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Total no. of page: 138

....From the Desk of Editors



Respected Seniors and Dear Friends,

As we enter the month of June 2025, the Direct Taxes Professionals Association (DTPA) continues its journey of guiding, educating, and empowering the tax professionals' fraternity. This is a time when the financial year gains momentum, compliance requirements intensify, and professional engagements take centre stage. It is also a time when DTPA members reaffirm their commitment to quality, timeliness, and ethical tax practice.

Our Association on **3rd May 2025** organised a Blood Donation Camp in association with Lions Club of Calcutta at our DTPA Conference Hall, wherein a large number of members along with their families donated blood and honoured the slogan: **"Be the Reason of Smile to Many Faces"**.

Our Association on **21st May 2025** celebrated its 43rd Foundation Day and 33rd Library Day which was attended by All Office Bearers, Past Presidents, Executive Committee Members and **Senior Officials from the Income Tax Department**. The success of any organisation lies in its foundation and presence of Members, Office Bearers and Past Presidents in large numbers in such celebrations shows the strength of the Organisation.

With its continuous focus about the updating its members from time to time, DTPA organised a highly engaging **CA Study Circle Meeting** on **28th May 2025**, titled: **"Income Tax Returns – AY 2025-26: A Walk Through."** The session aimed to familiarise members with the recent changes in ITR forms, reporting requirements, and enhanced functionalities of the income tax e-filing portal. The event saw enthusiastic participation and provided practical insights to help professionals file returns more efficiently this assessment year.

June is an important month for direct tax compliance. Amongst others, the most significant key date to mark is **15th June 2025**, the **due date for the first instalment of advance tax** for FY 2025-26. Taxpayers liable under Section 208 must ensure that at least **15% of their total estimated tax liability** is deposited on or before this date. Timely payment of advance tax is not just a statutory requirement, but also a prudent tax planning step to avoid interest under Sections 234B and 234C.

On the indirect tax front, **GST collections for May 2025** were exceptionally strong, standing at **₹2.01 lakh crore**, registering a **16.4% growth** over May 2024. This marks the second consecutive month where collections have crossed the ₹2 lakh crore threshold.

It gives us great pleasure to announce our **Signature Event** — the **43rd Annual Conference of the Direct Taxes Professionals Association**, scheduled to be held on **Saturday, 23rd August 2025**, at the prestigious **Taj Bengal, Kolkata**.

This flagship conference is a cornerstone event of the Association and is eagerly awaited by professionals across regions. The Annual Conference brings together **renowned tax experts, senior government officials, jurists, academicians, and practicing professionals** for a full day of high-quality deliberations, insightful sessions, and professional networking.

Those who have interest in writing may send their thoughts on professional subjects in the form of Article for publication in the Souvenir to be released on the occasion of Annual Conference, 2025.

DTPA has planned to reward best 3 (three) article-writers as also to reward best 3 (three) readers who provide their valuable feed-back about our Monthly Journal, the details whereof is there inside this Issue.

The month of June is a convergence of responsibilities and opportunities. As professionals, we are not only compliance enablers but also advisors, educators, and watchdogs of tax justice. Whether it's ensuring timely advance tax payments, accurate TDS filings, guiding return filers, or analysing GST trends — our role is pivotal.

At DTPA, we remain committed to supporting each of you through informative programmes, thought leadership, and continuous engagement. Let us take pride in our profession and continue contributing meaningfully to the nation's tax ecosystem.

A recent notable saying goes about AI and taxation: "AI is not replacing tax professionals—it's redefining them."

We wish our all members a productive and insightful month ahead.

Jai Hind!! Jai DTPA!!

With Best Regards

Yours truly,
Giridhar Dhelia
 Chairman
 Journal Sub-Committee, DTPA

Mohan Lal Gupta
 Co-Chairman
 Journal Sub-Committee, DTPA

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....From the desk of President

Dear Esteemed Members,

It gives me immense pleasure to connect with you once again through the pages of our esteemed DTPA Journal. The past month has been vibrant with activities that truly reflect the spirit, dedication, and dynamism of our Association. I am proud to share a glimpse of our recent events and initiatives:

We commenced the month with a **Blood Donation Camp on 3rd May 2025** at the DTPA Conference Hall. The event witnessed enthusiastic participation from our members, staff, and well-wishers. The collective spirit of giving was truly heartwarming, and we thank all the donors and volunteers who made this noble cause a grand success.

On **21st May 2025**, we celebrated two significant milestones — the **33rd Anniversary of our Library and the 43rd Foundation Day of DTPA**. The event, held at our Conference Hall, was marked by nostalgic reflections, inspiring addresses by past presidents, and recognition of long-serving members. It was a proud reminder of how far we've come and how strong our roots are.

Our cricketing enthusiasm found new heights as our team emerged **Runners-up at the Inter-Association CA Cricket League**, held on **24th and 25th May 2025 at Silver Spring**. The camaraderie, sportsmanship, and spirited performance of our players brought great pride to our association. Congratulations to the team for this wonderful achievement!

On the academic front, a **Study Circle Meeting on 28th May 2025** at the Conference Hall focused on the recent changes in **Income Tax Return Forms**. It was an enriching session attended by a large number of professionals, highlighting the importance of staying updated and compliant with regulatory developments.

Looking ahead, we are excited to announce our **7-Day Comprehensive Training Program on GST**, which is scheduled shortly. This intensive training aims to equip professionals with a thorough understanding of practical aspects of GST law and its applications — a must-attend for every member committed to professional growth.

Adding to the excitement, our members and their families are enjoying the **Phuket & Krabi Getaway Trip** as I write this. The enthusiasm and bonding among members for this overseas leisure tour reflect the vibrant community spirit of DTPA. We are confident that the trip will create unforgettable memories, strengthen friendships, and offer a refreshing break for all participants.

Let us continue this journey of knowledge, service, and camaraderie with even greater zeal. My heartfelt thanks to all the members, committees, and volunteers who make every DTPA initiative a resounding success.

Warm regards,

CA Barkha Agrawal

President

3rd June, 2025

Glimpses of Blood Donation Camp on 3rd May 2025 at DTPA Conference Hall



Glimpses of 33rd Library Anniversary & 43rd Foundation Day on 21st May 2025 at DTPA Conference Hall



Glimpses of Inter Association CACL on 24th and 25th May 2025 at Silver Spring, Kolkata



Glimpses of Study Circle Meeting held on ITR Forms: A Walkthrough for AY 2025-26 on 28th May 2025 at DTPA Conference Hall



DETAILED PROGRAMME SCHEDULE

<u>Date</u>	<u>Session Name</u>
23rd Jun, 2025 Monday 3 - 6 PM	Supply, Levy and Collection
	Exemption
24th Jun, 2025 Tuesday 3 - 6 PM	Valuation
	Place of Supply
25th Jun, 2025 Wednesday 3 - 6 PM	Time of Supply of Goods and Services
	Input Tax Credit
26th Jun, 2025 Thursday 3 - 6 PM	Input Service Distributor and Job Work
	Invoicing including E Invoicing and E way bill
27th Jun, 2025 Friday 3 - 6 PM	Registration, Cancellation, Amendment of Registration
	Returns - GSTR 1,3B, GSTR 9 and 9C
28th Jun, 2025 Saturday 1 - 6 PM	Refund
	Department Scrutiny, Audit and Show Cause
	Appeals under GST
30th Jun, 2025 Monday 3 - 6 PM	Panel Discussion and Awards

Compliance Calendar for June, 2025

Statute	Due dates	Compliance Period	Details	
Income Tax Act, 1961	07th June 2025	May-25	Securities Transaction Tax - Due date for deposit of tax collected for the month of May, 2025	
	07th June 2025	May-25	Commodities Transaction Tax - Due date for deposit of tax collected for the month of May, 2025	
	07th June 2025	May-25	Declaration under sub-section (1A) of section 206C of the Income-tax Act, 1961 to be made by a buyer for obtaining goods without collection of tax for declarations received in the month of May, 2025	
	07th June 2025	May-25	Collection and recovery of equalisation levy on specified services in the month of May, 2025	
	07th June 2025	May-25	Due date for deposit of Tax deducted/collected for the month of May 2025. However, all the sum deducted/collected by an office of the government shall be paid to the credit of the Central Government on the same day where tax is paid without production of an Income tax Challan	
	14th June 2025	May-25	Due date for issue of TDS Certificate for tax deducted under section 194-IA, 194-IB, 194M and 194S in the month of April, 2025.	
	15th June 2025	May-25	Due date for furnishing statement in Form No. 3BB by a stock exchange in respect of transactions in which client codes have been modified after registering in the system for the month of May, 2025	
	15th June 2025	May-25	Due date for furnishing statement in Form No. 3BC by a recognised association in respect of transactions in which client codes have been modified after registering in the system for the month of May, 2025	
	15th June 2025	May-25	Certificate of tax deducted at source to employees in respect of salary paid and tax deducted during Financial Year 2024-25	
	15th June 2025	May-25	Due date for furnishing of Form 24G by an office of the Government where TDS/TCS for the month of May 2025 has been paid without the production of a challan.	
	15th June 2025	April-25 to June-25	First instalment of advance tax for the assessment year 2026-27	
	15th June 2025	April-24 to March-25	Form 64A - Due date for filing of statement of income distributed by business trust to unit holders during the financial year 2024-25. This statement is required to be filed electronically to Principal CIT or CIT in Form No. 64A	
	15th June 2025	April-24 to March-25	Statement showing particulars of perquisites, other fringe benefits or amenities and profits in lieu of salary with value thereof during Financial Year 2024-25	
	30th June 2025	May-25	Form 26QE - Due date for furnishing of challan cum statement in respect of tax deducted under section 194S in the month of May, 2025	
	30th June 2025	May-25	Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA, 194-IB & 194M in the month of May, 2025	
	30th June 2025	April-24 to March-25	Form 26QAA - Quarterly return of non-deduction of tax at source by a banking company from interest on time deposit in respect of the quarter ending March 31, 2025	
	30th June 2025	April-24 to March-25	Due date for furnishing of statement of income distributed by business trust to its unit holders during the Financial Year 2024-25. This statement is required to be furnished to the unit holders in Form No. 64B	
	30th June 2025	April-24 to March-25	Form 64F - Statement of income distributed by securitization trust to be provided to the investor under section 115TCA of the Income-tax Act, 1961	
30th June 2025	April-24 to March-25	Commodities Transaction Tax - Return of taxable commodities transactions for Financial Year 2024-25		
30th June 2025	April-24 to March-25	Return in respect of securities transaction tax for the Financial Year 2024-25		
Statute	Due dates	Compliance Period	Return	Turnover/Complying Taxpayer
GST	10th June 2025	May-25	GSTR-7	Monthly Return by Tax Deductor for May 2025
	10th June 2025	May-25	GSTR-8	Monthly Return by E-Commerce Operators for May 2025
	11th June 2025	May-25	GSTR-1	1. Summary of Outward Supplies where turnover exceeds Rs. 5 Crore during preceding year or who have not chosen QRMP scheme

			<p>* The due date for furnishing the return of income for Assessment year 2025-26 has been extended from July 31, 2025, to September 15, 2025, vide Circular no. 06/2025, dated 27-05-2025. Accordingly, the due date for submission of this form/report shall stand extended to September 15, 2025.</p>	
	31st July 2025	April-24 to March-25	<p>Exercising the option to opt-out from the new tax regime under section 115BAC, (if assessee is required to submit return of income by July 31, 2025)*</p> <p>* The due date for furnishing the return of income for Assessment year 2025-26 has been extended from July 31, 2025, to September 15, 2025, vide Circular no. 06/2025, dated 27-05-2025. Accordingly, the due date for submission of this form/report shall stand extended to September 15, 2025.</p>	
	31st July 2025	April-24 to March-25	<p>Exercising the option to opt for alternative tax regime under section 115BAD and 115BAE by co-operative society (if assessee is required to submit return of income by July 31, 2025)*</p> <p>* The due date for furnishing the return of income for Assessment year 2025-26 has been extended from July 31, 2025, to September 15, 2025, vide Circular no. 06/2025, dated 27-05-2025. Accordingly, the due date for submission of this form/report shall stand extended to September 15, 2025.</p>	
	31st July 2025	April-24 to March-25	<p>Furnishing of details of attribution of capital gain taxable under section 45(4) to the capital asset remaining with the firm, AOP, or BOI after reconstitution (if the firm, AOP, or BOI is required to furnish return of income by July 31, 2025)*</p> <p>* The due date for furnishing the return of income for Assessment year 2025-26 has been extended from July 31, 2025, to September 15, 2025, vide Circular no. 06/2025, dated 27-05-2025. Accordingly, the due date for submission of this form/report shall stand extended to September 15, 2025.</p>	
	31st July 2025	April-24 to March-25	<p>Submission of a report from a Chartered Accountant for the previous year 2024-25 relating to the arm's length price of the remuneration paid by an eligible investment fund to the fund manager (if the assessee is required to submit return of income by July 31, 2025) *</p> <p>* The due date for furnishing the return of income for Assessment year 2025-26 has been extended from July 31, 2025, to September 15, 2025, vide Circular no. 06/2025, dated 27-05-2025. Accordingly, the due date for submission of this form/report shall stand extended to September 15, 2025.</p>	
	31st July 2025	April-24 to March-25	<p>Furnishing of certificate by a resident individual being an author (including a joint author) claiming deduction under section 80QQB in respect of royalty income (if the assessee is required to submit return of income by July 31, 2025) *</p> <p>* The due date for furnishing the return of income for Assessment year 2025-26 has been extended from July 31, 2025, to September 15, 2025, vide Circular no. 06/2025, dated 27-05-2025. Accordingly, the due date for submission of this form/report shall stand extended to September 15, 2025</p>	
Statute	Due dates	Compliance Period	Return	Turnover/Complying Taxpayer
GST	10th July 2025	June-25	GSTR-7	Monthly Return by Tax Deductor for June 2025
	10th July 2025	June-25	GSTR-8	Monthly Return by E-Commerce Operators for June 2025
	11th July 2025	June-25	GSTR-1	1. Summary of Outward Supplies where turnover exceeds Rs. 5 Crore during preceding year or who have not chosen QRMP scheme 2. Registered person, with aggregate turnover of less than INR 5 Crore during preceding year, opted for monthly filing of return under QRMP.
	13th July 2025	June-25	GSTR-5	Summary of Outward taxable supplies and tax payable by a non-resident taxable person
	13th July 2025	June-25	GSTR-6	Details of ITC received and distributed by an ISD



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Speaking Opportunity at DTPA Platform

As a part of our commitment in the last AGM, DTPA will provide its members an opportunity to speak at the DTPA platform on any topics of professional interest. The opportunity may be through group discussions, webinars, workshops, Student Training Program and so on.

If you stay outside Kolkata, you may do it through webinars.

So, if you are looking for such an opportunity, then please keep in touch at the office of DTPA to help us find your interest area and take the things forward.

Regards,

CA Barkha Agrawal
President-DTPA

Request for Article in DTPA Journal

Dear Sir/Madam,

Direct Taxes Professionals' Association, popularly known as 'DTPA', established in the year 1982 is a Kolkata based Association consisting of Chartered Accountants, Advocates, Company Secretaries, Cost Accountants and Tax Practitioners.

We invite you to contribute articles **for the Journal on the given below topics which will be considered for publication in the upcoming edition of the E-Journal, subject to approval by the Editorial Board.**

Topics:

- | | |
|---------------------------|---|
| ● Direct Taxes | <input type="checkbox"/> International Taxation |
| ● GST & Indirect Taxes | <input type="checkbox"/> Accountancy and Audit |
| ● Corporate & Allied Laws | <input type="checkbox"/> Insolvency and Bankruptcy |
| ● Information Technology | <input type="checkbox"/> Emerging areas of Practice |

The articles sent for publication in the newsletter should confirm to the following parameters:

- The article should be original and contents are owned by Author himself.
- The article should help in development of the profession and highlight matters of current interests/ challenges to the professionals/ emerging professional areas of relevance.
- The length of the article should be 2000-2500 words and should preferably be accompanied with an executive summary of around 100 words.
- The tables and graphs should be properly numbered with headlines and referred with their numbers in the text.
- The authors must provide the list of references at the end of article.
- A brief profile of the author, e-mail ID, postal address and contact number along with his passport size photograph and declaration confirming the originality of the article as mentioned above should be enclosed along with the article.
- **The article can be sent by e-mail at dtpejournal@gmail.com**
- Please note that Journal Committee has the sole discretion to accept, reject, modify, amend and edit the article before publication in the Journal.

For further details, please contact us at: dtpejournal@gmail.com and at Mob: 9830255500 / 9831016678

Thanks and Regards,

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Rewarding Excellence in Writing: DTPA'S Monthly Journal- Article Writing

As part of our on-going efforts to promote knowledge sharing and excellence in writing, the DTPA Monthly Journal Sub-Committee is pleased to announce a special reward scheme for our article writers.

Reward Scheme:

To encourage and recognize outstanding contributions to our Monthly E-Journal, we will be rewarding the best 3 (three) article writers of the year for the month commencing from June 2025 and onwards with Memento and Certificate of Appreciation in our forthcoming Annual General Meeting.

Eligibility Criteria:

- Submit on Time**
Submit their articles by 5th day of the month for which the publication is released. For example, for the month of July 2025 E-Journal Publication, articles will have to be submitted by 5th July 2025.
- Meet Standards**
Ensure that their articles meet the journal's editorial standards and guidelines and should be their own articles.
- Eligibility**
Not be the members of the DTPA Monthly Journal's editorial team.

Selection Process:

The DTPA Editorial Board will review and evaluate all eligible articles based on their content, quality, and relevance to the Monthly Journal's theme. The best 3 (three) articles will be selected for the rewards.

Timeline:

-  **Submission**
Article submission deadline: within first 5 days of the month for which the publication has to be released.
-  **Evaluation**
Evaluation and selection: June 2025 and onwards.
-  **Announcement**
Reward announcement: At our forthcoming Annual General Meeting.

We look forward to receiving high-quality articles from our Members and/or writers and recognizing their excellence through this reward scheme.

Thanks and Regards

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Reward Scheme for Best 3 (Three) Readers' Feedback for our Monthly Journal

We are excited to announce a reward scheme to recognize and appreciate our valued readers who take their valuable time to provide us with their thoughtful feedback.

Objective:

The objective of this reward scheme is to encourage our readers to share their opinions, suggestions, and ideas on how we can improve our content and better serve their needs.

Eligibility:

All readers who provide feedback on our content during the specified period (within last date of the month for which the Journal is published) are eligible to participate in this reward scheme. For example, 30th June 2025 is the last date for feedback in respect of our E-Journal of June 2025.

Reward Structure:

The best three readers who provide the most valuable and insightful feedback will be rewarded with memento and Certificate of Appreciation in our forthcoming Annual General Meeting.



Selection Criteria:

The DTPA Editorial Board will review and evaluate the feedbacks received. The best 3 (three) feedbacks will be selected for the rewards.

The winners will be selected based on the quality, relevance, and usefulness of their feedback.

Timeline:

This scheme commences w.e.f. our Monthly Journal already published for May 2025 and onwards.

How to Participate:

To participate, we would request you to simply provide your feedback through our email, i.e. dtpejournal@gmail.com and/or at Mob: 9830255500/9836189880 latest by last date of the month for which the Journal is published.

We look forward to receiving your valuable feedback and rewarding our top three readers!

Thank you for your continued support!

Thanks and Regards

CA. Barkha Agrawal	Adv. (CA) Giridhar Dhelia	CA. Mohan Lal Gupta
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not fall within definition of word 'plant', appeal against order of High Court was to be disposed of as infructuous since assessee had passed away and legal heirs did not intend to pursue this litigation further - **Shanti Bhushan v. Commissioner of Income Tax Delhi - [2025] 174 taxmann.com 551 (SC)**

SECTION 37(1) OF THE INCOME-TAX ACT, 1961 - BUSINESS EXPENDITURE - ALLOWABILITY OF

- 2.2 Where High Court held that assessee, an advocate who had suffered a heart attack and, on medical advice, underwent coronary surgery and claimed expenses incurred thereon as business expenditure, such expenses were not allowable as a deduction under section 37(1) due to absence of a direct or immediate nexus with his professional efficiency, appeal against High Court's order was to be disposed of as infructuous since assessee had passed away and his legal heirs did not intend to pursue litigation further - **Shanti Bhushan v. Commissioner of Income Tax Delhi - [2025] 174 taxmann.com 551 (SC)**

SECTION 68 OF THE INCOME-TAX ACT, 1961 - CASH CREDIT

- 2.3 SLP dismissed against order of High Court that where assessment order under section 143(3) was passed, making additions to income of assessee under section 68 and subsequently, assessment was reopened on ground that assessee had not disclosed fully and truly all facts and details with regard to trading done through broker, since Assessing Officer was in possession of transaction details through broker at time of passing assessment order, impugned reopening notice was nothing but change of opinion and was not permissible in law - **Income-tax Officer v. Hemanshu Ramniklal Shah - [2025] 174 taxmann.com 543 (SC)**

SECTION 144C OF THE INCOME-TAX ACT, 1961 - TRANSFER PRICING- DISPUTE RESOLUTION PANEL

- 2.4 SLP dismissed against order of High Court that DRP can give directions only in pending assessment proceedings; once assessment order is passed, DRP would have no power to pass any directions contemplated under sub-section (5) of section 144C - **Dy. Commissioner of Income Tax v. Undercarriage and Tractor Parts (P.) Ltd. - [2025] 174 taxmann.com 553 (SC)**

3. HIGH COURT

SECTION 2(15) OF THE INCOME-TAX ACT, 1961 - CHARITABLE PURPOSE

- 3.1 Where assessee trust was set up with objects of establishing/managing 'Dharamshala' to facilitate relief to poor people, orphans, widows, and old aged persons and otherwise provide them rehabilitation, assessee

could not be denied exemption under section 11 merely because it had rented out 'Dharamshala' to public at large for multi-facet purposes, i.e., marriage functions, political, religious and other social functions, etc. as predominant object of Trust was charitable - **Ramswaroop Das Niranjantal Charitable Trust v. Deputy Commissioner of Income-tax - [2025] 174 taxmann.com 590 (Chhattisgarh)**

SECTION 4 OF THE INCOME-TAX ACT, 1961 - INCOME - CHARGEABLE AS

- 3.2 Where assessee, an electricity distribution company, recovered one-time charges from consumers for laying power lines and acquiring infrastructure, such receipts were to be treated as capital in nature - **PR. Commissioner of Income-tax I v. M. P. Paschim Kshetra Vidut Vitran Company Ltd. - [2025] 174 taxmann.com 970 (Madhya Pradesh)**

SECTION 9 OF THE INCOME-TAX ACT, 1961 - INCOME - DEEMED TO ACCRUE OR ARISE IN INDIA

- 3.3 Where Assessing Officer initiated reassessment proceedings against assessee, a US based company, on ground that assessee had fixed place PE and dependent agent PE in India and was, therefore liable to pay tax in India, since there was no tangible material to establish existence of a PE in India for relevant assessment years, impugned reassessment proceedings were to be quashed - **GE Renewables Grid LLC v. Assistant Commissioner of Income-tax - [2025] 174 taxmann.com 460 (Delhi)**
- 3.4 Where payments were made by assessee to a USA-based company for satellite transponder services and authorities failed to examine nature of services rendered and applicability of explanation 6 to section 9(1)(vi) inserted by Finance Act, 2012, and to determine whether such payments constituted royalty under domestic law or DTAA, matter was to be remanded to Commissioner (Appeals) for factual verification - **Viacom 18 Media (P.) Ltd. v. Deputy Commissioner of Income Tax - [2025] 174 taxmann.com 389 (Bombay)**
- 3.5 Where assessee, a German company, engaged in business of publishing e-magazines and journals, collected subscription fees from various third parties for subscription to e-magazines and content, since subscription fee was standardized and not specifically collected or generated for any particular entity, it would not partake character of a fee for technical service within meaning of Explanation 2 to section 9(1)(vii) - **Commissioner of Income-tax, International Taxation v. Springer Nature Customer Service Centre GMBH - [2025] 174 taxmann.com 77 (Delhi)**
- 3.6 Where assessee, a US company, provided support services to Indian AEs, cross charges received by assessee from its AEs were not taxable as FTS/FIS or royalty under India-US DTAA, as services did not make available technical knowledge nor involved transfer of copyright - **Aecom Technical Services Inc. v. Income-tax Officer, IT - [2025] 174 taxmann.com 1173 (Delhi)**
- 3.7 Where assessee, US company, provided cloud computing services to its customers, since assessee's customers did not

acquire any right of using infrastructure and software of assessee for purposes of commercial exploitation and charges paid by assessee's customers were for availing services, which assessee provided by using its proprietary equipment and other assets, payments received could not be considered as royalties within meaning of article 12(3) of India- US DTAA - **Commissioner of Income-tax, International Taxation -1 v. Amazon Web Services, Inc - [2025] 174 taxmann.com 1188 (Delhi)**

SECTION 10(26) OF THE INCOME-TAX ACT, 1961 - SCHEDULE TRIBES

- 3.8 Where assessee, a member of Scheduled Tribe community of Rajasthan, was posted at Agartala, Tripura, a specified area under provisions of section 10(26), he was entitled to benefits of exemption from income tax flowing from provisions of section 10(26) - **Union of India v. Chyawan Prakash Meena B - [2025] 174 taxmann.com 271 (Gauhati)**

SECTION 10(38) OF THE INCOME-TAX ACT, 1961 - CAPITAL GAINS - INCOME ARISING FROM TRANSFER OF LONG TERM SECURITIES

- 3.9 Where Assessing Officer issued reopening notice against assessee on ground that information was received from investigation wing that assessee was one of beneficiaries who received accommodation entry which was used to avail bogus LTCG/STCL, since Assessing Officer had discussed entire facts relating to transactions done by assessee in respect of purchase of shares and had verified contract note and share certificate submitted by assessee and other details of transactions done by assessee as well as details furnished in return of income, impugned reopening notice issued against assessee was justified - **Principal Commissioner of Income-tax 9 v. P L Goenka HUF - [2025] 174 taxmann.com 588 (Calcutta)**

SECTION 28(i) OF THE INCOME-TAX ACT, 1961 - BUSINESS INCOME - CHARGEABLE AS

- 3.10 Where assessee-company had incurred expenditure towards maintenance of its subsidiary company (MMC) which was in process of being wound up, since assessee was managing agent of MMC and it had also held substantial portion of equity capital of MMC, expenditure incurred was wholly incurred for purpose of commercial expediency and was eligible for deduction as business expenditure - **Mahindra & Mahindra Ltd. v. Commissioner of Income-tax - [2025] 174 taxmann.com 154 (Bombay)**

SECTION 32 OF THE INCOME-TAX ACT, 1961 - DEPRECIATION - ALLOWANCE/RATE OF

- 3.11 Where assessee carried out leasehold improvements and claimed 100 per cent depreciation on ground that additions were in nature of dismantling and temporary erection, since Assessing Officer allowed said depreciation without examining or applying his mind in

respect of available rate of depreciation on leasehold improvements, Principal Commissioner was justified in invoking revisionary proceedings - **Herbalife International India (P.) Ltd. v. Commissioner of Income-tax-I - [2025] 174 taxmann.com 1008 (Karnataka)**

