direction to taxpayer to either accept the addition or file objections before the DRP is not in compliance with the provisions of section 144C of the Act, and such a defect is not curable under section 292B of the Act.

Reassessment

Issue considered in original assessment and no change in facts – SC upholds quashing of reassessment proceedings

Civil Appeal No. 2732 of 2007 (SC)

Initiation of reassessment proceedings under section 147 of the Act on the taxpayer was nothing but a change of opinion and was liable to be quashed.



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CIT(A) cannot enhance assessment for income from a new source not considered in assessment

ITA Nos. 751-753/JP/2015

While CIT(A) has the power to enhance the assessment, it has no power to go beyond the matter arising out of the proceedings before the TO, more particularly when the separate provisions for eventuality are provided under the Act. Accordingly, the CIT(A) is not entitled to enhance new sources of income under section 251(1) of the Act.

Delhi HC affirms that allowance of additional depreciation is mandatory under income tax provisions

ITA No. 303/2018 (Delhi HC)

Explanation 5 to section 32(1) of the Act, which provides for mandatory claim of depreciation, is also applicable to additional depreciation allowable under section 32(1)(ia) of the Act. Accordingly,

the HC held that the claim of additional depreciation is mandatory under the provisions of the Act. (Explanation 5 to section 32(1)(ii) of the Act provides that “for the removal of doubts, it is hereby declared that the provisions of this sub-section shall apply whether or not the taxpayer has claimed the deduction in respect of depreciation in computing his total income.”)

Stay of demand

SC clarifies that Commissioner is not bound by administrative circulars issued by the CBDT – can grant stay of demand on payment of an amount less than 20%

Civil Appeal No. 6850 of 2018 (SC)

Recently, the SC has held that the Office Memorandum dated 31 July, 2017 issued by CBDT, pertaining to the stay on disputed demand, will not bind the Commissioner in performing its quasi-judicial functions. It will be open to the tax

authorities in matters pending at the first appeal stage to decide the stay amount, depending on the merits of individual cases, which can be even lesser than 20% of the disputed tax demand.

Penalty

Penalty proceedings to be completed within six months upon receipt of Commissioner’s (Appeal) order

ITA No. 799 of 2005 (Delhi HC)

Penalty proceedings under section 271(1)(c) of the Act should have been completed by the TO within six months from the date of receipt of the order of the Commissioner (Appeal). The HC has held that keeping the intent of section 275(1) (a), the word “order” referred under the section should have been an “adjudicatory order” that determined the rights of the parties involved and brought certainty. Further, the HC held that the appeal means an effective appeal, which had

been effectively pursued after its filing.

Penalty not absolved in case of voluntary disclosure of additional income in a revised return filed after survey proceedings

ITA No. 219/2017 (Delhi HC)

The Delhi HC followed the SC decision in the case of MAK Data Private Limited v. CIT [2013] 358 ITR 593 (SC) and held that the voluntary disclosure of additional income in a revised return of income filed after survey proceedings would not absolve the taxpayer from levy of penalty under section 271(1)(c) of the Act.

Treaty benefits

Foreign companies to demonstrate the genuineness of the investment made to claim treaty benefit

AAR No. 1128 and 1129 of 2011

In respect of taxability of capital gains arising in the hands of Mauritius

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companies on transfer of shares of an Indian company, the AAR held that the beneficial provisions of the India-Mauritius tax treaty shall be available where a Mauritius company can demonstrate that the investment was genuine with flow of funds through proper banking channels, and not mere accounting entries.

Tax treaty benefits cannot be denied merely because TRC required under section 90(4) not furnished

ITA Nos. 478 and 479/Ahd/2018

Tax treaty provisions cannot be denied merely on the basis of non-furnishing of the TRC. The Tribunal also emphasised that in the absence of a TRC, in order to claim tax treaty benefits, the foreign enterprise has to substantiate its residential status as per Article 4(1) of the India-USA tax treaty.

Treaty benefits granted to UAE shipping company with non-resident shareholders and directors

ITA Nos. 7 to 9/Rjt/2017

It could not be open to the TO decline tax treaty benefits on the ground that the tax resident had not actually been taxed on his income in the UAE. The benefit under the India-UAE tax treaty could be denied only when the creation of an entity was part of manoeuvring, wholly or mainly, to obtain the benefits of the India-UAE tax treaty, which were otherwise not available.

Taxability should be determined by reading tax treaty and its protocol together – protocol is not independent of the tax treaty

ITA No. 893/Del/2006

Taxability has to be decided after taking into account the provisions of the tax treaty along with its protocol. A protocol is to be considered as an addendum to the tax treaty and not to be viewed as an independent document. Any benefit conferred, expanded or reduced by the

protocol is to be applicable even if there is no dispute in the terms of the tax treaty.

Interest

Existence of “debt-claim” is crucial to determine whether a fee in relation to loan can be categorised as “interest”

AAR No. 1105 of 2011

Processing fees paid post the debt claim coming into existence have a direct nexus with the debt claim and the fees so paid fall within the meaning of “interest” as defined in the India-France tax treaty.

Further, the upfront appraisal fees paid for appraising the loan were not in the nature of a debt claim. The AAR observed that (a) front-end fee (other than appraisal fee); (b) commitment fee; (c) cancellation fee; (d) monitoring fee; and (e) amendment fee [collectively referred as “fees other than upfront appraisal fees”] were paid post the securing of the loan and would have direct nexus with the debt claim. Hence, it ruled

that they would fall within the meaning of “interest” as defined in the tax treaty.

Minimum Alternate Tax

Deduction under section 80-IB(10) not permissible while computing book profit under MAT

ITA Nos. 201-205/Del/2015

The benefit of deduction under section 80-IB(10) of the Act would be granted while computing “total income” but would not be permissible while computing “book profits” under section 115JB of the Act.

MAT provisions require book profit to be adjusted against lower of brought forward unabsorbed loss and unabsorbed depreciation and not merely restrict the amount set-off to the lower number

ITA No. 209/Ahd/2018

In relation to determining the quantum of brought forward unabsorbed loss and unabsorbed depreciation eligible

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for reduction from the profits in the tax computation under section 115JB of the Act, the Tribunal observed that the taxpayer had no option to choose that profits of preceding years would first be adjusted against the brought forward business loss, and lastly, against the unabsorbed depreciation. The Tribunal held that if the lower of the two happens to be unabsorbed depreciation, the profits should have been reduced from unabsorbed depreciation and not from unabsorbed loss.

Deduction of certain income

Tax holiday for small-scale industrial undertakings not available if conditions not met for the entire period

Civil Appeal Nos. 20854-20857 of 2017 (SC)

Taxpayer would not be eligible to avail the tax holiday under section 80-IB of the Act, meant for a small-scale industrial

undertaking, once the taxpayer ceases to retain the aforesaid character during the entire period.

SC holds that 100% deduction under section 80-IC cannot be claimed after initial five years, even if substantial expansion takes place within the ten year block

Civil Appeal No. 7208 of 2018 (SC)

100% deduction under section 80-IC of the Act cannot be claimed beyond five years, even if a substantial expansion is undertaken after initial period of five years. The deduction shall be restricted at the rate of 25%/30% (as the case may be) for the next five years.

Real Estate

Property 'transfer' not effective upon the development agreement's execution but on the date of physical possession of property

ITA No. 139 of 2015 (Bombay HC)

The date of handing over the physical possession of property by the taxpayer rather than the date of execution of the development agreement was considered to be the date of transfer for computing capital gains. Since the terms of the agreement provided that the construction by the developer would be undertaken only upon full payment of consideration by the developer to the taxpayer, the actual possession of property was transferred to the developer only when the entire consideration under the development agreement was received by the taxpayer and not on the date of execution of the agreement.

PCM for advances received to be applied in case of revenue recognition for real estate developers

ITA No. 105/JP/2017

Advance payments received by seller (real-estate developer) from buyers on unregistered sales agreements are recognised as income in the year in which it is received for the purpose of taxation. Further, for computing the income to be recognised, the taxpayer should apply PCM only to the advance realised by the taxpayer during the year and not to the total sales consideration. In cases where the sale agreements were registered, the entire sales consideration should be recognised as income in the year the sale agreement is registered, and revenue should be recognised by applying PCM to the total sales consideration.

Deduction under section 80-IB(10) not permissible while computing book profit under MAT

ITA No. 5125/Mum/2016

Benefit of deduction under section 80-IB(10) of the Act would be granted while computing "total income." However, the

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same would not be permissible while computing “book profits” under section 115JB of the Act.

Development Authorities set up under the UP Industrial Area Development Act are not “local authorities” – lease rent paid to such authorities is liable to withholding tax

Civil Appeal No. 15613 of 2017 and others

Tax is required to be withheld as per section 194I of the Act on lease rental payments made to Development Authorities set up under the UP Industrial Area Development Act (Development Authorities) on the basis that they did not qualify as local authorities under the Act. Accordingly, the payments were not eligible for exemption under section 10(20) of the Act.

Mere handing over physical possession of property for development is not “transfer” under section 2(47)(v) of the Act

ITA No. 225 of 2015 (Calcutta HC)

Merely entering into a development agreement for undertaking construction activity on an immoveable property would not be construed as “transfer” under section 2(47)(v) of the Act. Further, the developer would only be in de facto possession of the property while the landowner continues to be in lawful possession of such property until the parties meet the obligations under the agreement.

Income from leasing of warehouse taxable as income from house property – “object clause not relevant”

ITA No. 474/Del/2018

Income from leasing warehouse has to be assessed under the head “income from house property” and not as “income from business or profession.” The reliance placed by the taxpayer on the clauses in the MoA holds no force, as the dominant

object of the rent agreement was to enjoy rental income from leasing the warehouse

Circulars, notifications and others

US tax reform

The Indian perspective on US tax reform legislation

United States (US) President Donald Trump on 22 December 2017, signed into law tax reform legislation that will have far-reaching implications across the world, including in India. The changes to the US corporate and international tax rules are intended to make the US more competitive in the global market and could affect global trade and business. The US and India are significant trade partners, and, in light of the changes, Indian companies need to assess the challenges and opportunities presented by the new US tax law.



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A key measure in the 2017 tax reform reconciliation act (2017 Act) is the reduction in the 'headline' federal corporate tax rate from 35% to 21%. This will make the US more competitive in attracting foreign investment and technology and in other areas.

Another key provision is the imposition of a minimum tax - called the BEAT - that effectively will be imposed on deductible payments made by US corporations to related foreign persons. This could make outsourcing to overseas jurisdictions like India less attractive going forward.

The cornerstone of the reforms to the US international tax system is the movement from a worldwide tax regime to a territorial taxation regime with respect to earnings generated in foreign subsidiaries of US companies. As a bridge to the new territorial tax regime, the new US tax law imposes a one-time deemed repatriation "toll charge" on certain historic earnings

of foreign subsidiaries. The toll charge is likely to affect global subsidiaries of US corporations, including those in India.

As a result of the US tax reform, countries including India are likely to reassess their tax systems to maintain competitiveness in the global markets. For further details please click here to access our Tax Insight.

E-assessment

CBDT mandates conduct of all assessments through e-proceeding facility, carves-out certain exceptions

CBDT Instruction No. 3 of 2018 dated 20 August, 2018

The CBDT, partially modifying its earlier instruction [Instruction No. 1 of 2018 dated 12 February, 2018], has now issued an instruction [Instruction No. 3 of 2018 dated 20 August, 2018] directing that all the assessments (tax audit carried out by a TO) required to be framed under section 143(3) of the Act in FY 2018-19 shall be

conducted electronically through the e-proceeding facility (e-filing account of the taxpayer).

The instruction carves out seven exceptions where "e-proceeding" shall not be mandatory. Further, it lists four situations where a personal hearing may take place, despite conducting assessment through e-proceeding facility.

Place of effective management

Central Government issues notification for implementation of PoEM-based taxation for foreign companies

CBDT Notification No. S.O. 3039(E) dated 22 June, 2018

The Central Government vide notification dated 22 June, 2018 released the final notification under section 115JH(1) of the Act, prescribing exceptions, modifications and adaptations to various provisions of the Act for taxing foreign companies treated as resident in India on account

of their PoEM, and where such foreign company has not been resident of India in any of the previous years.

The notification provides for determination of WDV, the availability of brought forward loss and unabsorbed depreciation in the transitional year. In addition, it also provides for FTC availability to foreign companies, where the income is offered to tax in more than one year and the applicability of the notification in subsequent years. The notification has been made applicable with effect from 1 April, 2017.

Tax holiday

CBDT has expressed its view on the manner of computation of admissible deduction under section 10A of the Act

CBDT Circular No. 4 of 2018 dated 14 August, 2018

The CBDT issued circular no. 4 of 2018 (circular) on 14 August, 2018, expressing

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its view on the manner of computation of admissible deduction under section 10A of the Act. The circular seeks to maintain parity while deducting specific expenses from export turnover and total turnover of the undertaking for computing deduction under section 10A of the Act.

Appeal filing limits

[CBDT widens the scope for filing of appeals by tax department](#)

CBDT directive dated 20 August, 2018

The CBDT had recently issued circular no. 3 of 2018 dated 11 July, 2018 (circular) wherein it prescribed the monetary limits for filing of appeal by the income-tax department (tax department) before the Tribunals and HCs, and Special Leave Petition before the SC. (Please refer to our news alert dated 13 July, 2018 on circular no. 3 of 2018.)

Para 10 of the aforesaid circular provided that notwithstanding the tax effect involved, the appeals can be filed in cases involving the constitutional validity of a provision, a CBDT circular being held ultra-vires, and cases of revenue audit objections and additions involving undisclosed foreign assets/ bank accounts.

The CBDT vide its directive dated 20 August, 2018 has enlarged the scope of issues to be contested on merits modifying para 10 of its circular by adding a few issues.

This is effective from 20 August, 2018.

Real Estate

[ICAI withdraws Guidance note on Ind AS accounting for real estate transactions on 1 June 2018](#)

Announcement for withdrawal of the Guidance Note on Accounting for Real Estate Transactions

Post the notification of Ind AS 115,

Revenue from contracts with customers in March 2018, ICAI has withdrawn the Guidance Note on Accounting for Real Estate Transactions, which enunciated principles of Ind AS 11 & Ind AS 18.





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Judgement

Capital gain

Article 24 “Limitation of relief” of the India-Singapore tax treaty is not applicable to Singaporean Co. deriving capital gains from India, which is taxable only in Singapore by virtue of Article 13(4) of the tax treaty

ITA No. 992/Mum/ 2015

As per Article 13(4) of the India-Singapore tax treaty, the gain derived by the taxpayer, being a resident of Singapore, could only be taxed in Singapore. Further, Article 24 is applicable only if the income derived from a contracting state is either exempt from tax or taxable at a reduced rate. The Tribunal remarked that Article 13(4) is not an exemption provision but speaks of taxability of particular income in a particular state by virtue of residence of the taxpayer. The Tribunal further added that the provisions of Article 24 would

not have much relevance insofar as they related to applicability of Article 13(4) to income derived from capital gains.

Revenue expenditure

Due diligence fee for raising equity to meet working capital requirement is a revenue expenditure

ITA No. 4478/Mum/ 2016

The Tribunal observed that the purpose of the expenditure was to raise funds for meeting the working capital requirements, which is an integral part of any business activity, and hence, such expenditure on professional fees is revenue expenditure for the taxpayer. Accordingly, the Tribunal allowed deduction for professional fees, merchant banking fees paid to financial advisors for conducting financial and legal due diligence.

Circulars, notifications and others

Foreign investment

Liberalisation of FDI Policy

DIPP Press Note No. 1 (2018 series)

- FDI of 100% allowed under automatic route in single brand retail, real estate broking, regulated pure investing companies and regulated core investment companies.
- FPIs allowed to invest upto 49% in power exchanges through the primary market.
- Foreign airlines permitted to invest up to 49% in Air India, with prior government approval.
- Issue of shares against non-cash considerations (such as against pre-incorporation expenses, import of machinery) is now permitted under the

automatic route, provided the sector is under the automatic route.

Monitoring of foreign investment limits in listed Indian companies

SEBI Circular No. IMD/FPIC/ CIR/P/2018/61

RBI A.P. (DIR Series) Circular No. 27 [(1)/ 20(R)]

To facilitate compliance with various foreign investment limits in listed Indian companies, a new system for monitoring foreign investment limits and for disseminating information on the available investment headroom has been put in place. The key features of the new system are as follows:

- System to be implemented and housed at the National Securities Depository Limited and Central Depository Services (India) Limited.
- Any one of the depositories may

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be appointed by a company as its designated depository for monitoring foreign investment limits.

- Stock exchanges to provide data as regards paid up equity capital of the company to the designated depository.
- Companies were required to provide their master data to the designated depository (such as company information, details of shares held by foreign investors, applicable sector and caps, details of indirect foreign investments, ownership status, etc.) on an interface provided by the depositories.
- Depositories to monitor data collated to identify headroom available and activate a red flag in case of breach of investment limits.
- Identified foreign investors to undertake disinvestment in case of breach of limits; method of disinvestment prescribed.

Through its circular, the RBI has also required listed Indian companies to provide specified data/ information on foreign investment to the depositories. Upon implementation of the new system, AD banks are required to provide details of investments by their NRI clients in the prescribed format.

Reporting in SMF of foreign investments in India

RBI A.P (DIR Series) Circular No. 30

With the objective of integrating the extant reporting structures of foreign investments in India, the RBI introduced a SMF for reporting total foreign investment in an Indian entity.

The SMF covers two main aspects:

- Entity master form: Indian companies and LLPs with existing foreign investment were required to input data on total foreign investment received in the entity master form.

- SMF: The SMF subsumes existing reporting forms with respect to foreign investment and also requires additional reporting for downstream investment and reporting of investment in an investment vehicle [including REITs, InvITs and AIFs].

- The SMF requires reporting some key additional details (not covered in existing forms), such as amount received in tranches for issue of partly paid up shares/ share warrants; for reporting transfer of capital instruments from non-resident to resident, the acknowledgement letter for initial investment by non-resident to be enclosed; for transfer of shares with payment by way of deferred consideration, details of tranches, escrow arrangement and indemnity arrangement; relevant extracts of transfer agreement to be enclosed in case of reporting transfer of shares, etc.

- Further, certain requirements have been made common to all reporting, including certificate from a company secretary and declaration by non-resident transferor/ transferee.

The RBI also issued a user manual containing step-by-step instructions for data entry in the SMF. The user manual also provides detailed guidance to AD banks for processing the forms.

Foreign investment in “unregulated financial services” entities

Government of India press release dated 16 April, 2018

- Minimum capitalisation norms prescribed for unregulated entities in the financial services sector:
 - For fund-based activities: USD 20 million
 - For non-fund based activities: USD 2 million

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- The press release prescribes what would be included in fund based and non-fund based activities. The press release also specifies that the activities shall be included only to the extent they are –
 - Not regulated by an financial services regulator (including if the entity is exempted under the concerned sector regulations);
 - Partly regulated; or
 - Doubtful regarding regulatory oversight.

Amendment in Foreign Exchange Management (Transfer or issue of Security by a Person Resident outside India) Regulations, 2017 with respect to downstream investments

Notification No. FEMA. 20(R) (3)/ 2018-RB

The notification requires an Indian entity or investment vehicle making downstream

investment in another Indian entity to notify the DIPP within 30 days of investment, even pending the allotment of capital instruments. Within 30 days of date of allotment, the investing Indian entity or vehicle is required to file Form DI with the RBI.

Further, an investment vehicle issuing its units to a person resident outside India is required to file Form InVi with RBI within 30 days from the date of issue of units.

Furthermore, the requirement to file the Advance Remittance Form has been eliminated.

Business trusts

Participation by strategic investors in InvITs and REITs

SEBI Circular No. SEBI/HO/DDHS/CIR/P/2018/10

The SEBI has prescribed operational modalities for participation by strategic

investors in business trusts, inter alia, including

- Maximum and minimum investment size: The strategic investor shall, either jointly or severally, invest not less than 5% and not more than 25% of the total offer size.
- Minimum subscription price for the units: Not less than the issue price determined in the public issue.
- Lock-in conditions in respect of units issued: 180 days from the date of listing in the public issue.
- Disclosure requirements.

Guidelines for preferential issue of units by InvITs

SEBI/HO/DDHS/DDHS/CIR/P/2018/89

The circular provides detailed guidelines for the preferential issue of units by an InvIT. Some broad points covered are as follows:



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- Conditions for preferential issue: Preferential issue of units may be made to an institutional investor, subject to the satisfaction of prescribed conditions (such as, resolution of unitholders approving preferential issue to be passed, conditions for continuous listing and disclosure obligations under the InvIT regulations to be complied with, minimum public holding requirements to be complied with, no preferential issue has been made in the preceding six months, conditions with regard to timelines for completion and allotment of preferential issue, minimum subscription and trading lots, etc.).
 - The circular also provides detailed guidelines in respect of the placement document on the basis of which an InvIT is to make a preferential issue of units.
 - The preferential issue is to be made at a price not less than the average of the weekly high and low of the closing prices of the units quoted on the stock exchange during the two weeks preceding the relevant date. Further, partly paid up units are not permitted to be allotted.
 - Units allotted under a preferential issue are subject to lock-in of one year from the date of allotment, except if the sale of units is on a recognised stock exchange.
- Guidelines for issuance of debt securities by REITs and InvITs**
- SEBI Circular No. SEBI/HO/DDHS/DDHS/ CIR/P/2018/71**
- REITs/ InvITs shall follow provisions of SEBI (Issue and Listing of Debt Securities Regulations), 2008 except for certain provisions that have been relaxed as per the circular.
 - REITs/ InvITs shall appoint debenture trustee(s) (not being trustee to the REIT/ InvIT).
 - Any secured debt securities shall be secured by creating a charge on the assets of REIT/ InvIT, or Hold Co or SPV having sufficient value for repayment of amount of such debt securities and interest thereon.
 - Additional disclosure and reporting requirements prescribed.
- Stressed assets**
- Revised framework for resolution of stressed assets**
- RBI Notification No. RBI/2017-18/131**
- Some key highlights of the revised framework are as follows:
- Applicable to all Scheduled Commercial Banks (excluding Regional Rural Banks) and All India Financial Institutions.
 - Existing resolution schemes withdrawn with immediate effect, except to the extent the notification specifically indicates to retain.
 - As soon as there is a default in a borrower's account with any lender, all lenders, singly or jointly, are required to initiate a RP.
 - Timelines provided within which RPs must be implemented.
 - Suggestive actions/ plans/ reorganisation measures indicated, which may be included in the RPs, such as –
 - Regularisation of the account by payment of all over dues by the borrower entity,
 - Sale of the exposures to other entities/ investors,
 - Change in ownership,
 - Restructuring, etc.

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- The notification also provides implementation conditions with respect to RPs.

Non-performing assets

Relaxation of NPA provisioning norms on MSME loans by banks and NBFCs

RBI Circular No. DBR.No.BP.BC.100/21.04.048/2017-18

RBI Circular No. DBR.No.BP.BC.108/21.04.048/2017-18

The circular specifies that loans granted to a borrower classified as an MSME under the MSME Development Act, 2006 shall continue to be classified as a standard asset in the books of banks and NBFCs, provided:

- Aggregate exposure to the borrower, including non-fund based facilities of NBFCs, does not exceed INR 250 million as on 31 May, 2018.