SECTION 49 OF THE INCOME-TAX ACT, 1961 - CAPITAL GAINS - COST WITH REFERENCE TO CERTAIN MODES OF ACQUISITION

- 3.12 Where assessee received immovable property upon liquidation of company in proportion to its shareholding and computed capital gains by taking fair market value of asset on date of distribution as cost of acquisition as per section 55(2)(b)(iii), since assessee had not postponed taxability of capital gains but offered it for tax in same year in which gains had accrued, methodology adopted by assessee would be proper methodology for computation of cost of acquisition - **T.R.Balasubramaniam v. Asst Commissioner of Income-tax City Circle VII(2) - [2025] 174 taxmann.com 328 (Madras)**

SECTION 54F OF THE INCOME-TAX ACT, 1961 - CAPITAL GAINS - EXEMPTION OF, IN CASE OF INVESTMENT IN RESIDENTIAL HOUSE

- 3.13 Where assessee had purchased different floors of a house and there was nothing in section 54F which required residential house to be constructed in a particular manner, different floors of a house are not required to be considered as multiple residential houses and therefore, assessee could not be denied deduction under section 54F on ground that she held more than one residential unit. - **Principal Commissioner of Income-tax - Central v. Lata Goel - [2025] 174 taxmann.com 535 (Delhi)**

SECTION 68 OF THE INCOME-TAX ACT, 1961 - CASH CREDIT

- 3.14 Where Assessing Officer issued reopening notice based on information received from investigation wing that investment made by KKR Mauritius in assessee was assessee's own black money and that there had been round tripping since later KKR's shareholding in assessee was bought back by holding company, since assessee failed to place full contours of arrangement between assessee and KKR Mauritius before Assessing Officer during original assessment, reopening notice was valid - **Assistant Commissioner of Income-tax v. Dalmia Cement (Bharat) Ltd. - [2025] 173 taxmann.com 991 (Madras)**
- 3.15 Where assessee's assessment was reopened on basis of information received from Director General of Income Tax (Investigation), Mumbai that assessee had taken accommodation entries from shell company, since there was tangible material available with Assessing Officer to make basis for having reasons to believe that income had escaped assessment, impugned reopening notice was justified - **Samay Irrigation (P.) Ltd. v. Union of India - [2025] 173 taxmann.com 993 (Rajasthan)**

- 3.16 Where assessee-company allotted shares at premium and in lieu of these shares received shares of other private limited

companies, since no cash was involved in transaction, conversion of liability in such share capital and share premium could not be treated as unexplained cash credits u/s. 68 - **PCIT v. Vishnu Distributors (P.) Ltd. - [2025] 174 taxmann.com 451 (Calcutta)**

3.17 Where assessee company filed return of income and thereafter changed its name, since after change of name, assessee was situated within same territorial jurisdiction, AO, before whom assessee had filed return of income would have jurisdiction to issue reopening notice, thus, impugned reopening notice issued by AO could not be said to be without jurisdiction in view of provision of section 124(1) - **O3 Developers (P.) Ltd. v. ITO, Ward 2(1)(1) - [2025] 174 taxmann.com 1028 (Gujarat)**

3.18 Where AO issued reopening notice on ground that an information was made available on insight portal that assessee had received cash deposits in his bank account, however, income of assessee did not commensurate such huge cash deposits, since no evidence was referred while recording reasons vis-a-vis alleged bogus accommodation entry obtained by assessee, impugned reopening notice only to make fishing and roving inquiry on basis of information in insight portal was to be quashed - **O3 Developers (P.) Ltd. v. ITO, Ward 2(1)(1) - [2025] 174 taxmann.com 1028 (Gujarat)**

3.19 Where reopening proceedings were initiated against assessee on ground that it was a beneficiary of accommodation entry, since there was no procedural irregularity committed by AO while passing order u/s. 148A(d), writ petition was to be dismissed - **Adwealth Stock Broking (P.) Ltd. v. Union of India - [2025] 174 taxmann.com 487 (Calcutta)**

3.20 Where Assessing Officer made addition under section 68 on ground that assessee failed to discharge its onus to establish identity, creditworthiness and genuineness of transaction regarding money received through cash trail, however, in remand report Assessing Officer accepted receipt of impugned sum on account of sale proceeds of investment, impugned addition was rightly deleted by Tribunal - **Principal Commissioner of Income-tax Central 1 v. Tulsyan and Sons (P.) Ltd. - [2025] 174 taxmann.com 37 (Calcutta)**

3.21 Where assessee reflected liabilities owed to banks in its books alleging that same arose on account of cheques issued to various suppliers for purchase of materials that were not presented to concerned banks, however said liability was not supported by statement furnished by concerned banks and no documentary evidence was produced by assessee to establish transactions as claimed, impugned liabilities were to be treated as bogus credits and added to declared income of assessee - **Harsha Associates (P.) Ltd. v. Deputy Commissioner of Income-tax - [2025] 174 taxmann.com 727 (Delhi)**

3.22 Where Assessing Officer issued reopening notice against assessee on ground that assessee received certain sum from company as a beneficiary in form of bogus LTCG/STCG, since assessee failed to establish genuineness of transaction and creditworthiness of company, which was found to be a shell company with no business activities, impugned reopening notice was justified - **Principal Commissioner of Income-tax v. Event Developers (P.) Ltd. - [2025] 174 taxmann.com 1005 (Calcutta)**

3.23 Where pursuant to search in case of searched person, pen drive was found containing information that assessee entered into transactions with companies that provided accommodation entries through generation of bogus invoices, however said transaction was not related to relevant assessment year, thus, pen drive could not be considered as containing any incriminating material and assessee's assessment for relevant year could not be reopened under section 153C - **Panch Tatva Promoters (P.) Ltd. v. Assistant Commissioner of Income-tax - [2025] 174 taxmann.com 1124 (Delhi)**

SECTION 69A OF THE INCOME-TAX ACT, 1961 - UNEXPLAINED MONEYS

3.24 Where Commissioner (Appeals) observed that assessee failed to substantiate source of credit in his bank account either by oral or documentary evidence and upheld order of Assessing Officer in making addition holding it to be unexplained money under section 69-A, however, Commissioner (Appeals) had not made any inquiry as contemplated under section 250 (4) and 250 (6), matter was to be restored to file of Commissioner (Appeals) for adjudication afresh - **Adim Jati Seva Sahkari Samiti Maryadit Korba Korba P.o. v. Income-tax Officer-2 - [2025] 174 taxmann.com 336 (Chhattisgarh)**

SECTION 69B OF THE INCOME-TAX ACT, 1961 - UNDISCLOSED INVESTMENTS

3.25 Where during survey conducted upon assessee, it was revealed that expenditure incurred as shown by assessee was much below assessed cost of construction of nursing home and from DVO's report, it had been revealed that certain unexplained amount of investment had been made, since Assessing Officer had recorded his own valid and proper satisfaction for existence of reason to believe that income of relevant assessment years had escaped assessment, impugned reassessment notice was justified - **Dr. Pradeep Sihare v. Income-tax Officer Ward 1(1) - [2025] 174 taxmann.com 1030 (Chhattisgarh)**

3.26 Where reopening notice was issued on ground that during search documents related to assessee were found and seized which included ledger/cash book of different years in tally data of assessee which showed huge amount of undisclosed investment, negative cash and undisclosed withdrawal in hands of assessee, since said documents were already available before AO during first round of assessment and reopening was not based on discovery of new materials, impugned reopening was bad in law - **Sri Abhijit Paul v. Union of India - [2025] 174 taxmann.com 1134 (TRIPURA)**

3.27 Where Assessing Officer issued reopening notice on ground that assessee had understated closing stock/WIP, since Assessing Officer had formed reason to believe only on ground that there was a difference in material advance and amount of closing stock of raw material disclosed in profit and loss account by assessee and had jumped to conclusion that there was understatement of closing stock which otherwise also would be an opening stock for subsequent assessment year and could never result into any escaped income, impugned reopening notice was unjustified - **PSP Projects and Proactive Constructions (P.) Ltd. v. Assistant Commissioner of Income-tax - [2025] 174 taxmann.com 536 (Gujarat)**

SECTION 80P OF THE INCOME-TAX ACT, 1961 - DEDUCTIONS - INCOME OF CO-OPERATIVE SOCIETIES

3.28 Where Assessing Officer had examined issue with respect to interest income received by assessee society from cooperative banks on which deduction under section 80P was claimed, during course of assessment proceedings, and allowed deduction, since Assessing Officer had taken a view, which was a legally possible view, Principal Commissioner could not have resorted to section 263 proceedings only to supplant his own view with view taken by AO - **Principal Commissioner of Income Tax-1 v. Kutch District Co. Op. Milk Producers Union Ltd. - [2025] 174 taxmann.com 868 (Gujarat)**

3.29 Where assessee society filed its return of income belatedly by two days and claimed that return could not be filed within time due to health problem of a person who was looking after finalization of accounts and filing of income tax return of assessee society, respondent ought to have condoned delay for filing return of income as deduction under section 80P(2)(a)(i) could not have been denied which was otherwise available to assessee - **Kheda Jilla R C Mission Employees Credit and Consumer Co-Op. Society Ltd. v. Chief Commissioner of Income-tax - [2025] 174 taxmann.com 545 (Gujarat)**

SECTION 89 OF THE DIRECT TAX VIVAD SE VISHWAS SCHEME, 2024 - DEFINITIONS

3.30 Assessee's declaration under Direct Tax Vivad Se Vishwas Scheme for assessment year 2022-23 could not be rejected on ground that assessee had not claimed carry forward loss in his return for subsequent assessment year 2023-24; under clause (ii) of rule 9(1) of DTVSV Rules, assessee would be entitled to carry forward NIL losses as entire carry forward loss had been reduced by Assessing Officer - **IE Venture Fund I v. Principal Commissioner of Income-tax - [2025] 174 taxmann.com 728 (Delhi)**

SECTION 92C OF THE INCOME-TAX ACT, 1961 - TRANSFER PRICING - COMPUTATION OF ARM'S LENGTH PRICE

3.31 Where TPO had not examined transfer pricing analysis furnished by assessee regarding value of services received, there was no infirmity in Tribunal's decision in remanding matter to TPO to consider afresh - **American Express Banking Corporation (India Branch) v. Assistant Director of Income-tax, International Taxation - [2025] 174 taxmann.com 595 (Delhi)**

SECTION 115J OF THE INCOME-TAX ACT, 1961 - ZERO-TAX COMPANIES

3.32 Assessing Officer does not have jurisdiction to question correctness of profit and loss account prepared by assessee and certified by statutory auditors and he does not have jurisdiction to go behind net profit shown in profit and loss account except to extent provided in Explanation to section 115J - **Mahindra & Mahindra Ltd. v. Commissioner of Income-tax - [2025] 174 taxmann.com 154 (Bombay)**

SECTION 119 OF THE INCOME-TAX ACT, 1961 - CENTRAL BOARD OF DIRECT TAXES - INSTRUCTIONS TO SUBORDINATE AUTHORITIES

3.33 Where Principal Commissioner rejected assessee's application for condonation of delay on ground that same was filed beyond period of six years from end of assessment year 2016-17, since application was initially made on 22-10-2018, application sent on 6-2-2022 would be in nature of reiterating its request and thus, delay was to be condoned - **Square Vision India (P.) Ltd. v. Principal Commissioner of Income-tax - [2025] 174 taxmann.com 735 (Delhi)**

SECTION 120 OF THE INCOME-TAX ACT, 1961 - INCOME TAX AUTHORITIES - JURISDICTION OF

3.34 Where assessment had been framed by Assessing Officer, who inherently lacked jurisdiction to do so, Tribunal was right in allowing assessee's appeal and setting aside order passed by Assessing Officer on ground of lack of inherent jurisdiction - **Principal Commissioner of Income-tax v. Raghvendra Moha - [2025] 174 taxmann.com 450 (Calcutta)**

SECTION 132 OF THE INCOME-TAX ACT, 1961 - SEARCH AND SEIZURE - GENERAL

3.35 By virtue of provisions of sub-section (8A) of section 132, prohibitory order issued under section 132(3) directing bank not to deal with accounts of political party held in that Branch could not remain valid beyond period of 60 days - **M.M. Varghese v. Assistant Director of Income-tax - [2025] 174 taxmann.com 194 (Kerala)**

3.36 Where a search and seizure proceedings was initiated against petitioner an office bearer of a political party on ground that bank account of political party was not linked with its PAN, since there had been repeated refusal to link bank account with PAN and material available with revenue to prima facie assume that petitioner was in possession of money, which had not been disclosed to income tax department, satisfaction arrived at by revenue to initiate a search and seizure could not be held to be perverse or legally untenable - **M.M. Varghese v. Assistant Director of Income-tax - [2025] 174 taxmann.com 194 (Kerala)**

SECTION 132A OF THE INCOME-TAX ACT, 1961 - SEARCH AND SEIZURE - REQUISITION OF BOOKS OF ACCOUNTS, ETC.

- 3.37** Where police recovered certain amount of cash from first informant and Income Tax Department issued warrant under section 132A(1)(c) for requisition of seized cash, since first informant failed to give satisfactory explanation for an amount of Rs. 35.28 lakhs out of total seized cash of Rs. 1.40 crores, department was allowed to deposit entire amount of Rs.35.28 lakhs in PD Account in accordance with law - *Deputy Director of Income-tax v. State of Gujarat* - [2025] 174 taxmann.com 274 (Gujarat)

SECTION 139 OF THE INCOME-TAX ACT, 1961 - RETURN OF INCOME - GENERAL

- 3.38** Operation of section 139(3) qua time available for filing a return in order to avail benefit of carrying forward any loss stands extended till a return is called for under section 153A(1)(a) and such return is filed, provided return is filed within time indicated in relevant notice under section 153A(1)(a) - *Principal Commissioner of Income-tax (Central)-2 v. Seven Star Steels Ltd.* - [2025] 174 taxmann.com 492 (Calcutta)
- 3.39** Where assessee received compensation from NHAI for acquisition of land, claimed exemption under section 10(26AAB) and filed application under section 119(2)(b) for condonation of delay in filing return, rejection of condonation was unjustified as genuine hardship was demonstrated due to delayed communication of TDS deduction - *Khetivadi Utppan Bajar Samiti Veraval Committee v. Chief Commissioner of Income-tax* - [2025] 174 taxmann.com 1129 (Gujarat)
- 3.40** Where assessee filed its tax audit report and Form 10CCB on last day of filing of return but was unable to upload its ITR due to technical glitches in income tax portal and ITR was uploaded on following day, assessee's application for condonation of delay of one day in filing return was to be allowed - *Square Vision India (P.) Ltd. v. Principal Commissioner of Income-tax* - [2025] 174 taxmann.com 735 (Delhi)

SECTION 142 OF THE INCOME-TAX ACT, 1961 - ASSESSMENT - INQUIRY BEFORE ASSESSMENT

- 3.41** Where assessee was unable to either file their reply or to appear before Assessing Officer for personal hearing due to medical condition of their authorized representative, and without considering same and without providing sufficient time for filing their reply, impugned order came to be passed by Assessing Officer, same was a clear violation of principles of natural justice - *Sohanlal Jain Ramesh v. Assessment Unit, Income-tax Department* - [2025] 174 taxmann.com 910 (Madras)

SECTION 143 OF THE INCOME-TAX ACT, 1961 - ASSESSMENT - GENERAL

- 3.42** Where notice u/s. 143(2) was issued on 26-9-2012 and came to be served on assessee on 1-10-2012 on account of post office having been closed on 30-9-2012 being Sunday and no business was transacted on that day, such service of notice u/s. 143(2) on assessee on 1-10-2012 was valid service of notice in view of section 10 of General Clauses Act and, thus, appellate authorities were absolutely justified in holding that notice served was within period of limitation prescribed u/s. 143(2) - *Ramswaroop Das Niranjana Charitable Trust v. DCIT* - [2025] 174 taxmann.com 590 (Chhattisgarh)

SECTION 144B OF THE INCOME-TAX ACT, 1961 - FACELESS ASSESSMENT

- 3.43** Where assessee was issued with a SCN u/s. 143(3) on 26-2-2025 fixing due date of submission of reply on 1-3-2025 and assessee uploaded necessary documents sought for by Authority concerned on 1-3-2025, 9-3-2025 and 14-3-2025, since time granted to assessee to furnish voluminous documents was not in consonance with SOP and Assessing Authority appeared to have omitted to take into consideration documents furnished before him on 14-3-2025, there had been flagrant violation of principles of natural justice - *Manishri Refractories and Ceramics (P.) Ltd. v. CBDT* - [2025] 174 taxmann.com 448 (Orissa)
- 3.44** Where Assessing Officer passed assessment order without providing an opportunity of cross examination to assessee, only on ground of non-compliance of directions issued by High Court, assessment order was required to be quashed and set aside without further going into merits of matter - *Maa Padmavati Exports v. Assessment Unit, Income-tax Department* - [2025] 174 taxmann.com 730 (Gujarat)
- 3.45** Where assessment order was passed without providing any opportunity of hearing through video conferencing, same was liable to be set aside - *Shiva Texyarn Ltd. v. Assessment Unit Income-tax Department* - [2025] 174 taxmann.com 850 (Madras)

SECTION 144C OF THE INCOME-TAX ACT, 1961 - TRANSFER PRICING- DISPUTE RESOLUTION PANEL

- 3.46** Where assessee filed objections to draft assessment order before DRP but did not communicate same to Assessing Officer, Assessing Officer should not proceed to pass order and ought to have waited till directions were passed by DRP - *Grab Greco LLP v. Assessment Unit* - [2025] 174 taxmann.com 1022 (Karnataka)

SECTION 145 OF THE INCOME-TAX ACT, 1961 - METHOD OF ACCOUNTING - SYSTEM OF ACCOUNTING

- 3.47** Where Commissioner (Appeals) estimated profit of assessee at 8 per cent of gross turnover and Tribunal sustained addition at net profit rate of 6.75 per cent, since identical issue arose in assessee's own case for asst years 2011-12 and 2014-15, wherein Tribunal after giving elaborate reasons had sustained addition at net profit rate of 6.75 per cent, facts and circumstances in instant case being identical, Tribunal was right in sustaining addition at rate of 6.75 per cent - *PCIT Siliguri v. Dilip Kumar Das and Sons* - [2025] 174 taxmann.com 39 (Calcutta)

SECTION 199 OF THE INCOME-TAX ACT, 1961 - DEDUCTION OF TAX AT SOURCE - CREDIT FOR TAX DEDUCTED

- 3.59** Where assessee-firm had filed its return of income claiming credit for TDS as per TDS certificate issued by company and Assessing Officer rejected same on ground that it was not verified from data available on portal, since data on TRACES Portal was not available for relevant year, however, company had provided details of cheques and concerned bank account where same were deposited to credit of Central Government and Assessing Officer had not controverted any of facts as set out by company, Assessing Officer was to be directed to consider response furnished by company as correct and process assessee's request for TDS credit on aforesaid basis - *KJP and Associates v. Deputy Assistant Commissioner of Income-tax* - [2025] 174 taxmann.com 597 (Delhi)

SECTION 201 OF THE INCOME-TAX ACT, 1961 - DEDUCTION OF TAX AT SOURCE - CONSEQUENCE OF FAILURE TO DEDUCT OR PAY

- 3.60** Where assessee had deducted tax at a lower rate as payee had secured a certificate from concerned Assessing Officer for deduction of tax at a lower rate, since there was no material on record to suspect that assessee had failed to deduct TDS or deposit same, impugned notice issued under section 201 was to be set aside - *Conner Institute of Health Care and Research Center (P.) Ltd. v. Deputy Commissioner of Income-tax* - [2025] 174 taxmann.com 443 (Delhi)

SECTION 220 OF THE INCOME-TAX ACT, 1961 - COLLECTION AND RECOVERY OF TAX - WHEN TAX PAYABLE AND WHEN ASSESSEE DEEMED IN DEFAULT

- 3.61** Where corporate debtor was undergoing insolvency resolution process under Insolvency and Bankruptcy Code, 2016 and NCLT had approved resolution plan submitted by corporate debtor, any demand raised by Income Tax Department which was not claimed in said resolution plan would stand extinguished - *V S Texmills (P.) Ltd. v. Assistant Commissioner of Income-tax* - [2025] 174 taxmann.com 1014 (Gujarat)

SECTION 237 OF THE INCOME-TAX ACT, 1961 - REFUND - GENERAL

- 3.62** Where revenue recovered demand by adjusting refund amounts payable to assessee, assessee was entitled to refund of entire amount in excess of 20 per cent for relevant assessment years together with interest - *Karnataka Golf Association v. Deputy Commissioner of Income-tax (Exemption)* - [2025] 174 taxmann.com 1023 (Karnataka)

SECTION 244A OF THE INCOME-TAX ACT, 1961 - REFUNDS - INTEREST ON

- 3.63** Where writ court directed revenue to pay interest at rate of 1.5 per cent per month from expiry of 120 days from

last authorization issued against assessee, arising from seizure/detention of certain amount made by police authorities, since interest was awarded to assessee under section 244A(1)(b) read with section 132B(4)(b) which provides only for payment of simple interest and there was no statutory provision regarding payment of cumulative interest, revenue authorities could not be held liable for willful disobedience of order of writ court - *Vidit Kumar Agarwal v. Arun Kumar* - [2025] 174 taxmann.com 279 (Allahabad)

SECTION 245 OF THE INCOME-TAX ACT, 1961 - REFUNDS - SETTING OFF AGAINST TAX DUE

- 3.64** Where assessee filed an appeal before Commissioner (Appeals) along with detailed submissions and documents and also filed an application before Assessing Officer seeking stay of recovery, pending disposal of appeal and at time of filing appeal, assessee deposited 20 per cent of total demand, revenue authorities were to be directed to refund entire amount in excess of 20 per cent - *Mediakind India (P.) Ltd. v. Deputy Director of Income-tax, CPC* - [2025] 174 taxmann.com 845 (Karnataka)

SECTION 245D OF THE INCOME-TAX ACT, 1961 - SETTLEMENT COMMISSION -PROCEDURE ON APPLICATION UNDER SECTION 245C

- 3.65** Where assessee's application before Settlement Commission was dismissed on ground that they failed to reconstruct case records after original files were found missing, however, no communication was sent to assessee for reconstruction of record or supplying copies of application along with documents relied upon and only an attempt was made by revenue to reconstruct file without involving assessee, mode adopted by Commission was not proper procedure and thus, matter was to be remitted back to Commission to decide application - *Mehta Stone Polishers v. ACIT* - [2025] 174 taxmann.com 799 (Rajasthan)

SECTION 260A OF THE INCOME-TAX ACT, 1961 - HIGH COURT - APPEAL TO

- 3.66** Where assessee contended that there was delay of 6-7 years in filing appeal before Tribunal due to negligence of counsel engaged to file appeal, since assessee was aware of counsel's negligence when ex-parte orders were passed by Commissioner (Appeals) but assessee failed to exercise any care to enquire about status of second appeal and tried to shift responsibility towards his lawyer, appeal was to be dismissed as time barred - *C.I. Builders (P.) Ltd. v. PCIT* - [2025] 174 taxmann.com 534 (Madhya Pradesh)

SECTION 268A OF THE INCOME-TAX ACT, 1961 - FILING OF APPEAL OR APPLICATION FOR REFERENCE BY INCOME-TAX AUTHORITY

- 3.67** Where AO had enhanced income of assessee to reflect assessed income, tax effect would be determined on amount of returned loss plus assessed income, therefore, tax effect of losses of earlier years which were not permitted to be carried forward was not to be taken into account to determine overall tax effect for purpose of filing appeal by revenue - *CIT, Int. Taxation v. SIS Live* - [2025] 174 taxmann.com 852 (Delhi)

into between two corporate entities and even after search, nothing had been found from premises of assessee which would show that in fact assessee had received this amount in cash or kind, value of such debit note could not be charged to tax under Black Money Act - **Additional Commissioner of Income-tax v. Himanshu Gupta - [2025] 174 taxmann.com 649 (Delhi - Trib.)**

SECTION 4 OF THE INCOME-TAX ACT, 1961 - INCOME - CHARGEABLE AS

- 4.8 Compensation received by assessee from builder, Jaypee for cancelling allotment of unit due to delayed handing over of property was a capital receipt not chargeable to tax - **Atul Sharma v. ACIT - [2025] 174 taxmann.com 290 (Delhi - Trib.)**

SECTION 5 OF THE INCOME-TAX ACT, 1961 - INCOME - ACCRUAL OF

- 4.9 Where assessee, a partnership firm, advanced certain amount to a company and received interest on same, since account of said company had become NPA and was facing severe financial difficulties in relevant assessment year and there was no chance of any recovery of interest, there was no point in showing interest on accrual basis and then in subsequent year claiming it as bad debt and, thus, there was no interest actually accrued to assessee which could be brought to tax - **Deputy Commissioner of Income-tax v. Rare Enterprises - [2025] 174 taxmann.com 198 (Mumbai - Trib.)**

SECTION 9 OF THE INCOME-TAX ACT, 1961 - INCOME - DEEMED TO ACCRUE OR ARISE IN INDIA

- 4.10 Income earned by assessee, a USA based company, for providing domain name registration services to Indian Customers could not be treated as royalty under provisions of section 9(1)(vi) and article 12(3)(a) of India-USA DTAA - **GoDaddy.com LLC v. ACIT - [2025] 174 taxmann.com 103 (Delhi - Trib.)**
- 4.11 Income earned by assessee, a USA based company, for providing non-domain services such as web hosting, web designing, etc. to its Indian customers was not taxable as FIS as per article 12(4)(b) of India-USA DTAA since said services did not make available any technical knowledge, experience, skills, know-how, or processes or result in transfer of any technical plan of technical design to users - **GoDaddy.com LLC v. ACIT - [2025] 174 taxmann.com 103 (Delhi - Trib.)**
- 4.12 Where assessee, a UK based company, provided background screening and investigation services to its customers in India, since said services did not qualify as royalty under provisions of Explanation 2 to section 9(1)(vi) and article 13 of India-UK DTAA, no addition on account of royalty was warranted - **Hireright Ltd. v. ACIT, International Taxation - [2025] 174 taxmann.com 35 (Delhi - Trib.)**

- 4.13 Where assessee, an Indian company, paid a certain amount to a non-resident, a resident of Sri Lanka, towards spa consultancy *and* management services in relation to hotels run by assessee, rendering of services by non-resident would be covered by 'Independent Personal Services' as it was similar to nature of services mentioned therein and, thus, payment made by assessee was not taxable in India under article 14 of India-Sri Lanka DTAA - **Sujan Luxury Hospitality (P.) Ltd. v. Assistant Commissioner of Income-tax - [2025] 174 taxmann.com 197 (Delhi - Trib.)**
- 4.14 Where assessee-company paid certain amount to a resident of Kenya for conducting marketing research for exploring *opportunities* in hospitality sector in Kenya, since services were rendered outside India and India-Kenya DTAA did not contain separate provisions for taxing of fees for technical services during relevant period, therefore, disallowance of amount paid by assessee to Kenyan company was not taxable in India and was to be deleted - **Sujan Luxury Hospitality (P.) Ltd. v. Assistant Commissioner of Income-tax - [2025] 174 taxmann.com 197 (Delhi - Trib.)**
- 4.15 Subscription revenue received by assessee, US based company, from Indian customers for providing access to online chemistry databases and from sale of online journals did not *qualify* as royalty in terms of section 9(1)(vi) and article 12(3) of DTAA between India and USA - **American Chemical Society v. Deputy Commissioner of Income-tax (International Taxation) - [2025] 174 taxmann.com 444 (Mumbai - Trib.)**
- 4.16 Where assessee, Singapore based company, was engaged in business of providing/sub-licensing software and earned revenue from maintenance services and training services provided to its Indian customers, since said services did not make available any technical skills, knowledge, or expertise etc., which enabled Indian customers to apply technology contained therein, income of assessee from rendering said services would not fall within ambit of FTS and was not taxable in India - **Deputy Commissioner of Income-tax (IT) v. Murex Southeast Asia (P.) Ltd. - [2025] 174 taxmann.com 447 (Mumbai - Trib.)**
- 4.17 Where assessee, a company incorporated in Cyprus, held shares of Indian company and claimed benefit under article 13 of India-Cyprus DTAA on sale of said shares, since assessee was not merely a pass through entity but had a valid TRC and had also shown that decisions of investment/disinvestment for assessee were carried out in Cyprus, assessee was entitled to benefits of India-Cyprus DTAA - **Gagil FDI Ltd. v. Assistant Commissioner of Income-tax - [2025] 174 taxmann.com 498 (Delhi - Trib.)**
- 4.18 Where assessee, Korean company, had declared loss attributing to its PE in India and earned income from other sources in form of FTS, since there was no specific provision regarding allowability of set off of intra head of income in DTAA, assessee would be eligible to set off of loss of its PE against income earned through other sources in India under provisions of section 71 - **Hyosung Corporation v. ACIT - [2025] 174 taxmann.com 500 (Delhi - Trib.)**

4.19 Where fabrication charges received by assessee, a tax resident of Singapore, from its Indian AE for manufacturing bushings did not 'make available' technical knowledge and were not ancillary to royalty under India-Singapore DTAA, such charges could not be treated as FTS - **Owens Corning (Singapore) Pte Ltd. v. DCIT (IT)** - [2025] 174 taxmann.com 505 (Mumbai - Trib.)