- Borrower's account was standard on 31 August, 2017.
- Overdue amount from borrower as on 1 September, 2017 and falling due thereafter up to 31 December, 2018 are paid not later than 180 days from their original due date.
- In respect of dues payable from 1 January, 2019 and onwards:
 - For MSMEs registered under the GST regime: the 180 days past due criterion must be aligned to the extant IRAC norms in a phased manner, as specified in the circular;
 - For MSMEs not under the GST regime as on 31 December, 2018: Asset classification shall immediately revert to the extant IRAC norms.

The circular also requires banks/ NBFCs to make a provision of 5% against exposures not classified as NPAs as per above. This

provision may be reversed as and when no amount is overdue beyond the 90/ 120 day norm. Further, if the interest from the borrower is overdue for more than 90/ 120 days, it shall not be recognised on accrual basis.

International Financial Services Centre

SEBI guidelines to operate AIFs in IFSC

SEBI Circular No. SEBI/HO/IMD/DF1/ CIR/P/143/2018

The circular prescribes the operating guidelines for AIFs in IFSC. Some key highlights of the operating guidelines are as follows:

- Registration can be granted to an AIF established or incorporated in IFSC as a trust, company, LLP, body corporate.
- AIFs in IFSC can invest under the FPI, foreign venture capital investor (for select sectors) or the FDI route.

- Investments can also be made in another AIF in IFSC.
- The guidelines also prescribe minimum corpus for each AIF, minimum investment by an investor in AIF, minimum continuing interest for manager or sponsor of AIF (category wise).
- The existing sponsor/ manager of an AIF in India may act as a manager or sponsor of an AIF in IFSC by setting up a branch or company or LLP in IFSC. New sponsors/ managers will have to set up a company or LLP in IFSC.
- The conditions with regard to outbound investments (such as prior approval from the SEBI, capping of investments, etc.) by AIF, will not apply to AIFs in IFSC.
- Specific criterion prescribed with respect to angel funds in IFSC.

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Bank guarantees as collateral by clearing corporations in IFSC exchanges

SEBI Circular No. CIR/MRD/DRMNP/41/2018

Clearing corporations in IFSC permitted to accept cash and cash equivalents (including bank guarantees), Indian securities held with foreign depositories, foreign securities, including units of liquid mutual funds and gold, as eligible collateral for trades in all product categories. However, cash and cash equivalents shall form at least 50% of the total liquid assets at all times.

Segregated nominee account structure in IFSC

SEBI Circular No. SEBI/HO/MRD/DRMNP/CIR/P/2018/83

To facilitate the ease of market access for foreign investors further, the circular permits SNA structure in IFSC. SNA

structure permits the orders of foreign investors to be routed through eligible SNA providers, for trading on the stock exchanges in IFSC, while adhering to regulatory requirements at the client level.

With regard to the SNA providers, the SNA structure specifies entities that are eligible to register as SNA providers, the eligibility criteria and registration mechanism for SNA providers. The SNA providers are required to ensure appropriate due diligence of end-clients as per global standards, including KYC and anti-money laundering compliance, before on-boarding clients to offer SNA services to them.

The circular also specifies the manner of margin computation and reporting, margin collection and monitoring of position limits.

RBI amends minimum prescribed capital requirement for IBU

RBI Notification No. RBI/2017-18/177

The RBI has provided relaxation in respect of minimum prescribed capital requirement for IBUs: the minimum prescribed regulatory capital, including the exposures of the IBU, can be maintained on an on-going basis by the parent bank.

In the case of foreign banks setting up IBUs, in addition to the above, the parent bank will be required to provide a Letter of Comfort to extend financial assistance, as and when required, in the form of capital/liquidity support to the IBU. Further, the foreign bank's IBU will need to comply with prescribed reporting requirements.

Stocks in derivatives

Review of framework for stocks in derivatives segment

SEBI Circular No. SEBI/HO/MRD/DP/CIR/P/2018/67

The key takeaways from the revised framework are as follows:

- The physical settlement of stock derivatives shall be made mandatory in a phased manner.
- Enhanced eligibility criterion prescribed in respect of a stock on which option and future contracts are proposed to be introduced.
- Derivatives on stocks meeting enhanced criteria shall be settled in cash, until further notification –
 - In case of failure to satisfy any enhanced criteria for a continuous period of three months, such stocks shall be moved to a physical settlement.
 - After moving, if such stocks do not meet any of the existing eligibility criteria for a continuous period of three months, the stocks shall exit the derivatives segment.

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- Derivative stocks meeting existing eligibility criterion but not meeting enhanced criterion shall be settled physically. In case any existing eligibility criteria are not met for a continuous period of three months, or there is a failure in meeting the enhanced eligibility criteria after a period of one year from this circular, the stocks shall exit the derivatives segment.
- After a period of one year from the date of the circular, only those stocks that meet the enhanced criterion shall remain in the derivatives segment.

Mutual funds

Performance disclosure post consolidation/ merger of schemes of mutual funds

SEBI Circular No. SEBI/HO/IMD/DF3/CIR/P/2018/69

A standardised procedure has been

prescribed for disclosure of performance of schemes post-merger. The following disclosures are required under different scenarios:

- Merger of two schemes having similar features and the surviving scheme also has the same features: The weighted average performance of both the schemes to be disclosed.
- Merger of two schemes with different features: Performance of the scheme (transferor or transferee) whose features are retained to be disclosed.
- Merger of two schemes with different features and the emergence of a new scheme: Past performance need not be provided.

External Commercial Borrowing

Liberalisation of ECBs policy

A.P. (DIR Series) Circular No. 25/9/11/15

- Expansion of eligible borrowers list

- HFCs and Port Trusts under all tracks: Board approved risk management policy and 100% hedging of ECB exposure under Track I required.
- Companies in the business of maintenance, repair and freight forwarding can also raise ECBs denominated in INR.
- Only negative end-use prescription list prescribed for all Tracks.
- For all ECBs, uniform all-in-cost would be 450 basis points over the benchmark rate.
- Capping of ECB liability to equity ratio (at four times or seven times, as the case may be) will not be applicable if the total of all ECBs raised by an entity is up to USD 5 million or equivalent.
- ECB Liability to equity ratio for ECB under the automatic route can now be up to 7:1.

- Eligible ECB borrowers in manufacturing sector permitted to raise ECB up to USD 50 million or its equivalent, with MAM period of one year.
- Indian banks permitted to participate as arrangers/ underwriters/ market makers/ traders in rupee denominated bonds issued overseas, subject to applicable prudential norms.
- Liberalisation for public sector OMC
 - OMCs permitted to raise ECB for working capital purposes with MAM of three/ five years from all recognised lenders under the automatic route.
 - Individual limit of USD 750 million or equivalent and mandatory hedging requirements waived for such borrowings.
 - The overall ceiling for ECBs shall be USD 10 billion equivalent and the said facility will come into effect from 3 October, 2018.

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- Reduced the mandatory hedge coverage from 100% to 70% for Track 1 ECBs. Further, rollover of existing hedge(s) is required only to the extent of 70% of outstanding ECB exposure. Reduced the average maturity requirement from 10 years to five years for exemption from mandatory hedging provision.
- Liberalisation for ECB in infrastructure:
 - MAM reduced from five to three years.
 - ECBs with MAM of three to five years in the infrastructure space will have to meet 100% mandatory hedging requirement. However, ECBs falling under the aforesaid revised provision but raised previously will not be required to mandatorily rollover their existing hedges.

Monthly reporting of ECBs

RBI A. P. (DIR Series) Circular No. 29

The circular prescribes a simplified format of ECB 2 return (applicable from month-end June) to include only standard information on hedged/ unhedged ECB exposure.

Liberalised Remittance Scheme

LRS – Harmonisation of data and definitions

RBI A.P. (DIR Series) Circular No. 32

The circular makes it mandatory to furnish the PAN for making all remittances under the LRS, including remittance for permissible current account transactions below USD 25,000. Further, for remittances allowed under LRS for maintenance of close relatives, the definition of “relative” is aligned with the definition given in the Companies Act, 2013.

Electronic Trading Platforms

Final directions on ETPs

FMRD.FMID.07/14.03.027/2018-19

The RBI issued final guidelines to entities operating ETPs. Prior authorisation from the RBI is mandatory for an entity to operate an ETP. Existing or operating ETPs are required to make an application for authorisation within six months. The authorised ETPs shall only host transactions in instruments approved by the RBI. ETPs operated by banks for their customers (who are acting as users) on a bilateral basis are excluded from the scope of these directions, subject to some prescribed conditions. The directions prescribe general, financial and technological criteria for entities to seek authorisation. The directions also lay down a detailed operating framework for ETPs, broadly including the manner for access and participation and risk management.

Commodity derivatives

Participation of eligible foreign entities in the commodity derivatives market

SEBI Circular No. SEBI/HO/CDMRD/DMP/CIR/P/2018/134

The circular, with effect from 9 October, 2018 permits EFE having actual exposure to Indian commodity markets, to participate in the commodity derivative segment of recognised stock exchanges for hedging their exposure.

All commodity derivatives traded on Indian exchanges, except for those defined as “sensitive commodity,” are eligible. The minimum net worth requirement for EFE is USD 500,000. The EFEs are required to comply with KYC requirements as per extant Indian Anti-Money Laundering Laws in line with the extant KYC approach adopted for the equivalent category of FPIs.

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Hedge limits for an EFE will be determined on a case-to-case basis, depending on the applicant's actual exposure to the commodity, hedging requirement and other factors that the exchanges deem appropriate.

Asset Reconstruction Companies

Master Direction on “fit and proper” criteria issued for sponsors of ARCs

RBI/DNBR/2018-19/66 Master Direction DNBR. PD (ARC) CC. No. 06/26.03.001/2018-19

The RBI has issued Master Directions to provide for various determinants and data points that the RBI evaluates before considering a sponsor of ARCs as “fit and proper.” ARCs are now required to obtain this information and undertake reporting with the RBI. Some key highlights of the Master Directions are as follows:

- The Master Directions are applicable to the existing and proposed sponsors of

ARCs registered under the SARFAESI.

- For determination of ‘fit and proper’ status for sponsors of ARCs, RBI will consider all relevant factors such as sponsor's integrity, reputation, track record, compliance with applicable laws and regulations, business record and experience; sources and stability of funds for acquisition and the ability to access financial markets; shareholding agreements and their impact on control and management of the ARC.
- ARCs are required to obtain declaration from existing sponsors and furnish requisite information to the RBI within prescribed timelines in specified Forms.
- ARCs are also required to obtain information from proposed sponsors and submit the same in prescribed Forms with the RBI, along with an application seeking approval for

change in shareholding.

AIFs/VCFs

Overseas investment by AIFs/ VCFs

SEBI Circular No. SEBI/HO/IMD/DF1/ CIR/P/2018/103/2018

The SEBI has issued a circular enhancing the overseas investment limit by AIFs and VCFs from USD 500 million to USD 750 million. To monitor the utilisation of the overseas investment limit, AIFs and VCFs are required to furnish certain reports (in connection with nonutilisation, underutilisation and surrender of overseas limit granted) through the SEBI intermediary portal within prescribed timelines.

Category II and Category III AIFs notified as qualified buyers for security receipts issued by ARC trusts

Notification DNBR (PD-ARC) No. 7/ ED(SS)-2018

The RBI has notified Category II and Category III AIFs registered with the SEBI as “Qualified Buyers” under the SARFAESI, subject to the conditions that the AIF shall not invest in security receipts

- issued by that ARC;
- issued on the underlying loans of any of its associate or group company;
- backed by NPAs of banks holding more than 10% equity in that AIF.

Sub-broker

Role of sub-broker

SEBI Circular No. SEBI/HO/MIRSD/DoP/ CIR/P/2018/117

The SEBI has discontinued the sub-broker as a market intermediary and shall grant no fresh registrations as sub-brokers. Existing sub-brokers required to migrate to act as an Authorised Person and/ or trading member until 31 March, 2019. Failure to migrate will deem surrender

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of registration. The circular specified the migration path from sub-broker to Authorised Person/ trading member.

Securities

Electronic book mechanism for issuance of securities on private placement basis

SEBI Circular No. SEBI/HO/DDHS/ CIR/P/2018/122

To rationalise and ease the private issuance of securities on the EBP Platform, several additional facilities are decided to be provided, for instance closed bidding, multiple yield allotment, multiple bids, allotment on yield time priority basis, pay-in of funds through escrow bank account of issuer, permitting depositories to act as EBP. The additional facilities are effective from 1 October, 2018.

Public issue

Streamlining the process of public issue

SEBI Circular No. CIR/DDHS/P/121/2018

Vide the circular, the SEBI has reduced the time taken for listing from 12 working days to six working days after the closure of the issue of debt securities, NCRPS and SDI on or after 1 October, 2018. Investors shall make applications to a public issue only using the application supported by blocked amount facility for making payment, which requires investors to write their bank account numbers and authorise banks to make payment in case of allotment by signing the application forms. Applicants are required to submit a completed bid-cum-application form to Self-Certified Syndicate Banks (SCSBs), with whom the bank account to be blocked is maintained, or any of the other intermediaries that have been specified by the circular in this regard. The circular provides for the role of SCSBs and intermediaries and of the stock exchanges

with regard to the overall process of making the application. The circular also prescribes revised timelines for each of the activities involved in the process of listing.

Foreign Portfolio Investors

Easing of access norms for investments by FPIs in Indian securities market

SEBI circular No. CIR/IMD/FPIC/26/2018 and CIR/IMD/FPIC/47/2018

- Private banks/ merchant banks regulated by an appropriate regulator are permitted to seek a separate FPI license for investing on behalf of their clients - subject to submission of appropriate declarations.
- There is no requirement to seek prior SEBI approval for change in local custodian/ DDP. The transferor custodian/ DDP is required to provide NOC to transferee custodian/ DDP.
- FPIs having MIM structure:

- Exempted from seeking prior approval from the SEBI in case of free of cost transfer of assets.
- DDP allowed to process requests for free of cost transfer of assets by FPIs under MIM structure, having the same PAN.
- Allowed to appoint multiple custodians.
- Subject to maintenance of common portfolio and fulfilment of broad based criteria at the portfolio level, no prior approval of DDP is required for addition of shares class
 - Prior DDP approval required if segregated portfolio is maintained.
- Conditional registration facility now available to existing funds (that have a 90 day window to achieve broad based status) proposing to convert to India-dedicated funds.
- On change of DDP/ local custodian,

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the due diligence undertaken by erstwhile DDP/ local custodian can be relied upon. Adequate due diligence is required by the new DDP/ local custodian only at the time of renewal of registration.

- At the time of payment of registration fee for continuance of registration, a simple declaration can be furnished by FPIs stating that there is no change in the information previously submitted with regard to investor groups.
- The collective investment vehicles of banks investing money on behalf of their clients should adhere to the following conditions:
 - Client/ investor should fulfil the KYC norms and the beneficial owners of such clients/ investors should be identified.
 - Client/ investor should not have opaque structure or bearer share structure.
- Insurance/ reinsurance companies to only maintain undivided common portfolio.
- It is clarified that appropriately regulated persons under Category II
 - Are permitted to invest their proprietary funds;
 - Can also invest client funds as an ODI issuing FPI by taking separate registration or after fulfilling the condition of being broad-based and having a common portfolio.

Participation by persons resident in India and FPIs in ETCD market

- The client/ investor should be a resident in a FATF compliant country.
- The collective investment vehicle of the bank (other than for ODIs) should be broad-based and a common portfolio should be maintained for all clients/ investors.

A. P. (DIR Series) Circular No. 18

For persons resident in India and FPIs to take a long (bought) or short (sold) position in ETCDs without having to take an underlying exposure, single limit prescribed of USD 100 million equivalent across all currency pairs involving INR, put together, and combined across all exchanges.

Due diligence and reporting under FATCA/ CRS for FPIs

SEBI Circular No. IMD/FPIC/ CIR/P/2018/53

Pursuant to the Rules with regard to maintenance and furnishing of information by a reporting financial institution, custodians are required to carry out appropriate due diligence and reporting for FPIs as follows:

- Valid self-certifications, FATCA and CRS declaration forms with

appropriate documentary evidence to be obtained.

- For accounts held by Global Custodian end-clients, reliance may be placed on FATCA/ CRS documentation done by Global Custodian.
- To ensure compliance with the relevant Rules, develop an appropriate system and framework for validating information collected through self-declaration forms, carrying out due diligence procedures and maintaining reporting information, develop a system of audit, etc.

Amendments to SEBI (Foreign Portfolio Investors) Regulations, 2014

SEBI Notification No. SEBI/LAD-NRO/ GN/2018/05

Some important amendments made in the FPI Regulations are as follows:

- With regard to the eligibility conditions

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for seeking registration as an FPI:

- The applicant is eligible for registration as a Category I FPI if, inter alia, the applicant is the resident of a country as may be approved by the Indian Government.
- In case of applicants for Category I and II FPI registration, the requirement of being authorised by charter documents, legally permitted to invest outside the country of incorporation, good track record, professionally competent, etc., is no longer required.
- An applicant shall be deemed to be broad based if it's institutional investor, being a bank, sovereign wealth fund, insurance/ reinsurance company or a pension fund, jointly or separately, hold more than 50% of the shares or units of the fund in the applicant at all times. However, if the broad based

status is on account of investor of an underlying fund, such underlying fund is also required to fulfil the extant FPI eligibility requirements.

- The Category II status of an FPI shall not be immediately lost in case of exit of some investors from a broad based fund. The broad based status may be regained within a period of 90 days, failing which, the fund shall be appropriately re-categorised.
- The FPI shall be a fit and proper person based on criteria specified in Schedule II of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008.

Increase in limits for investment in Government Securities (G-secs) for FPIs

RBI A.P. (DIR Series) Circular No. 22

- Limit for FPI investment in G-secs increased to 5.5% of outstanding

stock of securities in 2018-19 and 6% of outstanding stock of securities in 2019-20.

- Going forward, there would be a single limit for FPI investment in all types of corporate bonds, fixed at 9% of outstanding stock of corporate bonds.
- Coupon re-investment in G-secs is now within the overall limit for G-secs.

FPIs to sell securities acquired contravening applicable limits

RBI Notification No. FEMA 20(R) (2)/ 2018-RB

A notification issued notifying certain proviso of the FEMA 20R with effect from 2 June, 2018 which inter alia requires FPIs to sell securities acquired contravening applicable limits. The FPI shall sell such capital instruments to a person resident in India who is eligible to hold such instruments within the time stipulated.

Review of investment by FPIs in debt

RBI A.P. (DIR Series) Circular No. 31

Some key points with regard to investments by FPIs in debt, pursuant to the issue of the aforementioned circular are as follows:

- Minimum residual maturity
 - In relation to investment in G-secs, the minimum residual maturity of three years has been withdrawn.
 - With respect to investment in corporate bonds, the minimum residual maturity of three years has been reduced to one year.
 - Investment in G-secs or corporate bonds with residual maturity of up to one year, not to exceed 20% of the total FPI investment in that category, on an end-of-day basis.
- May exceed 20% in case of short-term investments by FPI if short-term investments

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consist entirely of investments made on or before 27 April, 2018.

- Cap on aggregate FPI investments in any Central Government security increased to 30% of the outstanding stock of that security.
- Auction mechanism for FPI investment in G-secs and State Development Loans has been discontinued. Utilisation of FPI investment in this category will now be monitored online by the Clearing Corporation of India Limited.
- Single/ Group investor-wise limit in corporate bonds
 - Investment by FPI (including related FPIs) in corporate bonds should not exceed 50% of any single issue of a corporate bond.
 - Investment by FPI, including related FPIs, in each of the three

categories of debt should be within prescribed concentration limits (i.e. 15% of prevailing investment limit for that category for long-term FPIs, 10% for other FPIs).

- Concentration limits: An FPI shall not have an exposure of more than 20% of its corporate bond portfolio to a single corporate (including related entities).
 - New investments made after 27 April, 2018 are exempted from 20% concentration limit to a single corporate (including entities related to the corporate) until 31 March, 2019.
 - A newly registered FPI must adhere to the 20% investment concentration limit no later than six months from registration.
- The limits of minimum residual maturity, investor-wise limit in single issue and portfolio wise concentration limit shall not apply to security

receipts.

- Investments that were under process but not materialised as on 27 April, 2018 have been exempted from the requirement of 20% concentration limits and 50% investor-wise limits for any single issue, subject to certain conditions.
- FPIs are not permitted to invest in partly paid debt instruments.

Common application form for FPIs

Ministry of Finance notification dated 21 August, 2018

A common application form has been prescribed for integrating tax and regulatory procedures to be completed by FPIs before commencing investments in India (viz. registration as FPI, opening of bank account, opening of demat account and obtaining of PAN). The Form is divided into five parts: KYC information, FPI Registration information, additional

information for obtaining PAN, additional information applicable for individuals and declaration and undertaking.

VRR for investment by FPI

RBI press release dated 5 October 2018

RBI discussion paper dated 5 October, 2018

The RBI has proposed a VRR for FPIs to attract long-term and stable FPI investments into debt markets while providing FPIs with operational flexibility to manage their investments. The key highlights of the VRR are as follows:

- The RBI shall decide the total amount that may be invested via VRR.
- Investments through VRR shall be in addition to the general investment limit for FPIs.
- The total amounts for investment shall be individually allocated to FPIs through an auction process, based on

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the retention period (minimum being three years, or as decided by the RBI) proposed by the FPI in the bid for the auction.

- Investments through the VRR to be exempt from regulatory provisions (such as cap on short-term investments (less than one year), concentration limits and caps on exposure to a corporate group, etc.).
- One month prior to the end of the committed retention period, an FPI will exercise its choice to continue investments under this route by opting for an additional identical retention period. If discontinued, the FPI will be required to liquidate its portfolio and exit or shift its investments to the “General Investment Limit” subject to availability.
- An FPI that violates any of its commitments under the VRR shall be

deregistered by the SEBI.

FPI - KYC requirements

SEBI Circular Nos. CIR/IMD/FPIC/ CIR/P/2018/131 and CIR/IMD/FPIC/ CIR/P/2018/132

The SEBI has decided that beneficial owner criteria in Rules under the Prevention of Money Laundering Rules (PMLA Rules) should be made applicable for the purpose of KYC and not for determining the eligibility of FPIs. Furthermore, for purposes of investment limits, investments by FPIs should not be clubbed on the basis of beneficial owner, as per PMLA Rules. In this regard, the aforementioned two circulars provide the eligibility conditions for FPIs and the KYC compliance required to be done.

- Eligibility conditions for FPIs. NRIs and OCIs and Resident Indians should be allowed to invest in FPIs subject to the following conditions:

- Contributions by NRIs/ OCIs/ Resident Indians (including contributions by an Investment Manager controlled by NRIs/ OCIs/ Resident Indians) should be below 25% of the FPI's corpus individually and 50% collectively.
 - Not applicable to FPIs investing only in mutual funds in India.
- NRIs/ OCIs/ Resident Indians should not be in control of FPI
 - Not applicable to “offshore funds” for which NOC has been provided by the SEBI in terms of SEBI (Mutual Funds) Regulations, 1996.
- Resident Indians contributions in global funds with Indian exposure of less than 50% made through remittances under the RBI's LRS permitted.
- FPIs can be controlled by Investment Managers, which are controlled by NRIs/ OCIs/

Resident Indians subject to fulfilment of prescribed conditions (such as Investment Manager of FPI is appropriately regulated in its home jurisdiction, registers itself with the SEBI as a non-investing FPI, or Investment Manager is incorporated or set up under Indian laws and appropriately registered with the SEBI).