4.20 Where assessee, a UK company, received payment from an Indian company towards consulting engineering services (CES) and management fees/common cost recharge, since nature of services rendered by assessee did not involve 'making available' of any technical knowledge, experience, skill, know-how, or processes to Indian company, income could not be characterised as FTS under India-UK DTAA - **Buro Happold Ltd. v. Deputy Commissioner of Income-tax (International Taxation)** - [2025] 174 taxmann.com 533 (Mumbai - Trib.)

4.21 Where assessee company made payment to its Head Office in USA towards services provided by dedicated team of Head Office in identifying and choosing projects, analysing technical feasibility, making technical presentation, price negotiation etc. apart from supervising and monitoring project activities in India, since these services were rendered in India, same would fall in terms of make available as per article 12 of Indo-US DTAA, and thus, said payment would fall in category of FTS, and accordingly, assessee was liable to deduct TDS on same under section 195 - **Sheladia Associates Inc. v. ADIT (International Taxation)** - [2025] 174 taxmann.com 931 (Hyderabad - Trib.)

SECTION 10(23C) OF THE INCOME-TAX ACT, 1961 - INCOMES NOT INCLUDED IN TOTAL INCOME

4.22 Where, assessee, an educational institution, filed return belatedly under section 148 and claimed exemption under section 10(23C)(iiiad), such exemption could not be denied solely on ground of delayed filing under section 139(1), particularly when aggregate receipts were below specified limit and such compliance was not mandated - **Institute Management Committee ITI Jhalawar v. Income-tax Officer** - [2025] 174 taxmann.com 1071 (Jaipur - Trib.)

4.23 Where assessee, Centrally funded institute set up in 2015, was granted provisional registration under sub-clause (A) of clause (iv) of first proviso to clause (23C) of section 10, however assessee had already commenced its activities in 2015 and final registration was rejected on technical mistake, assessee was to be granted approval as if it was an old Institute, which came into existence prior to 1-4-2021 - **Indian Institute of Management v. Commissioner of Income-tax (E)** - [2025] 174 taxmann.com 272 (Chandigarh - Trib.)

4.24 Where assessee-educational institution had requisite approval granted by Commissioner (Exemption) for assessment year 2017-18, exemption under section

10(23C)(vi) could not be denied for reason of non-filing of return in terms of section 139(4C) as 20th proviso to section 10(23C) prescribing dis-entitlement of exemption under section 10(23C)(vi) for non-filing of return, came into effect only from assessment year 2023-24 - **Harda Nagar Bal Vikas Samiti Harda v. Income Tax Officer** - [2025] 174 taxmann.com 680 (Indore - Trib.)

4.25 Where assessee filed its return of income claiming exemption under section 10(23C)(iiiad) but in return processed under section 143(1)(a) benefit of exemption was denied, since Commissioner (Appeals) gave very short time to assessee to furnish details and prima-facie it showed that fair opportunity of hearing was not given to assessee, issue was to be restored to file of Commissioner (Appeals) for de novo adjudication - **Sai Shikshan Prasarak Mandal v. Income-tax Officer** - [2025] 174 taxmann.com 785 (Pune - Trib.)

SECTION 10(34) OF THE INCOME-TAX ACT, 1961 - DIVIDENDS REFERRED TO IN SECTION 115-O

4.26 Where assessee was engaged in life insurance business, it would be entitled to claim exemption under section 10(34) and section 10(23AAB) while computing its income under section 44 - **DCIT v. SBI Life Insurance Co. Ltd.** - [2025] 174 taxmann.com 1131 (Mumbai - Trib.)

SECTION 10(38) OF THE INCOME-TAX ACT, 1961 - CAPITAL GAINS - INCOME ARISING FROM TRANSFER OF LONG TERM SECURITIES

4.27 Where Assessing Officer accepted LTCG claim of assessee arising on sale of shares of company T and Principal Commissioner invoked revisionary jurisdiction based on alleged information of Investigation Wing that assessee had made investment in shares of a paper company which was amalgamated with another paper company, T and on sale of those shares, earned bogus LTCG, since amalgamation was approved by High Court, impugned revisionary order was not tenable - **Vikram Jain v. PCIT** - [2025] 174 taxmann.com 1245 (Chandigarh - Trib.)

SECTION 11 OF THE INCOME-TAX ACT, 1961 - CHARITABLE OR RELIGIOUS TRUST - EXEMPTION OF INCOME FROM PROPERTY HELD UNDER

4.28 Where AO rejected exemption u/s. 11 to assessee society, however, taxed gross receipts without allowing deduction towards expenditure, AO had erred in taxing gross receipts of assessee instead of net income as per financial statements, therefore, matter was to be remanded back to AO for reconsideration of issue and allow claim of deduction towards various expenditure out of income and tax only net income - **Zoos and Parks Authority of Telangana v. DCIT** - [2025] 174 taxmann.com 1136 (Hyderabad - Trib.)

4.29 Where name of assessee society, registered u/s. 12A, was changed, however, after change in name, assessee had not applied for registration u/s. 12A, once society was not registered u/s. 12A, then, said society/trust could not claim benefit of exemptions u/s. 11 and 12 - **Zoos and Parks Authority of Telangana v. DCIT** - [2025] 174 taxmann.com 1136 (Hyderabad - Trib.)

- 4.42 Where Commissioner (Exemption) rejected assessee-trust's application for registration under section 12A on ground that assessee did not comply with notice issued to it, seeking clarifications and details (bills, vouchers, etc.) to verify genuineness of charitable activities, considering totality of facts of case, Commissioner (Exemption) was to be directed to grant one final opportunity to assessee to substantiate its case by filing requisite details and decide issue as per fact and law - **Bhai Vaidya Foundation v. Commissioner of Income-tax (Exemption)** - [2025] 174 taxmann.com 790 (Pune - Trib.)
- 4.43 Where Commissioner (Exemption) rejected application for registration filed by assessee-trust on ground that assessee had failed to submit documentary evidences in support of charitable activities carried out by assessee, since additional evidence filed by assessee went to root of matter, matter was to be remanded back to Commissioner (Exemption) with a direction to grant an opportunity to assessee to substantiate its case by filing requisite details/explanation to his satisfaction and adjudicate issue afresh on merits as per fact and law - **Mahaveer (I) Foundation Trust v. Commissioner of Income-tax (Exemption)** - [2025] 174 taxmann.com 842 (Pune - Trib.)
- 4.44 Where registration under section 12A(1)(ac)(i) was cancelled on ground that assessee applied income for benefit of a particular religious community, but assessee -society demonstrated that it was engaged in charitable activities as defined in section 2(15) and benefits were extended to all sections of society irrespective of caste or creed, cancellation was unjustified - **Human Welfare Foundation v. DCIT (Exemptions)** - [2025] 174 taxmann.com 650 (Delhi - Trib.)
- 4.45 Where assessee-trust applied for registration under section 12A and Commissioner (Exemption) found that application was erroneous as assessee applied under section 12A(1)(ac)(vi)(B), whereas correct provision applicable to assessee's case was section 12A(1)(ac)(iii) and registration was cancelled, since no show-cause notice was issued by Commissioner (Exemption) highlighting discrepancy in application, order of cancellation was to be set aside and matter was to be remanded back to Commissioner (Exemption) for fresh adjudication - **Zarina Foundation v. Commissioner of Income-tax (Exemption)** - [2025] 174 taxmann.com 913 (Mumbai - Trib.)
- 4.46 Where Commissioner (Exemption) rejected applications for registration under section 12A and 80G on ground of non-compliance on notices by assessee, since assessee was not given proper and sufficient opportunity to explain its case, matter was to be remanded to provide one more opportunity to assessee - **Sai Seva Sansthan v. Commissioner of Income-tax (Exemption)** - [2025] 174 taxmann.com 1009 (Lucknow - Trib.)

SECTION 12AB OF THE INCOME-TAX ACT, 1961 - CHARITABLE OR RELIGIOUS TRUST - PROCEDURE FOR FRESH REGISTRATION

- 4.47 Where assessee-trust, engaged in educational welfare for under-privileged, was denied registration under section 12AB on ground that assessee was indulged in malpractices and fraudulent activities as non-genuine purchases of school uniform and computers were made, since enquiries conducted by Commissioner (Exemption) were not confronted to assessee and assessee had produced overwhelming evidence to prove genuineness of its activities, matter was to be remanded back to Commissioner (Exemptions) - **Happiness Acts Trust v. Commissioner of Income-tax (Exemptions)** - [2025] 174 taxmann.com 123 (Bangalore - Trib.)
- 4.48 Where assessee, a section 8 company, inadvertently mentioned nature of its activity in Form 10AB as 'religious-cum-charitable' and Commissioner (Exemptions) while granting registration treated nature of its activity as 'religious-cum-charitable', since classification of assessee as 'religious-cum-charitable institution' happened because of mistake which crept in Form 10AB, such mistake could not change its original character which as per its Memorandum of Association, was charitable institution - **Kasi Visvanathar Koviloor Foundation v. DCIT/ACIT (exemptions)** - [2025] 174 taxmann.com 489 (Chennai - Trib.)
- 4.49 Where Commissioner (Exemption) rejected application of assessee-trust for registration under section 12AB on ground that activities of assessee-trust were not genuine and trustees were siphoning off funds, since assessee submitted that genuineness of activities of trust and also its objects were proved and there was no room for siphoning off funds, assessee should be given one more opportunity to advance documents before Commissioner (Exemption) - **Samajik Prerna Avam Gramin Vikas SansthanLaporiya v. Commissioner of Income-tax, Exemption** - [2025] 174 taxmann.com 591 (Jaipur - Trib.)
- 4.50 Where assessee-trust was created in year 1930 much prior to Income-tax Act, 1961 and there was no change in objects/activities from date of grant of registration under section 12A till date of cancellation, Commissioner (Exemption) was not justified in holding that assessee trust was found to be involved in specific violation of clause (e) of Explanation to sub-section 12AB(4) - **Mukund Bhavan Trust v. Commissioner of Income-tax (Exemption)** - [2025] 174 taxmann.com 36 (Pune - Trib.)
- 4.51 Where assessee-trust was granted registration under section 12AB(1)(ac)(i) on 24-9-2021 and Commissioner (Exemption) cancelled said registration on ground that assessee was not registered with charity commissioner under Bombay Public Trusts Act, 1950 and, thus, it was involved in specific violation under clause (f) of Explanation to sub-section (4) of section 12AB, since there was no order or decree holding that such non-compliance had occurred, registration under section 12AB could not be cancelled - **Mukund Bhavan Trust v. Commissioner of Income-tax (Exemption)** - [2025] 174 taxmann.com 36 (Pune - Trib.)

- 4.52** Where Commissioner (Exemptions) rejected application of assessee-trust for registration under section 12AB on ground that assessee was not having sanction of Charity Commissioner for loans taken from trustee during year, since opportunity of hearing was not afforded to assessee-trust for furnishing any clarification on issue of temporary loan taken by it, matter was to be remitted back for decision afresh - **Snehbandh Foundation v. Commissioner of Income-tax (Exemption)** - [2025] 174 taxmann.com 853 (Pune - Trib.)
- 4.53** Where registration granted under section 12A was cancelled retrospectively from assessment year 2018-19 by invoking section 12AB(4), since provision, inserted by Finance Act, 2022 with effect from 1-4-2022, is prospective in nature and cannot be applied retrospectively, cancellation of registration from assessment year 2018-19 was unsustainable - **Human Welfare Foundation v. DCIT (Exemptions)** - [2025] 174 taxmann.com 650 (Delhi - Trib.)
- 4.54** Where assessee-trust filed an appeal against order passed by Commissioner (Exemption) under section 12AB and section 80G with a delay of 33 days, since order passed by Commissioner (Exemption) would have been served on email id of assessee but management/trustees of assessee were not aware about order sent on email address as staff did not check income tax portal of assessee, delay in filing appeal was to be condoned - **Shriram Paropkari Trust v. Commissioner of Income-tax Exemption** - [2025] 174 taxmann.com 787 (Jaipur - Trib.)
- 4.55** Where Commissioner (Exemption) rejected application of assessee-trust for registration under section 12AB on account of four reasons, namely, (i) non submission of legible copy of trust deed; (ii) incomplete details in Form no. 10AB; (iii) assessee was not registered under Rajasthan Public Trust Act, 1959; and (iv) assessee could not establish genuineness of its activities, since reasons **advanced** were curable in nature, matter was to be restored to file of Commissioner (Exemption) for afresh adjudication - **Shriram Paropkari Trust v. Commissioner of Income-tax Exemption** - [2025] 174 taxmann.com 787 (Jaipur - Trib.)
- 4.56** Where Commissioner (Exemptions) rejected assessee-trust's application for registration under section 12AB on ground that **financial** statement of assessee-trust particularly receipt and payment account did not suggest cost incurred toward charitable activity, since, no material was brought on record by Commissioner(Exemption) to suggest that objectives were non-charitable or that activities undertaken were not genuine, issue was to be set aside to file of Commissioner (Exemptions) for fresh adjudication - **Siwanchi Oswal Jain Bhavan Trust v. Commissioner of Income-tax (Exemptions)** - [2025] 174 taxmann.com 788 (Bangalore - Trib.)

- 4.57** Where assessee-trust filed application for registration under section 12AB and Commissioner (Exemptions) rejected said application on ground that assessee had not proved **genuineness** of its charitable activities, since assessee had placed before authorities, trust deed evidencing its charitable objectives and there was no material brought on record by Commissioner (Exemptions) suggesting that objectives were non-charitable or that activities undertaken were not genuine, issue was to be set aside to file of Commissioner (Exemptions) for fresh consideration - **WeVysya v. Commissioner of Income-tax (Exemptions)** - [2025] 174 taxmann.com 1016 (Bangalore - Trib.)
- 4.58** Where assessee-trust filed an appeal against ex parte order passed by Commissioner (Exemptions) rejecting petition relating to grant of registration under section 12AB and exemption under section 80G with a delay of 536 days, since objects of trust were genuine and returns of income were regularly filed, coupled with fact that trustees were aged people who were not conversant with email communication, delay in filing appeal was to be condoned and matter remitted back to Commissioner(Exemption) to decide issues of registration and exemption on merits - **Samasta Brahman Mahasangh v. Commissioner of Income-tax (Exemption)** - [2025] 174 taxmann.com 1011 (Mumbai - Trib.)

SECTION 13 OF THE INCOME-TAX ACT, 1961 - CHARITABLE OR RELIGIOUS TRUST - DENIAL OF EXEMPTION

- 4.59** Where assessee, an educational society, borrowed funds from specified persons at interest rate higher than rate prevailing in market due to financial difficulties and uncontrollable circumstances, since said loans were obtained solely for benefit of society, it could not be held that assessee had violated provisions of sections 13(1)(c) and 13(2) read with section 13(3) with sole intention to transfer any direct or indirect benefit to specified persons and, thus, exemption under sections 11 and 12 was to be allowed - **Educate India Society v. Deputy Commissioner of Income-tax, Exemption** - [2025] 174 taxmann.com 119 (Delhi - Trib.)
- 4.60** Where assessee-trust paid remuneration to specified person (CEO of trust) who had relevant qualification for job and there was no material brought on record to substantiate that salary or remuneration paid was excessive, provisions of section 13(1)(c) could not be invoked to deny exemption u/s. 11 - **Deputy Commissioner of Income-tax (Exemption) v. Pardada Pardadi Educational Society** - [2025] 174 taxmann.com 781 (Delhi - Trib.)

SECTION 14A OF THE INCOME-TAX ACT, 1961 - EXPENDITURE INCURRED IN RELATION TO INCOME NOT INCLUDIBLE IN TOTAL INCOME

- 4.61** Where assessee suo-moto disallowed expenses u/s. 14A and AO made additional disallowance, over and above suo-moto amount disallowed by assessee, since AO had not expressly mentioned any dissatisfaction in suo-moto disallowance computed by assessee, disallowance made by AO was to be deleted - **Bosch Global Software Technologies (P.) Ltd. v. ACIT** - [2025] 174 taxmann.com 76 (Bangalore - Trib.)

- 4.62 Where assessee, having suo moto disallowed Rs. 14.31 crore u/s. 14A in its return of income, subsequently revised disallowance to Rs.98,872 without substantiating basis for allocation through a revised audit report or any specific rationale, such revision was rightly rejected - **Gujarat State Financial Services Ltd. v. DCIT - [2025] 174 taxmann.com 461 (Ahmedabad - Trib.)**

SECTION 23 OF THE INCOME-TAX ACT, 1961 - INCOME FROM HOUSE PROPERTY - ANNUAL VALUE

- 4.63 Where assessee let out residential properties to companies for commercial use on certain rent, it was entitled to claim deduction of mixed land use charges paid to MCD against rental income received from tenants - **Padam Chand Gupta v. ACIT - [2025] 174 taxmann.com 195 (Delhi - Trib.)**

SECTION 24 OF THE INCOME-TAX ACT, 1961 - INCOME FROM HOUSE PROPERTY - DEDUCTIONS

- 4.64 Where assessee derived income from license fees in respect of various shops/showrooms situated in shopping complex cum mall and offered said income under head income from house property and claimed deduction u/s. 24, since treatment of income under head house property was consistently followed from earlier assessment years, AO was to be directed to assess income under head house property and delete addition made to total income - **Hind Ceramics (P.) Ltd. v. DCIT - [2025] 174 taxmann.com 486 (Kolkata - Trib.)**

SECTION 28(i) OF THE INCOME-TAX ACT, 1961 - BUSINESS INCOME - CHARGEABLE AS

- 4.65 Where assessee, engaged in trading of liquor and other goods, rented out his property on a day to day basis and also provided certain facilities to those who would be taking premises on rent, it would be an organized activity of a composite nature and, thus, income from renting of properties was to be treated as business income and not as income under head 'income from house property' - **Rajesh Kumar Jaiswal v. DC/ACIT(CENTRAL) Income-tax Department - [2025] 174 taxmann.com 276 (Allahabad - Trib.)**

SECTION 30 OF THE INCOME-TAX ACT, 1961 - RENT, RATES, TAXES, REPAIRS AND INSURANCE FOR BUILDINGS

- 4.66 Where Assessing Officer disallowed rent paid by assessee for a property by holding that said property was never taken by assessee for business purposes, since assessee was maintaining its office at aforesaid property where search was carried out, this clearly established that property in question was occupied by assessee for its office and, therefore, order of Commissioner (Appeals) in deleting disallowance so made required no interference - **Focus Heights (P.) Ltd. v. ACIT - [2025] 174 taxmann.com 1127 (Delhi - Trib.)**

SECTION 32 OF THE INCOME-TAX ACT, 1961 - DEPRECIATION - ALLOWANCE/RATE OF

- 4.67 Computers software, despite being intangible in terms of output, play a crucial role as plant and machinery in the production process, hence, where assessee was engaged in production of an article or thing (software), computers used in production of such software could be treated as plant and machinery under provisions of section 32(1)(ia) - **Bosch Global Software Technologies (P.) Ltd. v. ACIT - [2025] 174 taxmann.com 76 (Bangalore - Trib.)**

- 4.68 Where assessee claimed depreciation on gym equipments however no gym equipments were found installed at office premises when search was taken place, depreciation on gym equipments was to be disallowed - **Focus Heights (P.) Ltd. v. ACIT - [2025] 174 taxmann.com 1127 (Delhi - Trib.)**

- 4.69 Computer accessories and peripherals such as UPS form an integral part of computer system and are entitled to depreciation at higher rate of 60 per cent - **DCIT v. Tata Power Delhi Distribution Ltd. - [2025] 174 taxmann.com 491 (Delhi - Trib.)**

- 4.70 Brought forward unabsorbed depreciation needs to be added to current year depreciation and once it takes colour of current year depreciation, then it becomes eligible for set-off against other income as provided in section 72(1) - **Hotel Ayodhya v. ADIT, CPC - [2025] 174 taxmann.com 794 (Pune - Trib.)**

- 4.71 Goodwill arose from excess of consideration over net value of tangible assets transferred in amalgamation was a valid intangible asset, and therefore, eligible for depreciation u/s. 32(1)(ii) - **Olympic Decor LLP v. PCIT-3 - [2025] 174 taxmann.com 972 (Ahmedabad - Trib.)**

SECTION 32AC OF THE INCOME-TAX ACT, 1961 - INVESTMENT IN NEW PLANT OR MACHINERY

- 4.72 Where assessee was engaged in business of developing computer software, computers installed by assessee for purpose of development of software activity which was held as production of article or things would be available for investment allowances under provision of section 32AC whereas no allowance would be allowed on computers installed for administrative purposes - **Bosch Global Software Technologies (P.) Ltd. v. ACIT - [2025] 174 taxmann.com 76 (Bangalore - Trib.)**

SECTION 36(1)(iii) OF THE INCOME-TAX ACT, 1961 - INTEREST ON BORROWED CAPITAL

- 4.73 Where assessee-company claimed interest expenditure on inter corporate deposits and also advanced interest free loans to its three associate concerns, since transition of associate concern from loss making to marginal profit was only during year and would not per-se end requirement of 'commercial expediency', impugned disallowance of interest made by AO in respect of loan given by assessee company to associate concern was to be deleted - **Sujan Luxury Hospitality (P.) Ltd. v. ACIT - [2025] 174 taxmann.com 197 (Delhi - Trib.)**

4.108 Where AO treated income earned by assessee on winning a bike through scratch card as lottery winnings, however assessee contended that it was a gift and said amount could not be taxed at higher rate u/s. 115BB, since said fact had not been adjudicated, matter was to be remanded back to AO - **Surendra Ram Bharti v. I.T.O., Ward 2(2), Dhanbad - [2025] 174 taxmann.com 552 (Ranchi-Trib.)**

4.109 Where assessee purchased a property for a sum of Rs.42.72 lakhs, however, stamp duty value of same was Rs. 1.15 crores, since value of property was disputed, AO had to make a reference to DVO for purpose of valuing same; Agricultural land cannot be taken out of purview of section 56(2)(x) - **Clayking Minerals LLP v. ITO - [2025] 174 taxmann.com 1111 (Ahmedabad - Trib.)**

SECTION 57 OF THE INCOME-TAX ACT, 1961 - INCOME FROM OTHER SOURCES - DEDUCTIONS

4.110 Where assessee-company earned interest from fixed deposits which were placed in bank as security deposit for business loan and interest paid on bank loans was adjusted with said interest income, since said adjustment was tax neutral, addition made by AO on account of interest expenses was unjustified - **Global Tradex Ltd. v. ACIT - [2025] 174 taxmann.com 446 (Mumbai - Trib.)**

SECTION 68 OF THE INCOME-TAX ACT, 1961 - CASH CREDIT

4.111 Where assessee received cash during demonetization period and contended that same was generated from cash sales, since sales made by assessee was duly recorded in books of account and complete cash book was produced and AO could not point out any mistake in cash sales made by assessee, hence, source of cash deposits made by assessee during demonetization period out of cash sales stood explained, no addition u/s. 68 on account of said cash sales could be made - **DCIT, Circle-1 v. Tirupati Balaji Exim (P.) Ltd. - [2025] 174 taxmann.com 1077 (Chandigarh - Trib.)**

4.112 Where assessee received advance of Rs. 3 crores from a party against sale of property and said amount was received through banking channels, no addition could be made on account of said advance received - **Focus Heights (P.) Ltd. v. ACIT - [2025] 174 taxmann.com 1127 (Delhi - Trib.)**

4.113 Where AO issued reopening notice on ground that assessee had made time deposit/cash deposits and income of Rs. 90.64 lakhs had escaped assessment, later, while passing order assessee's claim was accepted that said amount was earned from investment in time deposit which was re-deposited and no addition was made, however, additions were made on account of variation qua unexplained money wherein amount did not exceed Rs. 50 lakhs, thus reopening notice issued after lapse of three years would be nullity - **Ms. Sonali Dharmendra Mhatre v. ITO - [2025] 174 taxmann.com 699 (Mumbai - Trib.)**

4.114 Where Assessing Officer treated repayment of loan received by assessee from an entity as business receipt under section 28, however, PCIT invoked revision on ground that said transaction was to be treated as unexplained cash credit under section 68, since an addition had already been made under one provision, PCIT could not revise order merely because, in his view, a different provision ought to be invoked, thus, impugned revision was unsustainable - **Olympic Decor LLP v. PR. Commissioner of Income-tax-3 - [2025] 174 taxmann.com 972 (Ahmedabad - Trib.)**

4.115 Where assessee had taken unsecured loans from K and AM and had submitted confirmation letter and also bank statement indicating transfer of funds through banking channel, and also explained source of source for same, vital ingredients of section 68, namely identity, creditworthiness, and genuineness, were established, thus, impugned addition under section 68 in respect of said loans was to be deleted - **Rani Sati Surajgarhia Infrastructure Ltd. v. DCIT - [2025] 174 taxmann.com 929 (Delhi - Trib.)**

SECTION 69 OF THE INCOME-TAX ACT, 1961 - UNEXPLAINED INVESTMENTS

4.116 Where assessee had not recorded investment in property in accounts or in return and had failed to explain nature and source of such investments, said investment was to be taxed under special provisions of section 69 and would be liable to tax under provisions of section 115BBE - **Rajesh Kumar Jaiswal v. DC/ACIT(CENTRAL) Income-tax Department - [2025] 174 taxmann.com 276 (Allahabad - Trib.)**

4.117 Where assessee's case was reopened based on information from Insight portal that assessee had carried out substantial financial transactions, however, assessee's objections that he had not entered into any such transaction was not disposed of by Assessing Officer by passing speaking order, reassessment proceedings were to be quashed - **Prasanth Sunil Kumar Bohra v. Income-tax Officer - [2025] 174 taxmann.com 907 (Mumbai - Trib.)**