- A non-investing FPI may be directly or indirectly fully owned and/ or controlled by a NRI/ OCI/ Resident Indians.
- Existing and new FPIs to satisfy these eligibility conditions within two years from the date of coming into force of the amended regulations or from the date of registration, whichever is later.
- KYC requirements for FPIs

The key takeaways from the circular, with regard to amendments in KYC requirements for FPIs are as follows:

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- Beneficial owners are natural persons who ultimately own or control an FPI and should be identified in accordance with PMLA Rules. Beneficial owners of FPIs having General Partner/ Limited Partnership structure shall be identified on ownership or entitlement basis and control basis.
- FPIs are required to maintain a list of beneficial owners and should provide the details of their beneficial owners as have been prescribed by the circular (for example basic details of the beneficial owner, tax residency jurisdiction and details of tax residency documentation as have been prescribed, whether acting alone or through one or more persons as group with their name and address, beneficial owner group's percentage shareholding/ capital/ profit in ownership in the FPIs, etc.
- The circular prescribes materiality threshold for identification of beneficial owners similar to the PMLA Rules (i.e. 25% in case of companies and 15% in case of partnership firms, trusts and unincorporated association of persons.)
 - For FPIs from "high risk jurisdictions," intermediaries may apply a lower materiality threshold of 10% to identify the beneficial owner and ensure such FPIs maintain KYC documentation as applicable for category III FPIs.
- The materiality threshold to identify the beneficial owner should be first applied at the FPI level and then the look-through basis should be applied to identify the beneficial owner of the intermediate shareholder/ owner entity.
- Senior Managing Official for the purpose of identification as beneficial owner means an individual, as designated by the FPI, who holds a senior management position and makes key decisions relating to the FPI.
- For intermediate material shareholder/ owner entities (except if eligible for registration as Category I FPI), name and percentage holding shall also be disclosed.
- For companies/ trusts represented by service providers, such as lawyers/ accountants, information of the real owners/ effective controllers is to be provided (including if control is exercised through voting rights, agreements, arrangement, etc.).
- Other key points
 - The circular also provides for periodic KYC review of FPIs.
- Category III FPI – Providing "Financial Data" is made mandatory for Category III FPIs only. An audited annual financial statement or a net worth certificate from an auditor may be obtained. For newly formed funds, the audited financial statements of the promoter person may be obtained.
- Existing FPIs should provide the list of beneficial owners and KYC documentation within six months from the date of this circular. In the event of non-compliance, no fresh purchases are permitted until requirements are complied with. Non-compliant FPIs will need to disinvest their holdings within a period of 180 days from the expiry of the timeline. Beyond this period, the FPI's registration will not be valid and it would need to disinvest its holdings immediately.

Clarifications on clubbing of investment limits of foreign government/ foreign

Financial Services

government related entities registered as FPIs

SEBI Circular No. SEBI/HO/IMD/FPIC/CIR/P/2018/66

The SEBI circular provides guidance on clubbing of investment limits applicable to foreign government/ foreign government related entities registered as FPI. Some key clarifications are as follows:

- In case the same set of beneficial owners are constituents of two or more FPIs and such investors have common beneficial ownership of more than 50% in those FPIs, all such FPIs will be treated as forming part of an investor group and the investment limits shall be clubbed accordingly.
- The combined holding of all foreign government and its related entities from the same jurisdiction shall be clubbed for the purpose of investment

limits.

- Investment by foreign government agencies (defined to be an arm/ department/ body corporate of Government or set up by a statute or majority owned by foreign government and included under Category I FPIs) shall be clubbed.
- The investment by foreign government/ foreign government related entities from provinces/ states of countries with federal structure shall not be clubbed if the said foreign entities have different beneficial owner identified (as per PMLA Rules).
- The FPIs investing in breach of the prescribed limit shall divest their holdings within five trading days from the date of settlement of the trades causing the breach. Alternatively, at the option of the FPI (exercised and informed immediately), the investment shall be considered as investment

under the FDI route.

Start-ups

Applicability of section 56(2)(viib) of the Act to start-up companies

CBDT Notification No. 24/2018/F. No. 370142/5/2018 and CBDT instruction F. No. 173/14/2018-ITA.I

In continuation of the DIPP notification, the CBDT issued a new notification (superseding the earlier notification in this regard), stating that the provisions of section 56(2)(viib) of the Act shall not be applicable in case of start-ups. This notification shall be deemed to have come into force retrospectively from 11 April, 2018.

Further, the CBDT also earlier issued an instruction specifying that no coercive measures shall be taken for recovering outstanding demand in case of “startups,” as per the DIPP definition, if such demand has arisen on account of addition made

by the TO, by rejecting the appropriate valuation [as per Rule 11UA(2) of the Rules] furnished by such start-ups. Further, the CIT(A) are instructed to expedite such pending cases before them.

FATCA

FATCA and CRS – New reporting mechanism

CBDT Notification No. 4 of 2018

Updated procedure for registration and submission of SRA under section 285BA of the Act, read with Rule 114G of the Rules for the purpose of FATCA and CRS reporting has been prescribed. The updated procedure broadly provides for the requirement of reporting financial institution to be registered with the income-tax department and generate Income-Tax Department Reporting Entity Identification Number; furnish details of Designated Director who can digitally sign and upload the SRA and the

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corresponding correction statements; Form for submitting the SRA (i.e. Form No. 61B); mechanism to file subsequent correction statements, etc.

Valuation report

[Notification on person allowed to issue valuation report](#)

CBDT Notification No. 23/2018/ F. No. 370142/5/2018

The definition of “accountant” has been deleted from Rule 11U of the Rules and references to the word “accountant” have been removed from Rule 11UA, sub rule (2), in clause (b) of the Rules. Accordingly, the CBDT has made it mandatory to obtain a valuation certificate from a merchant banker for the purposes of section 56(2)(x), section 56(2)(viib) and section 50CA of the Act.

Masala bonds

[Exemption for interest income on specified](#)

[off-shore rupee denominated bonds](#)

Press release dated 17 September, 2018

It has been decided that interest payable by an Indian company or a business trust to a non-resident, including a foreign company, in respect of rupee denominated bonds issued outside India during the period from 17 September, 2018 to 31 March, 2019 shall be exempt from tax, and consequently, no tax shall be deducted on the payment of interest in respect of the said bond under section 194LC of the Act.

Capital gain

[Modes of acquisition not covered under section 112A](#)

CBDT Notification No. 60/2018/F. No. 370142/9/2017-TPL

The final notification provides a negative list of transactions of acquisition in respect of which the condition of STT being paid on acquisition and transfer will have to be

satisfied to avail the concessional rate on capital gains.

Securities transaction tax

[Clarification on levy of STT on physical settlement of stock derivatives](#)

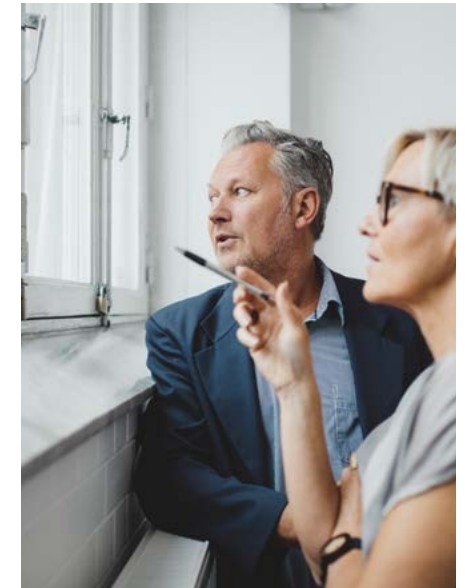
CBDT Instruction No. F No. 272/M-40/2018-ITJ

NSE Circular Ref. No: NSE/FATAX/38737

In light of the SEBI mandating physical settlement of stock derivatives for securities not meeting the enhanced eligibility criteria, the CBDT issued instructions clarifying its views that the levy of STT is independent of the purpose of transaction, the legal mandate of STT covers delivery based derivatives transactions, the rate of STT applicable to delivery based equity transaction shall also apply to derivative transaction.

Consequently, the National Stock Exchange also issued a circular confirming

levy of STT of 0.1% (payable by both purchaser and seller) on the physical settlement of stock derivatives with effect from 26 July, 2018.





Personal tax



Judgement

Withholding tax

Availability of relief under the tax treaty at withholding stage

AAR No. 1299 of 2012

The ruling provides clarity on availing tax treaty relief at the withholding stage. Although the ruling is fact specific, it provides persuasive value for companies with outbound mobile employees to explore the possibility of availing treaty relief at the withholding stage. However, one has to carefully consider the robust internal processes to be followed to avail tax treaty relief, penal consequences in case of inappropriate claim of tax treaty relief, procedural challenges, such as availability of overseas compensation and tax paid/ due details in a timely manner and reporting tax treaty claims in the quarterly withholding tax returns.

Prosecution proceedings

Continuation of prosecution proceedings under section 276 CC of the Act even if no tax payable

CRL.M.C. 3385/2016 & CrI. M.A. 14338/2016, 1336/2017, 11516/2017 (Delhi HC)

The Government has increased focus on compliances and it is important for taxpayers to file their tax return within the prescribed due dates. Where the tax authorities detected and initiated prosecution proceedings, the claim of beneficial provision that the taxpayer cannot be prosecuted when the tax due is not more than INR 3,000 will not come to the rescue of the taxpayer. The default that is subject to prosecution under section 276CC of the Act, stands committed the moment the taxpayer misses the tax filing deadline, unless a belated return

has been filed before detection by the tax authorities. Further, the taxpayer should ensure timely filing of returns in response to a notice issued under sections 142(1) and 148 of the Act, as failure to abide the same could also lead to prosecution proceedings.

Circulars, notifications and others

Return form

Income-tax return forms for FY 2017-18 notified

CBDT Notification No.16/2018/ F.No.370142/1/2018-TPL

Detailed changes in the notified return forms relevant for individuals are as follows:

Personal tax

Changes introduced	Reference in return forms	Applicable ITR Form	Remarks
Eligibility to file ITR- 1		ITR-1*	ITR-1 can be filed only in cases where the taxpayer is qualifying as ROR of India.
Eligibility to file ITR- 2	-	ITR-2	Individuals and HUFs having income from business or profession/ partnership firms shall not be able to use ITR-2 to file their income-tax return.
Removal of gender information	Personal information	ITR-2, 3 & 4	This requirement has been removed.
Detailed disclosure of income under the head “salary and income from house property”	Gross total income	ITR-1 & 4	Break-up of salary (as reported in Form 16/ 12BA) and taxable income from house property to be mentioned in ITRs-1 & 4.
Insertion of separate late filing fees under section 234F of the Act	Computation of tax liability	ITR-1, 2, 3 & 4	Fees for late filing tax return have been inserted in return forms.
Transparency in claiming credit of taxes under special provisions	Schedule TDS (Section 5A of the Act and Rule 37BA of the Rule)	ITR-2, 3 & 4	In case whole or part of the income on which taxes has been deducted is assessable in the hands of a person other than the deductee, details (such as income, taxes and PAN of deductee) need to be disclosed in the return form to avoid any mismatch when processing the return.
Additional verification requirement	Verification section	ITR-1, 2, 3 & 4	Verification of return is required in case any person other than the taxpayer prepares the tax return.
Disclosure of FMV in case of unlisted shares	Schedule CG	ITR-2 & 3	FMV in case of unlisted shares are required to be reported to determine the taxable value under section 50CA.
Specific columns to report each capital gain exemption	Schedule CG	ITR-2 & 3	Details of capital gains exemption under section 54, 54B, 54EC, 54EE, 54F, 54GB and 115F of the Act shall be reported in its applicable column now. In addition, the taxpayer is required to mention the date of transfer of original capital asset, which was missing in previous ITR Forms.

Personal tax

Changes introduced	Reference in return forms	Applicable ITR Form	Remarks
Taxpayer claiming tax treaty relief is required to report more details	Schedule CG & OS	ITR-2 & 3	<p>Taxpayers claiming tax treaty relief in India in respect of capital gains or income from other sources are required to provide details of the applicable tax treaty. The new ITR Forms mandates the following additional details:</p> <ul style="list-style-type: none"> • Rate as per tax treaty • Rate as per the Act • Section as per the Act • Applicable rate <p>(Lower of A & B)</p>
Disclosure of amounts not deductible from other source income	Schedule OS	ITR-2 & 3	Certain expenditures that are not allowed to be deducted need to be disclosed separately.
Taxability on recovery of trading liability	Schedule OS	ITR-2 & 3	<p>As per provisions of the Act, if a business entity recovers any amount in respect of an allowance or deduction, the amount so received shall be deemed to be the business income and chargeable to tax.</p> <p>Similar provisions exist in respect of an expense claimed as deduction against an income chargeable to tax under the head “income from other sources.”</p> <p>The new ITR Forms require separate reporting of such items in respect of income that is taxable under the head “income from other sources.”</p>
Amendment in the list of assets and liabilities to be reported	Schedule AL	ITR-2	Removal of requirement to report interest held in the assets of a firm or AOP as a partner or member thereof.

*Only a person having total income up to INR 5 million and being a ROR of India is eligible to use ITR-1.

Personal tax

Immigration

Visa-specific clarifications and amendments

MHA Guidelines dated 1 February 2018

Employment visa

For a foreign national coming to India on an employment visa, the minimum salary threshold for eligibility to apply is USD 25,000 p.a. (approximately INR 1.625 million). This salary includes monetary salary, allowances and perquisites (e.g. rent-free accommodation), paid/ provided to the foreign national, which are considered for calculating the income-tax liability of the foreign national. The employment contract should quantify and indicate the perquisites.

For a foreign national who comes to India on an employment visa for a period

of less than a year, the minimum salary threshold for determining the eligibility of the visa applicant would be required to be computed on a pro-rata basis.

Business visa

Business visa holders are required to register with the FRRO/ FRO in case their aggregate stay in India exceeds 180 days during a calendar year. The business visa shall be non-convertible to any other type of visa, except in specific cases.

e-VISA

e-VISA is granted to a foreign national who is visiting India for recreation, sightseeing, to meet friends/ relatives, attending a short-term yoga program, medical treatment and business purposes.

The e-VISA has now been further categorised into the following sub-categories:

- e-Tourist: Double entry visa valid for 60 days for undertaking tourism activities in India.
- e-Business: Double entry visa valid for 60 days for undertaking any business activities in India (as permitted under existing business visa norms).
- e-Medical: Triple entry visa valid for 60 days for undergoing medical treatment in India (could be extended up to six months on a case-to-case basis, on applying to the FRRO/ FRO).

Two new categories of e-Visa, i.e., e-Conference and e-Medical Attendant visa have been introduced recently.

Hence, e-visa is now available for the following five categories:

- Tourist
- Business
- Medical
- Conference
- Medical Attendant





Mergers & Acquisitions

Judgement

Income determination

Tribunal holds that section 56(2)(viib) applies to all classes of shares and that TO could challenge the valuation report submitted for the computation of income thereunder

ITA Nos. 513 and 963/Kol/2017

Section 56(2)(viib) of the Act, applies to all classes of shares and the TO was duty bound to examine the valuation report and record his findings on the same. Such findings should have been based on relevant material and a rational view taken judiciously. It was not necessary for the TO to refer the matter to other expert; instead, the TO could have replaced the irrelevant material and modified the valuation report.

TO cannot disregard the valuation method adopted by the taxpayer for determining FMV of shares under section 56(2)(viib)

read with Rule 11UA(2)

ITA No. 884/JP/2016

Rule 11UA(2) of the Rules read with section 56(2)(viib) of the Act provides an option to the taxpayer to choose between the DCF method or the net asset value method to determine the FMV of shares. Once the option is exercised, the TO cannot adopt a different method of his choice.

Further, in applying the DCF method, the comparison of the projections vis-à-vis the actual figures was unjustified, as the forecast was beyond the control of the taxpayer, and the actual numbers may differ from the projections.

Tribunal holds that provisions of section 56(2)(viib) are not applicable where the company had only closely related shareholders and there was no possibility of unaccounted money being involved

ITA No. 1352/Chy/2018

Legal fiction should be carried to their logical conclusion within the framework of the purpose for which it is created.

It should be also kept in mind that the provisions of section 56(2)(viib) of the Act create a deeming fiction and, while giving effect to such legal fiction, all facts and circumstances incidental thereto and inevitable corollaries thereof have to be assumed.

Further, it is apparent from the Finance Minister's speech that the provisions of section 56(2)(viib) of the Act have been enacted to deter the generation and use of unaccounted money.

This ruling will ease the implementation of group restructuring/ restructuring of capital of companies that have shareholders who are relatives, unless there is a question about the genuineness of the source of investment.

Buy-back of own shares by a company - Provisions of section 56(2)(viiia) not applicable as such shares do not become its property

ITA No. 532/Mum/2018

The provisions of section 56(2)(viiia) of the Act are not applicable in the case of buy-back of shares by the company as in such a case the shares do not become the property of the recipient company. Hence, the test of 'becoming a property' and 'shares of any other company' failed.

It is also important to note that the provisions of section 56(2)(viiia) are substituted post 1 April, 2017 under section 56(2)(x) of the Act. Hence, it should be possible to take a view that section 56(2)(x)(c) of the Act should not apply to the transaction of buy-back of shares.

Mergers & Acquisitions

Carry forward and set off of loss

Status of the company at the time of change in shareholding is relevant to determine applicability of section 79 of the Act

ITA No. 1501/Mum/2016

The status of the company at the time when the change in shareholding took place was relevant to determine the applicability of the provisions of section 79 of the Act. The company was closely held which was acquired by a subsidiary of a listed company, resulting in the company to become a widely held company. Since the company was closely held at the time of change in shareholding, the provisions of section 79 of the Act would apply.

Transfer of property

Mere handing over of physical possession of property for development not “transfer” under section 2(47)(v) of the Act

ITA No. 225 of 2015 (Calcutta HC)

Where the landowner had entered into a development agreement for development of the entire land for a consideration of 39% of the developed area. The HC held that until the construction was completed, and 39% share was handed over to the landowner, it could not be said that the possession of the balance land was transferred as per the provisions of section 2(47)(v) of the Act. Thus, the HC held that the taxpayer had rightfully offered the capital gains in the year of actual receipt of the consideration.

Conversion and amalgamation

NCLT allows amalgamation of LLP into company - holds there is no express bar in law

CP/123/CAA/2018 [TCA/ 157/CAA/2018 (Chennai NCLT)]

There does not appear any express legal bar to allow the merger of an Indian LLP

with an Indian company and approved the scheme of merger of an LLP into a company. As the intention of the authorities was to permit the merger of a foreign LLP with an Indian company, it would be wrong to presume that the Companies Act, 2013 prohibits the merger of an Indian LLP with an Indian company.

The tax neutrality of such mergers shall continue to be a key question, as there are no specific provisions of the Act providing for exemptions to the parties to the scheme as provided in the case of mergers between companies.

Capital gains

HC holds if shares not allotted by end of the previous year in which succession takes place, section 47(xiii)(b) is violated and exemption from capital gains can be withdrawn

ITA Nos. 884 of 2007 and 60 of 2015 (Karnataka HC)

Section 47(xiii)(b) of the Act does not prescribe the time limit for allotment of shares by the company to the erstwhile partners of the firm. The Karnataka HC has held that the allotment should be completed by the end of the relevant previous year in which the succession takes place. In the absence of such issue of shares, there is a violation of the condition and capital gains should be liable to tax by virtue of section 47A(3) read with section 47(xiii)(b) of the Act.

Conversion of shares

Tribunal holds conversion of preference share into equity shares is not transfer

ITA No. 1944/Mum/2018

The Tribunal relied on circular no. F. No. 12/1/64-IT(A) dated 12 May, 1984 which read as, “Where one type of shares is converted into another type of share, there is, in fact, no ‘transfer’ of a capital asset within the meaning of section 2(47) of the Act.”

Mergers & Acquisitions

Further, as per section 55(2) of the Act, when newly converted shares are transferred later, the cost of acquisition of such shares, for the purpose of computing capital gains, shall be calculated with reference to the cost of acquisition of the original share of stock from which it is derived. Hence, there is no loss of revenue if the above interpretation is adopted.

This ruling provides clarity before the amendment by the Finance Act, 2017.

Circulars, notifications and others

Scheme of arrangement

SEBI amends circular on scheme of arrangement by listed companies

SEBI Circular No. CFD/DIL3/CIR/2018/2

SEBI issued a circular on 3 January, 2018 that amended the existing circular dated 10 March, 2017 which inter alia provided

for following amendments:

- Exemption, from applicability of the circular, granted to scheme of demerger of a division of WOS into the parent company.
 - Pledge of locked-in shares, if required as per term of loan from banks/ FIs, is allowed.
 - The condition of pre-scheme public shareholders/ QIBs holding at least 25% of the post-scheme shareholding should be satisfied on a fully diluted basis.
 - Requirement of lock-in of entire pre-scheme share capital of the resulting company, in the case of demerger, extended to amalgamated company in the case of amalgamation.
 - Subject to prescribed conditions, inter-se transfer of locked-in shares between promoters is allowed.
- Time limit of 30 days for listing of shares and 45 days for commencement of trading therein extended to 60 days by the order of the HC/ NCLT.

Conversion and amalgamation

Exemption from open offer granted in case of conversion of company into LLP

SEBI Guidance No. CFD/DCR2/OW/P/2018/20660/1

A private limited company, holding 18.19% stake in a listed company as a promoter was proposing to convert its status from a private limited company to a LLP.

SEBI, in its informal guidance, opined that the proposed conversion would fall within the meaning of 'succession' and therefore qualify for exemption from making an open offer.



Transfer Pricing

Judgement

TP adjustment

Tribunal deletes entire TP adjustment of payment of management cross charge and accepts foreign AE as tested party

ITA Nos. 2182/Pune/2013 & 211/Pune/2015

Taxpayer's benchmarking of the transaction of payment of management cross charge by selecting foreign AEs as the tested party and data of foreign companies as comparable under the TNMM was appropriate, based on the facts of the case. Further, under TP law, the TPO can neither decide the taxpayer's needs nor analyse the benefits arising to the taxpayer while determining the arm's length price of a transaction.

DRP proceedings

Additional evidence filed before the DRP

is mandatorily required to be admitted and considered

ITA No. 2376/Pune/2015

As the DRP proceedings are an extension of the assessment proceedings, the additional evidence filed by the taxpayer before the DRP needs to necessarily be admitted, considered and adjudicated by the DRP in terms of Rule 9 of the Income-tax (Dispute Resolution Panel) Rules, 2009.

Interpretation of statute

Tribunal rules on the impact of an "omission of a provision" on the ongoing proceedings

ITA No. 1722/Bang/2017

Once omitted by a subsequent amendment, it would be deemed that such a clause never existed in the statute. Further, in the absence of any saving clause or specific provision, the

proceedings already initiated or action already taken based on the said clause would not survive at all.

Karnataka HC holds that questions on TP comparable/ filters are not "substantial questions of law"

ITA No. 536/2015, C/W ITA No. 537/2015

Appeals relating to the selection of comparable companies/ filters applied in a TP analysis, do not give rise to any substantial question of law under section 260A of the Act, and therefore, were not admissible.

Circulars, notifications and others

CbCR

CBDT issues instructions on "appropriate use" of CbCRs

CBDT Instruction No. 2/2018 dated 27 June, 2018

The genesis of the concept of "appropriate use" lies in the OECD's BEPS Action 13 report on CbCR.

In essence, the "appropriate use" condition circles around the use of CbCR data by tax authorities, essentially for assessing high level TP risks and other BEPS-related risks; making further enquiries into an international group's TP arrangements or into other tax matters in the course of a tax audit; but not for making adjustments to the income of a taxpayer only on the basis of CbCR data.

In its Action 13 report, the OECD has clearly and emphatically highlighted the need for jurisdictions implementing CbCR law, to put in place measures to ensure that data encapsulated in a CbCR is appropriately used, and that the confidentiality of such data is maintained.

As part of the implementation package, the OECD subsequently also published "Guidance on the appropriate use

Transfer Pricing

of information contained in CbCRs” (OECD guidance). Besides providing what constitutes “appropriate use,” this guidance also laid down the framework for jurisdictions to ensure that the “appropriate use” of CbCR data is institutionalised within the respective tax administrations, and that it is done before the first exchange of CbCRs.

The OECD has further underscored the importance of the “appropriate use” of CbCR data by making it one of the terms of reference for CbCR-related peer reviews. The first peer review report (in May 2018) published by OECD, presented findings related to CbCR implementation in India, and corresponding recommendations to align with the OECD’s Action 13 report.

The peer review report recommended that India take steps to ensure that the “appropriate use” condition is met ahead of the first exchanges of information.

Exchange of CbCRs in India shall essentially be enabled through the MCAA, or through BCAAs that may be signed between India and countries that are not party to the MCAA, e.g., the United States of America. The MCAA and BCAAs provide for a specific binding condition, that all information exchanged in the form of CbCRs should be subject to confidentiality rules and other safeguards provided for in these exchange agreements, including limiting the use (i.e., appropriate use) of the information exchanged.

Subsequently, the CBDT published instructions for the “appropriate use” of CbCR data (the Instruction).

While highlighting India’s commitment to ensuring the “appropriate use” of CbCRs, the CBDT, at the outset, requires that the Instruction must be “referred to and adhered to” so as to “ensure appropriate use.”



Transfer Pricing

Secondary adjustments

CBDT amends timeframe to repatriate “excess money” for secondary adjustments in cases of APA and MAP

CBDT Draft Notification F. No. 370142/12/2017-TPL dated 19 June, 2018

The Indian Finance Act, 2017, introduced the SA mechanism vide section 92CE in the Act. The SA mechanism, which follows a PA, seeks to reflect in the books of AEs such allocation of profits as is consistent with the TP determined in a PA.

A PA is the difference between the transfer price determined based on the ALP and the transfer price at which the transaction took place. This difference also represents the “excess money” with the AE to be repatriated to India. If such “excess money” is not repatriated to India, it will be considered as an advance, and interest will be computed thereon.

The time limit for repatriation of the “excess money” was prescribed almost a year ago by the CBDT by insertion of Rule 10CB (CBDT Notification No. 52/ 2017 dated 15 June, 2017) in the Rules.

As per clauses (iii) and (v) of Rule 10CB(1), in case of an APA and a MAP resolution, respectively, the “excess money” was to be brought into India within 90 days from the date of filing the ROI under section 139(1) of the Act.

However, the CBDT has recognised certain difficulties in implementing the provisions of these clauses. To remove these difficulties, Rule 10CB is now proposed to be amended.

The amendment is proposed with respect to the time frame for repatriation of “excess money” as contained in clauses (iii) and (v) of Rule 10CB(1). The time limit of 90 days remains unchanged. However, the reference date from which this time limit is to be computed is proposed to be

amended as follows:

- In case of an APA [clause (iii) of Rule 10CB(1)] – from the date on which the APA has been entered into by the taxpayer.
- In case of a MAP resolution [clause (v) of Rule 10CB(1)] – from the date of giving effect by the TO under Rule 44H to the resolution arrived at under the MAP.

Advance pricing agreement

India publishes its second APA Annual Report

Advance Pricing Agreement Programme of India – Annual Report (2017-18)

The CBDT on 31 August, 2018 released the Second Annual Report on the Indian APA Programme (APA Report). The APA Report highlights the progress made in FY 2017-18. The APA statistics continue to be encouraging, as the total number

of concluded APAs has reached 219 (of which 67 were signed in FY 2017-18).

A noteworthy development is the shift in focus from UAPA to BAPA. There was a slight increase in time taken to conclude APAs in FY 2017-18 than the average of prior periods.



Indirect Tax

Judgement

Customs

Civil Appeal No. 3327 of 2007 (SC)

Tax exemption provision/ notification with respect to entitlement of the assessee for rate of tax to be applied should be construed strictly. The burden of proving applicability of notification would be on the assessee, and in ambiguity, the benefit of such ambiguity should be given to the Revenue.

Appeal No. C/2954/2012-DB (Delhi CESTAT)

Part of the development and documentation costs recovered as documentation charges and initial fee are to be loaded onto the invoice value of masters samples/ utility models.

Appeal No. C/50248/2018 (Delhi CESTAT)

The Delhi bench of the Tribunal upheld the decision of Special Valuation Branch of Customs to include in the assessable value, franchisee fee equal to 5% of net purchase value and institutional advertising and promotional campaign at 2%, without payment of which goods cannot be imported, as these form the condition of sale as per Rule 10(1)(c) and Rule 10(1)(e) of CVR, 2007, respectively. Further, it was decided that the advertisement expense carried out in India for promotion of the brand, being incurred after import of goods, cannot be said to be incurred to satisfy the obligation of the foreign principal. Accordingly, the conditions of Rule 10(1)(e) of CVR, 2007 were not satisfied, and hence, such expense was not includible in the assessable value.

Appeal No. C/135-138/2012 (Delhi CESTAT)

Clean energy cess on imported goods is levied as additional duty of Customs under section 3(1) of the Custom Tariff Act, 1975, and thus, becomes a duty of Customs. Accordingly, education cess will also be levied on clean energy cess as a part of aggregate duty of Customs.

Appeal No. C/10785/2016-SM (Ahmedabad CESTAT)

The Revenue attempted to levy interest on the duty assessed under section 30 of the SEZ Act, 2005 from the date of initial import by the SEZ developer. The Ahmedabad bench of the Tribunal, placing reliance on the judgement of the SC in 2002-TIOL-2656-SC-CT, decided that interest on customs duty under section 47 of the Customs Act, 1962 shall be levied in the event the assessee fails to pay the duty within the specified period. Since there was no delay in discharging the duty assessed, the Revenue's attempt

to levy interest is not supported by the provisions contained under either the SEZ Act or Rules made thereunder, nor under the Customs Act, 1962. Consequently, the impugned order was set aside.

Appeal Nos. C/258/2010 & C/180-181/2012 (Chennai CESTAT)

The assessee imported copper concentrates, raising provisional invoices. After three to four months, the final invoices were issued at a lower value, based on which the refund claim of excess duty paid earlier was filed. Such claim was denied on grounds of unjust enrichment. The Chennai bench of the Tribunal held that in as much as the final product price is being determined on London Metal Exchange prices, the unjust enrichment aspect is not required to be examined.

Indirect Tax

Appeal No. C/40599/2013 (Chennai CESTAT)

When the duty is paid under the orders of the court, whether by an order granting stay, suspension, injunction or otherwise, pending an appeal, reference or writ petition, it would certainly be a payment under protest.

Appeal No. C/124/2011 (Kolkata CESTAT)

After the expiry of the first block of five years but before the expiry of the extended period of LOP, it is neither open to the Development Commissioner nor to the customs authorities to treat that the assessee had ceased to be a 100% EOU. Consequently, the question of enforcing penal liability before the expiry of the extended period does not arise.

Appeal Nos. C/315/2008-DB, C/246/2009-DB, C/1852/2010-DB (Bangalore CESTAT)

Since the software imported along with accessory for X-ray/ MRI equipment is a standalone independent software, as given in CD form, which can be loaded on any computer; therefore, such software is correctly classified under CTH 8523 80 20.

Excise

Civil Appeal Nos. 11711, 11872-11873 and 11910 of 2016 (SC)

Once it is accepted that the place of removal is the factory premises of the assessee, outward transportation therefrom would clearly amount to eligible “input” service in terms of Rule 2(l) of the CENVAT Credit Rules, 2004 for the period prior to 1 April, 2008.

Civil Appeal No. 11261 of 2016 (SC)

The SC dismissed the review petition against its order dated 1 February, 2018 whereby, it ruled that CENVAT Credit on GTA services availed for transport of goods from the place of removal to the

buyer’s premises is not admissible with effect from 1 April, 2008.

Civil Appeal No. 8490 of 2016 (SC)

The essential components of the boilers cleared as parts, but essential to put the boilers into operation, would be classifiable under sub-heading 8402.10 as “All goods other than parts” attracting BED at 10% and not under sub-heading 8402.90 as “Parts” attracting BED at 15%, as claimed by the Revenue.

Special Civil Application No. 18951 of 2017 (Gujarat HC)

The Gujarat HC re-iterated the principle that the assessee cannot exercise the option of writ petition, when it had the option of filing an appeal before the appellate authority.

Special Civil Application No. 3969 of 2014 (Gujarat HC)

Personal properties of the deceased

assessee’s legal heir could not be attached for recovery of unpaid dues by observing, inter alia, that personal properties of the legal heir, which have nothing to do with inheritance, could not be attached for recovery of Government dues.

Central Excise Appeal Nos. 14-18 and 23 of 2017 (Uttarakhand HC)

The Uttarakhand HC disallowed the utilisation of BED credit towards payment of NCCD and Education Cesses to motorcycle manufacturers availing area-based exemption under Notification No. 50/2003-CE.

Writ Petition No. 11858 of 2017 (Madras HC)

The Madras HC set aside the show cause notice issued to the petitioner, as the process of consultation mandated in the Master Circular No. 1053/ 02/ 2017-CX dated 10 March, 2017 prior to the

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issuance of show cause notice, was not adhered to in the assessee's case. The said Circular mandates a pre-show cause notice consultation with an assessee by a Principal Commissioner/ Commissioner, in cases involving duty demands of above INR 5 million.

Writ Petition No. 17296 of 2018 (Karnataka HC)

The Karnataka HC condoned a delay of 152 days in filing the appeal before Commissioner (Appeals) involving CENVAT credit eligibility, where the departmental communication never reached the accounts department of the petitioner, as substantial justice should prevail over non-deliberate delay.

CEAC 12/2016, C.M. APPL. 37207/2016 and others (Delhi HC)

The Delhi HC allowed CENVAT credit on pre-fabricated towers, shelters and accessories to telecom operators and tower companies.

Writ Petition No. 9482 of 2017 (Telengana and Andhra Pradesh HC)

A writ was maintainable against the order-in-original where statutory appeal was time-barred by observing, inter alia, that the power of judicial review under Article 226 could not be diluted or shut out by applying statutory prohibitions and restrictions.

Appeal Nos. E/Misc Nos. 40286 to 40292/2018 and E/41620 to 41626/2017 (Chennai CESTAT)

The Chennai bench of the Tribunal reiterated that CENVAT Credit of BED can be utilised for payment of EC and SHEC, as they are duties of excise and rule 3(4) clearly states that CENVAT Credit availed under Rule 3(1) can be utilised for payment of any duty of excise on any final product.

Appeal No. E/85322/2018 (Mumbai CESTAT)

CSR can be considered as input service

since included within the definition of “activities relating to business” and allowed CENVAT credit.

Appeals No. E/20420/2015 (Bangalore CESTAT)

“Outdoor catering service” is not eligible for input service credit, post the amendment dated 1 April, 2011.

Appeal No. E/42618/2017 (Chennai CESTAT)

The Chennai bench of the Tribunal observed that the appellant is eligible for refund of the balance CENVAT credit when it ceases to be a manufacturer due to closure of factory.

Appeal No. E/186/08 (Mumbai CESTAT)

The assessee would not be debarred from the benefit of exemption of notification no. 3/ 2004-CX, merely because its name does not appear on the relevant certificate, as long as the link between the goods,

the appellant and use for the project is established.

VAT

Civil Appeal Nos. 10412-10413 of 2018 (SC)

SC upheld the validity of section 19(11) of the Tamil Nadu VAT Act, 2006, requiring a VAT dealer to claim ITC within 90 days from the date of purchase or before the end of the FY, whichever is later, by observing, inter alia, that input credit is in the nature of benefit/ concession and can only be availed in accordance with the scheme.

SLP (Civil) No. 20572/2018 (SC)

SC dismissed the SLP of the Revenue against the order of the HC, which held that the assessee is entitled to “C” Form in respect of natural gas purchased on inter-State basis from oil companies in Gujarat and used for electricity generation

Indirect Tax

in power plants in Haryana post GST implementation.

SLP (Civil) No. 36750/2017 (SC)

SC refused to interfere with the Delhi HC order, holding that section 9(2)(g) of the Delhi VAT Act, 2004 to the extent it disallows ITC due to default of selling dealer in depositing tax, as violative of Articles 14 and 19(1)(g) of the Constitution of India, 1950.

Civil Appeal Nos. 357-367 of 2018 (SC)

A dealer can claim deduction of trade discount while computing taxable turnover, which in turn, is net of deductions. The deduction of quantity discount pertaining to sales made earlier and reduced from the current invoice is allowed.

Sales/ Trade Tax Revision No. 479 of 2017 (Allahabad HC)

VAT is not leviable on mobile phone chargers sold in composite retail packages

along with mobile phones under UP VAT. The HC distinguished the SC's decision in the case of Nokia India.

Writ Petition (T) No. 83 of 2018 (Chattisgarh HC)

The Chattisgarh HC allowed the issuance of Form C for inter-State purchase of high-speed diesel to be used in the manufacture of cement, after the promulgation of the CGST/ SGST Act, 2017. It rejected the Revenue's contention that the assessee could not be allowed to use Form C, as it had not availed the facility before by observing, inter alia, that neither the CGST Act, 2017 nor the CST Act, 1956 disallows the availment of such facility on said ground. Furthermore, no provision under the CGST Act, 2017 bars holding of registration under any other Act.

O.T. (Revenue) No. 104 of 2015 (Kerala HC)

There can be no ITC claim by buyer and

the State is under no obligation to grant the same where the selling dealer does not pay tax to the State Government.

Writ Petition Nos. 43440 and 43441 of 2016 and Ors. (Madras HC)

The Madras HC upheld the disallowance of ITC claimed on capital goods when such claim was made after the time stipulated under the Tamil Nadu VAT Act, 2006 and rejected the contention that the time limit for claiming credit does not apply to capital goods covered by a different provision.

Writ Appeal No. 843 of 2018 (Bangalore HC)

The assessee, who organised the event "Bangalore Fashion Week," is liable to pay entertainment tax on amount received as "payment for admission," as the definition of the term "entertainment" was of wide import, covering all kinds of amusement, exhibition, performance, pageant, whether

held indoors or outdoors.

Writ Petition No. 26130 of 2018 (Madras HC)

Fixing the date of hearing on a public holiday amounts to violation of principles of natural justice in not affording a personal hearing to the assessee. The HC remanded the matter for fresh adjudication.

Writ Petition (MD) No. 1602 of 2010 (Madras HC)

The Madras HC observed that to reopen the assessment, the assessing officer should independently record his view on reopening, and the assessment cannot be reopened on the opinion of the audit party alone.

Service Tax

Civil Appeal No. 2013 of 2014 (SC)

No service tax was leviable on reimbursable expenditure or cost incurred

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by the service provider prior to 14 May, 2015 as the same goes beyond the mandate of section 67 of the Finance Act, 1994.

Civil Appeal Nos. 1335-1358 of 2015 and Ors. (SC)

The SC affirmed the decision of the larger Delhi bench of the Tribunal, where it was held that value of goods and materials supplied free of cost by a service recipient would be outside the taxable value, as neither monetary nor non-monetary consideration is paid or flowing from the service recipient.

W.P (Civil) No. 7837/ 2016 (Delhi HC)

The Delhi HC dismissed the writ petition filed, seeking to quash Notification No. 22/ 2015-CE (NT), as being violative of Articles 14, 19(1), 265 and 300A of the Constitution of India, 1950. It held that credit of EC and SHEC cannot be cross-utilised against

payment of service tax/ excise duty once the same have been abolished.

Central Excise Appeal No. 289 of 2016 (Mumbai HC)

No service tax shall be payable under the category of “Management, Maintenance or Repair services” on one-time maintenance charges collected from flat buyers at the time of the construction of the property, as it is not a service, as understood by section 65(64) of the Finance Act, 1994.

Writ Petition (C) No. 2059/2018 (Guwahati HC)

Although Chapter V of the Finance Act, 1994 stood omitted under section 173 of the CGST Act, 2017, the savings clause provided under section 174(2) (e) of the CGST Act, 2017 will enable the continuation of the investigation, enquiry, verification etc., which were made/ to be made under Chapter V of the Finance Act of 1994.

Central Excise Appeal No. 192 of 2017 (Mumbai HC)

Confirmation of the demand would not ipso facto lead to penalty and section 80 of the Finance Act, 1994, provided for non-imposition of penalty if there is reasonable cause.

C.M.A. No. 601 of 2018 (Madras HC)

When service tax is paid by mistake, a claim for refund cannot be barred by limitation merely because the period of limitation under section 11B had expired.

SERTA 13 of 2018 (Delhi HC)

When service tax was paid on an activity under a mistaken notion, which was later clarified by the CBEC to be a non-taxable activity, the refund cannot be denied on the ground of limitation, as at the relevant time service tax was not payable for any of the functions or work undertaken or performed by the appellant and the general principle of limitation will be

applicable from the date of discovery of mistaken payment.

Writ Petition No. 10085 of 2018 (Bombay HC)

Bombay HC quashed notices issued to attach the assessee’s bank account to recover service tax dues, as there was no adjudication of the show cause notice issued to the assessee and invocation of section 87 of the Finance Act, 1994, is pre-mature at this stage.

Service Tax Appeal No. ST/55433/2013 (Delhi CESTAT)

The time limit prescribed in section 11B of the Central Excise Act, 1944 is strictly applicable for entertaining the refund application, even where ST is paid erroneously due to incorrect interpretation of statutory provisions or notifications.

Service Tax Appeal No. ST/58886/2013

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[SM] (Delhi CESTAT)

Appellant can raise a question of facts as well as the point of limitation before the Commissioner (Appeals), even if not raised before the adjudicating authority.

Service Tax Appeal No. ST/51506/2017 [SM] (Delhi CESTAT)

CENVAT Credit of central excise paid on office furniture, racks, chairs, etc., fitted in the outlets of the appellant shall be available, as the appellant provides its taxable services from such premises.

Service Tax Appeal No. ST/443/2009-CU [DB] (Delhi CESTAT)

Assessee shall be eligible for abatement under Notification No.1/ 2006-ST, although it initially availed CENVAT credit, as it subsequently reversed the credit it availed and the same would be tantamount to non-availment of credit.

Service Tax Appeal No. ST/52575/2014-CU [DB] (Delhi CESTAT)

There is no service tax liability on the consideration paid as reimbursement charges to the JV partner for providing bank guarantee for capital protection in terms of the JV agreement, as the parties jointly promoted their business and in pursuance of such intention made the capital protection arrangement and the payments are towards such arrangements. The Tribunal reasoned that there is no third party involved and no relationship of service provider and service recipient, as the activity is for the joint benefit of parties in the JV.

Service Tax Appeal No. ST/20705/2016 (Bangalore CESTAT)

The relevant date for purposes of deciding the time limit for consideration of refund claims under Rule 5 of the CCR may be taken as the end of quarter in which the FIRC is received in cases where the refund

claims are filed on a quarterly basis.

ST/50177, 50292, 50554-50556/2014 – ST [DB] (Delhi CESTAT)

Advising foreign clients on investments in Indian real-estate companies constitutes export of service. The Tribunal allowed refund claims of unutilised credit of input services and rejected the Revenue's stand that such services qualify as "real estate advisory services," which were consumed within India and do not qualify as export of services.

Appeal No. ST/1822/2011-SM (CESTAT Delhi)

The Central Government cannot issue the notification under a different statute, i.e., the Finance Act, 1994 in providing the conditions for grant of refund of service tax paid on the taxable services used for authorised operations in the SEZ, when the SEZ Act and the rules have not provided any conditions for granting

exemption from payment of service tax in that case.

Appeal No. ST/86872/2018 (Mumbai CESTAT)

The procedure of retaining the service charge/ commission amount and only remitting the remaining portion of the proceeds in foreign exchange should be treated as saving of foreign exchange, and by implication, it is akin to receipt of monies in convertible foreign exchange.

GST

Civil Appeal Nos. 10177 and 10179 of 2018 (SC)

The SC upheld the constitutional validity of the Goods and Services (Compensation to States) Act, 2017, and held that the petitioner is not entitled for any set-off of payments made towards Clean Energy Cess for payment of Compensation Cess.

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Writ Petition No. 12194 of 2017 (Bombay HC)

Leasing of land for town development constitutes “supply of service” and a one-time premium charged from members for letting of plots of land shall be liable to tax.

Writ Petition No. 16984 of 2018 (Madras HC)

The Madras HC set aside an order issued by the Assistant Commissioner directing the petitioner to reverse transitional credit availed under section 140 of the CGST Act, 2017 as upon perusal, it is clear that the impugned order is not in the nature of a show cause notice, but a demand order by itself, in complete violation of the principles of natural justice.

R/Special Civil Application Nos. 18433 and 20185 of 2017 (Gujarat HC)

The Gujarat HC held that Clause (iv) to

section 140(3) of the CGST Act, 2017 to be unconstitutional, as no just, reasonable or plausible reason is shown for such retrospective provision, taking away the vested right of taking CENVAT credit in respect of invoices older than a year. However, the HC stayed the operation of the decision until 31 October, 2018 at the request of the Revenue.

R/Special Civil Application No. 4252 of 2018 (Gujarat HC)

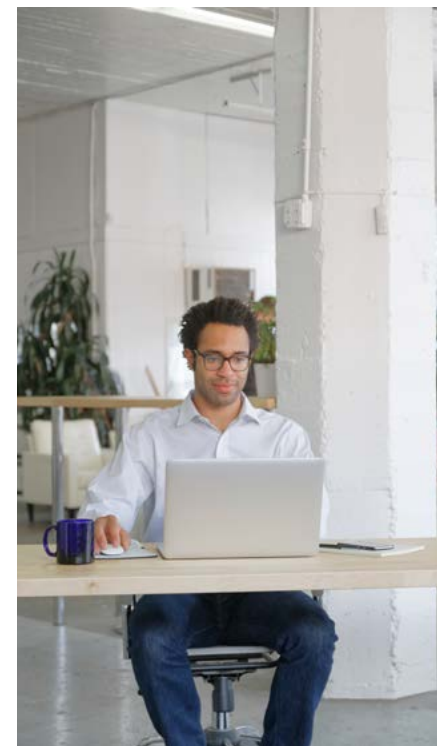
The Gujarat HC upheld the constitutionality of rule 117(1) of the CGST Rules, 2017, as (i) when the entire tax structure of the country is being shifted from the earlier framework to a new one, there has to be a degree of finality on the claims; (ii) Prescription of time limit (27 December, 2017) within which credit should be carried forward cannot be held to be unreasonable or arbitrary.