SECTION 69A OF THE INCOME-TAX ACT, 1961 - UNEXPLAINED MONEYS

4.118 Where approval granted under section 153D was with certain riders and Assessing Officer was to finalize assessment order after adhering to all such direction, since final approval was not established to have been granted towards final order, assessment order passed under section 143(3) read with section 153A on foundation of such invalid approval was not valid - **Nimesh Patel v. Deputy Commissioner of Income-tax - [2025] 174 taxmann.com 60 (Raipur - Trib.)**

4.119 Where Assessing Officer treated entire cash deposits in bank account as unexplained income under section 69A, since assessee himself admitted that he was earning commission at rate of 2 to 3 per cent of turnover, income as estimated by Commissioner (Appeals) at 3 per cent of cash deposits was reasonable - **Mohammedaarif Yunusbhai Patel v. Income-tax Officer - [2025] 174 taxmann.com 333 (Ahmedabad - Trib.)**

4.120 Where AO reopened assessment against assessee based on information from Investigation Wing that there were huge RTGS deposits in assessee's bank account which were subsequently withdrawn in cash, since assessee had disclosed all material facts during original assessment proceedings, impugned reassessment proceedings being beyond period of four years from end of relevant assessment year would fall within scope of provisions of first proviso to section 147 and was to be set aside - **Pradeep Kumar Agrawal v. ITO - [2025] 174 taxmann.com 610 (Raipur - Trib.)**

4.121 Where assessee deposited certain amount of cash in his bank account during demonetization period and explained that said cash was received from his customers as a repayment of loan provided earlier against gold ornaments, since assessee had placed on record list of his customers to whom loans were given and also statement of its bank account maintained with Federal Bank which pertained to 'Fast Track Gold Loan/Gold Loan' availed by assessee, source of cash deposited by assessee was duly explained and same could not be treated as unexplained money u/s. 69A - **Shravan Singh Parmar v. ITO - [2025] 174 taxmann.com 851 (Mumbai - Trib.)**

SECTION 69B OF THE INCOME-TAX ACT, 1961 - UNDISCLOSED INVESTMENTS

4.122 Where assessee entered into agreement to sell a property for Rs. 12 crores and received advance of Rs. 3 crores but property was sold to some other entity for Rs. 6.5 crores only, since agreement to sell was cancelled and advance received was refunded through bank, no addition was to be made on account of differential amount of Rs. 5.5 crores - **Focus Heights (P.) Ltd. v. ACIT - [2025] 174 taxmann.com 1127 (Delhi - Trib.)**

4.123 Where assessee had been able to demonstrate breakup of total cost of construction claimed and further filed necessary cancellation agreement which had not been doubted by AO, no addition could be made on ground that assessee had claimed total cost of construction at Rs. 4.64 crores and had received only Rs. 4.50 crores on termination of its rights - **Focus Heights (P.) Ltd. v. ACIT - [2025] 174 taxmann.com 1127 (Delhi - Trib.)**

SECTION 69C OF THE INCOME-TAX ACT, 1961 - UNEXPLAINED EXPENDITURE

4.124 Where Assessing Officer made addition at rate of 12.5 percent on alleged doubtful purchases of raw material from bogus parties, since Assessing Officer did not doubt manufactured and finished goods out of such alleged purchases of raw material, and further, procurement of such purchases by assessee were either at par or even below market rate, no addition could be sustained on account of alleged purchases from bogus parties - **Prime Steel Industries (P.) Ltd. v. DCIT - [2025] 174 taxmann.com 547 (Chandigarh - Trib.)**

4.125 Where during course of search at assessee's premises, one loose paper was found/seized which contained details of cost of construction incurred by assessee on various projects and majority of figures stated in seized document were matching with cost of respective projects recorded in books of account, impugned addition made u/s. 69C was to be confirmed - **Focus Heights (P.) Ltd. v. ACIT - [2025] 174 taxmann.com 1127 (Delhi - Trib.)**

SECTION 70 OF THE INCOME-TAX ACT, 1961 - LOSSES - SET OFF OF FROM ONE SOURCE AGAINST INCOME FROM ANOTHER SOURCES UNDER SAME HEAD OF INCOME

4.126 Short-term capital loss on which STT was paid can be set off against short-term capital gain on which STT was not paid - **Eastspring Investments india Equity Open Ltd. v. DCIT(IT) - [2025] 174 taxmann.com 445 (Mumbai - Trib.)**

4.127 Short-term capital loss (on which STT was paid) can be set off against short-term capital gains (on which STT was not paid) - **Teacher Retirement System of Texas v. ACIT (IT) - 4(1)(2) - [2025] 174 taxmann.com 932 (Mumbai - Trib.)**

SECTION 80G OF THE INCOME-TAX ACT, 1961 - DEDUCTIONS - DONATION TO CERTAIN FUNDS, CHARITABLE INSTITUTIONS

4.128 Where assessee made a donation of Rs. 3.57 crore to Gujarat Cleanliness Fund as part of its CSR activities and claimed deduction u/s. 80G, such claim was allowable as restriction u/s. 80G is limited to donations made to Swachh Bharat Kosh or Clean Ganga Fund and does not extend to other eligible funds - **Gujarat State Financial Services Ltd. v. DCIT - [2025] 174 taxmann.com 461 (Ahmedabad - Trib.)**

4.129 Where Commissioner (Exemption) rejected application of assessee-trust for registration u/s. 80G on ground that some objects of assessee-trust were religious in nature, since assessee-trust had not incurred any expenditure which was of religious nature, mere use of words 'religious' or 'religion' in few objects of trust deed would not mean that trust was not for charitable purpose but was for religious purpose - **Shree Mahavideh Charitable Trust v. CIT(E) - [2025] 174 taxmann.com 540 (Surat-Trib.)**

4.130 Where assessee's application seeking final approval u/s. 80G(5) was rejected for reason that assessee had applied under an incorrect clause of first proviso to section 80G(5), since provisional approval was already granted to assessee and all these facts were there on record before Commissioner (Exemption), he ought not to have rejected assessee's application but should have considered it in light of correct provisions of law - **Gandhinagar Ayyapa Pooja Samiti v. CIT (Exemption) - [2025] 174 taxmann.com 901 (Ahmedabad - Trib.)**

4.131 Where Commissioner (Exemption) rejected application of assessee for grant of approval u/s. 80G on ground that assessee did not respond to discrepancies pointed out by him, in view of fact that Commissioner (Exemption) had granted permanent registration to assessee u/s. 12AB(1)(b), matter was to be remanded back to Commissioner (Exemption) to grant one more opportunity to assessee to substantiate its case by filing requisite details to his

satisfaction and decide issue as per fact and law - **Gems Chamber of Commerce Association v. CIT(E) - [2025] 174 taxmann.com 1006 (Pune - Trib.)**

4.132 Where assessee-trust while submitting application for approval under section 80G in Form 10AB made bona fide error of selecting sub-clause (iv) instead of sub-clause (ii) of proviso to section 80G(5), matter was to be remitted back to Commissioner (Exemption) to consider application under clause (ii) and thereafter grant approval accordingly, if assessee was otherwise found eligible - **Senior Citizen Council Gandhinagar v. Commissioner of Income-tax (Exemption) - [2025] 174 taxmann.com 1013 (Ahmedabad - Trib.)**

4.133 Where Commissioner (Exemptions) rejected application of assessee-trust for approval under section 80G(5)(iv)(B) on ground that assessee had earlier claimed exemption under sections 11 and 12, eligibility conditions under section 80G(5)(iv)(B) had been violated, and therefore application was not maintainable, since as per own admission, there was an inadvertent error in filing of Form 10AB, wherein application was made under incorrect sub-clause (B) of clause (iv) of first proviso to subsection (5) of section 80G instead of clause (iii) of first proviso to subsection (5), matter was to be remanded back to Commissioner (Exemptions) for de novo consideration - **Aatman Foundation v. Commissioner of Income-tax (Exemption) - [2025] 174 taxmann.com 1109 (Ahmedabad - Trib.)**

SECTION 80-IA OF THE INCOME-TAX ACT, 1961 - DEDUCTIONS - PROFITS AND GAINS FROM INFRASTRUCTURE UNDERTAKINGS

4.134 Disallowances made under sections 32, 40(a)(ia), 40A(3), 43B, etc. and other specific disallowances, related to business activity against which deduction under section 80-IA has been claimed, result in enhancement of profits of eligible business, and that deduction under section 80-IA is admissible on profits so enhanced by disallowance - **Deputy Commissioner of Income-tax v. Tata Power Delhi Distribution Ltd. - [2025] 174 taxmann.com 491 (Delhi - Trib.)**

4.135 Where Principal Commissioner invoked revision under section 263 on ground that Assessing Officer had allowed claim under section 80-IA without reconciling difference between depreciation claimed under books and income-tax, since Assessing Officer had verified 80-IA claim based on Form 10CCB, profit and loss statement of eligible Windmill unit, and depreciation schedules under both Income Tax and Companies Act, and reconciliation was duly filed and accepted, assessment could not be considered erroneous - **Olympic Decor LLP v. PR. Commissioner of Income-tax-3 - [2025] 174 taxmann.com 972 (Ahmedabad - Trib.)**

SECTION 80P OF THE INCOME-TAX ACT, 1961 - DEDUCTIONS - INCOME OF CO-OPERATIVE SOCIETIES

4.136 Where assessee-society was engaged in marketing of sugarcane produced by its members and it received commission from sugar mills on supply of sugarcane by its members, since payment of commission was attributable to activity of production and marketing of sugarcane, such commission received by assessee was business receipt and, thus, eligible for deduction u/s. 80P - **ITO v. Cooperative Cane Development Union Ltd. - [2025] 174 taxmann.com 34 (Lucknow - Trib.)**

SECTION 91 OF THE INCOME-TAX ACT, 1961 - DOUBLE TAXATION RELIEF - WHERE NO AGREEMENT EXISTS

4.137 Where assessee had not claimed any benefit of taxes paid in foreign country under provisions of section 90/91, assessee was eligible for deduction representing amount of tax paid in foreign country - **Bosch Global Software Technologies (P.) Ltd. v. ACIT-[2025] 174 taxmann.com 76 (Bangalore - Trib.)**

SECTION 92B OF THE INCOME-TAX ACT, 1961 - TRANSFER PRICING - INTERNATIONAL TRANSACTION, MEANING OF

4.138 Where assessee was engaged in business of manufacturing and selling of consumer products under direct selling through Multi Level Marketing (MLM), AMP expenses including amount of commission paid to distributors were not international transactions and, hence, addition made by TPO/AO towards AMP adjustment was to be deleted - **Amway India Enterprises (P.) Ltd. v. AO-NFAC, National - [2025] 173 taxmann.com 990 (Delhi - Trib.)**

4.139 Expression 'international transaction' shall include interest on receivables, however, since assessee had factored in impact of receivables in its working capital adjustment and its margin was higher than that of comparables, separate adjustment was unwarranted - **DCIT v. Coforge Ltd. - [2025] 174 taxmann.com 72 (Delhi - Trib.)**

SECTION 92C OF THE INCOME-TAX ACT, 1961 - TRANSFER PRICING - COMPUTATION OF ARM'S LENGTH PRICE

4.140 Where assessee had sufficiently demonstrated availing and actual receipt of intra-group services through supporting documentation including invoices, agreements, and cost allocation statements, TP adjustment made on account of disallowance of payment of intra-group charges was unsustainable in law and on facts - **Royal Canin India (P.) Ltd. v. ACIT - [2025] 174 taxmann.com 30 (Mumbai - Trib.)**

4.141 Adjustment made by AO for disallowance of intra-group service charges without complying with DRP's directions was liable to be deleted as it contravened section 144C(10) r.w.s. 144C(13) - **Royal Canin India (P.) Ltd v. ACIT, Circle 3(1)(1) - [2025] 174 taxmann.com 974 (Mumbai - Trib.)**

4.142 Where assessee applied CUP method to determine ALP for franchise fee and TPO rejected same without identifying comparable transactions and determined ALP as nil, adjustment was to be deleted as TPO exceeded his jurisdiction by questioning commercial expediency of payment - **Royal Canin India (P.) Ltd v. ACIT, Circle 3(1)(1) - [2025] 174 taxmann.com 974 (Mumbai - Trib.)**

4.156 Where assessee-company had entered into marketing/sales services agreements with its AEs for availing business support services and TPO observed that nature of alleged services as submitted by assessee was very vague and general in nature without specifying as to why assessee needed such services and how said services benefitted to assessee and rejected TP documentation report submitted by assessee, since assessee had furnished certain evidences to prove rendering of services by AEs which had resulted in increase in business for year under consideration and further, in subsequent financial year, matter was to be restored to file of AO/TPO to examine case of assessee in light of evidences - **Excelra Knowledge Solutions (P.) Ltd. v. Deputy Commissioner of Income-tax** - [2025] 174 *taxmann.com* 899 (Hyderabad - Trib.)

4.157 Where Compulsorily Convertible Debentures (CCDs) issued by assessee to its AE were denominated in Indian currency, interest payment on said CCDs was to be benchmarked with reference to rate of interest applicable to loans extended in currency concerned and, thus, benchmark was to be made by applying PLR as against LIBOR - **Natems Solar Power (P.) Ltd. v. Income-tax Officer** - [2025] 174 *taxmann.com* 1062 (Hyderabad - Trib.)

4.158 Where assessee had not earned any revenue from operations during subject year and had not claimed deduction for any expenditure, Assessing Officer could not make any addition based on Transfer Pricing adjustment qua interest paid/payable by assessee on supplier's credit to its AE - **Natems Solar Power (P.) Ltd. v. Income-tax Officer** - [2025] 174 *taxmann.com* 1062 (Hyderabad - Trib.)

SECTION 92D OF THE INCOME-TAX ACT, 1961 – TRANSFER PRICING - MAINTENANCE AND KEEPING OF INFORMATION AND DOCUMENT BY PERSONS ENTERING INTO AN INTERNATIONAL TRANSACTION

4.159 Where assessee maintained requisite TP documentation as mandated under section 92D read with Rule 10D and submitted same during assessment, failure to file Form 3CEB within prescribed time would not attract penalty under section 271AA - **Dy. CIT Central Circle 3(2) Hyderabad v. Jodas Expoim (P.) Ltd. Siddipet** - [2025] 174 *taxmann.com* 651 (Hyderabad - Trib.)

SECTION 115BAC OF THE INCOME-TAX ACT, 1961 - TAX ON INCOME OF INDIVIDUALS

4.160 Failure to file Form No. 10-IE within prescribed due date does not invalidate assessee's claim of option to pay taxes under new regime and mandate of filing Form No. 10-IE is only directory - **Arun Gopilal Samnani v. Income-tax Officer** - [2025] 174 *taxmann.com* 33 (Ahmedabad - Trib.)

SECTION 139 OF THE INCOME-TAX ACT, 1961 - RETURN OF INCOME - GENERAL

4.161 Where assessee was registered shareholder of company CCL and acquired those shares by remitting his own declared sources money through permitted Liberalized Remittance Scheme (LRS) of Reserve Bank of India, he could not be said to be beneficial owner of shares in CCL and therefore, action of both authorities in considering assessee and his spouse as beneficial owners in equal proportions of assets of CCL and then assessing all income from those assets of said company from any source was not justified - **Pradeep Wig v. ACIT** - [2025] 174 *taxmann.com* 196 (Delhi - Trib.)

SECTION 142(2A) OF THE INCOME-TAX ACT, 1961 - SPECIAL AUDIT

4.162 Where special audit was directed under section 142(2A) but statutory procedure under sections 142(2A) and 142(2C) was not followed, as satisfaction recorded by both Assessing Officer and Commissioner, audit period was fixed by Commissioner, and extension was granted after expiry on auditor's request, assessment was rightly held void ab initio - **DCIT v. Patanjali Ayurved Ltd.** - [2025] 174 *taxmann.com* 170 (Delhi - Trib.)

SECTION 143 OF THE INCOME-TAX ACT, 1961 - ASSESSMENT – GENERAL

4.163 Where notice issued under section 143(2) specified only computer aided scrutiny selection which neither mentioned it either to be a limited or a complete scrutiny nor compulsory manual scrutiny, said notice had been issued in violation of instruction issued by CBDT - **Hind Ceramics (P.) Ltd. v. Deputy Commissioner of Income-tax** - [2025] 174 *taxmann.com* 486 (Kolkata - Trib.)

4.164 Scope of adjustment under section 143(1)(a) is limited to arithmetical errors, incorrect claims apparent from any information in return, or disallowance of loss claimed without required return - **Assistant Commissioner of Income-tax v. Mahesh Mohanbhai Patel (HUF)** - [2025] 174 *taxmann.com* 843 (Ahmedabad - Trib.)

SECTION 144C OF THE INCOME-TAX ACT, 1961 - TRANSFER PRICING- DISPUTE RESOLUTION PANEL

4.165 Where Assessing Officer passed final assessment order which was not in conformity with directions of DRP, said order being bad in law was to be set aside - **Royal Canin India (P.) Ltd. v. Assistant Commissioner of Income-tax** - [2025] 174 *taxmann.com* 30 (Mumbai - Trib.)

4.166 Where Assessing Officer failed to pass final assessment order in conformity with binding directions issued by DRP under section 144C(10) in respect of disallowance of franchise fee and intra-group service charges, impugned assessment order, being bad in law, was liable to be quashed - **Royal Canin India (P.) Ltd v. Assistant Commissioner of Income-tax, Circle 3(1)(1)** - [2025] 174 *taxmann.com* 974 (Mumbai - Trib.)

4.167 Where pursuant to directions of DRP, AO made transfer pricing adjustment and in addition, made certain other disallowances not in conformity with directions of DRP, same being in contravention of provisions of section 144C(13), impugned additions should be quashed - **WNS Global Services (P.) Ltd. v. Assessment Unit, NFAC - [2025] 174 taxmann.com 1031 (Mumbai - Trib.)**

SECTION 147 OF THE INCOME-TAX ACT, 1961 - INCOME ESCAPING ASSESSMENT - GENERAL

4.168 Where AO on examination of ITD data base found that assessee had not furnished an ITR for relevant assessment year and further, assessee had sold immovable property and had not disclosed above transaction, information that was available with AO, coupled with fact that assessee had not filed a return of income earlier gave rise to a valid reason to believe that income had escaped assessment; fact that Assessing Officer may later come to a conclusion that grounds on which proceedings were initiated were not valid, would not vitiate initiation of proceedings - **DCIT v. Shree Bhawani Mills - [2025] 174 taxmann.com 38 (Lucknow - Trib.)**

SECTION 153A OF THE INCOME-TAX ACT, 1961 - SEARCH AND SEIZURE - ASSESSMENT IN CASE OF

4.169 In assessment proceedings u/s. 153A, no addition can be made on estimated basis in hands of assessee particularly when 80 per cent of said amount has been accepted as allowable - **Pradeep Wig v. ACIT - [2025] 174 taxmann.com 196 (Delhi - Trib.)**

SECTION 154 OF THE INCOME-TAX ACT, 1961 - RECTIFICATION OF MISTAKE - APPARENT FROM RECORDS

4.170 Where AO intends to enhance assessment or reduce refund or otherwise increase liability of assessee, he must give assessee a reasonable opportunity of being heard before passing a rectification order u/s. 154 - **ILJIN Automotive (P.) Ltd. v. ACIT - [2025] 174 taxmann.com 1114 (Chennai - Trib.)**

SECTION 164 OF THE INCOME-TAX ACT, 1961 - TRUST/TRUSTEES - CHARGE OF TAX WHERE SHARE OF BENEFICIARIES UNKNOWN

4.171 Trusts created by Will are not to be subjected to tax at MMR, but are to be taxed at rates applicable to AOPs - **Nathiben Kalidas Patel Family Trust v. ITO - [2025] 173 taxmann.com 992 (Ahmedabad - Trib.)**

4.172 Where assessee was a discretionary private trust and income was only from dividend and was between slab rate of Rs.50.00 lakh to Rs.1 crore, surcharge was leviable @10% and therefore CPC erred in charging surcharge @37% - **Sow Rachna Rathi Family Trust v. Deputy Director of Income-tax - [2025] 174 taxmann.com 854 (Pune - Trib.)**

4.173 Where assessee-trust was created by a person for benefit of her daughter and children of her daughter, in view of CBDT Circular No. 577 dated 4-9-1990, AO was to be directed to charge tax on trust at rate ordinarily applicable to total income of association of persons and not at maximum original rate - **Shakuntala Balvantray Trust v. ITO - [2025] 174 taxmann.com 75 (Ahmedabad - Trib.)**

SECTION 175 OF THE INCOME-TAX ACT, 1961 - ASSESSMENT OF PERSONS LIKELY TO TRANSFER PROPERTY TO AVOID TAX

4.174 Where assessee raised donations through three campaigns on Ketto platform and claimed same were received for Covid relief, since all funds from donation including those in foreign currency had been transferred to personal accounts of assessee and her family members and no separate accounts were maintained for donation funds, provisions of section 175 read with provisions of sub-sections (2), (3), (4), (5) and (6) of section 174 would squarely apply in case of assessee - **Ms. Rana Ayyub Shaikh v. DCIT - [2025] 174 taxmann.com 277 (Mumbai - Trib.)**

SECTION 189 OF THE INCOME-TAX ACT, 1961 - FIRM - ASSESSMENT AFTER DISSOLUTION

4.175 Where AO issued a notice u/s. 148 in name of partnership firm, despite fact that all partners of firm had expired and he did not pass any speaking order for determination of legal representatives of deceased partners of firm, impugned notice was to be quashed and set aside - **Kanak Kumar Jain v. DCIT - [2025] 174 taxmann.com 729 (Jodhpur - Trib.)**

SECTION 194C OF THE INCOME-TAX ACT, 1961 - DEDUCTION OF TAX AT SOURCE - CONTRACTORS/SUB-CONTRACTORS, PAYMENTS TO

4.176 Where assessee incurred catering expenditure for purpose of supply of food packets to its employees, it being case of supply of food packets and same being subjected to GST, same would not be considered as contract and, therefore, provision of section 194C would not apply - **Infoobjects Software India (P.) Ltd. v. DCIT - [2025] 174 taxmann.com 73 (Jaipur - Trib.)**

4.177 Where assessee-company paid business promotion expenses to promote business and rewards to employees to achieve work targets, since facilities/amenities made available by hotel to its customers do not constitute 'work' within meaning of section 194C, hotel room booking expenses incurred by assessee were not liable to TDS under section 194C - **Infoobjects Software India (P.) Ltd. v. DCIT - [2025] 174 taxmann.com 73 (Jaipur - Trib.)**

SECTION 194J OF THE INCOME-TAX ACT, 1961 - DEDUCTION OF TAX AT SOURCE - FEES FOR PROFESSIONAL OR TECHNICAL SERVICES

4.178 Where AO disallowed certain amount as accounting charges without deduction of tax at source, since said payment was mainly remuneration given by assessee to part time accountant who was writing books of account of assessee, no TDS was attracted on said payment - **Youth Potent Potation v. ITO Ward 27(1) - [2025] 174 taxmann.com 1067 (Kolkata - Trib.)**

SECTION 195 OF THE INCOME-TAX ACT, 1961 - DEDUCTION OF TAX AT SOURCE - PAYMENT TO NON-RESIDENT

4.179 Where assessee made provision for expenses payable to non-resident vendors and reversed same in next year without making payment, TDS under section 195 was not deductible on unpaid provision; however, interest under section 201(1A) was rightly levied on actual payments made subsequently - **Cognizant Technology Solutions India (P.) Ltd. v. Deputy Commissioner of Income Tax - [2025] 174 taxmann.com 863 (Chennai - Trib.)**

SECTION 199 OF THE INCOME-TAX ACT, 1961 - DEDUCTION OF TAX AT SOURCE - CREDIT FOR TAX DEDUCTED

4.180 Assessee cannot take credit of TDS, once corresponding income has not been shown - **Deputy Commissioner of Income-tax v. Rare Enterprises - [2025] 174 taxmann.com 198 (Mumbai - Trib.)**

4.181 Where CPC reduced TDS credit allowable to assessee on ground that gross receipts of assessee reflected in Form 26AS on which credit for TDS was claimed were higher than total of receipts shown under all heads of income in return of income, since Commissioner (Appeals) upheld order passed by CPC without verifying facts by himself or through Assessing Officer, matter was to be remanded back to Commissioner (Appeals) to verify facts furnished by assessee - **Jagannath Transport Corporation v. Deputy Commissioner of Income-tax - [2025] 174 taxmann.com 329 (Raipur - Trib.)**

4.182 Where assessee along with her children inherited a house property and sold same during year and entire sale consideration was received in her bank account after deduction of TDS, assessee was to be allowed credit for entire TDS amount as claimed - **Baderunnisa v. Deputy Director of Income-tax (CPC) - [2025] 174 taxmann.com 484 (Bangalore - Trib.)**

4.183 Where assessee sold an agricultural land and purchaser deducted TDS on sale consideration at rate of 1 per cent, since no TDS was required to be deducted, assessee was entitled to credit for entire TDS appearing in Form 26AS - **K. Venkatesan (HUF) v. ACIT - [2025] 174 taxmann.com 449 (Chennai - Trib.)**

SECTION 201 OF THE INCOME-TAX ACT, 1961 - DEDUCTION OF TAX AT SOURCE - CONSEQUENCE OF FAILURE TO DEDUCT OR PAY

4.184 Where assessee created yearend provision for resident vendor expenses based on estimation and reversed same in succeeding year, in absence of accrual or payment as on 31st March, it could not be deemed as assessee in default under section 201 in respect of unpaid portion of provision - **Cognizant Technology Solutions India (P.) Ltd. v. Deputy Commissioner of Income Tax - [2025] 174 taxmann.com 863 (Chennai - Trib.)**

SECTION 201(1A) OF THE INCOME-TAX ACT, 1961 - CONSEQUENCES OF FAILURE TO DEDUCT OR PAY

4.185 Where assessee deducted TDS on actual payment in subsequent year but provision was created on 31st March, interest under section 201(1A) was rightly levied from 31st March till date of deduction on actual paid amount, as per mandate of section 201(1A) - **Cognizant Technology Solutions India (P.) Ltd. v. Deputy Commissioner of Income Tax - [2025] 174 taxmann.com 863 (Chennai - Trib.)**

SECTION 263 OF THE INCOME-TAX ACT, 1961 - REVISION - OF ORDERS PREJUDICIAL TO INTEREST OF REVENUE

4.186 Where Assessing Officer, after conducting inquiry and verification during reassessment proceedings, accepted assessee's claim of long-term capital gain (LTCG) on sale of shares and explanation regarding purchase of immovable properties, invocation of revisionary jurisdiction under section 263 by Pr. Commissioner without conducting any independent inquiry was unjustified - **Smt. Teena Garg v. PCIT Panchkula - [2025] 174 taxmann.com 872 (Chandigarh - Trib.)**

5. SAFEMA**SECTION 2(9) OF THE PROHIBITION OF BENAMI PROPERTY TRANSACTIONS ACT, 1988 - DEFINITIONS**

5.1 Where assessee opened bank accounts in name of several persons belonging to Scheduled Caste (SC) category and acquired agricultural land belonging to SC persons through those persons which was otherwise impermissible under law, impugned transactions were clearly benami transactions within meaning of Act and thus, impugned attachment orders passed in respect of said lands and amount lying in bank accounts were rightly made - **Hemraj Dhobhi v. Initiating Officer - [2025] 174 taxmann.com 1133 (SAFEMA - New Delhi)**

WILL



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Introduction-

A person always desires to distribute his assets among his relatives, friends, well-wishers or society during his life time or after his demise in any ratio or proportion. There are various ways of distributing his assets such as WILL, Succession, Trust, Gift, HUF, and family settlement. Through Gift, family settlement, Partition of HUF and trust assets can be distributed during life time and through WILL, Succession and trust assets can be distributed after life time. Trust is an instrument through which distribution of property can be made during life time and also after life time. In this chapter I will deal WILL in detail as below -

WILL -. A WILL is the most effective medium for the distribution of the estate of a Hindu male or female among his or her heirs. Muslims are also allowed to execute WILLS as per Mohammedan law in a limited way. The Christian also makes WILL as per Indian Succession Act.

WILLS are executed since ancient times. Even the kings and maharajas of old times used to execute their WILLS to ensure the proper distribution of their wealth and estates. However, in modern India, many individuals either refrain from making a WILL due to emotional and sentimental reasons or remain ignorant about its importance.

A WILL plays a crucial role in preventing disputes or quarrels among the heirs after the demise of the person. Often, children refrain from contesting a WILL because they respect the final wishes of their father or mother, thereby preserving familial harmony.

A WILL enables a person to distribute his property among his heirs according to his own free will, irrespective of the nature of the relationship or the quantum of share. It allows the testator to express

sentiments and emotions that he may not have been able to convey during his lifetime. It also offers the testator a means to impart life lessons and moral teachings to his heirs.

Although WILLS are sometimes challenged in court, they are still considered one of the safest legal instruments for transferring one's estate, provided they are drafted with legal precision and due diligence. A properly drafted WILL ensures that the testator's wishes are honoured and the rights of the heirs are protected.

It is advisable for a person to make a WILL at an early stage in life, as the timing of death is always uncertain. In case the testator anticipates any possible disputes among heirs after his demise, the WILL should be drafted by a competent legal counsel to ensure its validity and legal soundness.

What is WILL- As per Section 2(h) of the Indian Succession Act, 1925, a Will is a legal declaration by which a person, the testator, expresses his intention for the distribution of his property after his death. It governs the disposition of the testator's individual estate among his beneficiaries. A will must be executed in sound state of mind and should not be in intoxicated condition. The testator must be at least 18 years old. The WILL must be in writing.

Drafting of WILL-

The WILL can be written on a plain paper preferably on a dummy paper. WILL is not required to be written on stamp paper and also not compulsorily required to be registered. WILL can be written in any language known to the testator. It is necessary that while executing the WILL it should be witnessed by at least by two witnesses .A WILL executed without witness is non void.

It is necessary to mention in the WILL that this WILL is the last WILL of the testator. The testator should take care of the uneven distribution of assets if any made by him among heirs in such situation, he should mention the reasons for making uneven distribution of assets. The testator can also make provision for funeral expenses to be spent out of his estate.

EXECUTOR-

Executor is a person who is appointed by the testator to take action on all the desires of testator in the WILL. Any person of sound mind be measure can be appointed as an executor. Although it is not obligatory to appoint an executor in the WILL but for peaceful and prompt distribution of assets of estate of the testator, it is advisable to appoint an executor. Further it is always advisable to appoint more than one executor for a WILL. The executor can also demand for remuneration for execution of the WILL.

UNEVEN DISTRIBUTION-

The testator can make unequal distribution of assets among his heirs as per his sweet desire. He may or may not give his property to all the heirs. He may bequeath his property to a person other than his heir or relative. He can even make charity of his entire estate without giving a single penny to his heir.

CHALLENGE IN THE COURT-

The WILL can be challenged in the court if it is not signed either by the testator or by the witnesses. It can also be challenged if it was not executed in sound disposing state of mind. There are other various reasons for which the WILL can be challenged in the court.

PROBATE-

A Probate means copy of the WILL certified by judicial court. Probate is compulsory in some of the states for example in Rajasthan, it's not compulsory to obtain probate but in West Bengal it is compulsory to obtain probate. A probate duty is required to be paid while obtaining probate. The duty defers from state to state. In west Bengal duty for obtaining probate is maximum Rs 50,000/- only. There is no time limit for grant of probate by the court. After probate is obtained there is no chance of any litigation. Normally the government agencies require a WILL to be probated.

TAX AND DUTY-

Any property whether movable or immovable received by the beneficiary of the WILL is not subject to Income Tax in the hands of the beneficiary. No income tax, long term capital gain tax is applicable. Sec 56(2)(x) also doesn't apply in the hands of the beneficiary who receives the property by way of WILL. No stamp duty is required to be paid by the beneficiary who receives the immovable property through WILL.

Conclusion: Since the WILL is easy to be drafted and executed and it carries little cost and can be altered, revoked and changed easily it's advisable to the tax professionals to advise their clients to execute WILL earlier in the age. The clients are unaware of the benefits of WILL. If they are explained the necessity of executing the WILL, they will undoubtedly execute their WILLS to avoid future litigation in their family.

Comparative Overview of TDS and TCS under the Income Tax Act, 1961 and the new Income Tax Bill, 2025



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The Indian taxation framework has seen numerous reforms over the years, yet the provisions relating to Tax Deducted at Source (TDS) and Tax Collected at Source (TCS) continue to pose compliance challenges due to their complexity and volume. With the introduction of the New Income Tax Bill, 2025, the government aims to overhaul and streamline the existing regime under the Income Tax Act, 1961. This article presents a comparative view of key provisions under both legislations.

1. Legal Framework and Structure

Under the Income Tax Act, 1961, TDS and TCS are governed by separate chapters—Chapter XVII-B (TDS) and Chapter XVII-BB (TCS). Each section specifies different rates, thresholds, and compliance requirements, leading to complexity in interpretation and application.

In contrast, the New Income Tax Bill, 2025 proposes a unified and harmonized chapter for both TDS and TCS, aiming to eliminate duplication and bring uniformity in procedures.

2. Rate Mechanism and Thresholds

The existing regime prescribes multiple rates under sections like 194C, 194J, 194Q, and 206C, often leading to confusion among deductors and collectors.

The new bill proposes a simplified rate structure and standardized threshold limits, which could greatly enhance ease of compliance, especially for small businesses and professionals.

3. Deeming Credit to Suspense Accounts as Credit to Payee

Certain sections of the Income Tax Act, 1961—namely **sections 193, 194A, 194C, 194G, 194H, 194-I, and 194J**—not only mandate TDS at the time of payment or credit, whichever is earlier, but also provide that crediting income to a “**suspense account**” or **any other account**

shall be deemed as credit to the payee's account. This prevents circumvention of TDS by using alternate account heads.

The new bill, proposes to **extend this deeming fiction uniformly across all such TDS provisions**, thereby closing existing compliance loopholes and strengthening enforcement.

4. Levy of TDS on Interest on Compensation Awarded by MACT: Payment vs. Credit Basis

Under the existing regime, TDS on interest payable on compensation amounts awarded by the Motor Accident Claims Tribunal (MACT) is deductible on a **payment basis**, subject to the aggregate interest payment exceeding INR 50,000 in a financial year. This means that TDS is applicable only when the interest is actually paid, provided the threshold is crossed.

The proposed bill, seeks to **advance the point of levy for TDS on such interest to the date when the interest is credited in the books of the payer**, if such credit occurs earlier than the payment. The INR 50,000 threshold continues to apply. This amendment aligns with the broader objective of the new bill to synchronize TDS deduction timing with accounting recognition, thereby enhancing compliance and tax administration efficiency

5. Broadened CBDT Powers to Issue Clarificatory Guidelines

Under the existing regime, the CBDT is empowered—subject to the approval of the Central Government and laying before both Houses of Parliament—to issue guidelines for removing difficulties, but only in limited sections such as 194Q and 206C(1H).

The **proposed bill, extend this enabling power to the entire chapter governing TDS and TCS**. This structural shift will allow for a **uniform, responsive, and system-wide approach** to clarifying interpretational issues and streamlining compliance, thereby reducing litigation and administrative bottlenecks.

6. Return Filing and Compliance

Currently, TDS returns are filed quarterly using various forms such as Form 24Q, 26Q, and 27EQ. Late filing attracts penalties and interest, and any errors often involve cumbersome corrections via the TRACES portal.

The proposed regime envisions a consolidated, real-time reporting system, possibly integrated with GSTN and PAN databases, reducing duplication and human error.

7. Digital Integration and Certificates

Form 16/16A is currently issued on a quarterly basis for TDS. TCS receipts, while recorded, are often ignored by taxpayers, especially in cases like 206C(1H) or 206C(1G).

The new bill proposes real-time certificate generation through an integrated Taxpayer-Deductor Portal, ensuring that every deduction or collection reflects immediately in the taxpayer's profile, thereby reducing reconciliation disputes.

8. Foreign Transactions and PAN/Aadhaar Linkage

Provisions such as 206C(1G), dealing with foreign remittances under the Liberalised Remittance Scheme (LRS), are currently isolated and demand separate attention.

Under the new draft, such transactions may be integrated into a broader cross-border compliance mechanism, ensuring transparency and seamless data exchange.

Mandatory PAN/Aadhaar linkage continues under both regimes, but the new bill emphasizes Digital Taxpayer Accounts, potentially leading to AI-assisted compliance checks and red-flagging non-compliance in real time.

9. Penalties and Enforcement

The current regime imposes penalties under sections like 234E, 271C, and 271H for delays and non-deduction/collection.

The proposed system under the 2025 bill intends to make enforcement automated and dynamic, reducing discretion and enabling instant alerts and actions on defaults.

10. TCS on Sale of Goods: 206C(1H)

This provision, introduced in FY 2020-21, applies to sellers whose turnover exceeds Rs. 10 crore, collecting 0.1% TCS on sales above Rs. 50 lakh. It led to interpretational issues, especially for back-to-back or advance payments.

While the new bill retains the essence of TCS on sale of goods, it proposes refinements in scope and thresholds to plug interpretational loopholes and ease reporting challenges.

Conclusion

The transition from the Income Tax Act, 1961 to the New Income Tax Bill, 2025 signals a paradigm shift in India's tax administration—from a compliance-heavy, form-driven approach to a technology-driven, integrated system.

While the principles of TDS and TCS remain intact, the proposed structural changes aim to make tax compliance simpler, smarter, and more transparent. As professionals, we must gear up for this digital evolution and help our clients adapt to the new era of tax governance.

GST & INDIRECT TAXES

1. STATUTORY UPDATES

- 1.1** CBIC issued instructions for Grievance Redressal Mechanism against processing of application for GST registration - **INSTRUCTION NO. 4/2025-GST [F.NO. CBIC-20016/24/2025-GST], DATED 02-05-2025**

Editorial Note : The CBIC has issued instructions to establish a mechanism for GST registration applicants to address their grievances via email to the Zonal Principal Chief Commissioners/Chief Commissioners. These grievances will be resolved promptly, with monthly reports submitted to the DGGST.

- 1.2** GSTN mandates HSN code reporting in Table 12 and compulsory document details in Table 13 of GSTR-1/1A from May 2025: Advisory

Editorial Note : The GSTN has issued an advisory for reporting under GSTR-1/1A effective from May 2025, requiring taxpayers to select HSN codes from a system dropdown in Table 12, with manual entry disabled. Value validations will be introduced, and the table is now split into B2B and B2C tabs with enhanced features. Reporting in Table 13 for issued documents will also be mandatory.

- 1.3** GSTN defers implementation of invoice-wise reporting functionality in Form GSTR-7 until further notice: Advisory

Editorial Note : The GSTN has announced the deferment of the proposed invoice-wise reporting functionality in Form GSTR-7, which was earlier scheduled for implementation from 1st April 2025. This functionality would have required tax deductors to report invoice-level details while filing TDS returns. As per the advisory, the rollout has been postponed until further notice, and deductors may continue filing Form GSTR-7 as per the existing system.

- 1.4** GSTN updates refund filing process for specific refund categories: Advisory

Editorial Note : The GSTN has announced the simplification of the refund filing process for exports of services, SEZ supplies, and deemed exports by eliminating the need to select a tax period. Taxpayers can now file invoice-based refund applications using specific statements, ensuring all returns are filed. The invoices uploaded shall be locked until the application is withdrawn or a deficiency memo is issued.

- 1.5** GSTN enhances refund process for deemed export recipients: Advisory

Editorial Note : The GSTN has announced that refund applications for recipients of deemed exports would no

longer require tax period selection but they must ensure mandatory filing of all returns. The revamped "Amount Eligible for Refund" table auto-populates critical data, optimizing refund claims across tax heads. The taxpayers facing issues can raise grievances on the GST portal.

- 1.6** Taxpayers need to upload screenshot of the appeal case folder showing status as "Appeal withdrawn" in Waiver Scheme: GSTN

Editorial Note : The GSTN has issued an advisory for taxpayers clarifying that appeals withdrawn through Form APL-01W, whether automatically before issuance of Form APL-02 or with approval thereafter will be treated as withdrawn for the purposes of the Section 128A Waiver Scheme. Taxpayers must upload a screenshot showing the "Appeal withdrawn" status when filing or updating the waiver application.

- 1.7** GSTN defers non-editable status of Table 3.2 in GSTR-3B and it shall remain editable for the time being

Editorial Note : GSTN has issued an advisory stating that Table 3.2 of Form GSTR-3B will remain editable for the time being, contrary to the earlier advisory dated April 11, 2025, which had proposed making the table non-editable starting April-2025 return period. The concerns are under examination, and taxpayers are encouraged to review and amend the auto-populated entries, if necessary, to ensure accurate return filing.

2. SUPREME COURT

SECTION 9 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - LEVY & COLLECTION OF TAX

- 2.1** Where assessee filed special leave petition (SLP) against judgement and order of High Court wherein challenge to impugned order was on ground that it was in violation of Circular No. 200/12/2023-GST, dated 01.08.2023 and Circular No. 235/29/2024-GST, dated 11-10-2024 and prior to 27-7-2023 tax was not leviable, and Court did not entertain petition because issue was not raised by assessee before adjudicating authority at time of adjudication, SLP was to be admitted - **Marudhar Food Products v. Assistant Commissioner, Central Goods and Services Tax Division - [2025] 174 taxmann.com 874 (SC)**
- 2.2** Where assessee filed special leave petition (SLP) against judgement and order of High Court, wherein following it's own judgement in case of same assessee, it was held that flavoured milk should be classified and taxed under tariff heading no. 0409 9990 and not under tariff heading No. 2202 9930, court not inclined to interfere with judgement of High court, SLP was to be dismissed - **Assistant Commissioner of Central Tax v. Sri Vijaya Visakha Milk Producers Company Ltd. - [2025] 174 taxmann.com 1037 (SC) 174 taxmann.com 1107**

SECTION 17 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - INPUT TAX CREDIT - CREDIT AND BLOCKED CREDITS, APPORTIONMENT OF

- 2.3 Review petition dismissed against order of SC holding that if construction of a building was essential for carrying out activity of supplying services, building could be held to be a plant and then, it would be taken out of exception carved out by clause (d) of section 17(5) to sub-section (1) of section 16 and to decide whether a building is a 'plant' for purposes of clause (d) of section 17(5), functionality test will have to be applied in each case on facts - **Chief Commissioner of CGST v. Safari Retreats (P.) Ltd. - [2025] 174 taxmann.com 894 (SC)**

SECTION 54 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - REFUND - TAX, REFUND OF

- 2.4 Where HC had rejected assessee's WP for refund arising out of inverted duty structure observing that assessee had alternate remedy of appeal, case was to be remanded back to HC to consider case on its own merits - **Ganpati Motors v. Chief Commission, CGST and Central Excise - [2025] 174 taxmann.com 133 (SC)**
- 2.5 SLP dismissed against HC ruling that where refund claims for ITC accrued before 18.07.2022 could not be denied solely because they were filed after said date, as Notification No. 9/2022 applies prospectively; thus, Circular No. 181/13/2022-rejecting petitioners refund was to be struck down to that extent, and refund rejection orders were to be set aside. - **Asst. Comm. of Central Taxes v. Gemini Edibles and Fats India Ltd. - [2025] 174 taxmann.com 473 (SC)**

- 2.6 SLP dismissed against HC ruling that where assessee challenged orders blocking their Electronic Credit Ledgers under Rule 86A of CGST Rules, impugned blocking orders were quashed, holding that pre-decisional hearing was required and revenue failed to fulfill mandatory requirements for invoking Rule 86A - **State of Karnataka v. K-9 Enterprises - [2025] 174 taxmann.com 701 (SC)**

SECTION 67 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - SEARCH, SEIZURE ETC. - POWER OF INSPECTION, SEARCH AND SEIZURE

- 2.7 Where miscellaneous application was filed by petitioner-assessee for direction to restore original order of HC without clarification, main matter was disposed of by SC, without disturbing order passed by HC and respondent authorities were directed to return certified copies of documents which according to them were not relied upon for proceeding further, however, said order was passed without issuing notice to respondent-assessee, three original files had been lost, department was to be directed to furnish certified copies of those files and assessee was to collect all other files from concerned department - **Elora Tobacco Company Ltd. v. Union of India - [2025] 174 taxmann.com 979 (SC)**

SECTION 74 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - DEMANDS AND RECOVERY - TAX OR INPUT TAX CREDIT INVOLVING FRAUD, MISSTATEMENT, OR SUPPRESSION

- 2.8 Where Special Leave Petition (SLP) was filed by assessee against decision of High Court holding that where adjudicating authority passed detailed order discussing all evidences and demonstrated that undeclared sales were being made by assessee to avoid payment of GST, thus rejection of request to cross-examine certain witness statements being only corroborative of undisputed documentary evidence already on record, was not unjustified, SLP was to be dismissed - **Vallabh Textiles v. Additional Commissioner, Central Tax - [2025] 174 taxmann.com 1141 (SC)**

SECTION 75 OF THE CUSTOMS ACT, 1962 - DRAWBACK ON IMPORTED MATERIALS USED IN THE MANUFACTURE OF GOODS WHICH ARE EXPORTED

- 2.9 CBEC Circular No. 35/2010-Cus. dated 17-9-2010 per se clarifies and makes it explicit that customs duties which remained unrebated to concerned manufacturers, should be provided through AIR drawback route, with or without rebate of Central Excise Duties at time of processing in terms of Rule 18 or 19 of Central Excise Rules, 2002; this Circular, in view of rationale of CBEC Circular and purport of relevant Notifications, should be given retrospective effect from year 2008; Appellant -merchant exporter would be entitled to benefit of 1% All Industry Rate (AIR) Duty Drawback on its export of Soyabean Meal from year 2008 - **Suraj Impex (India) (P.) Ltd. v. Union of India - [2025] 174 taxmann.com 898 (SC)**

SECTION 83 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - DEMANDS AND RECOVERY - PROVISIONAL ATTACHMENT

- 2.10 Where assessee challenged negative blocking of their Electronic Credit Ledger (ECL), relying on judgment in Best Crop Science (P.) Ltd. v. Principal Commissioner [2024] 166 taxmann.com 654/106 GST 440/90 G.S.T.L. 131 (Delhi) where order allowing debit from respective ECL in excess of ITC available in ECL (negative blocking) was set aside, instant court found no grounds for interference under Article 136; instant Special Leave Petition was to be dismissed - **Deputy Director, Directorate General of GST Intelligence, DZU v. Kings Security Guard Services (P.) Ltd. - [2025] 174 taxmann.com 982 (SC)**

SECTION 107 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - APPELLATE AUTHORITY - APPEALS TO

- 2.11 Instant SLP was to be dismissed as High Court rightly held, relying on CBIC Circular dated 06.07.2022, that pre-deposit under Section 107(6)(b) of the CGST Act can be validly made through the Electronic Credit Ledger - **Union of India v. Yasho Industries Ltd. - [2025] 174 taxmann.com 878 (SC)**

SECTION 130 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - CONFISCATION OF GOODS OR CONVEYANCES AND LEVY OF PENALTY

2.12 Where special leave petition (SLP) was filed by revenue against judgement and order of High court wherein it was held that if excess stock is found in search/inspection, proceedings under sections 73/74 of CGST Act should be pressed in service and not under section 130 of CGST Act, impugned judgement was not to be interfered with, SLP was to be dismissed - **Additional Commissioner Grade-2 v. Vijay Trading Company - [2025] 174 taxmann.com 516 (SC)**

SECTION 132 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - OFFENCES - PUNISHMENTS FOR CERTAIN OFFENCES

2.13 Where offences alleged against appellant were under clauses (c), (f) and (h) of section 132(1) of CGST Act, maximum sentence was 5 years, charge-sheet had been filed, appellant was in custody for a period of almost 7 months, case was triable by Judicial Magistrate, prosecution was based on documentary evidence, bail was to be granted to appellant - **Vineet Jain v. Union of India - [2025] 174 taxmann.com 139 (SC)**

SECTION 168 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - BOARD - INSTRUCTIONS OR DIRECTIONS, POWERS TO ISSUE

2.14 Where High Court by impugned order ruled that as per Section 168 power to issue instructions or directions to central tax officers is vested exclusively in Central Board of Indirect Taxes and Customs; and Tax Research Unit does not have authority or jurisdiction to issue such clarifications independently and, therefore, Circular No. 80/54/2018-GST issued by TRU clarifying classification of polypropylene woven and non-woven bags was set aside, on SLP being filed against impugned order, notice was to be issued and stay was to be granted - **Union of India v. Association of Technical Textiles Manufacturers and Processors - [2025] 174 taxmann.com 1079 (SC)**

3. HIGH COURT

SECTION 2 OF THE INTEGRATED GOODS AND SERVICES TAX ACT, 2017 - DEFINITIONS

3.1 Where assessee provided support services to foreign holding company with respect to Indian students taking admission in foreign universities and foreign company shared certain percentage of fee received by them from foreign universities wherein students with assessee studied, in view of fact that assessee did not have any contractual obligation either with universities or with students and it did not raise any invoice or receive any consideration from universities or students, assessee was not an intermediary; refund claim of IGST by assessee could not be rejected - **IDP Education India Pvt Ltd v. Union of India - [2025] 174 taxmann.com 580 (Bombay)**

3.2 Under 'Buying Support Services Agreement', petitioner helped foreign foreign service recipient to choose best garment seller in India and also arranged for shipment against which petitioner received service fee, since petitioner rendered services on its own account to service receiver and it did not enable supply between foreign recipient and third parties, services provided were that of an independent service provider; petitioner was not an 'intermediary' and services provided by petitioner to service recipients located outside India qualified as 'export of services' - **Columbia Sportswear India Sourcing (P.) Ltd. v. Union of India - [2025] 174 taxmann.com 936 (Karnataka)**

SECTION 6 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - GST AUTHORITIES AND ADMINISTRATION - STATE/UNION TERRITORY TAX OFFICERS, AUTHORIZATION OF

3.3 Where petitioner-assessee challenged show cause notice and adjudication order passed by respondent no.1-State department on ground of parallel proceedings, further, it was observed that CGST department had already adjudicated upon same subject matter, furthermore, an appellate order dated 03.04.2025 was also passed, wherein appeal against CGST demand was considered and penalty was also imposed on petitioner-assessee, therefore, in light of above facts, impugned order was to be set aside and matter was to be remanded back to respondent no.1-State department for fresh consideration after taking into account appellate order - **Sun Automation Ltd. v. Sales Tax Officer Class II - [2025] 174 taxmann.com 616 (Delhi)**

SECTION 7 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - SUPPLY - SCOPE OF

3.4 Where impugned order was passed against assessee determining liability to pay tax on transfer of development rights and assessee challenged same on ground that agreement was executed prior to GST regime, since assessee got right on property after completion i.e. 20-12-2018, and transfer of development rights was amenable to GST, impugned order could not be interfered with - **Shashi Ranjan Constructions (P.) Ltd. v. Union of India - [2025] 174 taxmann.com 356 (Patna)**

3.5 Factual determination would be required to ascertain as to whether establishment and operational expenses incurred by investment manager for Investment Management Fund constituted part of management fee and were taxable under GST Act; such issue was to be decided in appeal and, thus, writ petition was disposed of - **DMI Alternatives (P.) Ltd. v. Additional Commissioner (Adjudication) - [2025] 174 taxmann.com 674 (Delhi)**

3.6 Transfer of leasehold rights in leased land to third party would not come within scope of supply and, hence, would not attract GST - **BKP Media Vision (P.) Ltd. v. Union of India - [2025] 174 taxmann.com 366 (Allahabad)**

SECTION 8 OF THE GOODS AND SERVICES TAX (COMPENSATION TO STATES) ACT, 2017 - LEVY AND COLLECTION OF CESS.