Writ Petition (Civil) No. 366 of 2018 (Guwahati HC)

The Guwahati HC set aside the validity of a commissioner circular dated 5 September, 2017 declaring that dealers making inter-state purchases of diesel and petrol for manufacture of goods other than the six specified goods cease to be dealers under the Central Sales Tax Act, 1956 by observing, inter alia, that i) the date of levy of tax on such goods under is not notified under the GST and ii) there is no provision in the Assam VAT Act, 2003, stating that no tax is payable on such goods when purchased by manufacturers of goods other than the six specified goods.

R/Special Civil Application No. 22056 of 2017 (Gujarat HC)

The transition provisions in GST, not allowing the transitional credit of duty paid



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on capital goods in transit on 30 June, 2017 are not unconstitutional.

Writ Petition No. 12399 of 2018 (Madhya Pradesh HC)

The Madhya Pradesh HC upheld a penalty equal to the tax payable on the goods (increased to the value of goods, if their owner was not present), as the petitioner did not fill in the details of the conveyance in part B of the e-way bill.

Appeal No. MAH/AAAR/01/2018-19 against Advance Ruling No. GST-ARA-05/2017/B-04 (Maharashtra AAAR)

Under the GST regime, the scope of job work appears to be wider and job work may or may not involve manufacturing. The processing undertaken by a person on the goods belonging to another registered person qualifies as job work, even if it amounts to manufacture, provided it meets all the requirements under the CGST Act, 2017. However, the

activity undertaken by the appellant to convert coal, to be supplied by its client, into electricity, is not covered under the definition of job work in terms of the CGST Act, 2017. Since goods supplied by the client will be utilised by the appellant in manufacturing new commodities, i.e., electricity, the process is that of manufacture and will be considered as supply of goods and not service.

Appeal No. MAH/GST-AAAR-09/2018-19 against AAR Ruling No. GST-ARA-15/2017-18/B-30 (Maharashtra AAAR)

Liquidated damages for delay in completion of the project is an act of tolerance and will be subject to GST.

Appeal No. MAH/AAAR/06/2018-19 against Advance Ruling No. GST-ARAA 18/2017/B-25 (Maharashtra AAAR)

The accumulated KKC credit as on 30 June, 2017, should not be allowed to be transitioned as ITC.

Appeal No. MAH/GST-AAAR-12/2018-19 against Advance Ruling No. ARA-22/2017-18/B-29 (Maharashtra AAAR)

The services of the appellant of supplying food to the employees of the unit located in a SEZ is not covered under zero-rated supplies, and it is not in the nature of restaurant services.

Appeal Case No. 01/WBAAAR/ Appeal/2018 (West Bengal AAAR)

The activity of promoting the courses of Foreign Universities in India among prospective students does not amount to export of services and is liable to tax.

Appeal No. MAH/AAAR/03/2018-19 against Advance Ruling No. GST-ARA-01/2017/B-01 (Maharashtra AAAR)

The Maharashtra AAAR held that the contract for construction of solar power generating system, wherein both goods and services are supplied, is a works contract by observing, inter alia, that the

agreement in question leads to an erection of “solar power generating system,” which is an immovable property.

Appeal No. MAH/AAAR/02/2018-19 against Advance Ruling No. GST-ARA-03/2017/B-03 (Maharashtra AAAR)

The Maharashtra AAAR held that on the basis of the agreements produced, the impugned transaction is for setting up and operating a solar photovoltaic plant, which is in the nature of a “works contract” in terms of clause (119) of section 2 of the GST Act, 2017. Hence, it should be taxable at the rate of 18%, even in case of two different agreements for supply of goods and services.

Appeal No. MAH/GST-AAAR-11/2018-19 against Advance Ruling No. GST-ARA-18/2017-18/B-26 (Maharashtra AAAR)

Marine consultancy services provided by the appellant to foreign ship owners qualify as composite supply of intermediary services.

Indirect Tax

Order No. 03/WBAAR/2017-18 (West Bengal AAR)

The supply of UPS and battery under a single contract at a combined single price is liable to GST as “mixed supply” under section 2(74) of the CGST/WB GST Act. This is because a standalone UPS and a battery can be separately supplied in a retail set up and a person can purchase a standalone UPS and battery from different vendors.

Order No. 01/WBAAR/2017-18 (West Bengal AAR)

The applicant is not liable to be registered under GST if he is not otherwise liable to pay tax under reverse charge under section 9(3) of the GST Act, 2017 as the applicant, a non-profit organisation, is engaged exclusively in supplying goods and services wholly exempt from tax.

Order No. CT/2275/18-C3 (Kerala AAR)

The applicant is not liable to pay GST on the sale of goods procured from China and directly supplied to USA and on the sale of goods stored in warehouse in Netherlands after procuring from China to customers in and around Netherlands, as the said goods are not imported into India at any point.

AAR No. 1/DAAR/2018 (Delhi AAR)

The supply of goods to international passengers going abroad, from its retail outlet situated in the Security Hold Area of the Terminal-3 of the IGI Airport, may be taking place beyond the customs frontiers of India, but since the applicant’s outlet is not outside India (and within the territory of India), the applicant is not taking goods out of India. Therefore, their supply cannot be termed “export” under the GST law.

Order No. CT/531118-C3 (Kerala AAR)

The recovery of food expenses from the employees for canteen services provided

by a company is an “outward supply,” and hence, taxable under GST law.

AAR Ruling No. RAJ/AAR/2018-19/05 (Rajasthan AAR)

The reimbursement of expenses and salary paid by the foreign company to the Indian liaison office will not attract GST if the latter does not render any services directly or indirectly, with or without any consideration, and does not have significant commitment powers, except those required for normal functioning on behalf of the head office.

Order No. GST-ARA-27/2017-18/B-36 (Maharashtra AAR)

The Maharashtra AAR held that i) no IGST is payable where the applicant purchases goods from an overseas related party and the sells them to customers while the goods are in transit and before they are entered for customs clearance in India;

and ii) ITC to the extent of inputs, input services and common input services used for the above transaction will have to be reversed.

AAR No. KER/16/2018 (Kerala AAR)

The supply of medicines and allied items provided by a hospital through its pharmacy to in-patients is a part of the composite supply of healthcare treatment services, and hence, not separately taxable.

Application No. GST-ARA-22/2018-19/B-85 (Maharashtra AAR)

Penal interest for delay in repayment of EMI attracts GST.

Application No. GST-ARA-03/2018-19/B-59 (Maharashtra AAR)

Services of back-office documentation, administrative support and payroll-processing to an overseas client do not

Indirect Tax

amount to zero-rated supply.

GST AAR Order No. 4 of 2018 (UP AAR)

The supply of comprehensive annual maintenance service, which may also involve the incidental supply of spare parts/ goods, should be classified as a composite supply of services.

AAR Ruling No. HAR/HAAR/R/2018-19/03 (Haryana AAR)

Royalty/ dead rent payable to the Government by the applicant is consideration against the transfer of right to use minerals, including its exploration and evaluation, as per the lease granted by the Government to the applicant and attracts the same rate of tax as on supply of like goods, which involve the transfer of title in goods.

Advance Ruling No. KAR ADRG 15/2018 (Karnataka AAR)

There cannot be said to be any employer-

employee relationship between (i) employees in the corporate office (ii) other offices, which are distinct persons. Accordingly, the activities of employees at the corporate office in the course of or in relation to employment, such as accounting, other administrative and IT system maintenance for the units/offices located in the other states, i.e., distinct persons, would be treated as supply, as per Entry 2 of Schedule I of the CGST Act, 2017.

Circulars, Notifications and others

Customs, SEZ and FTP

Circular No. 49/2017-Customs, dated 12 December, 2017

The CBEC clarified that countervailing duty leviable under section 9 of the Customs Tariff Act, 1975 is rebatable as drawback in terms of section 75 of the Customs Act, 1962. The drawback

shall be admissible only where the inputs that suffered countervailing duties were actually used in the goods exported, as confirmed by the verification conducted to fix the brand rate.

Notification No. 29/2018-Customs (N.T.), dated 2 April, 2018

CBIC has notified the Pre-notice Consultation Regulations, 2018 which prescribe the procedure to be followed by the proper officer in relation to consultation (through written communication) with the person to whom the notice is proposed to be issued.

Notification No. 41/2015-20, dated 5 December, 2017

Restriction on EOUs to undertake domestic sales up to 50% of FOB value of exports dispensed with.

Public Notice No. 43/2015-20, dated 5 December, 2017

Mid-term review of the Foreign Trade Policy and Handbook of procedures of the Foreign Trade Policy, 2015-2020 was released by the government on 5 December 2017.

Notification No. 73/2018-Customs (N.T.) dated 7 August, 2018

Customs (Finalisation of Provisional Assessment) Regulations, 2018 has been notified. Now, provisional assessments will be finalised within two months from the receipt of requisite information or completion of investigation.

Notification Nos. 7/8/9/10/11/12/13/2018-Customs dated 2 February, 2018

SEZ Amendment Rules, 2018 has been notified on 19 September, 2018.

EC and SHEC replaced with Social Welfare Surcharge, to be levied on aggregate of customs duties, except IGST and GST Compensation cess, in addition to other duties.

Indirect Tax

GST

Notification No. 1/2018-Central Tax dated 1 January, 2018

The rate of tax for manufacturers opting for composition scheme has been reduced to 1% of the turnover, from 2%. Further, the turnover on which the composition amount is payable by traders has been amended from the entire turnover in a State to the turnover of taxable supply of goods.

Notification No. 4/2018-Central Tax (Rate) dated 25 January, 2018

Tax liability in case of grant of development rights in lieu of construction service (wholly or partly) and construction services provided in lieu of transfer of development rights will be payable only at the time of transfer of possession or right in the constructed complex, building or civil structure to the person granting development rights by entering

a conveyance deed or issue of allotment letter, etc.

Notification No. 8/2018-Central Tax (Rate) dated 25 January, 2018

Notification No. 1/2018-Compensation Cess (Rate) dated 25 January, 2018

GST has been partly exempted and compensation cess has been fully exempted on sale of second-hand motor vehicles, subject to fulfilment of specified conditions.

Notification No. 6/2018-Integrated Tax (Rate) dated 25 January, 2018

IGST has been exempted under the IGST Act, 2017 on the royalties and license fees included in the valuation of imported goods to the extent of payment of IGST under section 3(7) of the Customs Tariff Act, 1975.

Circular No. 40/14/2018-GST dated 6 April, 2018

CBIC has clarified that no document needs to be submitted to the jurisdictional officer for acceptance of LUT. The LUT shall be deemed to be accepted as soon as the acknowledgement-bearing ARN is generated. If the exporter is later found to be ineligible to submit LUT, the LUT shall be rejected ab-initio.

Circular No. 42/16/2018-GST dated 13 April, 2018

CBIC has prescribed a procedure for recovery of arrears of excise duty, service tax and CENVAT credit arising out of proceedings under existing law as follows:

- CENVAT credit wrongly carried forward as transitional credit and related interest, penalty and late fee will be recovered as central tax liability (CGST).
- The arrears of central excise duty, service tax or wrongly availed CENVAT credit and related interest, penalty and

late fee will be recovered as CGST, unless recovered under the Central Excise Act, 1944 etc.

- A registered person may file central excise/ service tax return for period prior to July 2017 by logging onto the ACES website and make payment of tax liability through the ICEGATE portal.
- Arrears from the assessee not registered under the CGST Act, 2017 will be recovered in cash.

Circular No. 3/1/2018-IGST dated 25 May, 2018

IGST on supply of goods stored in CBW would be levied only when the warehoused goods are cleared for home consumption and not on the supply of such goods from the CBW prior to its clearance. The circular is applicable for supply of warehoused goods on or after 1 April, 2018.

Indirect Tax

Notification No. 50/2018 – Central Tax dated 13 September, 2018

Provisions of section 51 of the CGST Act, 2017 relating to TDS, are made effective from 1 October, 2018 for the specified class of persons.

Notification No. 51/2018 – Central Tax dated 13 September, 2018

Provisions of section 52 of the CGST Act, 2017, relating to tax collected at source by e-commerce operators are made effective from 1 October, 2018.

Notification No. 52/2018 – Central Tax, Notification No. 2/ 2018 – Integrated Tax dated 20 September, 2018

Notification No. 13/2018 - Union Territory Tax dated 20 September, 2018

Government notifies tax collected at source rate of 1% under section 52 of the CGST Act, 2017 for electronic commerce

operators.

Circular No. 72/46/2018-GST dated 26 October, 2018

CBIC has clarified the procedure for return of expired medicines.

Amendments to GST laws have been approved by both houses of the Parliament and the President. However, as on 30 November, 2018 the effective date of the amendments has not been notified.

The Government of Haryana has issued guidelines regarding the circumstances in which ITC can be blocked/ unblocked from the electronic credit ledger vide Circular Memo No. 3555/ GST-2, dated 30 October, 2018.

Excise

Circular No. 1065/4/2018-CX dated 8 June, 2018

CBIC has issued guidance on determination of place of removal under section 4 of the Central Excise Act, 1944 and CENVAT Credit Rules, 2004 and 2017. As laid down in the judgment of Ispat Industries, the “place of removal” is required to be determined with reference to the “point of sale,” with the condition that the place of removal (premises) is

with reference to the premises of the manufacturer. However, this principle has exception in case of sale on FOR basis and clearances for export of goods by manufacturers. Further, CENVAT credit on Goods Transport Agency service availed for the transport of goods from the place of removal to the buyer’s premises was not admissible from April 2008.



Regulatory

Circulars, notifications and others

Director's KYC

KYC norms for Directors -Mandatory reporting in e-form DIR-3-KYC

MCA Notification dated 5 July, 2018

In order to update its registry, the MCA vide the Companies (Appointment and Qualification of Directors) Fourth Amendment Rules, 2018 introduced mandatory filing of new e-form DIR-3-KYC on an annual basis. The notification came into effect from 10 July, 2018 and the e-form is available on the MCA portal for filing.

Purpose

To update its registry, the MCA conducted KYCs of all directors of all companies annually through a new e-form, DIR-3-KYC.

Applicability

- Every director (Indian and Foreigner) with an allotted DIN as on 31 March of a FY.
- Individual who had been allotted a DIN and whose DIN had "approved" status on or before 31 March, 2018.

Note: Filing DIR-3-KYC was mandatory for disqualified directors as well.

Due date

- 30 April of the immediate FY.
- 31 August, 2018 in case of FY ended 31 March, 2018.

Consequences of non-filing

After the expiry of the due date to file the KYC form, the MCA will mark all approved DINs against which the DIR-3 KYC form has not been filed as "Deactivated" with reason as "Non-filing of DIR-3 KYC." The DINs shall be re-activated only after filing e-form DIR-3-KYC with the specified fee.

Other key points

It is pertinent to note that for Indian directors, the verification process is income-tax PAN-based, as the name is verified with the PAN database.

In case of foreign nationals who do not have an income-tax PAN, for successful validation, the name mentioned on the form must be same as that mentioned in the affixed DSC.

Data protection

Data Protection Regulations, 2018 - Key highlights

PIB Press Release dated 27 July, 2018

The committee of experts under the chairmanship of Justice BN Srikrishna, submitted its Report titled "A Free and Fair Digital Economy – Protecting Privacy, Empowering Indians (Report), to the Ministry of Electronics and Information Technology (Ministry) along with a draft Personal Data Protection Bill, 2018 (Bill) on 27 July, 2018

The Report and the Bill aims to bring about a regulatory framework for data protection by granting autonomy to individuals in relation to their personal data to specify the extent of usage of personal data and its processing and to create obligations for implementing organisational and technical measures in processing and protecting such data. In this regard, an independent authority – the DPA – is proposed to be set up for creating an eco-system for responsible data handling.

Applicability

- Applicable to the Government and private sector.
- Personal data collected, disclosed, shared or otherwise processed within the territory in India.
- Foreign entities, processing personal data in connection with any business carried on in India or involving the profiling of Indian individuals within India.

Regulatory

The Report and Bill have presently been submitted to the Ministry. As the next step, the Bill will be tabled in Parliament before it's sent for Cabinet approval.

It is expected that the Bill, once passed, will be implemented in a phased manner with the constitution of the DPA being the first step as this will be important to put in place the promulgation and implementation of codes of practices and other necessary rules, regulations and procedures.

The Bill introduces an overarching law on data privacy. However, specific sectoral norms/ laws, if issued by sectoral regulators for compliance, would also need to be aligned to the Bill as the Bill envisages precedence over other sectoral laws in case of conflict. For example, TRAI has recently released their recommendations for a data protection framework in the telecom sector. Similarly, the Ministry of Health and Family Welfare

has issued guidelines regarding the protection of digital health data.

In addition, the promulgation of data protection would need to be complemented by amendment of several other laws. For example, Right to Information Act, 2005, Indian Telegraph Act, 1885, Information Technology Act, 2000, etc.

In addition, mirroring of data in India shall entail significant investments in setting up data centres. Based on newspaper reports relating to the upcoming e-commerce framework, it seems that the Government will incentivise the creation of data centres by giving them the status of “infrastructure” and possibly some tax exemptions. This would be an interesting space to watch.

Foreign investment

Single Master Form – Reporting of foreign investment in India

Reserve Bank of India Circular No. RBI/2017-18/194

The RBI had announced in its first bi-monthly monetary policy review dated 5 April, 2018 that it would introduce a SMF to consolidate the extant reporting of various types of foreign investment in India in a single form. The RBI issued a circular dated 7 June, 2018 in relation to the SMF.

The circular covers the following primary aspects:

EMF

Indian entities not complying with this prerequisite would be unable to receive foreign investment (including indirect foreign investment) and will be considered non-compliant under FEMA, 1999.

SMF

- The SMF subsumes the existing forms for reporting under Forms FCGPR,

FC-TRS, Form LLP-I & II, Form ESOP, Form CN, Form DR.

- Reporting of downstream investment (indirect foreign investment) in a company or LLP within 30 days from date of allotment.
- Reporting of investment in an investment vehicle, including REIT, InvIT and AIFs within 30 days from the issue of the units.

Beneficial interest

Companies (Significant Beneficial Owners) Rules, 2018

MCA Notification dated 13 June, 2018

As per these provisions, every individual holding SBO in the company is required to disclose the same to the company, and the company in turn is required to report it to the RoC.

“SBO is defined as “an individual referred to in this section (holding

Regulatory

ultimate beneficial interest of not less than 10 percent) read with definition of beneficial ownership under section 89, but whose name is not entered in the register of members of a company as the holder of such shares, and the term SBO shall be construed accordingly;

Under these provisions, a natural person holding beneficial interest, directly or indirectly, of more than 10% is required to disclose it to the company, and the company is required to file it with the RoC. Accordingly, this requirement has far-reaching impact, as the identification of a natural person holding the SBO would involve significant analysis of the family tree/ holding structures coupled with relevant questions raised to identify the SBO.

Re-categorisation of offence

Report of the committee to review offences under the Companies Act, 2013

MCA Report dated 28 August, 2018

The MCA constituted a 10-member committee to review offences under the CA Act to decriminalise certain offences and bring them within the ambit of an in-house mechanism for levy of penalty. The terms of reference of the committee were as follows:

- Examine acts that can be decriminalised;
- Examine any non-compoundable offences that can be re-categorised as compoundable offences;
- Examine the existing mechanism of levy of penalty and recommend improvements thereon;
- Provide recommendations to put in place an in-house adjudication mechanism;
- Formulate draft changes required to be made in the law.

The committee submitted its report titled, “Report of the committee to review offences under the Companies Act, 2013” (Report) to the MCA on 27 August, 2018.

The key highlights of the recommendations were as follows:

Restructuring of corporate offences:

Re-categorisation of 16 out of the 81 compoundable offences by shifting them from the jurisdiction of special courts to an in-house e-adjudication framework, among other changes.

De-clogging the NCLT: Suitable amendments to enlarge the jurisdiction of the RD with enhanced pecuniary limits for compounding of offences and vesting power to approve alterations in the FY of a company and conversion of public companies into private companies in the Central Government.

Other recommendations related to corporate compliance and corporate governance-

- Re-introduction of the declaration of commencement of business provision in order to curb “shell companies”.
- Non-maintenance of a registered office to trigger de-registration process.
- Protection of depositors’ interests by greater disclosures with regard to public deposits.
- Huge reduction in time-limit for filing documents relating to the creation, modification, and satisfaction of charges and stringent penal provisions for non-reporting.
- Imposition of cap on independent director’s remuneration, in terms of percentage of income, to prevent any material pecuniary relationship.
- Holding directorships beyond permissible limits to trigger disqualification of such directors.

Regulatory

- Once a company attracts restrictions under section 90(7) of the CA Act relating to significant beneficial ownership, in respect of shares whose ownership remains undetermined, such shares should be transferred to the IEPF if the rightful owner does not claim ownership within a year of such restrictions.

The Companies (Amendment) Ordinance, 2018

Press Release dated 2 November 2018

The Companies (Amendment) Ordinance, 2018 received the President of India's assent, bringing into force further amendments to certain provisions of the CA Act with effect from 2 November, 2018. The Ordinance promulgated is based on the recommendations made by the Committee appointed by the Government to review offences under the Act.

The twin objectives of the Ordinance are the promotion of Ease of Doing Business along with better corporate compliance. The key aims of the amendments are as follows:

- Re-categorisation of certain offences, which are in the category of compoundable offences to an in-house adjudication framework, wherein defaults would be subject to the penalty levied by an adjudicating officer.
- Instituting a transparent and technology driven in-house adjudication mechanism on an online platform and publication of the orders on the website.
 - Re-introduction of commencement of business declaration.
 - Physical verification of registered office.

- Compliance with registration of charges.
- SBO disclosure.
- Re-categorisation of certain offences.

- De-clogging the NCLT by introducing certain amendments and enhancing the role of the RD.

- Offences with maximum amount of fine up to INR 2.5 million to be compounded by the RD.
- The Central Government to approve the change of FY and conversion of a company from public to private.
- Pending applications with NCLT submitted prior to 2 November, 2018 for above to be dealt by the NCLT.

- Tackling the larger issue of “shell companies,” enhancing accountability

with respect to filing documents related to charges, non-maintenance of registered office, etc.

Dematerialisation of securities

Dematerialisation of securities: unlisted public companies

MCA Notification dated 10 September, 2018

The MCA in its drive to enhance transparency, investor protection and corporate governance notified Companies (Prospectus and Allotment of Securities) Third Amendment Rules, 2018 on 10 September, 2018 effective from 2 October, 2018. In accordance with the aforesaid rules, unlisted public companies need to dematerialise its existing securities and ensure that further issue of securities and transfers are only in dematerialised form. This will ease the transfer and pledge of securities.