- 3.7 For levy and collection of compensation tax for period prior to 26-7-2023, Ground Clearance of motor vehicles had to be considered in a laden condition; Notification No. 3/2023-CC (Rate) stipulating Ground Clearance in an un-laden condition is prospective with effect from 26-7-2023 - **Mercedes-Benz India (P.) Ltd. v. Union of India - [2025] 174 taxmann.com 527 (Bombay)**

SECTION 9 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - LEVY & COLLECTION OF TAX

- 3.8 Where based on CBIC Circular No. 189/01/2023-GST specifying rate of tax of food products manufactured by assessee, demand was confirmed alleging payment of tax at lower rate, while case of assessee was that in inspection u/s. 67, products were checked but no demand/case was made, since GST council had required Fitment committee to look into matter, respondents were to be directed to file counter affidavits; recovery was stayed - **Shree Girraj Food Products v. Union of India - [2025] 174 taxmann.com 324 (Allahabad)**
- 3.9 Where Circular No. 80/54/2018-GST, dated 31-12-2018 was challenged, since subject matter of challenge was already under consideration before SC, petition was to be disposed of directing that it would be governed by judgment of SC - **Satguru Print and Packers v. Union of India - [2025] 174 taxmann.com 413 (Himachal Pradesh)**
- 3.10 Where government contractor was awarded in pre-GST period and GST regime was brought into force in course of performance of contract, nature of work in both pre-GST and GST regimes being same and amendment in General Conditions of Contract being made when execution of work under previous contracts was in progress, benefit of amended GCC could not be denied to government contractor - **Ashoka Buildcon Ltd. v. State of Jharkhand - [2025] 174 taxmann.com 570 (Jharkhand)**
- 3.11 PPSB Bed sheets manufactured by processing non-woven fabric made from PP granules are classifiable under Heading No. 6304 19 30 and liable to 5 per cent GST - **Harsh Polyfabric (P.) Ltd. v. Union of India - [2025] 174 taxmann.com 990 (Calcutta)**

SECTION 11 OF THE GOODS AND SERVICES TAX (COMPENSATION TO STATES) ACT, 2017 - OTHER PROVISIONS RELATING TO CESS

- 3.12 Levy of 160% Compensation Cess on supply of branded chewing tobacco products by manufacturers to merchant exporters for export is required to be kept in abeyance and matter is referred to GST Council to decide issue as to whether exemption is required to be granted on levy of Compensation Cess on such supply at par with exemption granted for levy of GST and IGST in excess of 0.1% so as to enable manufacturers to avail ITC or refund - **Sopariwala Export (P.) Ltd. v. Joint Commissioner, CGST and Central Excise - [2025] 174 taxmann.com 437 (Gujarat)**

- 3.13 Under Scheme for Budgetary Support in shape of reimbursement of State taxes, amount of reimbursement was to be calculated on a monthly basis in line with discharge of GST liability and reimbursement would be made on quarterly basis - **Glenmark Pharmaceuticals Ltd. v. Union of India - [2025] 174 taxmann.com 833 (SIKKIM)**

SECTION 16 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - INPUT TAX CREDIT - ELIGIBILITY AND CONDITIONS FOR TAKING CREDIT

- 3.14 Where WP filed by assessee against demand order denying ITC due to mismatch between returns was dismissed by single judge as appellate remedy was available, writ appeal against order of single judge was to be dismissed - **Nikitha Traders v. Superintendent of CGST and Central Excise - [2025] 174 taxmann.com 268 (Madras)**
- 3.15 Where appeal against denial of ITC credit was rejected but on basis of a subsequent judgment of Apex Court in State of Karnataka v. Ecom Gill Coffee Trading Pvt. Ltd. [[2023] 148 taxmann.com 352 (SC) that requires submission of certain documents for such claim, assessee wanted to place such documents before appellate authority for due consideration, appellate authority was to be directed to grant time to petitioner to file same - **Atul Engineering Udhog Atul Compound v. Additional Commissioner Grade II - [2025] 174 taxmann.com 190 (Allahabad)**
- 3.16 Where assessee filed WP to allow access to GST Portal to rectify form GSTR-1 for September, 2020 (assessment period 2020-21) with respect to invoices issued to one of its customers to enable them to take credit of tax paid by assessee notwithstanding time limit prescribed in section 16(4) of CGST Act, Circular No.183/15/2022-GST, dated 27-12-2022 though was restricted for assessment period 2017-18 and 2018-19, various Courts had in similar circumstances extended Circular to period beyond 2017-18 and 2018-19, respondent authorities were to be directed to take necessary steps in relation to assessee in terms of above Circular - **ESDS Software Solution Ltd. v. Assistant Commissioner of Commercial Taxes - [2025] 174 taxmann.com 615 (Karnataka)**
- 3.17 Where assessee had already informed department that it had no connection with company in respect of which majority of demand was raised and only after date of personal hearing, notice for personal hearing was dispatched or received, demand and penalty imposed on assessee without considering its reply was to be set asides - **Genius Electricals and Electronics (P.) Ltd v. Additional Commissioner CGST Delhi West - [2025] 174 taxmann.com 323 (Delhi)**
- 3.18 Where Department alleged that fake ITC was passed by five firms to assessee-firm and assessee's case was that reply to SCN was not considered and personal hearing notices were served within stipulated time, but Department's contended that personal hearing notices were repeatedly served and assessee had taken adjournment on one of dates, in view of fact that assessee had already pre-deposited 10 per cent of tax demand, assessee was to be directed to approach appellate authority - **KMG Industrial Traders (P.) Ltd. v. Additional Commissioner Adjudication, CGST - [2025] 174 taxmann.com 409 (Delhi)**

- 3.19** Where Additional Commissioner-Investigation informed Joint Commissioner that on investigation, an entity was found non-existent and petitioner was in its recipient's list who had availed benefit of ITC unlawfully, Joint Commissioner had sufficient materials to block ITC lying in Electronic Credit Ledger of petitioner - **Graphic Trades (P.) Ltd. v. State of Bihar** - [2025] 173 taxmann.com 964 (Patna)
- 3.20** Where except stating that assessee was found non-existent and not conducting any business from any places for which registration was obtained, no other reasons were forthcoming in impugned order blocking electronic credit ledger and reliance was placed merely upon reports of enforcement authority, said order was impermissible in law since same was based on borrowed satisfaction - **Ittefaq Steels and Scarp Traders v. Additional Chief Secretary** - [2025] 174 taxmann.com 523 (Karnataka)
- 3.21** Where opportunity of personal hearing was not offered and proceedings were initiated on account of difference in liability declared in GSTR-2A and that in GSTR-3B, since discrepancy was explained, matter was to be remanded back for fresh decision - **OCL Iron and Steel Ltd. v. State of West Bengal** - [2025] 174 taxmann.com 529 (Calcutta)
- 3.22** Question as to what would be effect of non-filing of returns within prescribed period and whether there was a lapse on part of Petitioner in curing deficiencies pointed out by deficiency memo etc., would be factual aspects, which would have to be appreciated by Appellate Authority; writ remedy would not be available - **Harsh Khanna and Sons HUF v. Assistant Commissioner GST Delhi East** - [2025] 174 taxmann.com 577 (Delhi)
- 3.23** Where penalty was imposed on petitioner for incorporating fake firms and availing fake ITC without supply of goods, such order was appealable; writ petition could not be entertained as writ court could not adjudicate upon or ascertain factual aspects pertaining to what was role played by Petitioner, whether penalty imposed was justified or not, whether same required to be reduced proportionately in terms of invoices raised by Petitioner - **Mukesh Kumar Garg v. Union of India** - [2025] 174 taxmann.com 638 (Delhi)
- 3.24** Where assessee had failed to file reply to show cause notice and to attend personal hearing on three dates, order confirming demand of tax, interest and penalty should be challenged in appeal - **Pret Study by Janak Fashions (P.) Ltd. v. Assistant Commissioner, Division Mcie** - [2025] 174 taxmann.com 640 (Delhi)
- 3.25** Where petitioner was never served with Order-in-Original and it got a mere phone call from GST Official to discharge liability and, thus, it came to his knowledge that huge demand was raised against him rejecting ITC claim by way of an ex parte order, in view of fact that there was no allegation of suppression and

petitioner did not have proper opportunity to substantiate his claim made in return vis-a-vis books of accounts, petitioner would be entitled to an opportunity before Assessing Authority; matter was to be re-adjudicated - **Shree Jagannath Traders v. Chief Commissioner GST & Central Excise** - [2025] 174 taxmann.com 677 (Orissa)

- 3.26** Where respondents had blocked Rs. 4.53 crores in electronic credit register and assessee filed instant petition alleging that respondents had further debited Rs. 46.01 lakhs in electronic credit register enhancing negative balance, while department clarified that Rs. 46.01 lakhs was blocked only and not debited, apprehension expressed by assessee was taken care of; writ petition was to be disposed of - **Dutt Metal Craft v. State of U.P.** - [2025] 174 taxmann.com 573 (Allahabad)
- 3.27** Where assessee filed writ petition against demand and penalty raised for issuing goods-less invoice, in view of fact that principles of natural justice were complied with during adjudication proceedings, writ petition could not be entertained, however liberty was to be granted to assessee to avail remedy of appeal - **Banson Enterprises v. Assistant Commissioner CGST** - [2025] 174 taxmann.com 809 (Delhi)
- 3.28** Where impugned order was passed under section 73 for wrongly claiming ITC, however assessee submitted that though reply in regards show cause notice was filed, it was not duly considered, impugned order was to be set aside and matter was to be remanded to enable assessee to be heard on merits GST: Where impugned order was passed under section 73 in respect of reconciliation between GSTR 3B and GSTR 2A by virtue of a special audit, on writ petition filed by assessee stating that at relevant time, there was no utility available for submitting extent of IGST in respect of imports or SEZ supplies, impugned order was to be set aside and matter was to be remanded to enable assessee to be heard on merits - **Charu Overseas (P.) Ltd. v. Principal Commissioner of Delhi Goods and Services Tax** - [2025] 174 taxmann.com 889 (Delhi)
- 3.29** Rule 36(4) of CGST Rules, 2017 is not arbitrary or violative of article 14 of Constitution of India as same was intended to protect interests of Government and dealers/tax payers to ensure that they were not later exposed to recovery proceedings if tax was not paid by supplier of goods and/or services - **L & T Geostucture LLP v. Union of India** - [2025] 174 taxmann.com 1043 (Madras)
- SECTION 16 OF THE INTEGRATED GOODS AND SERVICES TAX ACT, 2017 - SUPPLY - ZERO RATED SUPPLY - GENERAL**
- 3.30** Where petitioner entered into concession agreement with Airport Authority of India for operation of Duty Free Shop at International Airport and paid minimum guarantee/revenue share, revenue Authorities should examine as to whether tax effect was in fact revenue neutral or there was any loss of revenue and thereafter proceed in accordance with law - **Union of India v. Flemingo Duty Free Shop (P.) Ltd.** - [2025] 174 taxmann.com 320 (Madras)

SECTION 17 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - INPUT TAX CREDIT - CREDIT AND BLOCKED CREDITS, APPORTIONMENT OF

- 3.31** Where petitioner mistakenly claimed ITC on exempted by-product/waste product generated during manufacture, but upon being properly advised, reversed it prior to issuance of SCN, though beyond time prescribed u/s. 39(9), Authorities should not have asked petitioner to reverse ITC again as it would result into double payment; impugned SCN ought to have been issued for purpose of levy of interest or penalty for late reversal of ITC only - **Ajay Industries v. Union of India** - [2025] 174 taxmann.com 284 (Gujarat)

SECTION 28 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - REGISTRATION - AMENDMENT OF

- 3.32** Where application for amendment of registration was rejected on ground that assessee did not submit relevant documents, assessee was to be afforded another opportunity to provide details as requested and application was to be considered afresh - **E-Chemex (P.) Ltd. v. Superintendent, GST** - [2025] 174 taxmann.com 955 (Delhi)

SECTION 29 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - REGISTRATION - CANCELLATION OF

- 3.33** Where petitioner's business was conducted from residential address due to financial constraints while registration was cancelled on ground that business premise was found locked during inspection, since no witness was present at time of inspection and Commissioner had already examined GSTR 2A for current years in detail and held that supplier of petitioner was in existence and petition's business was active, registration was to be restored - **Empire Steel Holdings v. Union of India** - [2025] 174 taxmann.com 27 (Madhya Pradesh)
- 3.34** Where assessee's registration was cancelled on ground that no reply was submitted by assessee to SCN for non-availability of any input, finished goods or worker in registered premises at time of survey, notice for cancellation of registration was issued with sentence 'discrepancies noticed while physical verification', in counter affidavit it was mentioned that on being enquired during verification, watchman told 'Kabhi Kabhar Chalti Hai', thus activities of business were being undertaken by assessee, impugned order dismissing assessee's appeal was to be set aside - **Genius Ortho Industries v. Union of India** - [2025] 174 taxmann.com 353 (Allahabad)
- 3.35** Where Proper Officer had not assigned any reason as to why the petitioner's GST Registration was cancelled, such order was to be quashed - **Enling and Co. v. Union of India** - [2025] 174 taxmann.com 318 (Gauhati)

- 3.36** Where registration of assessee was cancelled and, hence, assessee was not obligated to visit GST portal but no physical or offline notice was served, impugned order was to be set aside - **Nitco Coating Agency v. State of U.P.** - [2025] 174 taxmann.com 410 (Allahabad)

- 3.37** Where department had permitted petitioner to amend registered place of business from time to time and even petitioner had met with departmental officials and submitted documents in support of its proof of business but an SCN was issued for cancelling registration on ground that it was obtained by means of fraud, willful mis-statement or suppression of facts, department was to be directed to restore cancelled registration and pass reasoned order - **Bajrang Lal Dargarh v. Union of India** - [2025] 174 taxmann.com 26 (Calcutta)

- 3.38** Where assessee's registration was cancelled on ground of non-filing of returns for previous quarters, since SCN lacked name or description of proper officer and non-speaking cancellation order was passed without opportunity of hearing, impugned order was to be set aside - **One Place Infrastructure v. State of UP** - [2025] 174 taxmann.com 530 (Allahabad)

- 3.39** Where assessee had already applied for cancellation of its registration, non-furnishing of returns for continuous period of six months could not be made ground for retrospective cancellation of registration; cancellation of registration would take effect from date of issue of notice seeking retrospective cancellation - **Garg Candle Works v. Commissioner, Delhi GST** - [2025] 174 taxmann.com 634 (Delhi)

- 3.40** Assessee's registration was cancelled vide impugned order on sole ground that it did not conduct any business from declared place, documents were furnished by assessee to demonstrate that business was conducted from said place, no serious objection was raised by revenue, to appreciate factual aspects, matter was to be remitted to authority concerned for consideration of evidence and if required, inspection to be done with regard to existence of business at declared place, impugned order was to be set aside - **Jay Jagannath Filling Station v. Commissioner of Sales Tax (CT & GST)** - [2025] 174 taxmann.com 981 (Orissa)

- 3.41** Show cause notice issued for cancellation of registration without stating any reasons was non-est in eye of law; cancellation of registration on basis of inspection report which was drawn one-day prior to issuance of show cause notice and copy of which was not furnished to assessee, was in violation of principle natural justice - **Ed and F Man Commodities India (P.) Ltd. v. Assistant Commissioner State Tax** - [2025] 174 taxmann.com 675 (Calcutta)

- 3.42** Where petitioner itself had sought cancellation of GST registration, question of filing of returns for subsequent periods would not arise and, thus, cancellation of registration with retrospective effect was unjustified; registration was to be cancelled with effect from date as prayed by petitioner - **Sparkle Gold v. Commissioner of Delhi Goods and Services Tax** - [2025] 174 taxmann.com 775 (Delhi)

3.43 Where registration of assessee was cancelled retrospectively as assessee did not participate in proceedings post issuance of SCN, in view of fact that assessee did not have knowledge of SCN, appeal of assessee against cancellation of registration was to be restored and heard on merits - ***A P Manufacturing Co v. Special Commissioner I Appellate Authority - [2025] 174 taxmann.com 884 (Delhi)***

SECTION 30 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - REGISTRATION - REVOCATION OF CANCELLATION OF

3.44 Where GST registration was cancelled for non-filing of GST return for six consecutive months, assessee was to be given liberty to apply for revocation of cancellation on condition of filing returns for relevant period and depositing outstanding GST dues - ***Om Auto Wheels v. Commissioner of CGST Commissionerate - [2025] 174 taxmann.com 436 (Uttarakhand)***

3.45 Where pursuant to cancellation of registration on grounds of non-filing of returns for six months, assessee had deposited GST along with interest and penalty, and was also willing to abide by provisions of GST, order cancelling registration was to be set aside and assessee was to be permitted to file application for revocation of cancellation - ***Kirtidan Samarthdan Gadhavi v. State of Gujarat - [2025] 174 taxmann.com 525 (Gujarat)***

3.46 Where after registration was cancelled, assessee had already deposited outstanding tax with interest, assessee was to be permitted to file returns and if same were in accordance with law, order of cancellation would stand revoked - ***Dharmesh Deshani (OPC) (P.) Ltd. v. Union of India - [2025] 174 taxmann.com 952 (Gujarat)***

SECTION 39 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - RETURNS - FURNISHING OF

3.47 Where petition was filed challenging Notification Nos. 09/2023- CT and 56/2023- CT issued by CBIC extending period of limitation for adjudication; in view of fact that matter was pending consideration before SC, challenge made by Petitioner would be subject to outcome of decision of Supreme Court - ***Charu Overseas (P.) Ltd. v. Principal Commissioner of Delhi GST - [2025] 174 taxmann.com 889 (Delhi)***

SECTION 49 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - PAYMENT OF TAX - INTEREST, PENALTY AND OTHER AMOUNTS

3.48 Where Electronic Credit Ledger is blocked under Rule 86A without pre-decisional hearing and absent independent "reasons to believe" based on tangible material, such order cannot be sustained - ***A G Automotive v. State of Karnataka - [2025] 174 taxmann.com 613 (Karnataka)***

3.49 Where after Resolution Process under IBC was initiated and resolution professional was appointed, assessee had to obtain new GST registration but some clients deposited TDS under old GST number, since assessee had not availed personal hearing opportunity nor invoices and certificates from suppliers were submitted though matter involved reconciliation, assessee was to be granted opportunity to present its case before Adjudicating Authority - ***Ebixcash Mobility Software India Ltd. v. Sales Tax Officer Class II Avato - [2025] 174 taxmann.com 632 (Delhi)***

SECTION 54 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - REFUND - TAX, REFUND OF

3.50 Where assessee filed refund application claiming accumulated ITC due to inverted duty structure, Authority cannot restrict "Net ITC" to ITC availed on inputs alone, thereby excluding input services for purposes of the formula under Rule 89(5); benefit of amended Rule 89(5) as per Notification No.14/2022 dated 05.07.2022 would be applicable to all refund claims filed before or after 05.07.2022 - ***Filatex India Ltd. v. Union of India - [2025] 174 taxmann.com 79 (Gujarat)***

3.51 Where Refund sanction order had itself observed that assessee's business was closed down, its registration was cancelled and it had no tax dues refund claim was already allowed, direction to credit refund amount to credit ledger instead of bank account of assessee was self-contradictory since there was no business for assessee to take benefit of refund credited to assessee's credit ledger - ***Edelweiss Rural & corporate Services Ltd. v. Deputy Commissioner of Revenue - [2025] 174 taxmann.com 633 (Calcutta)***

3.52 Department's opinion withholding refund cannot be relied upon on a standalone basis; Refund having been permitted by appellate authority, in absence of an appeal or any other proceeding challenging appellate order for refund, department could not hold back refund - ***K-NXT Logisticx (P.) Ltd. v. Union of India - [2025] 174 taxmann.com 1054 (Delhi)***

3.53 Where refund application for accumulated ITC on account of inverted duty structure in case of specified goods was rejected on basis of Serial No.2 of Circular No. 181/13/2022-GST which provided that refund applications could not be filed after 18.07.2022 being date of effect of Notification No. 09/2022-CT (R) denying such refund, in view of judgment in Patanjali Foods Ltd. v. Union of India [2025] 172 taxmann.com 133 (Gujarat) which had struck down relevant para of above Circular as arbitrary and held that refund applications for a period prior to date of Notification 9/2022 is admissible even if filed after effective date 18-7-2022 but within limitation period - ***Shree Proteins (P.) Ltd. v. Union of India - [2025] 174 taxmann.com 81 (Gujarat)***

SECTION 61 OF CENTRAL GOODS AND SERVICES TAX ACT, 2017 - ASSESSMENT - SCRUTINY OF RETURNS

3.54 Clear objective of section 61 is to enable an Assessing Officer to point out discrepancies and errors which are occurring in return filed by a registered person with that of related particulars; notice u/s. 61 cannot be issued comparing particulars at which assessee has sold its goods with that of prevalent market price - ***Sri Ram Stone Works v. State of Jharkhand - [2025] 174 taxmann.com 475 (Jharkhand)***

SECTION 62 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - ASSESSMENT - NON-FILERS OF RETURNS

- 3.55** Where assessee had already filed GSTR-3B return and paid due tax within 30 days of service of assessment order, order for recovery from credit and cash ledgers was not sustainable - **Great Eastern Hire Purchase (P.) Ltd. v. State of Bihar - [2025] 174 taxmann.com 406 (Patna)**

SECTION 66 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - AUDIT - SPECIAL AUDIT

- 3.56** Where pursuant to issuance of audit notice, show cause notice was issued and impugned order was passed, since assessee was not provided proper opportunity to present its case on merits, impugned order was to be set aside and assessee was to be permitted to file reply - **DHL Express India (P.) Ltd. v. GST Council - [2025] 174 taxmann.com 673 (Delhi)**

SECTION 67 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - SEARCH, SEIZURE ETC. - POWER OF INSPECTION, SEARCH AND SEIZURE

- 3.57** Section 67 mandates to have two independent witnesses at time of inspection; where inspection/search was conducted at premises of assessee without independent witnesses and order of seizure was invalid due to tampered/ interpolated documents, impugned demand order was to be set aside - **Sri Sai Food Grain and Iron Stors v. State of Bihar - [2025] 174 taxmann.com 84 (Patna)**

- 3.58** Where in search at premises of assessee, excess stock was found, Act specifically contemplates that proceedings u/s. 73/74 should be pressed; proceedings u/s. 130 could not have been pressed - **Gopal Trading Company v. State of U.P. - [2025] 174 taxmann.com 576 (Allahabad)**

SECTION 69 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - SEARCH, SEIZURE, ETC. - POWER TO ARREST

- 3.59** Where applicant was accused of availing and utilizing ineligible ITC on basis of invoices issued by non-existent firms, in view of fact that trial had not yet started and no witness had been examined so far by prosecution, bail was to be granted to applicant who was in jail for more than five months - **Ankur Garg v. Union of India - [2025] 174 taxmann.com 24 (Allahabad)**
- 3.60** Where accused of ITC fraud was detained in custody for more than 3 months while maximum sentence in such case is imprisonment of 5 years, though another case was pending against petitioner before Magistrate, in that case charge-sheet had already been laid, bail was to be granted to accused - **Aniket Sovasaria v. Union of India - [2025] 174 taxmann.com 669 (Gauhati)**

- 3.61** Where accused of availing ineligible ITC based on invoices from non-existent entities amounting to less than Rs. 5 crores, anticipatory bail application was not maintainable as it was a bailable offence and there was no apprehension of arrest - **Raj Kumar Mishra v. Union of India - [2025] 174 taxmann.com 678 (Gauhati)**

- 3.62** Where accused was arrested for allegedly availing fraudulent ITC, in view of fact that accused had already suffered sufficient incarceration of over 2 months, main accused had already been granted bail, other persons named by accused were interrogated and nothing was recovered from premises of accused, bail was to be granted to accused - **Arvind Kumar v. DG of GST Intelligence, Amritsar - [2025] 174 taxmann.com 950 (Punjab & Haryana)**

- 3.63** Where proprietorship firm of petitioner was alleged to be non-existent and applicant was merely summoned for enquiry, Transit anticipatory bail could not be granted as it cannot be granted in routine manner as exceptional circumstances were not shown - **Abhishek Pathak v. State of U.P. - [2025] 174 taxmann.com 948 (Allahabad)**

SECTION 73 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - DEMANDS AND RECOVERY - TAX OR INPUT TAX CREDIT DUE NOT INVOLVING FRAUD, MISSTATEMENT, OR SUPPRESSION

- 3.64** Where order was passed without proper consideration of overlapping demand for same period and there was failure to provide petitioner adequate notice of order, which was issued ex-parte through GSTN portal and furthermore, issue of triple taxation raised by assessee also required further examination, matter was to be re-adjudicated - **Jayam and Co. v. Deputy State Tax Officer - I - [2025] 174 taxmann.com 28 (Madras)**

- 3.65** Where assessee impugned order and SCNs on ground that despite a specific reply having been placed on record that assessee's proprietor was suffering from a stroke, impugned order was passed, medical ground which was stated ought to have been considered emphatically as same was accompanied with all documents from Indraprastha Apollo Hospital, impugned order was to be set aside - **Jai Optical v. Govt. of NCT of Delhi - [2025] 174 taxmann.com 393 (Delhi)**

- 3.66** Assessee had impugned Notification No. 9/2023-Central Tax, dated 31-3-2023 and Notification No. 56/2023-Central Tax, dated 28-12-2023 extending time limit for passing of order u/s. 73(9) for financial year 2018-19 up to 30-4-2024 and for financial year 2019-20 up to 31-8-2024, since challenge to said notifications was under consideration in S.L.P No 4240/2025, assessee's challenge to notifications was also subject to outcome of decision in said SLP - **Aviral Technology Solutions and Telecom (P.) Ltd. v. Union of India - [2025] 174 taxmann.com 433 (Delhi)**

- 3.67** Where demand u/s. 73 was raised against assessee for retrospective cancellation of GST Registration of one of its suppliers but said retrospective cancellation of registration of supplier was set aside by coordinate bench of HC in a WP, impugned order was to be set aside - **Aviral Technology Solutions and Telecom (P.) Ltd. v. Union of India - [2025] 174 taxmann.com 433 (Delhi)**

- 3.68** Assessee had impugned Notification No. 9/2023-Central Tax, dated 31-3-2023 and Notification No. 56/2023- Central Tax, dated 28-12-2023 extending time limit for passing of order u/s. 73(9) for financial year 2018-19 up to 30-4-2024 and for financial year 2019-20 up to 31-8-2024, since challenge to said notifications was under consideration in S.L.P No 4240/2025, assessee's challenge to notifications was also subject to outcome of decision in said SLP - **Ashish Singhal v. PR. Commissioner of Delhi GST - [2025] 174 taxmann.com 432 (Delhi)**
- 3.69** Where demand under section 73 was raised against assessee for retrospective cancellation of GST Registration of one of its suppliers but said retrospective cancellation of registration of supplier was set aside by coordinate bench of High Court in a writ petition, impugned order was to be set aside – **Ashish Singhal v. PR. Commissioner of Delhi Goods and Services Tax - [2025] 174 taxmann.com 432 (Delhi)**
- 3.70** Where petitions were filed against delayed issuance of SCNs and passing of orders in terms of notifications extending time during Covid period, since matter was pending before Supreme Court and many petitioners submitted that even if same were upheld, they would still pray for relief as they were unable to file replies due to several reasons and pay huge demands, in such cases, opportunity was to be given to petitioners to place their stand before adjudicating /appellate authority without delving into question of validity of impugned notifications - **DJST Traders (P.) Ltd. v. Union of India - [2025] 174 taxmann.com 191 (Delhi)**
- 3.71** Where after cancellation of Registration of petitioner concern, impugned orders were passed imposing tax and penalty, since SCNs and concurrent orders were passed without hearing petitioner as registration was already cancelled, an opportunity ought to be afforded to petitioner to contest matter on merits - **National Enterprises v. Union of India - [2025] 174 taxmann.com 267 (Delhi)**
- 3.72** Assessee had impugned Notification No. 9/2023-Central Tax, dated 31-3-2023 extending time limit for passing of order under section 73(9) for financial year 2018-19 up to 30-4-2024 and for financial year 2019-20 up to 31-8-2024, since challenge to said notification was under consideration in S.L.P No 4240/2025, assessee's challenge was also subject to outcome of decision in said SLP - **Krishna Sales v. Commissioner of Delhi Goods and Service Tax - [2025] 174 taxmann.com 662 (Delhi)**
- 3.73** Where demand was raised against assessee but show cause notice was uploaded on Additional Notices Tab which did not come to knowledge of assessee, impugned demand order was to be set aside and assessee was to be permitted to file a reply to show cause notice - **Krishna Sales v. Commissioner of Delhi Goods and Service Tax - [2025] 174 taxmann.com 662 (Delhi)**
- 3.74** Adjudication order was cryptic, template-based, as it failed to consider reply submitted by petitioner, thus, said order was to be set aside revenue was directed to provide an opportunity to petitioner to be heard on merit - **Kiran Agarwal v. Govt of NCT of Delhi - [2025] 174 taxmann.com 811 (Delhi)**
- 3.75** Where petitioner-assessee challenged adjudication order dated 25.08.2024 under Section 73 on ground of lack of proper opportunity of hearing, further, it was observed that personal hearing was not availed by petitioner-assessee before impugned order had been passed, therefore, impugned order was to be set aside and a personal hearing was to be provided to petitioner-assessee by respondent-department. - **Luksun International v. Govt of NCT of Delhi - [2025] 174 taxmann.com 704 (Delhi)**
- 3.76** Where show cause notice was not received by assessee and impugned order was passed without affording opportunity of hearing to assessee, assessee was to be allowed to file reply to SCN; challenge to Notification Nos. 56/2023-Central Tax and 56/2023-State Tax extending limitation period for passing order would be subject to Supreme Court decision in HCC-SEW-MEIL-AAG JV v. Assistant Commissioner of State Tax [S.L.P No. 4240 of 2025, dated 21-2-2025] - **Gardgil Vohra Ventures (P.) Ltd. v. Sales Tax Officer Class II Avato - [2025] 174 taxmann.com 321 (Delhi)**
- 3.77** Assessee had impugned Notification No. 56/2023- Central Tax, dated 28-12-2023 extending time limit for passing of order under section 73(9) for financial year 2018-19 up to 30-4-2024 and for financial year 2019-20 up to 31-8-2024, since challenge to said notification was under consideration in S.L.P No 4240/2025, assessee's challenge was also subject to outcome of decision in said SLP - **Mahadev Industries v. Union of India - [2025] 174 taxmann.com 756 (Delhi)**
- 3.78** Where demand was raised against assessee but show cause notice was uploaded on Additional Notices Tab which did not come to knowledge of assessee, impugned demand order was to be set aside and assessee was to be permitted to file a reply to show cause notice - **Mahadev Industries v. Union of India - [2025] 174 taxmann.com 756 (Delhi)**
- 3.79** Where audit was conducted and raising demand a summary of show cause notice was served along with complete Audit Report, thus, making petitioner fully aware of case that assessee was required to meet and assessee had, in fact, duly contested matter by filing a detailed reply, mere non-issuance of show cause notice would not cause any prejudice to assessee and Court would not pass futile orders of setting aside or remanding case - **Saluja Motors (P.) Ltd. v. State of H.P. - [2025] 173 taxmann.com 799 (Himachal Pradesh)**
- 3.80** Writ petition against ex-parte order of assessment was not maintainable as appeal was provided against such order - **Manoj Glass thru. Its Sole v. State of U.P. - [2025] 174 taxmann.com 264 (Allahabad)**
- 3.81** Where show cause cum demand notice was issued in respect of period April, 2019 to March, 2020 as late as on 30-4-2024 in view of Notification Nos. 9/2023-CT and 56/2023-CT by which time limit for issuance of order under section 73(9) was

- extended while assessee challenged same on ground that there was no force majeure prevailing at relevant time and, hence, respondents could not have relied on these Notifications, there was prima facie case; affidavit-in-opposition to WP was to be filed and demand was to be stayed - **Anmol Stainless (P.) Ltd. v. Deputy Commissioner of State Tax, Serampore Charge** - [2025] 174 taxmann.com 405 (Calcutta)
- 3.82** Where intimation and SCN did not bear digital signature of issuing authority, they were to be treated as vitiated; merely because impugned order contained signature, same would not be sustainable – **Sandip Kumar Singh v. State of Jharkhand** - [2025] 174 taxmann.com 412 (Jharkhand)
- 3.83** Where opportunity to participate in personal hearing was not afforded to contest matter on merits, matter was to be re-adjudicated after affording opportunity of hearing to assessee - **Pashmeen Overseas v. Commissioner of Delhi GST** - [2025] 174 taxmann.com 531 (Delhi)
- 3.84** Where appeal against Section 73 Asst. Order was dismissed on limitation grounds despite explanation for delay, matter remanded to appellate authority to decide on merits since appellate tribunal was not yet constituted - **Rohit Kedia v. Assistant Commissioner of State Tax** - [2025] 174 taxmann.com 877 (Calcutta)
- 3.85** Where a SCN was issued to assessee giving only a weeks time to submit reply, such notice was in violation in section 73(8) as statutory period of 30 days to submit reply was not granted; consequently, order passed based on such a notice was to be set aside and matter was to be re-adjudicated - **Agarwal Tube Company v. Union of India** - [2025] 174 taxmann.com 78 (Patna)
- 3.86** Where summary of order was passed in Form GST DRC 07 and petitioner was called upon to file objections but immediately respondent passed impugned order u/s. 73, since objections which could be made by petitioner was not considered, impugned order was not a consequential order or speaking order to summary of order; impugned order was to be set aside - **Andal and Company v. Commercial Tax Officer Goods Division-1, Pondicherry** - [2025] 174 taxmann.com 111 (Madras)
- 3.87** Where assessee filed reply to notice issued for scrutiny of return but pre-consultation notice in Form GST DRC-01A was not issued under rule 142(1A) and, hence, assessee had not filed a reply to it neither attended any personal hearing, matter was to be re-adjudicated GST : Present petition challenged Notification Nos. 09/2023-CT and Notification No. 56/2023-CT issued by CBIC extending period of limitation for adjudication; since matter was pending consideration before SC, challenge made by assessee would be subject to outcome of decision of SC - **Fair Deal Cars (P.) Ltd. v. Commissioner CGST, Delhi East Commissionerate** - [2025] 174 taxmann.com 830 (Delhi)
- 3.88** Where show cause notice was issued to petitioner raising demand and reply was filed by petitioner and impugned order was passed raising demand, impugned order being detailed in nature and having been passed after duly considering reply of petitioner along with supporting documents filed, did not merit any interference of Court - **Fresh Feel Apparels v. Union of India** - [2025] 174 taxmann.com 831 (Delhi)
- 3.89** Where impugned order was passed without giving opportunity to petitioner to file reply and be heard, impugned order was to be set aside and petitioner was to be granted time to file reply to SCN and adjudicating authority was to pass fresh order - **Garg India Plastics v. Union of India** - [2025] 174 taxmann.com 832 (Delhi)
- 3.90** Where demand order was passed after affording opportunity of personal hearing to assessee which assessee did not avail, against said order, assessee should avail remedy of appeal; writ petition was to be disposed off - **Cobblers Shoes v. Principal Commissioner of Delhi Goods and Service Tax** - [2025] 174 taxmann.com 824 (Delhi)
- 3.91** Where demand order was passed after affording opportunity of personal hearing to assessee which assessee did not avail, against said order, assessee should avail remedy of appeal; writ petition was to be disposed off - **A.S. Builders v. Union of India** - [2025] 174 taxmann.com 885 (Delhi)
- 3.92** Where detailed reply to show cause notice was filed, but opportunity of personal hearing was not provided to assessee and demand order was passed without considering reply filed, matter was to be readjudicated - **Abdul Gaffar v. Union of India** - [2025] 174 taxmann.com 887 (Delhi)
- 3.93** Where assessee had filed reply to show cause notice and same was duly considered by Adjudicating Authority and an appeal had already been filed in this matter challenging demand order, appeal should be considered on merits; Writ Petition was disposed of - **B R Ceramics (P.) Ltd. v. Commissioner of DGST** - [2025] 174 taxmann.com 893 (Delhi)
- 3.94** Where SCN was issued and consequent order was passed without affording an opportunity of hearing to assessee, matter was to be remanded to original authority for fresh decision after affording an opportunity of hearing to assessee - **D J Associates v. Commissioner of DGST** - [2025] 174 taxmann.com 826 (Delhi)
- 3.95** Where assessee challenged impugned adjudication order in writ petition and it was observed that said order was passed holding that reply of assessee was incomplete and no supporting documents were attached, no interference was called for, however, assessee was to be permitted to challenge same in appeal - **Dev Enterprises v. Commissioner of DGST** - [2025] 174 taxmann.com 828 (Delhi)
- 3.96** Where opportunity to participate in personal hearing was not afforded to contest matter on merits, matter was to be re-adjudicated after affording opportunity of hearing to assessee

GST: Present petition challenged Notification Nos. 09/2023- CT and 56/2023- CT issued by CBIC extending period of limitation for adjudication; since matter was pending consideration before SC, challenge made by Petitioner would be subject to outcome of decision of SC - **G-Technologies v. Commissioner of DGST - [2025] 174 taxmann.com 835 (Delhi)**

- 3.97** Where reply to show cause notice was considered and personal hearing was granted, against impugned order, appeal was to be filed; writ petition was not maintainable - **Kavish Ispat v. Union of India - [2025] 174 taxmann.com 998 (Delhi)**
- 3.98** Where show-cause notice was issued and assessee did not file response to same, writ petition filed by assessee challenging subsequent adjudication order was to be dismissed as disputed questions of fact were involved and assessee had remedy of appeal before Appellate Authority - **G.P. Tronics (P.) Ltd. v. State of West Bengal - [2025] 174 taxmann.com 957 (Calcutta)**
- 3.99** Order passed on adjudication after considering reply filed by assessee and personal hearing granted was not to be interfered with in exercise of writ jurisdiction - **Krishna Traders v. Govt of NCT of Delhi - [2025] 174 taxmann.com 1057 (Delhi)**
- 3.100** Where show cause notice was issued to assessee and order was passed without affording opportunity of being heard to assessee, matter was to be remanded back to Adjudicating Authority and personal hearing was to be granted - **Damanpreet Singh v. Union of India - [2025] 174 taxmann.com 827 (Delhi)**
- 3.101** Where assessee challenged impugned order passed under section 73 on ground that reply of assessee to SCN was not considered, in view of fact that said order was detailed and had been passed after considering various aspect and some demands were dropped based on reply of assessee, impugned order did not warrant interference - **Krishna Steel Traders v. Union of India - [2025] 174 taxmann.com 765 (Delhi)**
- 3.102** Where assessee challenged adjudication order in writ petition, in view of fact that said order was passed after affording opportunity of hearing to assessee and it was a reasoned order, assessee was to be relegated to remedy of appeal under section 107 - **Shudh Hospitality (P.) Ltd. v. GST Officer Department of Trade and Taxes, Delhi - [2025] 174 taxmann.com 774 (Delhi)**
- 3.103** Where SCN creating demand against assessee was issued after cancellation of registration and impugned order was passed, in view of fact that assessee did not have access to portal when SCN was issued, matter was to be re-adjudicated after affording personal hearing to assessee - **Grilled Roti v. Commissioner of Delhi Goods and Services Tax - [2025] 174 taxmann.com 834 (Delhi)**
- 3.104** Where assessee challenged impugned order passed under section 73, in view of fact that show cause notice was duly replied by assessee, repeated personal hearings were granted to assessee and assessee attended hearing, based on which, impugned order was passed, impugned order did not warrant interference; liberty was given to file appeal- **Aays Exim v. Union of India - [2025] 174 taxmann.com 947 (Delhi)**
- 3.105** Where proper opportunity of hearing was not afforded assessee and no reply to SCN had been filed, matter was to be re-adjudicated after affording opportunity of hearing to assessee - **Anju Tuteja v. Commissioner of State Goods and Service Tax Delhi - [2025] 174 taxmann.com 949 (Delhi)**
- 3.106** Where opportunity of hearing was not afforded to assessee contest matter on merits and impugned order was passed, matter was to be re-adjudicated after affording opportunity of hearing to assessee - **Gurukirpa Enterprises v. Commissioner of DGST - [2025] 174 taxmann.com 989 (Delhi)**
- 3.107** Where registration of assessee was suspended and, hence, show cause notice was not served and personal hearing opportunity could not be availed, an opportunity was to be provided to assessee to be heard on merits prior to passing demand order - **Jinender Paper Mart v. Sales Tax Officer, AVATO - [2025] 174 taxmann.com 994 (Delhi)**
- 3.108** Where an audit notice was issued to assessee under section 66 and thereafter pursuant to issuance of show cause notice, impugned order was passed, since assessee was not provided a proper hearing to present its case on merit, impugned order was to be set aside and assessee was to be permitted to file reply to SCN - **Procter and Gamble Home Products (P.) Ltd. v. Goods and Services Tax Council - [2025] 174 taxmann.com 770 (Delhi)**
- 3.109** Where assessee had filed detailed reply to show cause notice raising various grounds, however same were not considered while passing impugned adjudication order, same was to be set aside and matter was to be remanded for fresh adjudication - **Korea Marine Transport Co. Ltd. v. Sales Tax Officer, Avato - [2025] 174 taxmann.com 1055 (Delhi)**
- 3.110** Where assessee had not filed reply to SCN and instant writ petition was pending against said SCN, order was passed confirming demand raised in SCN, since assessee was unable to file reply at relevant point of time, matter was to be re-adjudicated - **Cristoo Arora v. Union of India - [2025] 174 taxmann.com 825 (Delhi)**
- 3.111** Where by a communication, petitioner was requested to clarify about refund of IGST and by another communication was requested to provide copies of documents and without issuing/serving any notice or statement as required under section 73, authorities had straight away drawn a conclusion that petitioner had wrongly availed refund, in absence of adhering to procedure prescribed under Act, matter was to be re-adjudicated - **Power Engineering (India) (P.) Ltd. v. Union of India - [2025] 174 taxmann.com 768 (Bombay)**

SECTION 73 OF THE FINANCE ACT, 1994 - RECOVERY OF SERVICE TAX NOT LEVIED OR PAID OR SHORT-LEVIED OR SHORT-PAID OR ERRONEOUSLY REFUNDED

- 3.112** Where by impugned order, respondent authority had determined a service tax liability upon assessee u/s. 73(1) of Finance Act, 1994, invoking extended period of limitation in terms of proviso to section 73(1) of Finance Act, in counter affidavit, there was no whisper even to prima-facie satisfy Court that it was not possible for Taxing Authority to determine tax liability within prescribed period of one year, impugned order was to be set aside - *Akash Tour and Travel v. Union of India* - [2025] 174 taxmann.com 659 (Patna)

SECTION 74 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - DEMANDS AND RECOVERY - TAX OR INPUT TAX CREDIT INVOLVING FRAUD, MISSTATEMENT, OR SUPPRESSION

- 3.113** Where demand order passed by state authority after scrutiny which was challenged by assessee on ground proceedings were already initiated by central authority, in view of fact that order by state authority was passed much before central agency initiated proceeding, there was no jurisdictional error; furthermore, though appropriate demand notice was issued to assessee but assessee neither responded to said notice nor turned up on date fixed for hearing, there was no violation of natural justice on part of state authority - *CTS Industries Ltd. v. Directorate General of GST Intelligence, Patna* - [2025] 173 taxmann.com 963 (Patna)
- 3.114** Where assessee had requisite information to reply to SCN alleging that bogus invoices were issued to non-existent/non-operational firms, but assessee chose not to file reply for six months, request made later on for providing relied upon documents and cross-examination were not bona fide; this was not a fit case for exercising extraordinary writ jurisdiction - *Montage Enterprises (P.) Ltd. v. Central Goods and Services Tax Delhi North* - [2025] 174 taxmann.com 266 (Delhi)
- 3.115** Once resolution plan had been approved, department is barred from raising claims - *Arena Superstructures (P.) Ltd. v. Union of India* - [2025] 174 taxmann.com 114 (Allahabad)
- 3.116** Where petitioner-assessee challenged assessment order on ground of lack of proper opportunity of hearing, further, it was observed that petitioner-assessee had changed its address to Karol Bagh premises, however, respondent-department continued to use outdated address leading to non-receipt of SCN and consequent lack of proper opportunity of personal hearing, therefore, in view of above facts, impugned order was to be set aside. - *Punjab State Cooperative Milk Producers Federation Ltd. v. Additional Commissioner Central GST Delhi West Ward 45 Delhi* - [2025] 174 taxmann.com 940 (Delhi)

- 3.117** Where based on Circular No. 80/54/2018-GST, dated 31-12-2018, SCN was issued alleging suppression of facts regarding classification of goods, in view of fact that said circular was pending consideration before SC, matter was to be listed and recovery stayed - *Alms Frozen Foods (P.) Ltd v. Union of India* - [2025] 174 taxmann.com 364 (Allahabad)

- 3.118** Where authorities had served upon assessee a detailed SCN running into many pages, containing extensive details how it had arrived at a conclusion, sufficient enough to issue a show cause notice to assessee, entertaining writ petition would be annihilating a still born proceeding by going into merits of show cause notice - *Himalaya Wellness Company v. Union of India* - [2025] 174 taxmann.com 579 (Himachal Pradesh)

- 3.119** Where it was alleged that ITC was availed based on fake supplies, assessee could not claim that entire evidence being already available with department, fake supplies were disclosed and, hence, section 74 of Act would not apply; pleas raised against adjudication under section 74 would be raised in alternative remedy appeal as writ petition could not be entertained - *Reliable Trading Company v. Joint Director Directorate General of Goods and Services Tax Intelligence (DGGI) Zonal Unit, Meerut* - [2025] 174 taxmann.com 644 (Allahabad)

- 3.120** Where assessee challenged SCN as flawed as same sought to combine multiple tax years, in view of fact that assessee at first instance after aforesaid SCN was issued, did not proceed to challenge same and had an alternate remedy of appeal, there was no scope to entertain writ petition - *UBS Exports International (P.) Ltd. v. State of West Bengal* - [2025] 174 taxmann.com 721 (Calcutta)

- 3.121** Where show-cause notice under 74 and pre-intimation under Rule 142(1A) both dated 14.06.2023 were not communicated or served upon petitioner and he was not aware of proceedings under section 74, It was deem it just and appropriate to adopt a justice oriented approach and provide one more opportunity to petitioner to contest said proceedings, thus, order issued under section 74 was to be set aside - *R K Traders v. Assistant Commissioner of Central Tax* - [2025] 174 taxmann.com 1035 (Karnataka)

- 3.122** Where petitioner had challenged order passed under section 74 of CGST/SGST Act on ground that respondent-authority could not have invoked provision of section 74 of GST Act, as there was no fraudulent intention on part of petitioner in not depositing tax on royalty paid by petitioner, petitioner was to be relegated to file an appeal under Section 107 of GST Act - *Ghanshyambhai Kalubhai Malani v. Union of India* - [2025] 174 taxmann.com 980 (Gujarat)

SECTION 75 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - DEMANDS AND RECOVERY – GENERAL

- 3.123** Where neither reply of assessee was considered by Department, nor was any personal hearing effectively afforded to assessee, matter deserved to be remanded for fresh consideration - *Raj International v. Additional Commissioner CGST Delhi West* - [2025] 174 taxmann.com 82 (Delhi)

- 3.124** Where assessee filed instant petition alleging that summary order had been passed under section 73 without issuance of show cause notice and without giving any opportunity of hearing though asked for, matter was to be re-adjudicated following decision in Construction Catalysers (P.) Ltd. V. State of Assam [2024] 168 taxmann.com 183 (Gauhati) - **Ganapati Enterprise v. State of Assam - [2025] 174 taxmann.com 192 (Gauhati)**
- 3.125** Where assessee submitted that reply to summary of SCN was uploaded on website and in option column, personal hearing was tick marked but Assistant Commissioner passed order raising demand without giving personal hearing and without considering reply in its proper perspective, since said order was appealable under section 107 and ground agitated in writ petition could be raised before Appellate Authority; writ petition was not maintainable - **Anand Sales Enterprises v. Assistant Commissioner State Goods and Services Tax - [2025] 174 taxmann.com 365 (Chhattisgarh)**
- 3.126** Where demand order was passed without providing any opportunity of hearing despite assessee sought such opportunity and appeal was rejected without dealing with merits and records solely on ground that assessee did not appear, both orders were unjustified and matter was to be remanded to assessing authority to pass fresh orders - **Amar Agencies v. State of U.P. - [2025] 174 taxmann.com 404 (Allahabad)**
- 3.127** Where notice was issued and assessee furnished explanation, but demand was raised by invoking section 75(12), since self-assessed tax under section 37 was included in return under section 39, invocation of section 75(12) was improper and department was required to proceed under sections 65, 66, 67, 73 or 74 - **Kuddus Ali v. Assistant Commissioner of Central Tax - [2025] 174 taxmann.com 629 (Calcutta)**
- 3.128** Where show cause notice was specific pertaining to discrepancies noticed and had provided opportunity to produce documents, non quantification of demand in show cause notice and ultimately raising demand while passing order, cannot be said to be in violation of provisions of Section 75(7) inasmuch as determination made subject to production of documents would always be treated as forming part of notice. - **Mayank Mineral v. State of U.P. - [2025] 174 taxmann.com 636 (Allahabad)**
- 3.129** Where notice under Section 73 was issued to petitioner and 03.01.2025 was fixed as date of personal hearing but response was filed after said date on 17.01.2025 and order impugned came to be passed on 28.02.2025 without providing/offering opportunity of personal hearing to petitioner despite fact there was sufficient time available to authority between 17.01.2025 to 28.02.2025, matter was to be remanded back for fresh adjudication - **Priya Enterprises v. State of U.P. - [2025] 174 taxmann.com 582 (Allahabad)**

- 3.130** Where in show-cause notice amount representing tax, interest and penalty was indicated as Rs. 8,81,080, but in order, much higher demand was raised at Rs. 32,97,336, same was in violation of section 75(7); matter was to be remanded back - **Vibhuti Tyres v. State of U.P. - [2025] 174 taxmann.com 723 (Allahabad)**
- 3.131** Where order of Assessing Officer fastening assessee with liability of tax along with interest and penalty in purported exercise of power under section 74 was absolutely ex parte as neither alleged show cause notice was ever brought to knowledge of assessee, nor service of same was physically ever effected upon assessee, impugned order was to be set aside - **Saini Zarda Store v. State of U.P. - [2025] 174 taxmann.com 772 (Allahabad)**
- 3.132** Where assessee filed reply to SCN and opportunity of hearing afforded to assessee was not availed, impugned order passed in such circumstances did not deserve to be interfered with, however, assessee was to be granted liberty to approach appellate authority under section 107 - **Shree Jain Polymers v. Union of India - [2025] 174 taxmann.com 993 (Delhi)**
- 3.133** Where neither SCN nor impugned order were signed by concerned authority and further no proper opportunity of hearing was granted to assessee, matter was to be re-adjudicated - **Krishna Enterprises v. Government of NCT of Delhi - [2025] 174 taxmann.com 1056 (Delhi)**

SECTION 83 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - DEMANDS AND RECOVERY - PROVISIONAL ATTACHMENT

- 3.134** Assessment order and attachment notice issued against assessee were to be set aside, as the impugned order lacked the assessing officer's signature of assesseeing officer and DIN number, rendering it invalid as per CBIC Circular No.128/47/2019-GST and judicial precedents - **Kishor Kumar Reddy v. Deputy Assistant Commissioner of State Tax - [2025] 174 taxmann.com 812 (Andhra Pradesh)**
- 3.135** Where only search operation was concluded and there was no determination of tax amount nor was Petitioner called upon to show-cause or any proceedings for raising demand was filed and further, there was no material which led Commissioner to believe that attachment was necessary to secure interest of Revenue, order provisionally attaching bank account was to be set aside - **Shubh Corporation v. State of Maharashtra - [2025] 174 taxmann.com 773 (Bombay)**

SECTION 88 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - COMPANY IN LIQUIDATION, LIABILITY TO PAY TAX

- 3.136** Section 88 of CGST Act states that only if tax etc. of a private company-in-liquidation is determined under CGST Act, same can be recovered from company directors; recovery of tax arising from Central Excise Act, 1944 can only be recovered invoking provisions of 1944 Act in terms of section 174(2)(e) CGST Act which provides for institution or continuation of such proceedings under repealed Act - **Ravindra Muthavarapu v. Superintendent of Central Tax - [2025] 174 taxmann.com 83 (Andhra Pradesh)**

SECTION 93 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - TAX, INTEREST OR PENALTY, LIABILITY TO PAY IN CERTAIN CASES

- 3.137** Proceedings against deceased proprietor of proprietorship firm could not be sustained; tax liability imposed on legal heir of deceased proprietor without providing opportunity of hearing was not sustainable - **General Trading Company v. State of U.P.** - [2025] 174 taxmann.com 322 (Allahabad)
- 3.138** On death of proprietor of firm, it was sine qua non that legal representative was issued a show cause notice and after seeking response from legal representative, determination of demand should take place - **Devendra Kumar Singh v. State of U.P.** - [2025] 174 taxmann.com 571 (Allahabad)
- 3.139** Where assessee had died, it would only be appropriate that legal heir be given an opportunity to set out his contentions against proposed demands because such demands would become liability of petitioner-heir; where notices were issued in name of deceased assessee, such notices could not be treated as served on legal heir, and matter was to be re-adjudicated - **Prasad Voruganti v. Deputy Assistant Commissioner of State Tax** - [2025] 174 taxmann.com 769 (Andhra Pradesh)

SECTION 107 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - APPELLATE AUTHORITY - APPEALS TO

- 3.140** Appellate Authority had no power to condone delay in filing appeal beyond one month after expiry of prescribed period of limitation; where appeal against assessment orders dated 13.06.2023 & 19.05.2023 was filed on 26.10.2023 i.e. beyond period of limitation prescribed under GST Act and at no point of time, request was made for condoning delay, Appellate Authority had rightly rejected appeal filed by assessee - **Akshansh Consultancy Services (P.) Ltd. v. Deputy Commissioner** - [2025] 174 taxmann.com 23 (Rajasthan)
- 3.141** Filing of appeal under section 107 is permissible by any person and not merely by a taxable person - **Gurudas Mallik Thakur v. Commissioner of Central Goods and Service Tax** - [2025] 174 taxmann.com 116 (Delhi)
- 3.142** Where 10 per cent of pre-deposit amount was not paid to department at time of filing appeal due to inadvertence, in interest of justice, assessee should deposit required pre-deposit amount and Appellate Authority should restore appeal - **Tvl. Arun Traders v. Union of India** - [2025] 174 taxmann.com 25 (Madras)
- 3.143** Where in appeal after review, department alleged that after favourable order, petitioner-Ashirwad Industries, Ghaziabad had submitted application for refund of amount by mentioning GSTIN number of Ashirwad

Industries, Rewa and thus, a different entity had obtained refund, since no notice was issued to petitioner to ensure whether Ashirwad Industries, Ghaziabad and Ashirwad Industries, Rewa were same firm or different entity, Department's appeal was to be readjudicated - **Ashirwad Industries v. Union of India** - [2025] 174 taxmann.com 286 (Madhya Pradesh)

- 3.144** For filing online appeal, condition for physically filing of certified copy of order-in-original is not mandatory, but procedural in nature - **Kishan Chand and Co v. Additional Commissioner Grade-II Appeal** - [2025] 174 taxmann.com 408 (Allahabad)
- 3.145** Where assessee filed a writ petition against order passed under section 74, in absence of any extraordinary circumstances for bypassing statutory alternate remedy of appeal available to assessee, writ petition could not be entertained - **APL Apollo Tubes Ltd. v. Commissioner, State Tax GST, UP** - [2025] 174 taxmann.com 113 (Allahabad)
- 3.146** Appeal filed manually due to non-availability of order-in-original on GST portal could not be rejected - **Appolo Sesame Industries v. Assistant Commissioner of CGST, Division X, Nadiad** - [2025] 174 taxmann.com 285 (Gujarat)
- 3.147** Where even though assessee had not complied with pre-deposit requirements, appeal was admitted and appeal was heard on merit without bringing to assessee's notice defect in filing of appeal, order passed subsequently rejecting appeal for non-compliance of pre-deposit requirement was to be set aside - **Harsheel Auto Planet v. Commissioner (Appeals), CGST, Central Excise & Customs** - [2025] 174 taxmann.com 578 (Orissa)
- 3.148** Where assessee filed appeal under section 107 beyond limitation period of 90 days but within condonable period of further 30 days without enclosing application for condonation of delay, assessee's right and appeal could not be rejected for such procedural irregularity based on technical ground; assessee was to be given opportunity to rectify defect - **Tvl. Sri Hari Enterprises v. Assistant Commissioner (ST) (FAC)** - [2025] 174 taxmann.com 676 (Madras)
- 3.149** Where several dates were fixed for hearing appeal, but no order was passed and date on which appellate order was passed dismissing appeal, assessee was not put to notice, there was violation of principles of natural justice; ex-parte order would not sustain - **Dilip Kumar Gupta v. Additional Commissioner Grade-2 (Appeal)** - [2025] 174 taxmann.com 572 (Allahabad)
- 3.150** Where assessee challenged impugned order in original imposing penalty upon assessee on ground of availing fraudulent ITC on basis of good-less invoices, assessee was to be relegated to remedy of appeal - **SS Enterprises v. Commissioner Central Tax** - [2025] 174 taxmann.com 717 (Delhi)
- 3.151** Where petitioner-assessee challenged demand order and appellate order rejecting appeal filed by petitioner-assessee

on ground of limitation, as appeal had been filed with a delay of 192 days, further, it was found that delay had occurred only due to ill-health of proprietor of petitioner-assessee and petitioner-assessee had demonstrated reasonable cause for delay, therefore, in view of above facts, it was held that delay of 192 days in filing appeal before respondent no.2-appellate authority was to be condoned and appellate order was to be hereby set aside - **Annai Velanganni Industries v. State Tax Officer - [2025] 174 taxmann.com 977 (Madras)**