List of Tax Insights

Tax Insights			
Sl. No.	Date	Particulars	Ruling/Notification/Circular
1	9 January 2018	IRDAI issues draft IRDAI (Reinsurance) Regulations, 2018	
2	9 January 2018	SEBI amends circular on Scheme of Arrangement by listed companies	CFD/DIL3/CIR/2018/2 dated 3 January, 2018
3	10 January 2018	Parliamentary Standing Committee on Commerce studies impact of GST on exports and makes key recommendations to the GST Council	
4	11 January 2018	Recent Regulatory Updates	
5	12 January 2018	Tribunal rules on the impact of an 'omission of a provision' on the ongoing proceedings	ITA No. 1722/Bang/2017
6	16 January 2018	FATCA update: Relaxation to reporting financial institutions from obtaining US TIN Number for pre-existing accounts	CBDT Press Release on 15 January 2018
7	17 January 2018	Amount allocated as bonus to policyholders and amount appropriated as funds for future appropriation do not form part of actuarial surplus that is chargeable to tax	ITA No. 142/Del/2017 dated 5 January 2018
8	17 January 2018	Tribunal deletes entire TP adjustment of payment of management cross charge and accepts foreign AE as tested party	ITA Nos. 2182/Pun/2013 & 211/Pune/2015
9	18 January 2018	Amendment to the Authorised Economic Operator Programme	CBEC Circular No. 3/2018-Cus dated 17 January 2018
10	18 January 2018	Reimbursement to parent company on cost-to-cost basis not taxable	ITA Nos. 2935 & 2937/Del/2013
11	19 January 2018	GST Council rationalises GST rates on a wide ambit of goods and services in different sectors and recommends issuance of clarifications on rates and taxability	
12	23 January 2018	Capital gains on indirect transfer of shares by non-resident not taxable in India since it did not meet the criteria of 'substantial value' as per the Act; Tax treaty benefit available	AAR No. 1232 of 2012
13	25 January 2018	Permanence test to be linked to nature and requirements of the business for constitution of a PE	AAR No. 1330 of 2012

List of Tax Insights

Sl. No.	Date	Particulars	Ruling/Notification/Circular
14	25 January 2018	Income from provision of cementing services and construction of mineral oil and gas wells is taxable under section 44BB of the Act	ITA Nos. 732/JP/2015 & 2/JP/2017
15	29 January 2018	Jaipur Tribunal applies percentage completion method for recognising revenue on advances received by developers	ITA No. 105/JP/2017
16	30 January 2018	The Indian perspective on US tax reform legislation	http://docs.house.gov/billsthisweek/20171218/CRPT-115HRPT-466.pdf
17	31 January 2018	E-way bill - basic provisions	
18	31 January 2018	Recommended FAQs on the three-tiered TP documentation requirements	
19	1 February 2018	The Government defers compulsory implementation of e-way bill provisions	
20	5 February 2018	Tribunal holds that depreciation cannot be claimed on non-competes as it is not an intangible asset	ITA No. 1801/Del/2011
21	5 February 2018	CBDT issues FAQs regarding taxation of Long Term Capital Gains proposed in Finance Bill 2018	CBDT Notification F. No. 370149/20/2018-TPL
21	6 February 2018	Supreme Court dismisses revenue's appeal in a batch of over 80 cases, holding that Rule 8D is prospective in operation	Civil Appeal No. 2165 of 2012 (SC)
22	9 February 2018	AAR rules on availability of relief under the tax treaty at withholding stage	AAR No. 1299 of 2012 ruling dated 29 January 2018
23	9 February 2018	Relaxation in NPA provisioning norms on MSME loans given by banks and Non-banking Financial Companies	RBI/2017-18/129 dated 7 February 2018
24	9 February 2018	Licensing of Indian Indices in foreign jurisdictions comes to an end	https://www.bseindia.com/markets/marketinfo/DispMediaReIs.aspx?page=5c0e0faa-040b-4cc6-a885-f76a178ae734

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Sl. No.	Date	Particulars	Ruling/Notification/Circular
25	10 February 2018	Tribunal holds that refuge under contractual format cannot be taken to avoid rigor of withholding tax, when nature of services suggest otherwise	ITA Nos. 192 to 196 & 235 to 239/Ahd/2015
26	12 February 2018	Trade discounts are permissible deductions from total turnover and cannot be disallowed as original tax invoice issued did not indicate discount	Civil Appeal Nos. 357-367 of 2018 (SC)
27	13 February 2018	Indian FRRO goes fully online – e-FRRO services launched	
28	14 February 2018	RBI notifies revised framework for resolution of stressed assets and withdrawal of existing resolution mechanisms	RBI/2017-18/131 dated 12 February 2018
29	16 February 2018	Erection and commissioning charges not taxable as FTS	ITA No.2347/Chy/2017
30	17 February 2018	Easing of Access Norms for investment by FPIs	SEBI Circular CIR/IMD/FPIC/26/2018
31	19 February 2018	Foreign companies to establish facts to claim treaty benefit	AAR Nos. 1129 of 2011 & 1128 of 2011
32	21 February 2018	Supreme Court holds that CENVAT credit of service tax paid on transport of goods from the place of removal to the buyer's premises not available after 01 April, 2008	Civil Appeal No. 11261 of 2016 (SC)
33	23 February 2018	CBDT's circular denying deduction on 'freebees' given to medical professionals by pharmaceutical companies is violation of MCI Regulations	ITA No. 1532/Pune/2015
34	26 February 2018	Reimbursement of lease line charges to AE not taxable as "royalty" under tax treaty; TPO's acceptance of nature of expense binding	ITA No. 826/Pune/2015
35	26 February 2018	Depreciation claimed under a State enactment ought not to be reduced while calculating WDV under a central enactment, especially when provisions of Central enactment are silent	ITA No. 29 of 2008 (Kerala HC)
36	1 March 2018	Date of agreement to sell, not date of sale deed, relevant for determining the period of holding, if all conditions prescribed for transfer are satisfied	ITA No. 680 & 681/JP/2017
37	5 March 2018	Referral fees received by an overseas branch of the taxpayer is not taxable in India	ITA No. 1247/Mum/2016

List of Tax Insights

Sl. No.	Date	Particulars	Ruling/Notification/Circular
38	5 March 2018	Penalty proceedings to be completed within six months upon receipt of Commissioner's (Appeal) order	ITA No. 799/2005 (Delhi HC)
39	7 March 2018	Notice served on authorised representative of taxpayer, deemed to be a valid service of notice	Civil Appeal No. 2262 of 2018 (SC)
40	7 March 2018	Larger bench of CESTAT holds that the due date for filing refund claims of unutilised CENVAT credit by the exporters under rule 5 of the CENVAT Credit rules is one year from the end of the quarter during which payment is received and not from the date of receipt of payment	Appeal No. ST/20705/2016 (CESTAT)
41	8 March 2018	Supreme Court holds that the value of free material given to a contractor is not includible in valuation of the taxable service	Civil Appeal Nos. 1335-1358 of 2015 (SC)
42	8 March 2018	Penalty not absolved in case of voluntary disclosure of additional income in a revised return filed after survey proceedings	ITA No. 219/2017 (Delhi HC)
43	8 March 2018	Tribunal holds that formative conditions for claiming deduction by SEZ units to be examined only in first year of claim	ITA No. 6794/Del/2017
44	8 March 2018	Government notifies a new set of GST E-Way Bill Rules and Forms, in addition to prescribing the due date for filing of GST TRAN-2 and late fees for delayed filing of GSTR-5A	
45	9 March 2018	Trading in commodity derivatives prior to insertion of clause (e) of proviso to section 43(5) to be regarded as speculative transaction	ITA No. 5179/Mum/2016
46	11 March 2018	GST Council temporarily extends the present system of filing of returns and export benefits for procurement of goods and recommends implementation of e-way bill scheme in a phased manner from 01 April 2018	
47	12 March 2018	Erection, installation, testing and commissioning charges not taxable as FTS	ITA No. 2922 to 2924/Del/2016
48	12 March 2018	Error/ mistake in addressing the notice in the name of erstwhile entity not a jurisdictional error but a procedural irregularity and is curable under section 292B	Writ Petition(Civil) 10870/2017 (Delhi HC)

List of Tax Insights

Sl. No.	Date	Particulars	Ruling/Notification/Circular
49	13 March 2018	Delhi High Court dismisses writ petition seeking utilisation of accumulated credit of education cesses after abolition of the said cesses	Writ Petition (Civil) No. 7837/2016 (Delhi HC)
50	13 March 2018	Discontinuance of LoUs and LoCs for Trade Credits	RBI/2017-18/139 dated 13 March 2018
51	14 March 2018	SC holds that no service tax is payable on reimbursable expenditure or cost incurred by the service provider before 14 May, 2015	Civil Appeal No. 2013 of 2014 (SC)
52	14 March 2018	SEBI issues Circular providing clarifications in respect of investment by certain Category II FPIs	CIR/IMD/FPIC/47/2018 dated 13 March 2018
53	16 March 2018	Share-sale to second step down 100% subsidiary not “transfer”	ITA No. 880/Kol/2014
54	16 March 2018	Marketing and business development services do not pass the test of ‘make available’	ITA No. 3511/Mum/2015
55	16 March 2018	Amendments to the Finance Bill, 2018 as passed by the Lok Sabha	
56	16 March 2018	Government issues clarifications to further ease the procedure for filing and sanction of export refunds	Circular No. 37/11/2018 - GST dated 15 March, 2018
57	19 March 2018	Issuing notice of demand and penalty along with draft assessment order revokes the requirement of law and is not a curable defect	ITA No. 467/Pune/2015
58	20 March 2018	Co-ownership of property to be determined from documents not intent; Tribunal rejects splitting of capital gains between husband and wife	ITA No. 2007/Bang/2016
59	21 March 2018	India signs Double Taxation Avoidance Agreement with Hong Kong	
60	22 March 2018	SEBI’s informal guidance for FPIs on Non-Disposal Undertakings (NDUs)	
61	26 March 2018	Foreign Exchange Management (Cross Border Merger) Regulations, 2018	Notification No. FEMA 389/ 2018-RB dated 20 March, 2018
62	26 March 2018	Supreme Court upholds applicability of section 14A to acquisition of shares - rejects dominant purpose test	Civil Appeal No. 104-109 of 2015 (SC)

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63	27 March 2018	Procedural amendments in GST	CBEC Notifications No. 14-16/2018-Central Tax dated 23 March, 2018
64	27 March 2018	AAR rules that LTCG from listed securities arising to a non-resident entitled to tax rate of 10%, without indexation benefit	AAR No. 1375 of 2012
65	28 March 2018	Key highlights of the immigration guidelines issued for foreign nationals coming to India	
66	29 March 2018	The Government extends/ prescribes due dates for filing various GST returns	
67	29 March 2018	SEBI advises DDPs/ custodians to take necessary steps for due diligence and reporting compliances for FPIs	SEBI Circular No. IMD/FPIC/CIR/P/2018/53 dated 21 March, 2018
68	29 March 2018	SEBI Board Meeting - Key announcements for FPIs	Press Release No. 9/ 2018 dated 28 March 2018
69	30 March 2018	CBEC issues clarifications on various issues relating to job work transactions	CBEC Circular No. 38/12/2018 dated 26 March 2018
70	4 April 2018	Changes to the FDI Policy notified	FEMA (Transfer or Issue of Security by a Person Resident Outside India) (Amendment) Regulations, 2018 dated 26 March 2018
71	6 April 2018	Increase in limits for investment in Government Securities for Foreign Portfolio Investors	RBI/2017-18/150 A.P. (DIR Series) Circular No. 22 dated 6 April 2018
72	9 April 2018	Income-tax return forms for the financial year 2017-18 notified	Notification No. 16/2018/F.No.370142/1/2018-TPL dated 3 April 2018
73	10 April 2018	Monitoring of foreign investment limits in listed Indian companies	SEBI Circular No. IMD/FPIC/CIR/P/2018/61 dated 5 April 2018
74	10 April 2018	SEBI issues circular providing clarification on clubbing of investment limits of foreign Government/ foreign Government related entities	SEBI/HO/IMD/FPIC/CIR/P/2018/66 dated 10 April 2018

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75	11 April 2018	Know Your Client requirements for Foreign Portfolio Investors	CIR/IMD/FPIC/CIR/P/2018/64 dated 10 April 2018
76	11 April 2018	Payments made by a channel operator to secure advertisements, held liable to withholding tax as “commission” based on specific facts	Civil Appeal Nos. 3496-3497 of 2018 (SC)
77	11 April 2018	Review of Framework for Stocks in Derivatives Segment	SEBI/HO/MRD/DP/CIR/P/2018/67 dated 11 April 2018
78	12 April 2018	AAR in Kerala holds that no GST is payable on merchant trade transactions in India, and the deduction from salary for food provided to employees in a factory canteen liable for GST	Order No. CT/2275/18-C3 dated 26 March, 2018 & Order No. CT/531/18-C3 dated 26 March, 2018
79	16 April 2018	Allahabad HC denies deduction to housing project where levelling of earth commenced prior to specified date	ITA No. 284 of 2010 (Allahabad HC)
80	16 April 2018	Geophysical services performed through vessels constitute fixed place PE; service PE clause under India-UAE tax treaty not applicable	AAR No. 1295 of 2012
81	16 April 2018	Foreign Investment in “unregulated financial services” entities - Press release	Press Release dated 16 April 2018 (Release ID: 1529264)
82	19 April 2018	Issuance of cheque, not presented and subsequently returned, is not “payment” – Not dividend under section 2(22)(e) of the Income-tax Act	ITA No. 532 of 2011 (Allahabad HC)
83	20 April 2018	Right to collect toll charges is an “intangible asset,” depreciable at the rate of 25%	ITA No. 1845/Hyd/2014
84	30 April 2018	Issue considered in original assessment and no change in facts – Supreme Court upholds quashing of reassessment proceedings	Civil Appeal No. 2732 of 2007 (SC)
85	30 April 2018	Foreign borrowing – FPI investment in debt – Policy changes & ECB Policy	RBI/2017-18/168 A.P. (DIR Series) Circular No. 24 dated 27 April 2018

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86	3 May 2018	Supreme Court upholds deduction for lease equalisation charges – takes note of ICAI's Guidance Note on leases	Civil Appeal No. 4358 to 4376 of 2018 (SC)
87	3 May 2018	Recent Regulatory Updates – Draft National Digital Communications Policy, 2018	Draft National Telecommunication Policy issued by Department of Telecommunication 2018
88	5 May 2018	GST Council finalises revised design of return and defers decision on levy of cess	
89	5 May 2018	AAR rules that accumulated credit of KKC shall not be admissible as ITC under the GST regime	Order No. GST-ARA-18/2017-18/B-25 (AAR Mumbai)
90	8 May 2018	Delhi HC affirms that allowance of additional depreciation is mandatory under income tax provisions	ITA No. 303/2018 dated 19 March 2018 (Delhi HC)
91	8 May 2018	Draft rules to determine FMV of inventory to compute business income in case of its conversion into capital asset – Released	CBDT Press Release dated 3 May 2018
92	8 May 2018	Existence of depreciation rate in Income-tax Rules for software is not conclusive evidence of the nature of expenditure	ITA Nos. 129/2018, 415/2017 & 56/2018 dated 17 April 2018
93	8 May 2018	Losses incurred on account of predatory pricing could not be construed as capital expenditure	ITA No. 202/Bang/2018
94	9 May 2018	Waiver of loan taken for procuring assets not taxable as business income	Civil Appeal Nos. 6949-6950 of 2004 (SC)
95	9 May 2018	Expenses excluded in computing “export turnover” have also to be excluded from “total turnover” in computing the deduction under section 10A	Civil Appeal Nos. 8489-8490 of 2013 (SC)
96	10 May 2018	SC upholds that the amendment relaxing the disallowance under section 40(a)(ia) was retrospective in nature	Civil Appeal Nos. 4339-4340 of 2018 (SC)
97	14 May 2018	Tax officer is required to accept the prescribed method adopted by the taxpayer for determining FMV of shares	ITA No. 4854/Mum/2016

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98	14 May 2018	Premium received on issue of shares and where proved would be on capital account	ITA No. 4860/Mum/2016
99	18 May 2018	RBI amends minimum prescribed capital requirement for IBU's in an IFSC	RBI Circular No. DBR.IBD.BC.14570/23.13.004/2014-15 dated 1 April 2015 & RBI Notification No. RBI/2017-18/ 177 dated 17 May 2018
100	25 May 2018	SEBI permits Segregated Nominee Account Structure in IFSC	SEBI/HO/MRD/DRMNP/CIR/P/2018/83
101	28 May 2018	CBIC issues clarification on mechanics of charging IGST on goods supplied from customs bonded warehouse	CBIC Circular No. 3/1/2018-IGST dated 25 May, 2018
102	4 June 2018	CBIC releases FAQs document on the financial services sector	CBIC FAQs on Banking, Insurance and Stock Brokers Sector
103	4 June 2018	AAR rules that income earned under non-exclusive reseller agreement for rendering technology services is neither taxable as FIS nor as royalty	AAR No. 1107 of 2011
104	5 June 2018	Section 56(2)(viib) – Tribunal upholds rejection of valuation report by TO, where no evidence provided to substantiate numbers	ITA No. 2189/Del/2018
105	6 June 2018	Existence of “debt-claim” is crucial to determine whether a fee in relation to loan can be categorised as “interest”	AAR No. 1105 of 2011
106	6 June 2018	Indian subsidiary also negotiating contracts – constitutes DAPE; additional attribution of profits, as such functions not considered in FAR analysis of subsidiary	ITA No. 1623/Del/2015
107	8 June 2018	Non-resident controlling operation and management of a hotel in India has a PE in India	AAR No. 1010 of 2010
108	8 June 2018	Foreign Investment in India – Reporting in Single Master Form	RBI Circular No. RBI/2017-18/194 dated 7 June 2018

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109	12 June 2018	SEBI amends various regulations granting relaxation to listed companies under the Insolvency and Bankruptcy Code, 2016	SEBI Circular No. SEBI/LAD-NRO/GN/2018/20-23 dated 1 June 2018
110	18 June 2018	CBIC issues clarification on determination of place of removal under central excise and availability of credit of service tax paid on transport of goods	CBIC Circular No. 1065/4/2018-CX dated 8 June, 2018
111	19 June 2018	CBDT proposes amendment in rule 47 of the Income-tax Rules, 1962, forms of appeal and cross-objections to Appellate Tribunal - seeks public suggestions	CBDT Draft Notification F.No.370142/8/2018-TPL dated 13 June, 2018
112	19 June 2018	CIT(A) cannot enhance assessment for income from a new source not considered in assessment	ITA No. 751-753/JP/2015
113	20 June 2018	Business support/ marketing support activities undertaken by Indian subsidiary do not create a PE in India for the foreign company	AAR No. 25 of 2016
114	21 June 2018	CBDT amends timeframe to repatriate 'excess money' for secondary adjustments in cases of APA and MAP	
115	26 June 2018	Transaction processing services provided to India customers – AAR rules that permanent establishment exist on multiple grounds	AAR No. 1573 of 2014
116	28 June 2018	Mere presence of a subsidiary and virtual projection of the enterprise in India, absent other relevant factors – No PE in India	ITA Nos. 1963 & 1964/Del/2001
117	29 June 2018	Entity Master Form – Reporting of foreign investment in India – User manual	RBI User manual for Entity Master dated 27 June 2018
118	2 July 2018	Central Government issues notification for implementation of POEM based taxation for foreign companies	CBDT Notification No. S.O. 3039(E) dated 22 June 2018
119	3 July 2018	Tax treaty benefits cannot be denied merely because Tax Residency Certificate required under section 90(4) not furnished	ITA Nos. 478 & 479/Ahd/2018

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120	3 July 2018	CBDT issues instructions on 'appropriate use' of CbCRs	CBDT Instruction No. 2/2018 dated 27 June 2018
121	4 July 2018	Karnataka High Court holds that questions on TP comparable/ filters are not "substantial questions of law"	ITA No. 536/2015, C/W ITA No. 537/2015
122	6 July 2018	Additional evidence filed before the DRP is mandatorily required to be admitted and considered by it	ITA No. 2376/Pune/2015
123	10 July 2018	Category II and Category III AIFs notified as Qualified Buyers for SRs issued by ARCs Trusts	Notification DNBR (PD-ARC) No. 07/ED(SS)-2018 dated 16 May, 2018
124	11 July 2018	GST Council releases draft amendments to GST laws for public comments	
125	13 July 2018	CBDT revises monetary limits for filing of appeal by tax department	CBDT Circular No. 3/2018 dated 11 July, 2018
126	16 July 2018	Taxability should be determined by reading tax treaty and its protocol together – protocol is not independent of the tax treaty	ITA No. 893/Del/2006
127	17 July 2018	Management rights of mutual fund schemes are capital asset – gains on transfer taxable as capital gains	ITA No. 4782/Del/2013
128	18 July 2018	Madhya Pradesh High Court upholds penalty equal to the value of goods transported without complete e-way bill	2018-VIL-293-MP
129	20 July 2018	Deduction under section 80-IB(10) not permissible while computing book profit under MAT	ITA No. 5125/Mum/2016
130	22 July 2018	GST Council approves broad rate reductions, introduces simplified compliances, and recommends amendments in the law in its 28th meeting	
131	23 July 2018	Buy-back of own shares by a company - Provisions of section 56(2)(viiia) not applicable as such shares do not become its property	ITA No. 532/Mum/2018

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132	24 July 2018	Development Authorities set up under the UP Industrial Area Development Act are not “local authorities” – lease rent paid to such authorities liable to withholding tax	Civil Appeal No. 15613 of 2017 and others
133	25 July 2018	Status of the company at the time of change in shareholding is relevant to determine applicability of section 79 of the Income-tax Act, 1961	ITA No. 1501/Mum/2016
134	25 July 2018	CBDT issues notification amending “Advance Ruling” rules and related Forms in line with BEPS Action Plan 5	CBDT Notification No. 31/2018/F. No. 370142/34/2016-TPL (Part) dated 13 July, 2018
135	26 July 2018	SEBI permits sub-trust structure and grants exemption from making public offer	SEBI Order No. – WTM/GM/CFD/34/2018-19 dated 5 July, 2018
136	27 July 2018	CBDT amends Form 3CD - Inserts clauses relating to secondary adjustments, GAAR, specified financial transactions, CbCR	CBDT Notification No. 33/2018/F. No. 370142/9/2018-TPL, dated 23 July, 2018
137	29 July 2018	Mere handing over physical possession of property for development not “transfer” under section 2(47)(v) of the Act	ITAT No. 225 of 2015 (Calcutta HC)
138	30 July 2018	Credit for foreign taxes withheld is available, even if no return filed overseas but income can be shown to be taxable in that country	ITA Nos. 201, 202, 203, 204 & 205/Del/2015
139	31 July 2018	NCLT allows amalgamation of LLP into Company - holds there is no express bar in law	CP/123/CAA/2018 [TCA/157/CAA/2018 (Chennai NCLT)]
140	31 July 2018	GST credits for FY 2017-18: Actions to ensure that credits do not lapse	
141	1 August 2018	Data Protection Regulations, 2018 - Key highlights	
142	1 August 2018	Constitution bench of Supreme Court holds that the benefit of any ambiguity in interpretation of an exemption notification needs to be given to the revenue	Civil Appeal No. 3327 of 2007 (SC)
143	9 August 2018	SC clarifies that Commissioner is not bound by administrative circulars issued by the CBDT - can grant stay of demand on payment of an amount less than 20%	Civil Appeal No. 6850 of 2018 (SC)

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144	10 August 2018	Exemption from open offer granted in case of conversion of company into LLP	SEBI Guidance No. - CFD/DCR2/OW/P/2018/20660/1 dated 23 July, 2018
145	14 August 2018	Provisions of section 56(2)(viib) can apply to excess consideration despite satisfactory explanation provided under section 68 of the Act	WA No. 1297 of 2018 in WP (C) No. 3485/2018 (Kerala HC)
146	17 August 2018	CBDT clarifies the computation of admissible deduction under section 10A of the Income-tax Act, 1961	CBDT Circular No. 4 of 2018 dated 14 August 2018
147	17 August 2018	Preparatory activities performed prior to entering into contract cannot be included to compute duration for determining installation PE	ITA No. 5759/Del/2011
148	20 August 2018	Parliament passes GST Amendment Bills	
149	21 August 2018	MAT provisions require book profit to be adjusted against lower of brought forward unabsorbed loss and unabsorbed depreciation and not merely restrict the amount set-off to the lower number	ITA No. 209/Ahd/2018
150	21 August 2018	SEBI KYC requirements for FPIs - extension of timeline to 31 December, 2018	SEBI IMD/FPIC/CIR/P/2018/124 dated 21 August 2018
151	27 August 2018	Common application form for Foreign Portfolio Investors	MoF Notification dated 21 August 2018
152	22 August 2018	CBDT widens the scope for filing of appeals by tax department	CBDT Directive dated 20 August 2018
153	27 August 2018	Mandatory reporting in e-form DIR-3-KYC	MCA Notification dated 5 July 2018
154	27 August 2018	Supreme Court holds that 100% deduction under section 80-IC cannot be claimed after initial five years, even if substantial expansion takes place within the ten year block	Civil Appeal of 7208 of 2018 (SC)
155	30 August 2018	Fee for training to hotel staff related to general management and access to computerised systems is not FTS	ITA No. 7159/Mum/2012
156	30 August 2018	CBDT mandates conduct of all assessments through e-proceeding facility, carves-out certain exceptions	CBDT Instruction No. 3 of 2018 dated 20 August 2018

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157	30 August 2018	Financial, legal and risk management services not covered within the meaning of FIS under the India-USA tax treaty	ITA No. 38 of 2014 (Kerala HC)
158	4 September 2018	Single Master Form – Reporting of foreign investment in India – User manual	User manual for Entity Master-FIRMS dated 27 June 2018
159	4 September 2018	Report of the committee to review offences under the Companies Act, 2013	PIB Press Release dated 27 August 2018
160	5 September 2018	India publishes its second APA Annual Report	CBDT APA Report dated 31 August 2018
161	6 September 2018	CBIC amends CGST rules, notifies formats of annual return and issues various clarifications	CBIC Notification Nos. 39-42/2018-Central Tax and Circular Nos. 57-61/2018-GST dated 4 September 2018
162	10 September 2018	Foreign Portfolio Investment (FPI) - KYC Requirements - Interim Report Recommendations	SEBI Interim Report dated 8 September 2018
163	14 September 2018	Dematerialisation of securities – unlisted public companies	Companies (Prospectus and Allotment of Securities) Third Amendment Rules, 2018 notified on 10 September 2018
164	17 September 2018	CBIC extends compliance due dates in some cases, notifies format of GST audit report and notifies effective date of TDS/ TCS provisions	CBIC Notification Nos. 43-51/2018-Central Tax and Circular No. 62/2018-GST
165	18 September 2018	SEBI Board Meeting – Key Announcements for FPIs	SEBI Board Meeting Press Release No. 41/2018 dated 18 September 2018
166	19 September 2018	Government introduces measures to tackle mounting current account deficit; exempts interest income on masala bonds as one of the measures	Media Briefing by Finance Minister Mr. Arun Jaitley & Press Release by the CBDT dated 17 September 2018
167	21 September 2018	Tribunal holds that provisions of section 56(2)(viib) not applicable where the company had only closely related shareholders and there was no possibility of unaccounted money being involved	ITA No. 1352/Chy/2018

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168	21 September 2018	TO cannot disregard the valuation method exercised by the taxpayer for determining FMV of shares under section 56(2)(viib) read with Rule 11UA(2)	ITA No. 884/JP/ 2016
169	21 September 2018	Foreign Portfolio Investment (FPI) – Know Your Client (KYC) Requirements	SEBI Circular No. CIR/IMD/FPIC/CIR/P/2018/131 dated 21 September 2018
170	26 September 2018	HC holds if shares not allotted by end of the previous year in which succession takes place, section 47(xvii)(b) is violated and exemption from capital gains can be withdrawn	ITA Nos. 884 of 2007 & 60 of 2015
171	28 September 2018	Government increases basic customs duty rates on import of specified goods	Notification Nos. 67, 68, 69 and 70/ 2018-Cus.
172	30 September 2018	Amendments in SEZ Rules notified	
173	5 October 2018	Voluntary Retention Route for investment by Foreign Portfolio Investors (FPIs)	RBI Press Release dated 5 October 2018
174	7 October 2018	Pro-rata benefit under section 80IB allowed to developer of housing projects basis number of flats meeting the specified conditions	ITA Nos. 1974 to 1976/Pune/2016
175	12 October 2018	Notification issued under section 112A specifying modes of acquisition not covered	CBDT Notification No. 60 of 2018 dated 1 October 2018
176	16 October 2018	Domestic law restrictions on allowability of expenses not applicable to PE absent specific provision in treaty	ITA No. 1388/Del/2012
177	18 October 2018	Continuation of prosecution proceedings under section 276CC not precluded merely because taxpayer claims no tax is payable	CRL.M.C. 3385/2016 & CrI.M.A. 14338/2016, 1336/2017, 11516/2017 dated 14 September, 2018
178	24 October 2018	RBI eases liquidity norms for banks allowing them to lend more to NBFCs	
179	26 October 2018	Advance payments for work, even without contractual arrangement, liable to withholding tax	ITA Nos. 798 & 799/Del/2013
180	27 October 2018	RBI issues Master Direction on “fit and proper” criteria for sponsors of Asset Reconstruction Companies	RBI/DNBR/2018-19/66 Master Direction DNBR. PD (ARC) CC. No. 06/26.03.001/2018-19

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181	30 October 2018	CBIC issues clarification on cancellation of registration, refund, casual taxable person, ISD and explains procedure for return of expired medicines	CBIC Notification No. 69-72/2018 - GST dated 26 October 2018
182	31 October 2018	Preparatory activities sufficient to constitute business set up – AMC's expenditure from incorporation date allowed	ITA No. 2470/Mum/2011
183	1 November 2018	Government of Haryana issues guidelines for blocking ITC from electronic credit ledger by tax authorities	Circular Memo No. 3555/GST-2, dated 30 October, 2018
184	6 November 2018	The Companies (Amendment) Ordinance, 2018 – Key amendments	Kartika 11, 1940 (SAKA) dated 2 November 2018
185	20 November 2018	Income from leasing of warehouse taxable as income from house property – 'object clause not relevant	ITA No. 474/Del/2018
186	21 November 2018	Maharashtra AAR holds that services of back-office documentation, administrative support and payroll-processing to overseas client does not amount to zero rated supply	GST – ARA, Application No. 3 dated 9 April, 2018
187	23 November 2018	Liberalisation of visa processes in India	Press release dated 14 November, 2018 issued by Ministry of Home Affairs
188	23 November 2018	Maharashtra AAR holds that penal interest for delay in repayment of EMI attracts GST	GST - ARA, Application No. 22 dated 9 May, 2018
189	27 November 2018	SEBI issues operating guidelines for AIFs in IFSC	SEBI Circular No. SEBI/HO/IMD/DF1/CIR/P/143/2018
190	27 November 2018	EPFO prescribes procedure for extension of COC beyond period stipulated in SSA	https://www.epfindia.gov.in/site_docs/PDFs/Circulars/Y2018-2019/IWU_COC_20112018.pdf
191	29 November 2018	Delhi HC allows CENVAT credit on pre-fabricated towers, shelters and accessories to telecom operators and tower companies	CEAC 12/2016, C.M. APPL. 37207/2016 and others

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1	16 January 2018	The IBC boost for acquisitions	The Financial Express	Hiten Kotak and Falguni Shah
2	19 January 2018	Expectations from Union Budget 2018	Outlook Money	Kuldip Kumar
3	26 January 2018	Budget 2018: Why salaried class needs more than just words of praise	The Financial Express	Sundeep Agarwal and Krishna Kanakia
4	1 February 2018	Readers' Corner: How are dividends of debt and equity mutual funds taxed?	Business Standard	Kuldip Kumar
5	1 February 2018	A 'Make in India' Budget! Way to the 'New India'...	Taxmann	Gautam Khattar and Nikhil Mediratta
6	2 February 2018	Not a taxing budget	Livemint	Abhishek Goenka
7	2 February 2018	Budget 2018 aims to improve 'Ease of Living' for common man	The Financial Express	Rahul Garg and Arjun Khandelwal
8	2 February 2018	Industry counts the hits and misses	The Telegraph	Pulak Saha, Sushmita Basu, Kapil Basu and Dibyendu Das
9	3 February 2018	Budget 2018 aims to boost domestic manufacturing, ease of doing biz	Financial Express	Anita Rastogi and Prashant Gupta
10	3 February 2018	More misses than hits for India Inc	The Indian Express	Abhishek Goenka and Nikhil Rohera
11	4 February 2018	Budget 2018: Number of proposals attempt to simplify taxpayers' lives	Business Standard	Kuldip Kumar
12	5 February 2018	Budget 2018: Arun Jaitley delivers a realistic mixed bag on the tax front	Business Standard	Kaushik Mukherjee
13	5 February 2018	Budget 2018: Customs duty rates amended in line with 'Make in India'	Business Standard	Pramod Banthia
14	5 February 2018	E-assessments, if implemented, could act as a catalyst to correct tax anomalies	The Hindu Business Line	Aravind Srivatsan and Tarun Narang
15	5 February 2018	A Budget for the common man	The Hindu Business Line	Ravi Jain and Gurucharan Kumar
16	5 February 2018	Budget Focuses On Farmers And Poor	Outlook Money	Kuldip Kumar

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17	5 February 2018	GST: What is an e-way bill and why is it important? All you need to know	Business Standard	Amit Bhagat
18	5 February 2018	Budget 2018: A transformational drive for rural India	Taxmann	Vishal Anand
19	8 February 2018	Budget 2018: No major surprises for corporate India	The Financial Express	Hitesh Sawhney
20	13 February 2018	Beyond Arun Jaitley's Budget Speech	Business Standard	Gautam Mehra
21	13 February 2018	Beyond Budget: The competitive world of taxes	Forbes India	Gautam Mehra
22	19 February 2018	GST: Is there any mechanism for amending the registration certificate?	Business Standard	Amit Bhagat
23	19 February 2018	Budget 2018: Would the real estate sector ever see real changes?	Business Today	Bhairav Dalal, Pragya Jha and Viplove Bhargava
24	22 February 2018	Has modi government just scored a self-goal by hiking import duty? A look at the likely implications	Economic Times	Pratik Jain and Gautam Khattar
25	26 February 2018	GST: What happens if person files return but doesn't make payment of taxes?	Business Standard	Amit Bhagat
26	28 February 2018	Reader's corner: Taxation	Business Standard	Kuldip Kumar
27	12 March 2018	Section 112A - impact on tax neutral transactions	Taxsutra	Hiten Kotak and Falguni Shah
28	14 March 2018	Taxing the virtual presence of a firm	The Financial Express	Jitendra Jain
29	20 March 2018	Need to prune highest tax rate to around 20-22%	Indian Express	PwC Report
30	24 March 2018	The LTCG tax saga!	Taxmann	Rumana Alam and Anuja Talukder
31	31 March 2018	E-way bill under GST: Why this system is extremely important	The Financial Express	PwC analysis
32	12 April 2018	Single window for all Aadhaar linkages may help	Outlook Money	Kuldip Kumar

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33	12 April 2018	Got an enquiry from the tax authorities? Here's how to handle the situation	Outlook Money	Kuldip Kumar
34	6 May 2018	The Global Race to Levy Tax on Data	Business Today	Abhishek Goenka and Jitendra Jain
35	24 May 2018	Readers corner: Tax solutions	Business Standard	Kuldip Kumar
36	20 June 2018	Reader's Corner: Taxation	Business Standard	Kuldip Kumar
37	25 June 2018	One year of GST: The good, bad and the ugly	Fortune India	Gautam Khattar and Kishore Kumar
38	29 June 2018	GST implementation: Good, but not yet simple	Forbes India	Pratik Jain, Sumit Bansal, Rajiv Dewan, Nandita Nawalakha, Ankit Dawar and Rohan Krishan
39	1 July 2018	One year of GST: It's been a bumpy ride for the restaurant industry over the past 12 months	Firstpost	Anita Rastogi and Prashant Gupta
40	2 July 2018	No other country has implemented tax changes as fast as India	Economic Times Blogs	Jo Bello and Anita Rastogi
41	2 July 2018	Rationalisation of tax rates may affect revenue collection target	Dailyhunt	Amit Bhagat
42	3 July 2018	How reforms can help make Indians tax-compliant	Livemint	Kuldip Kumar
43	3 July 2018	Nokia ruling – a 'thought provoking' minority view	Taxsutra	Kamal Abrol, Mohit Agarwal and Nishant Gupta
44	4 July 2018	One year of GST: Fix refunds to protect exporters	The Financial Express	Anita Rastogi and Preetam Singh
45	5 July 2018	GST: A common man's view	Business Standard	Pratik Jain
46	8 July 2018	More information... more intense Transfer Pricing disputes	Bloomberg Quint	Jitendra Jain

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47	13 July 2018	Foreign companies with India PoEM subject to higher 40 percent tax rate, government concludes	MNE Tax	Mohit Agarwal and Aditya Goel
48	23 July 2018	Agency PE: The global race to tax marketing service	Taxsutra	Vishal Anand, Mohit Agarwal and Rupal Maheshwari
49	30 July 2018	File your income tax return before August 31 to avoid paying penal fees	Business Standard	Kuldip Kumar
50	5 August 2018	Be aware of IT	The Week	Ishita Sengupta
51	13 August 2018	Decoding India's 'Significant Economic Presence'	Orange Taxsutra	Vishal Anand and Arjun Khandelwal
52	17 August 2018	New GST reporting framework – allaying complexity	GST Sutra	Anita Rastogi, Prashant Gupta and Rohit Gupta
53	28 August 2018	Income tax return filing 2018: Claiming foreign tax credit – how to deal with practical challenges	The Financial Express	Kuldip Kumar
54	28 August 2018	To pay or not to pay? Key tax suggestions that you shouldn't ignore	Business Standard	Kuldip Kumar
55	29 August 2018	Readers' corner: Tax	Business Standard	Kuldip Kumar
56	5 September 2018	Zero rated supplies under GST – lacuna unplugged	GST Sutra	Anita Rastogi, Prashant Gupta and Rohit Gupta
57	14 September 2018	Ironing out the GST wrinkles	The Financial Express	Gautam Khattar and Nikhil Mediratta
58	14 September 2018	How taxmen can help ease stress of distressed asset investors	VCcircle	Bhavin Shah, Mayur Gala and Jigar Mehta

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Sl. No.	Date	Particulars	Where published	Author names
59	24 September 2018	GST implications on employer employee transactions : an unnecessary compliance	Taxmann	Pramod Banthia and Ravi Kumar Banthia
60	25 September 2018	Changing the game	CFO India	Amit Bahl, Raashi Agarwal and Shubham Agarwal
61	26 September 2018	GST Anti-Profiteering Whip 1.0	GST Sutra	Anita Rastogi and Rohit Gupta
62	1 October 2018	Insolvency and Bankruptcy Code: What's all the noise about?	Forbes India	Hiten Kotak and Aditya Narwekar
63	3 October 2018	Confused about income tax on gold loan? Here's your complete taxation guide	Business Standard	Kuldip Kumar
64	31 October 2018	Reader's corner: Tax	Business Standard	Kuldip Kumar
65	24 November 2018	Well begun, but only half done	Business Standard	Gautam Mehra
66	24 November 2018	Indian laws need to be much more precise about taxing local storage of payment data	Economic Times	Amit Rana
67	29 November 2018	Readers' Corner: Tax	Business Standard	Kuldip Kumar

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Indirect Taxes Newsletters

Sl. No.	Particulars
1	PwC Newsletter: Indirect Taxes – December 2017
2	PwC Newsletter: Indirect Taxes – January 2018
3	PwC Newsletter: Indirect Taxes – February 2018
4	PwC Newsletter: Indirect Taxes – March 2018
5	PwC Newsletter: Indirect Taxes – April 2018
6	PwC Newsletter: Indirect Taxes – May 2018
7	PwC Newsletter: Indirect Taxes – June 2018
8	PwC Newsletter: Indirect Taxes – July 2018
9	PwC Newsletter: Indirect Taxes – August 2018

Customs, FTP and WTO Newsletters

Sl. No.	Particulars
1	PwC Newsletter: Customs, FTP and WTO – December 2017
2	PwC Newsletter: Customs, FTP and WTO – January 2018
3	PwC Newsletter: Customs, FTP and WTO – February 2018
4	PwC Newsletter: Customs, FTP and WTO – March 2018
5	PwC Newsletter: Customs, FTP and WTO – April 2018
6	PwC Newsletter: Customs, FTP and WTO – May 2018
7	PwC Newsletter: Customs, FTP and WTO – June 2018
8	PwC Newsletter: Customs, FTP and WTO – July 2018
9	PwC Newsletter: Customs, FTP and WTO – August 2018

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Goods and Services Tax Newsletters

Sl. No.	Particulars
1	PwC Newsletter: GST – July 2018
2	PwC Newsletter: GST – August 2018

GST Communique

Sl. No.	Particulars
1	PwC GST Communique – Volume 1 Issue 1
2	PwC GST Communique – Volume 1 Issue 2
3	PwC GST Communique – Volume 1 Issue 3
4	PwC GST Communique – Volume 1 Issue 4
5	PwC GST Communique – Volume 1 Issue 5

Publications

Sl. No.	Particulars
1	Reimbursements: Tax dilemmas explained
2	Impact of GST on residential markets
3	Emerging Trends in Real Estate 2018
4	Destination India 2018
5	India Budget 2018 – Aiming for the bullseye
6	Family, legacy and you – Perspectives on succession planning and business continuity
7	The E-way Bill System: How, what and what next?
8	Value creation: Laying the foundation for mergers and acquisitions
9	Indian social security for cross-border assignments
10	GST: Media and entertainment sector
11	India's new real estate and infrastructure trusts: The way forward
12	Impact of GST on residential markets
13	Over 200 days of GST: the road ahead
14	Mutual Agreement Procedure – answering queries
15	Big data : A transfer pricing perspective

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Tax Information Exchange Agreements

Sr. No.	Country	Notification No. and Date	Date when signed	Date of coming into force
1	Argentina	Notification No. 22/2013 [F. No. 504/3/2010-FTD-II]/SO 824(E)	21 November 2011	28 January 2013
2	Bahamas	Notification No. 25/2011 [F. No. 503/6/2009-FTD-I]/SO 1049(E)	11 February 2011	1 March 2011
3	Bahrain	Notification No. 44/2013 [F. No. 503/03/1994-FT&TR-II]/SO 1766(E)	31 May 2012	11 April 2013
4	Belize	Notification No. 3/2014 [F. No. 503/4/2012-FTD-I]/SO 48(E)	18 September 2013	25 November 2013
5	Bermuda	Notification No. 5/2011 [F. No. 503/2/2009-FTD-I]	7 October 2010	3 November 2010
6	British Virgin Islands	Notification No. 54/2011 [F. No. 503/10/2009-FTD-I] S.O. 2301(E)	9 February 2011	22 August 2011
7	Cayman Islands	Notification No. 61/2011 [F. No. 503/03/2009-FTD-I]/S.O. 2902(E)	21 March 2011	8 November 2011
8	Gibraltar	Notification No. 28/2013 [F. No. 503/11/2009-FTD-I]/SO 924(E)	1 February 2013	11 March 2013
9	Guernsey	Notification No. 30/2012 [F. No. 503/1/2009-FTD-I]/SO 1782(E)	20 December 2011	11 June 2012
10	Isle of Man	Notification No. 26/2011 [F. No. 503/01/2008 - FTD-I]/SO 1048(E)	4 February 2011	17 March 2011
11	Jersey	Notification No. 26/2012 [F. No. 503/6/2008-FTD-I]/SO 1541(E)	3 November 2011	8 May 2012
12	Liberia	Notification No. 32/20012-FT&TR-II [F. No. 503/02/2010-FT&TR-II]/SO 1877(E)	3 October 2011	30 March 2012
13	Macao	Notification No. 43/2012 [F. No. 503/04/2009-FT&TR-II]/SO 2427(E)	3 January 2012	16 April 2012
14	Maldives	Notification No. SO 2865(E) [No. 76/2016 (F. No. 500/79/2008-FTD-II)]	11 April 2016	2 August 2016
15	Principality of Liechtenstein	Notification No. 30/2014 [F. No. 503/4/2009-FTD-I]	28 March 2013	20 January 2014

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16	Principality of Monaco	Notification No. 43/2013 [F. No. 503/05/2009-FTD-I]/SO 924(E)	31 July 2012	27 March 2013
17	Saint Kitts and Nevis	Notification No. SO 2488(E) [No. 62/2016 (F.NO.503/09/2009-FTD-I)]	11 November 2014	2 February 2016
18	San Marino	Notification No.63/2015 [F. No. 500/02/2003-FTD-I]	19 December 2013	29 August 2014
19	Seychelles	Notification No. SO 2894(E) [No. 80/2016 (F.NO.503/07/1993-FT&TR-IV)]	26 August 2015	28 June 2016

Social Security Agreements

Sr. No.	Country	Date when signed	Date of coming into force
1	Australia	18 November 2014	1 January 2016
2	Austria	4 February 2013	1 July 2015
3	Belgium	3 November 2006	1 September 2009
4	Canada	6 November 2012	1 August 2015
5	Czech Republic	9 June 2010	1 September 2014
6	Finland	12 June 2012	1 August 2014
7	French Republic	30 September 2008	1 July 2011
8	Germany	8 October 2008	1 October 2009
9	Hungary	3 February 2010	1 April 2013
10	Japan	16 November 2012	1 October 2016

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11	Kingdom of Denmark	17 February 2010	1 May 2011
12	Kingdom of Netherlands	22 October 2009	1 December 2011
13	Luxembourg	30 September 2009	1 June 2011
14	Norway	29 October 2010	1 January 2015
15	Portugal	4 March 2013	8 May 2017
16	Republic of Korea	19 October 2010	1 November 2011
17	Sweden	26 November 2012	1 August 2014
18	Swiss Federal	3 September 2009	29 January 2011

Signed but not notified:

Quebec - 26 November 2013

Germany - 12 October 2011

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Limited Tax Treaties

Sr. No.	Country	Notification
1	Afghanistan	Notification No. GSR 514(E)
2	Ethiopia	Notification No. GSR 8(E) and GSR 159(E)
3	Iran	Notification No. GSR 284(E)
4	Lebanon	Notification Nos. GSR 1552 and 1553
5	Maldives	Notification No. SO 2853(E) [No. 77/2016 (F. No. 503/4/2013-SO/FT&TR-II(1))]
6	Pakistan	Notification No. GSR 792(E)
7	SAARC Countries	Notification No. 3/2011 [SO 34(E)]-FTD-II [F. No. 500/96/97-FTD-II]
8	People's Democratic Republic of Yemen	Notification No. GSR 857(E), dated 12 August 1988

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List of Double Taxation Avoidance Agreements

Sr. No.	Country	Notification No. and Date	Date when signed	Date of coming into force
1	Albania	Notification No. 2/2014 [F. No. 501/1/2003-FTD-I]/SO 47(E), dated 7 January 2014	8 July 2013	4 December 2013
2	Armenia	Notification No. GSR 800E, dated 8 December 2004 as amended by Notification No. SO 3266(E) [No. 30/2018 (F. No. 503/05/1996-FTD-I)], dated 5 July 2018	31 October 2003	9 September 2004
3	Australia	Notification No. GSR 60(E), dated 22 January 1992 as amended by Notification No. 74/2013 [F. No.503/1/2009-FTD-II]/SO 2820(E), dated 20-9-2013	25 July 1991	30 December 1991
4	Austria	Notification No. GSR 682(E), dated 20 September 2001	8 November 1999	5 September 2001
5	Bangladesh	Notification No. GSR 758(E), dated 8 September 1992	27 August 1992	27 May 1992
6	Belarus	Notification No. GSR 392(E), dated 17 July 1998	27 September 1997	17 July 1998
7	Belgium	Notification No. GSR 632(E), dated 31 October 1997, as amended by Notification No. SO 54(E), dated 19 January 2001. Earlier agreement was entered into vide GSR 323(E), dated 6 June 1975 which was later amended by GSR 321(E), dated 2 March 1988.	26 April 1993	1 October 1997
8	Bhutan	Notification No. 42/2014 [F. No. 503/4/2004-FTD-II], dated 5 September 2014	4 March 2013	17 July 2014
9	Botswana	Notification No. S.O. 1494(E), dated 18 June 2008	8 December 2006	30 January 2008
10	Brazil	Notification No. GSR 381(E), dated 31 March 1992 as amended by Notification No. SO 93(E) [F. No. 500/101/2006-FT&TR-V], dated 4 January 2018	26 April 1988	11 March 1992
11	Bulgaria	Notification No. GSR 205(E), dated 9 May 1996	26 May 1994	23 June 1995
12	Canada	Notification No. SO 28(E), dated 15 January 1998. Earlier agreement was entered into vide GSR 1108(E), dated 25 September 1986, as amended by GSR 635(E) dated 24 June 1992. Circular No. 638, dated 28 October 1992 dealt with this agreement.	11 January 1996	6 May 1997

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Sr. No.	Country	Notification No. and Date	Date when signed	Date of coming into force
13	China (People's Republic of China)	Notification No. GSR 331(E), dated 5 April 1995	18 July 1994	21 November 1994
14	Croatia	Notification No. 24/2015 [F. NO. 501/09/1995-FTD-I], dated 17 March 2015	12 February 2014	6 February 2015
15	Chinese Taipei (Taiwan)	Notification No. 48/2011 [F. No. 500/02/2001-FTD-II]/S. O. 2040(E), dated 2 September 2011	12 July 2011	12 August 2011
16	Colombia	Notification No.44/2014 [F. No. 501/3/99-FTD-II], dated 23 September 2014	13 May 2011	7 July 2014
17	Cyprus	Notification No. SO 64(E) [No.3/2017 (F. NO. 504/05/2003-FTD-I)], dated 10 January 2017	18 November 2016	14 December 2016
18	Czech Republic	Notification No. GSR 811(E), dated 8 December 1999	1 October 1998	27 September 1999
19	Denmark	Notification No. GSR 853(E), dated 25 September 1989	8 March 1989	13 June 1989
20	Egypt (United Arab Republic)	Notification No. GSR 2363, dated 30 September 1969	20 February 1969	1 January 1961
21	Estonia	Notification No. 27/2012 [F. No. 503/02/1997- FTD-1]/SO No. 1677(E), dated 25 July 2012	19 September 2011	20 June 2012
22	Ethiopia	Notification No. 14/2013 [FT & TR-II/F. No. 503/01/1996-FT&TR-II], dated 21 February 2013	25 May 2011	15 October 2012
23	Fiji	Notification No. 35/2014 [F. No. 503/11/2005-FTD-II], dated 12 August 2014	30 January 2014	15 May 2014
24	Finland	Notification No. 36/2010 [F. No. 501/13/1980-FTD-I], dated 20 May 2010	15 January 2010	19 April 2010
25	France	Notification No. 9602 [F. No. 501/16/80-FTD], dated 6 September 1994, as amended by Notification No. SO 650(E), dated 10 July 2000	29 September 1992	1 August 1994

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List of Double Taxation Avoidance Agreements

Sr. No.	Country	Notification No. and Date	Date when signed	Date of coming into force
26	Georgia	Notification No. 4/2012[F. No. 503/05/2006-FTD.I], dated 6 January 2012	24 August 2011	8 December 2011
27	Germany	Notification No. SO 836(E) [No. 10235 (F. No. 500/47/90-FTD)], dated 29 November 1996	19 June 1995	26 October 1996
28	Greece	Notification No. GSR 394, dated 17 March 1967	11 February 1965	1 April 1964
29	Hungary	Notification No. GSR 197(E), dated 31 March 2005	3 November 2003	4 March 2005
30	Iceland	Notification No. S.O. 241(E), dated 5 February 2008	23 November 2007	21 December 2007
31	Indonesia	Notification No. S.O. 1144(E) [No. 17/2016 (F. No. 503/4/2005-FTD-II)], dated 16 March 2016	27 July 2012	5 February 2016
32	Ireland	Notification No. 45/2002 [F. No. 503/6/99-FTD], dated 20 February 2002	6 November 2000	26 December 2001
33	Israel	Notification No. GSR 256(E), dated 26 June 1996 as amended by Notification No. SO 441(E) [No. 10/2017(F. No. 500/14/2004-FT-II)], dated 14 February 2017, W.E.F. 14 February 2017	29 January 1996	15 May 1996
34	Italy	Notification No. GSR 189(E), dated 25 April 1996.	19 February 1993	23 November 1995
35	Japan	Notification No. GSR 101(E), dated 1 March 1990, as amended by Notification Nos. SO 753(E), dated 16 August 2000 (w.r.e.f. 1 October 1999), SO 1136(E), dated 19 July 2006, w.r.e.f. 28 June 2006 and SO 2528(E), dated 8 October 2008, w.e.f. 1 October 2008	7 March 1989	29 December 1989
36	Jordan	Notification No. GSR 810(E), dated 8 December 1999	20 April 1999	16 October 1999
37	Kazakhstan	Notification No. GSR 633(E), dated 31 October 1997 [as amended by Notification No. SO 1589(E) [No. 20/2018 (F. No. 501/06/94-FTD-II), dated 12 April 2018, W.R.E.F. 12 March 2018]	6 January 2017	2 October 1997

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List of Double Taxation Avoidance Agreements

Sr. No.	Country	Notification No. and Date	Date when signed	Date of coming into force
38	Kenya	Notification No. SO 731(E) [No. 11/2018 (F. No. 503/01/2005/FTD-II)], dated 19 February 2018	11 July 2016	30 August 2017
39	Korea, (Republic of)	Notification No. SO 3265(E) [No. 96/2016 (F. No. 500/121/1996-FTD-II)], dated 24 October 2016	18 May 2015	12 September 2016
40	Kuwait	Notification No. SO 2000(E), dated 27 November 2000 as amended by Notification No. SO 1823(E) [No. 21/2018 (F. No. 501/03/88-FTD-II)], dated 4 May 2018	15 June 2006	17 October 2007
41	Kyrgyz Republic	Notification No. GSR 75(E), dated 7 February 2001	13 April 1999	10 January 2001
42	Latvia	Notification No. 12/2014 [F. No. 503/02/1997-FTD-I], dated 5 March 2014	18 September 2013	28 December 2013
43	Libya	Notification No. GSR 22(E), dated 1 July 1982	2 March 1981	1 April 1983
44	Lithuania	Notification No. 28/2012 [F. No. 503/02/1997-FTD-1], dated 25 July 2012	26 July 2011	10 July 2012
45	Luxembourg	Notification No. 78/2009 [F. No. 503/1/96-FTD-I], dated 12 October 2009	2 June 2008	9 July 2009
46	Macedonia	Notification No. 94/2015 [F. No. 503/08/2004-FTD-I]/ SO 3499(E), dated 21 December 2015	9 May 2012	26 December 2012
47	Malaysia	Notification No. 07/2013 [F. No. 506/123/84-FTD-II], dated 29 January 2013	29 January 2013	1 April 2013
48	Malta	Notification No. 34/2014 [F. No. 504/06/2003-FTD-I], dated 5 August 2014	8 April 2013	1 April 2015
49	Mauritius	Notification GSR No. 920(E), dated 6 December 1983	24 August 1982	6 December 1983
50	Mexico (United Mexican States)	Notification No. 86/2010 [F. No. 503/4/91-FTD-I], dated 26 November 2010	10 September 2007	1 April 2011
51	Mongolia	Notification No. SO 635(E), dated 16 September 1996	22 February 1994	29 March 1996

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Sr. No.	Country	Notification No. and Date	Date when signed	Date of coming into force
52	Montenegro	Notification No. 4/2009 [F. No. 503/1/1997-FTD-I]/S.O. 96(E), dated 7 January 2009	8 February 2006	23 September 2008
53	Morocco	Notification No. GSR 245(E), dated 15 March 2000	30 October 1998	20 February 2000
54	Mozambique	Notification No. 30/2011-FT&TR-II [F. No. 501/152/2000-FT&TR-II], dated 31 May 2011	30 September 2010	28 February 2011
55	Myanmar	Notification No. SO 1518(E), dated 18 June 2009	2 April 2008	1 April 2009
56	Namibia	Notification No. GSR 196(E), dated 8 March 1999	15 February 1997	22 January 1999
57	Nepal	Notification No. 20/2012 [F. No. 503/03/2005-FTD-II], dated 12 June 2012	27 November 2011	1 April 2013
58	Netherlands	Notification No. GSR 382(E), dated 27 March 1989	30 July 1988	21 January 1989
59	New Zealand	Notification No. GSR 314(E), dated 27 March 1987, as amended by GSR 477(E), dated 21 April 1988 and GSR 37(E), dated 12 January 2000	17 October 1986	23 December 1986
60	Norway	Notification No. 24/2012 [F. No. 505/3A/81-FTD-I], dated 19 June 2012	2 February 2011	20 December 2011
61	OECD Member Countries	Notification No. 35/2012 [F. No. 500/154/2009-FTD-I], dated 29 August 2012	26 January 2012	1 June 2012
62	Oman	Notification No. SO 563(E), dated 23 September 1997	2 April 1997	3 June 1997
63	Philippines	Notification No. GSR 173(E), dated 2 April 1996 and as amended by Notification No. SO 125(E), dated 2 February 2005	12 February 1996	21 March 1994
64	Poland	Notification No. GSR 72(E), dated 12 February 1990 as amended by Notification No. 47/2014, dated 24 September 2014]	21 June 1989	26 October 1989

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Sr. No.	Country	Notification No. and Date	Date when signed	Date of coming into force
65	Portuguese Republic	Notification No. GSR 542(E), dated 16 June 2000, as corrected by Notification No. SO 673(E), dated 25 August 2000 and GSR 597(E), dated 20 September 2005 and as amended by Notification No. SO 4724(E) [No. 43/2018 (F. No. 503/05/1991-FTD-I)], dated 11 September 2018	11 September 1998	30 April 2000
66	Qatar	Notification No. GSR 96(E), dated 8 February 2000	7 April 1999	15 January 2000
67	Romania	Notification No. 13/2014 [F.NO.501/10/1995-FTD-I], dated 5 March 2014	8 March 2013	16 December 2013
68	Russian Federation	Notification No. 10677 [F. No. 501/6/92-FTD], dated 21 August 1998	25 March 1997	11 April 1998
69	Saudi Arabia	Notification No. 287/2006-FTD [F. No. 501/7/91-FTD], dated 17 October 2006	25 January 2006	1 November 2006
70	Serbia and Montenegro	Notification No. S.O. 97(E), dated 7 January 2009	8 February 2006	23 September 2008
71	Singapore	Notification No. GSR 610(E), dated 8 August 1994 as amended by Notification SO 1022(E), dated 18 July 2005 No. SO 2031(E), dated 1 September 2011 and no. SO 935(E), dated 23 March 2017	20 April 1981	27 May 1994
72	Slovenia	Notification No. GSR 344(E), dated 31 May 2005	13 January 2003	17 February 2005
73	South Africa	Notification No. GSR 198(E), dated 21 April 1998 as amended by Notification No. S.O. 316 (E) [No.10/2015-FT&TR-II] (F. No. 500/144/2005-FTD-II), dated 2 February 2015	4 December 1996	28 November 1997
74	Spain	Notification No. GSR 356(E), dated 21 April 1995	8 February 1993	12 January 1995
75	Sri Lanka	Notification No. 23/2014 [F. No. 503/8/2005-FTD-II]/SO 956(E), dated 28 March 2014	22 January 2013	22 October 2013
76	Sudan	Notification No. GSR 723(E), dated 1 November 2004	22 October 2003	15 April 2004
77	Sweden	Notification No. GSR 705(E), dated 17 December 1997 as amended by Notification No. 63/2013 [F. No. 505/02/1981-FTD-I]/[SO 2459(E)], dated 14 August 2013	24 June 1997	25 December 1997

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Sr. No.	Country	Notification No. and Date	Date when signed	Date of coming into force
78	Switzerland	Notification No. GSR 357(E), dated 21 April 1995, as amended by Notification No. GSR 74(E), dated 7 February 2001, 62/2011, dated 27 December 2011 w.e.f. 1 April 2012	2 November 1994	29 December 1994
79	Syria	Notification No. 33/2009-FTD-II [F. No. 503/7/2005-FTD-II], dated 30 March 2009	18 June 2008	10 November 2008
80	Tajikistan	Notification No. SO 1758(E), dated 16 July 2009 as amended by Notification No. SO 1328(E) [No. 15/2018 (F. No. 503/10/95-FTD-II), dated 23 March 2018	20 November 2008	10 April 2009
81	Tanzania	Notification No. 8/2012 [FT & TR-II/F. No. 503/02/2005-FTD-II], dated 16 February 2012	27 May 2011	12 December 2011
82	Thailand	Notification No. 88/2015 [F. No. 503/5/2005-FTD-II], dated 1 December 2015	29 June 2015	1 April 2016
83	Trinidad & Tobago	Notification No. GSR 720(E) [No. 11111 (F. No. 503/11/95-FTD)], dated 26 October 1999	8 February 1999	13 October 1999
84	Turkey	Notification No. SO 74(E), dated 3 February 1997	31 January 1995	1 February 1997
85	Turkmenistan	Notification No. GSR 567(E), dated 25 September 1997	25 February 1997	7 July 1997
86	Uganda	Notification No. GSR 666(E), dated 12 October 2004	30 April 2004	27 August 2004
87	Ukraine	Notification GSR 24(E), dated 11 January 2002	7 April 1999	31 October 2001
88	United Arab Emirates	Notification No. GSR 710(E) [No. 9409 (F. No. 501/3/89-FTD)], dated 18 November 1993, as amended by Notification No. SO 2001(E), dated 28 November 2007 and Notification No. 29/2013 [F. No. 503/5/2004-FTD-II], dated 12 April 2013]	29 April 1992	22 September 1993
89	United Kingdom	Notification No. GSR 91(E), dated 11 February 1994	25 January 1993	26 October 1993
90	United States	Notification No. GSR 990(E), dated 20 December 1990.	12 September 1989	18 December 1990

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Sr. No.	Country	Notification No. and Date	Date when signed	Date of coming into force
91	Uruguay	Notification No. 53/2013 [F. No. 500/138/2002-FTD-II]/SO 2081(E), dated 5 July 2013	8 September 2011	21 June 2013
92	Uzbekistan	Notification No. SO 790(E) [No. 10222/96 (F. No. 501/8/92-FTD)], dated 13 November 1996, as amended by Notification No. SO 2689(E), dated 7 November 2012	29 July 1993	25 January 1994
93	Vietnam	Notification No. GSR 369(E) [No. 9758/95 (F. No. 503/7/91-FTD.)], dated 28 April 1995 [As amended by Notification No. 9860 [F. No. 503/7/91-FTD.], dated 12 September 1995 and No. SO 2826(E) [No. 82/2017 (500/5/2009-FTD-II)], dated 30 August 2017]	7 September 1994	2 February 1995
94	Zambia	Notification No. GSR 39(E), dated 18 January 1984	5 June 1981	18 January 1984



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Authority for Advance Ruling (AAR)	Bilateral Competent Authority Agreements (BCAAs)	Commissioner of Income-tax (CIT)	Data Protection Authority (DPA)
Appellate Authority for Advance Ruling (AAAR)	Bilateral APA (BAPA)	Commissioner of Income-tax (Appeals) [CIT(A)]	Dispute Resolution Panel (DRP)
Automation of Central excise and Service Tax (ACES)	Companies Act, 2013 (CA Act)	Centralised Risk Assessment Unit (CRAU)	Digital Signature Certificate (DSC)
Authorised Dealer (AD)	Central Board of Direct Taxes (CBDT)	Common Reporting System (CRS)	Double Taxation Avoidance Agreement (Tax Treaty)
Associated Enterprise (AE)	Central Board of Excise and Customs (CBEC)	Corporate Social Responsibility (CSR)	Electronic Book Provider (EBP)
Alternative Investment Funds (AIFs)	Central Board of Indirect Taxes and Customs (CBIC)	Central Sales Tax Act (CST Act)	External commercial borrowings (ECBs)
Arm's-length principle (ALP)	Customs bonded warehouse (CBW)	Customs Valuation Rules, 2007 (CVR)	Education Cess (EC)
Alternative minimum tax (AMT)	Chief Commissioner (CC)	Dependent Agent Permanent Establishment (DAPE)	Eligible Foreign Entities (EFE)
Advance Pricing Agreement (APA)	CENVAT Credit Rules, 2004 (CCR)	Designated Depository Participant (DDP)	Entity Master Form (EMF)
Association of Persons (AOP)	Country-by-Country Reporting (CbCR)	Dividend Distribution Tax (DDT)	Export Oriented Units (EOUs)
Asset Reconstruction Companies (ARCs)	Constituent Entity (CE)	Director-General of Income-tax (DGIT)	Exchange Traded Currency Derivatives (ETCD)
Assessment Year (AY)	Central Value Added Tax (CENVAT)	Director General of Income-tax (Risk Assessment) (DGRA)	Electronic Trading Platforms (ETPs)
Base Erosion Anti-abuse Tax (BEAT)	Controlled Foreign Corporation (CFC)	Director Identification Number (DIN)	Foreign Account Tax Compliance Act (FATCA)
Basic Excise Duty (BED)	Central Goods and Services Tax (CGST)	Department of Industrial Policy and Promotion (DIPP)	Financial Action Task Force (FATF)

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Foreign Direct Investment (FDI)	Housing Finance Companies (HFCs)	Income recognition and asset classification (IRAC)	Mutual Agreement Procedure (MAP)
Foreign Inward Remittance Certificate (FIRC)	Hindu Undivided Family (HUF)	Income-tax Rules, 1962 (the Rules)	Minimum Alternate Tax (MAT)
Fees for included services (FIS)	IFSC Banking Unit (IBU)	Input tax credit (ITC)	Ministry of Corporate Affairs (MCA)
Fair market value (FMV)	Income-tax Act, 1961 (the Act)	Income-tax Return (ITR)	Multilateral Competent Authority Agreement (MCAA)
Free on board (FOB)	Income-tax Rules, 1962 (the Rules)	Information Technology (IT)	Medical Council of India (MCI)
Foreign Portfolio Investment (FPI)	Income-tax Appellate Tribunal (Tribunal)	Information Technology Enabled Services (ITeS)	Multiple Investment Managers (MIM)
Foreign Portfolio Investors (FPIs)	Indian Competent Authority (CA)	Joint venture (JV)	Multinational Enterprises (MNEs)
Foreigner Regional Registration Offices (FRRO)	Indian Customs Electronic Commerce/ Electronic Data interchange (ICEGATE)	Krishi Kalyan Cess (KKC)	Micro, Small and Medium Enterprise (MSME)
Foreigners Registration Officer (FRO)	Income Computation and Disclosure Standard (ICDS)	Know Your Customer (KYC)	Non-banking Financial Companies (NBFCs)
Foreign Tax Credit (FTC)	Investor Education and Protection Fund (IEPF)	Letter of Permission (LOP)	National Company Law Tribunal (NCLT)
Fees for Technical Services (FTS)	International Financial Services Centre (IFSC)	Liberalised Remittance Scheme (LRS)	Non-convertible redeemable preference shares (NCRPS)
Financial Year (FY)	Integrated Goods and Services Tax (IGST)	Long-term capital gain (LTCG)	No objection certificate (NOC)
Goods and Services Tax (GST)	Infrastructure Investment Trust (InvIT)	Letter of Undertaking (LUT)	Non-performing assets (NPAs)
Goods Transport Agency (GTA)		Minimum Average Maturity (MAM)	Non-resident Indian (NRI)
High Court (HC)		Memorandum of Association (MoA)	

Glossary

Overseas Citizens of India (OCIs)

Overseas Direct Investment (ODI)

Organisation for Economic Cooperation and Development (OECD)

Oil Marketing Companies (OMC)

Primary Adjustment (PA)

Permanent Account Number (PAN)

Percentage Completion Method (PCM)

Permanent Establishment (PE)

Place of effective management (PoEM)

Public Sector Undertakings (s)

Real Estate Investment Trust (REIT)

Regional Director (RD)

Registrar of Companies (RoC)

Reserve Bank of India (RBI)

Return of Income (ROI)

Resident and Ordinarily Resident (ROR)

Resolution Plan (RP)

Secondary Adjustment (SA)

Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI)

Significant Beneficial Ownership (SBO)

Significant Economic Presence (SEP)

Special Economic Zone (SEZ)

Secondary and Higher Education Cess (SHEC)

Securitised Debt Instruments (SDI)

State Goods and Services Tax (SGST)

Single Master Form (SMF)

Segregated Nominee Account (SNA)

Special Leave Petition (SLP)

Standard Operating Procedure (SOP)

Special Purpose Vehicle (SPV)

Statement of Reportable Account (SRA)

Securities Transaction Tax (STT)

The Customs Excise and Service Tax Appellate Tribunal (Tribunal)

Tax deducted at source (TDS)/ Withholding tax

Tax Officer (TO)

Telecom Regulatory Authority of India (TRAI)

Transactional Net Margin Method (TNMM)

Transfer Pricing (TP)

Transfer Pricing Officer (TPO)

Tax Residency Certificate (TRC)

Unilateral APAs (UAPA)

Uninterrupted Power Supply (UPS)

Value Added Tax (VAT)

Venture Capital Funds (VCFs)

Voluntary Retention Route (VRR)

Written Down Value (WDV)



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PD/VB December 2018-15646