SECTION 112 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - APPELLATE TRIBUNAL - APPEALS TO

- 3.152** Where assessee filed writ petition against demand order, in view of fact that Tribunal had not yet been constituted, petition was to be heard and subject to deposit of 10 percent of remaining tax demand, there would be unconditional stay on demand till disposal of writ petition or until further order - **Dinesh Brothers (P.) Ltd. v. Superintendent of Central Tax - [2025] 174 taxmann.com 829 (Calcutta)**

SECTION 122 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - PENALTY - FOR CERTAIN OFFENCES

- 3.153** Where petitioner-director of a company filed writ petition challenging levy of penalty on him on ground of ITC fraud and took stand that he had already resigned at relevant time, since matter required closer scrutiny on facts as to who was responsible for running company, petitioners should avail appellate remedy - **Gurudas Mallik Thakur v. Commissioner of Central Goods and Service Tax - [2025] 174 taxmann.com 116 (Delhi)**

SECTION 129 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - DETENTION, SEIZURE AND RELEASE OF GOODS AND CONVEYANCES IN TRANSIT

- 3.154** Where transport vehicle developed a snag and became non-operational and goods were transshipped to another vehicle but due to technical glitch in e-way bill portal, original vehicle number was reflected on extended e-way bill, order imposing penalty for mismatch was not to be interfered with in writ petition; appellate authority should consider issues - **Pawan Carrying Corporation v. State of West Bengal - [2025] 174 taxmann.com 269 (Calcutta)**
- 3.155** Once on verification report i.e. MOV-04, items are fed by officer concerned, after due verification, authorities cannot be permitted to completely change its stand or further permitted to supplement by different reasons or grounds, which were not taken or mentioned while preparing physical verification report in MOV-04 - **Maa Kamakhya Trader v. Additional Commissioner Grade 2 - [2025] 174 taxmann.com 263 (Allahabad)**

- 3.156** Where vehicle carrying goods was intercepted and petitioner paid penalty under protest for release of goods, non-issuance of penalty order in Form GST MOV-09 deprived assessee of appellate remedy; authority should pass order in Form GST MOV-09 - **Aries Agro Ltd. v. State of Uttar Pradesh - [2025] 174 taxmann.com 189 (Allahabad)**

- 3.157** Mere non-filing of part-B of e-way bill would not attract penalty under section 129 unless an attempt was made to evade tax and a finding in this regard was recorded - **Fiserv Merchant Solutions (P.) Ltd. v. State of UP - [2025] 174 taxmann.com 319 (Allahabad)**

- 3.158** Where goods of petitioner-seller were intercepted and detained on ground that e-way bill was not produced and registration of petitioner-seller was suspended, in view of facts that goods were accompanied with tax invoice and registration was restored and at time of passing of seizure order, both purchaser and seller were duly registered, matter required consideration; goods were to be released on compliance of section 129(1)(a) - **Raju Ujir v. State of U.P. - [2025] 174 taxmann.com 641 (Allahabad)**

- 3.159** Where goods were intercepted and penalty was imposed for non-filing of Part-B of e-way bill, since there was no finding recorded in impugned order w.r.t. intention of assessee to evade tax and violation was merely technical, impugned order was to be set aside - **Tata Hitachi Construction Machinery Company (P.) Ltd. v. State of Uttar Pradesh - [2025] 174 taxmann.com 720 (Allahabad)**

SECTION 130 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - CONFISCATION OF GOODS OR CONVEYANCES AND LEVY OF PENALTY

- 3.160** Confiscation and penal proceedings under section 130 could initiate only after completion of process under section 129 e.g. issuance of notice, giving opportunity of hearing, ascertaining documents and tax for release goods - **Srinivas Traders v. Assistant Commissioner of State Tax - [2025] 174 taxmann.com 414 (Andhra Pradesh)**

- 3.161** Where after search and seizure, payment of penalty and redemption fine in lieu of confiscation was made without protest, it would not be open to challenge entire procedure adopted for confiscation as liable to be struck down; where there was no document recording any such protest rather, there was categorical stand taken before authority admitting shortage of stocks and conceding payment of penalty and fine in lieu of confiscation, exercise of writ jurisdiction was to be refused - **Viraj Steel & Energy (P.) Ltd. v. Joint Commissioner of State Tax (Appeal) - [2025] 174 taxmann.com 630 (Orissa)**

SECTION 132 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - OFFENCES - PUNISHMENTS FOR CERTAIN OFFENCES

- 3.162** Where applicant-assessee filed present application seeking anticipatory bail in event of his arrest in connection with FIR registered for offences punishable under Sections 420, 465, 467, 468, 471 and 120B of Indian Penal Code, 1860, however, in various precedents, it was held that custodial

interrogation was crucial in economic offenses to trace diverted funds and uncover complex financial transactions involved, further, it was observed that applicant-accused was prima facie involved in a serious economic offence, and investigation was at a preliminary stage, therefore, in view of gravity of offence, necessity of custodial interrogation, risk of tampering with evidence, and applicant-accused's apparent involvement, it was held that applicant-accused was not entitled to protection of anticipatory bail - **Imran Abdulkadar Chugda v. State of Gujarat - [2025] 174 taxmann.com 392 (Gujarat)**

3.163 Where petitioner-assessee challenged demand-cum-SCN issued by respondent no.3-department and Order in original passed by respondent no.1-Additional Commissioner, CGST Delhi (West), citing lack of jurisdiction and denial of proper hearing, however, Notifications dated 11.03.2022 and 25.11.2024 clarified that both Delhi North and Delhi West Commissioners had jurisdiction to issue and adjudicate notices under Sections 73 and 74, further, proper opportunity for personal hearing was granted to petitioner-assessee and its reply had been duly considered, therefore, in view of above facts, writ petition was disposed of and petitioner-assessee was relegated to avail appellate remedy before Appellate Authority - **Jain Bhadri Graphics v. Additional Commissioner, Central GST, Delhi (West) - [2025] 174 taxmann.com 354 (Delhi)**

3.164 Where petitioner-assessee filed a writ petition seeking directions for cancellation of a GST registration that was fraudulently obtained by using his PAN card without his consent, further, in Anil Kumar vs. GST Commissioner, CGST and Central Excise & Ors, under similar circumstances, it was held that petitioner-assessee's complaint must be considered and resolved in a time bound manner, therefore, in view of above precedent and facts, it was directed that respondent No.2-department should look into matter on an urgent basis and take a decision within stipulated time - **Amit Garg v. Central Board of Indirect Taxes and Customs - [2025] 174 taxmann.com 431 (Delhi)**

3.165 Where applicant-accused was arrested for engaging in preparing invoices on behalf of fake 232 firms and facilitating fake ITC in favour of beneficiaries, offences alleged triable and provided for maximum punishment of 5 years, investigation complete and charges against applicant not framed, no prosecution witnesses were examined, conclusion of trial to consume considerable time, detention of applicant behind bars not justified keeping in view period of more than a year already undergone by him, applicant was to be released on regular bail during pendency of trial - **Praveen Kumar v. Directorate General of GST Intelligence - [2025] 174 taxmann.com 938 (Allahabad)**

SECTION 140 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - TRANSITIONAL PROVISIONS - INPUT TAX CREDIT - TRANSITIONAL ARRANGEMENT FOR

3.166 Under UPVAT Act, once purchased goods are re-sold as taxable sale as contemplated under Section 13 of VAT Act, then only input tax credit could be availed and not otherwise; where on introduction of GST regime i.e. on 1.7.2017, a dealer had not yet sold goods, input tax available with it cannot be said as input tax credit on purchase and dealer was not entitled to input tax credit on closing stock, particularly when closing stock was not exempted under the GST Act - **Commissioner Commercial Tax v. S/S Ravi Prakash Rahul Prakash - [2025] 174 taxmann.com 771 (Allahabad)**

SECTION 160 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - ASSESSMENT - NOT TO BE INVALID ON CERTAIN GROUNDS

3.167 Where assessment order issued in Form GST DRC-07 did not contain signature of assessing officer, absence of signature of assessing officer, had rendered assessment order invalid, impugned pre show-cause notice, impugned show-cause notice and impugned assessment order were to be set aside - **K.L.R. Constructions v. Deputy Assistant Commissioner STI - [2025] 174 taxmann.com 394 (Andhra Pradesh)**

3.168 Where petitioner-assessee challenged assessment orders issued by respondent no.1-department on ground that impugned orders did not contain a DIN number and signature of assessing officer, further, in various precedents, it was held that an assessment order which did not contain a DIN number and signature of assessing officer would be invalid, consequently, impugned orders were to be set aside - **Mekala Sudhakar v. Deputy Assistant Commissionerstate Tax - [2025] 174 taxmann.com 813 (Andhra Pradesh)**

3.169 Show cause notice, summary of order and attachment order in Form GST DRC-07 without mentioning DIN number were to be set aside with liberty to authority to conduct fresh proceedings after assigning a DIN number - **Andhra Cotton Stores v. Assistant Commissioner - [2025] 174 taxmann.com 631 (Andhra Pradesh)**

SECTION 161 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - RECORDS - RECTIFICATION OF MISTAKES

3.170 Where Writ Petition was filed challenging rectification rejection order on ground that documents were not scrutinised while department alleged that petitioner had not fully uploaded requested documents for scrutiny, since appeal remedy under Section 107 was available, instant petition was to be disposed - **Golden Industries v. Deputy State Tax Officer-1 - [2025] 174 taxmann.com 522 (Madras)**

3.171 Rectification application could not be rejected without assigning any reasons and without giving an opportunity of hearing to assessee; there should be reasoning as to why there was no error apparent on face of record - **Tvl.Kajah Enterprises (P.) Ltd. v. Assistant Commissioner (Inspection) (ST-IU) - [2025] 174 taxmann.com 635 (Madras)**

SECTION 168A OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - POWER OF GOVERNMENT TO EXTEND TIME LIMIT IN SPECIAL CIRCUMSTANCES

- 3.172** Where petitioner-assessee challenged validity of Notification No. 56/2023-Central Tax dated 28.12.2023, however, it was noted that validity of impugned notification was already under challenge before SC, therefore, WP was disposed of, making petitioner-assessee's challenge subject to outcome of SC's decision. - ***Luksun International v. Govt of NCT of Delhi*** - [2025] 174 taxmann.com 704 (Delhi)
- 3.173** Where impugned order was passed for 2019-20 on 28-8-2024 i.e. beyond statutory time limit prescribed in section 73(10), on challenge to same by assessee on ground that there was no force majeure prevailing for invoking section 168A for extension of limitation period up to 31-08-2024, matter would stand adjourned; impugned order was to remain stayed till next date - ***Amar Nath Jaiswal v. Assistant Commissioner of State Tax*** - [2025] 174 taxmann.com 188 (Calcutta)
- 3.174** Present petition challenged Notification Nos. 09/2023-CT and 56/2023- CT issued by CBIC extending period of limitation for adjudication; since matter was pending consideration before SC, challenge made by Petitioner would be subject to outcome of decision of SC - ***Pashmeen Overseas v. Commissioner of Delhi GST*** - [2025] 174 taxmann.com 531 (Delhi)
- 3.175** Present petition challenged Notification Nos. 56/2023-Central Tax dated 28th December, 2023 and 56 of 2023-State Tax dated 11th July, 2024 extending period of limitation for adjudication; since similar matter was pending consideration before SC, challenge made by Petitioner would be subject to outcome of decision of Supreme Court - ***DHL Express India (P.) Ltd. v. GST Council*** - [2025] 174 taxmann.com 673 (Delhi)
- 3.176** Present petition challenged Notification Nos. 09/2023-CT and 56/2023- CT issued by CBIC extending period of limitation for adjudication; since matter was pending consideration before Supreme Court, challenge made by Petitioner would be subject to outcome of decision of Supreme Court - ***Tanishka Steel v. Commissioner Delhi Goods and Service Tax*** - [2025] 174 taxmann.com 719 (Delhi)
- 3.177** Where petition was filed challenging Notification Nos. 09/2023- CT issued by CBIC extending period of limitation for adjudication; in view of fact that matter was pending consideration before Supreme Court, challenge made by Petitioner would be subject to outcome of decision of Supreme Court - ***Fresh Feel Apparels v. Union of India*** - [2025] 174 taxmann.com 831 (Delhi)
- 3.178** Where writ petition was filed challenging Notification No. 56/2023- CT issued by CBIC extending period of limitation for adjudication; in view of fact that matter was pending consideration before Supreme Court, challenge made by Petitioner would be subject to outcome of decision of Supreme Court - ***Garg India Plastics v. Union of India*** - [2025] 174 taxmann.com 832 (Delhi)
- 3.179** Where petition was filed challenging Notification Nos. 56/2023-Central Tax and 9/2023-Central Tax, dated 31-3-2023 issued by CBIC and Notification No. 9/2023- State Tax dated 22nd June, 2023 extending period of limitation for adjudication; in view of fact that matter was pending consideration before Supreme Court, challenge made by Petitioner would be subject to outcome of decision of Supreme Court - ***Aayushi Hygiene and Care (P.) Ltd. v. Commissioner of DGST*** - [2025] 174 taxmann.com 886 (Delhi)
- 3.180** Where petition was filed challenging Notification Nos. 09/2023- CT issued by CBIC extending period of limitation for adjudication; in view of fact that matter was pending consideration before Supreme Court, challenge made by Petitioner would be subject to outcome of decision of Supreme Court - ***Abdul Gaffar v. Union of India*** - [2025] 174 taxmann.com 887 (Delhi)
- 3.181** Where Petitioner had challenged Summary Show Cause Notice and order passed under section 73 on ground that respondent authorities had resorted to Notification No. 56/2023-CT, dated 28-12-2023 which was issued in violation of procedure laid down in Section 168A, in view of projection that legality, validity and propriety of said Notification was under examination of Supreme Court, no coercive action was to be taken against petitioner in terms of impugned order till returnable date - ***Ananta Packaging and Printing v. Union of India*** - [2025] 174 taxmann.com 892 (Gauhati)
- 3.182** Where petition was filed challenging Notification Nos. 09/2023- CT and 56/2023- CT issued by CBIC as also corresponding state notifications extending period of limitation for adjudication; in view of fact that matter was pending consideration before Supreme Court, challenge made by Petitioner would be subject to outcome of decision of Supreme Court - ***B R Ceramics (P.) Ltd. v. Commissioner of DGST*** - [2025] 174 taxmann.com 893 (Delhi)
- 3.183** Where petition was filed challenging Notification Nos. 09/2023- CT and 56/2023- CT issued by CBIC as also corresponding state notifications extending period of limitation for adjudication; in view of fact that matter was pending consideration before Supreme Court, challenge made by Petitioner would be subject to outcome of decision of Supreme Court - ***D J Associates v. Commissioner of DGST*** - [2025] 174 taxmann.com 826 (Delhi)
- 3.184** Where petition was filed challenging Notification Nos. 09/2023- CT and 56/2023- CT issued by CBIC extending period of limitation for adjudication; in view of fact that matter was pending consideration before Supreme Court, challenge made by Petitioner would be subject to outcome of decision of Supreme Court - ***Kavish Ispat v. Union of India*** - [2025] 174 taxmann.com 998 (Delhi)
- 3.185** Present petition challenged Notification No. 56/2023-CT issued by CBIC extending period of limitation for adjudication; since matter was pending consideration before Supreme Court, challenge made by assessee would be subject to outcome of decision of Supreme Court - ***Damanpreet Singh v. Union of India*** - [2025] 174 taxmann.com 827 (Delhi)

- 3.186** Present petition challenged Notification Nos. 09/2023-CT and 56/2023-CT issued by CBIC extending period of limitation for adjudication; since matter was pending consideration before Supreme Court, challenge made by Petitioner would be subject to outcome of decision of Supreme Court - **Krishna Steel Traders v. Union of India** - [2025] 174 taxmann.com 765 (Delhi)
- 3.187** Present petition challenged Notification Nos. 09/2023-CT and 56/2023-CT issued by CBIC extending period of limitation for adjudication; since matter was pending consideration before Supreme Court, challenge made by Petitioner would be subject to outcome of decision of Supreme Court - **Shudh Hospitality (P.) Ltd. v. GST Officer Department of Trade and Taxes, Delhi** - [2025] 174 taxmann.com 774 (Delhi)
- 3.188** Present petition challenged Notification Nos. 09/2023-CT issued by CBIC extending period of limitation for adjudication; since matter was pending consideration before Supreme Court, challenge made by Petitioner would be subject to outcome of decision of Supreme Court - **Grilled Roti v. Commissioner of Delhi Goods and Services Tax** - [2025] 174 taxmann.com 834 (Delhi)
- 3.189** Present petition challenged Notification Nos. 09/2023-ST extending period of limitation for adjudication; since matter was pending consideration before Supreme Court, challenge made by Petitioner would be subject to outcome of decision of Supreme Court - **Aays Exim v. Union of India** - [2025] 174 taxmann.com 947 (Delhi)
- 3.190** Present petition challenged Notification No. 56/2023-CT issued by CBIC extending period of limitation for adjudication; since matter was pending consideration before Supreme Court, challenge made by Petitioner would be subject to outcome of decision of Supreme Court - **Anju Tuteja v. Commissioner of State Goods and Service Tax Delhi** - [2025] 174 taxmann.com 949 (Delhi)
- 3.191** Present petition challenged Notification Nos. 09/2023-CT and 56/2023-CT issued by CBIC extending period of limitation for adjudication; since matter was pending consideration before Supreme Court, challenge made by Petitioner would be subject to outcome of decision of Supreme Court - **Gurukirpa Enterprises v. Commissioner of DGST** - [2025] 174 taxmann.com 989 (Delhi)
- 3.192** Present petition challenged Notification Nos. 09/2023-CT issued by CBIC extending period of limitation for adjudication; since matter was pending consideration before Supreme Court, challenge made by Petitioner would be subject to outcome of decision of Supreme Court - **Shree Jain Polymers v. Union of India** - [2025] 174 taxmann.com 993 (Delhi)
- 3.193** Where Notification Nos. 09/2023-CT and 56/2023-CT issued by CBIC extending period of limitation for adjudication was under challenge before Supreme Court, challenge made by Petitioner would be subject to outcome of decision of Supreme Court - **Jinender Paper Mart v. Sales Tax Officer, AVATO** - [2025] 174 taxmann.com 994 (Delhi)
- 3.194** Present petition challenged Notification Nos. 09/2023-CT and 56/2023-CT issued by CBIC extending period of limitation for adjudication; since matter was pending consideration before Supreme Court, challenge made by Petitioner would be subject to outcome of decision of Supreme Court - **Procter and Gamble Home Products (P.) Ltd. v. Goods and Services Tax Council** - [2025] 174 taxmann.com 770 (Delhi)
- 3.195** Present petition challenged Notification Nos. 09/2023-CT issued by CBIC extending period of limitation for adjudication; since matter was pending consideration before Supreme Court, challenge made by Petitioner would be subject to outcome of decision of Supreme Court - **Korea Marine Transport Co. Ltd. v. Sales Tax Officer, Avato** - [2025] 174 taxmann.com 1055 (Delhi)
- 3.196** Present petition challenged Notification No. 56/2023-CT and corresponding state Notification No. 56/2023-ST which extend period of limitation for adjudication; since matter was pending consideration before Supreme Court, challenge made by assessee would be subject to outcome of decision of Supreme Court - **Krishna Enterprises v. Government of NCT of Delhi** - [2025] 174 taxmann.com 1056 (Delhi)
- 3.197** Present petition challenged Notification Nos. 09/2023-CT and Notification No. 56/2023-CT issued by CBIC extending period of limitation for adjudication; since matter was pending consideration before Supreme Court, challenge made by assessee would be subject to outcome of decision of Supreme Court - **Cristoo Arora v. Union of India** - [2025] 174 taxmann.com 825 (Delhi)

SECTION 169 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - NOTICE, SERVICE IN CERTAIN CASES

- 3.198** Where assessee had challenged order of assessment, on premise that service of notice /order was improper and invalid because intimation in DRC-01A, show cause notice in DRC-01 and impugned order were uploaded in GST Common Portal, modes of service provided in clauses (a) to (f) to Section 169 of GST Act are alternate to each other before resorting to clause (f) to sub-section (1) of section 169 of Act, thus service by making it available in common portal was a valid mode of service, petition was to be dismissed - **Poomika Infra Developers v. State Tax Officer** - [2025] 174 taxmann.com 93 (Madras)
- 3.199** Where show cause notice was uploaded in GST portal at 'additional notices' tab and, hence, same did not come to knowledge of assessee, since impugned order was passed without providing opportunity of hearing to assessee; matter was to be remanded with liberty to assessee to file reply to SCN - **K.S. Impex Ltd. v. Commissioner of Delhi Goods and Services Tax** - [2025] 174 taxmann.com 371 (Delhi)

3.200 Where show cause notice was issued to assessee vide 'additional notices' tab on GST portal and impugned order was passed without providing opportunity of hearing to assessee, impugned order was to be set aside and assessee would be given a personal hearing - **Keshav Metals v. Commissioner of Delhi Goods and Services Tax - [2025] 174 taxmann.com 407 (Delhi)**

3.201 Where SCN was issued by department in 'additional notices and orders' tab instead of 'notices and orders' tab but assessee had not been diligent in checking portal, in view of assessee's plea that portal was not accessible at time of checking, assessee was to be permitted to file an appeal - **Sandeep Garg v. Sales Tax Officer, Avato, Delhi - [2025] 174 taxmann.com 411 (Delhi)**

3.202 Where notice for hearing was uploaded in 'additional notices' tab on GST portal and not in tab for 'notices' and thus assessee could not notice date and even prior to date of submitting reply, date of hearing was fixed, since order was passed without granting opportunity of hearing, fresh order was to be passed - **Star Enterprises v. State of U.P. - [2025] 174 taxmann.com 718 (Allahabad)**

3.203 Where SCN was issued through 'Additional Notices and Orders' tab, in view of assessee's plea that it got no opportunity to file reply to SCN, impugned order was to be set aside and fresh adjudication order was to be passed after affording personal hearing - **Tanishka Steel v. Commissioner Delhi Goods and Service Tax - [2025] 174 taxmann.com 719 (Delhi)**

3.204 Where show cause notice was uploaded in GST portal at 'additional notices' tab and, hence, same did not come to knowledge of assessee, since impugned order was passed without providing opportunity of hearing to assessee; matter was to be remanded with liberty to assessee to file reply to SCN GST: Assessee had impugned Notification No. 9/2023-Central Tax, dated 31-3-2023 extending time limit for passing of order under section 73(9) for financial year 2018-19 up to 30-4-2024 and for financial year 2019-20 up to 31-8-2024, since challenge to said notification was under consideration in S.L.P No 4240/2025, assessee's challenge was also subject to outcome of decision in said SLP - **National Food and Beverages v. Commissioner Delhi Goods and Service Tax - [2025] 174 taxmann.com 766 (Delhi)**

3.205 Where SCN under section 73 was issued through 'Additional Notices and Orders' tab in view of assessee's plea that it got no opportunity to file reply to SCN, impugned order was to be set aside and fresh adjudication order was to be passed after affording personal hearing - **Aayushi Hygiene and Care (P.) Ltd. v. Commissioner of DGST - [2025] 174 taxmann.com 886 (Delhi)**

3.206 Where notice was issued to assessee only on portal, same would not be sufficient or substitute registered post under acknowledgement and other mode of communication which were required to be adhered; thus, adjudication order was to be set aside for violation of section 169 - **Binod Traders v. Union of India - [2025] 174 taxmann.com 888 (Patna)**

Revocation of West Bengal Incentive Schemes and Obligations in the Nature of Grants and Incentives Bill, 2025 introduced in WB Legislative Assembly on 19.03.2025



Adv. Ankit Kanodia
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The WB Govt. has introduced the above Bill to **revoke, rescind, and discontinue all the industrial incentive schemes and related financial obligations previously granted by the Government of West Bengal**. The main aim is to make state finances available for various social welfare schemes.

1. Revocation of All Industrial Incentives:

All West Bengal industrial incentive schemes notified since 1993 (1993, 1999, 2000, 2004, 2005, 2008, 2013, 2015, 2021) are revoked retrospectively. No industrial unit can claim past dues, arrears, or future incentives under these schemes.

2. Liability Absolution:

The State Government and its agencies are absolved from all past, present, or future liabilities under these schemes.

3. Court Proceedings Barred:

No new or pending court/arbitral proceedings will be entertained or continued related to claims of such incentives and any existing court cases, arbitrations, and proceedings regarding incentives will be withdrawn immediately.

4. Recovery Clause:

If excess amounts were disbursed under the schemes or under any Grants or Obligations as the case may be, the government shall be entitled to recover such excess amount as an arrears of land revenue.

5. Extension Power:

The Government is at the liberty to extend the revocation to other grants, obligations, or incentive schemes by simple notification.

6. Covered Schemes (as per the Schedule:

- West Bengal Incentive Scheme, 1993
- West Bengal Incentive Scheme, 1999

- West Bengal Incentive Scheme, 2000
- West Bengal Incentive Scheme, 2004
- West Bengal Incentive to Power Intensive Industries Scheme, 2005
- West Bengal Incentive Scheme, 2008
- West Bengal State Support for Industries Scheme, 2008
- West Bengal State Support for Industries Scheme, 2013
- West Bengal Incentive Scheme, 2015
- West Bengal Incentive Scheme, 2021

7. Statement of Objects and Reasons:

- Incentives mainly benefited a limited number of beneficiaries without significantly boosting industrial growth.
- Ongoing incentives are draining State finances which could be more effectively allocated to sectors of greater public interest.
- Focus should shift to public welfare sectors (education, healthcare, infrastructure).
- Incentives have increased regional and sectoral disparities.
- A substantial number of industrial enterprises that benefited from State incentives have either ceased operations or liquidated; Thus, raising question about the effectiveness of the financial assistance.
- Future government spending should uplift marginalized communities rather than subsidizing industries.

8. Major Impact of the Bill

- There had been plethora of litigations in WB wherein Courts had directed for the payment of incentives in time bound manner. In spite of the order of the Hon'ble High Court the WB Govt. had not paid the eligible incentives to the industrial units. With the introduction of the above bill, It is amply clear that the State Govt. may not honor past commitments of incentives and thus it shall have a wide spread impact on various industries which had set up units in WB following the incentive scheme of the Govt.
- Recent judgment of the Hon'ble Gauhati HC in *Lalit Poly Weave LLP vs. The State of Assam and Ors [TS-327-HC(GAUH)-2025-GST]* in similarly placed situation had held that petitioners claim that the State's withdrawal of benefits under the Assam Industries (Tax Reimbursement for Eligible Units) Scheme, 2017 violated the doctrine of promissory estoppel is rejected. The court ruled that the withdrawal of earlier VAT exemption due to the introduction of GST was a policy decision. The State did not resile from its promise but adjusted its incentives to align with the new GST regime. The court held that the State cannot promise to reimburse the Central share of GST paid by industries, as such taxes do not go to the State exchequer. The State's obligation was limited to reimbursing its share of GST collected. The court upheld the validity of the 2020 amendment to the scheme, which removed the power to extend the period of eligibility, as it was a policy decision aligned with legislative changes.

9. Effective Date:

- Comes into force from the date of notification in the Official Gazette.
- Retrospective effect: Applies from the implementation date of each respective scheme.

Registered No. WB/SC-247

No. WB(Part-IV)/2025/SAR-5

The



Kolkata **Gazette**

सत्यमेव जयते

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PHALGUNA 28]

WEDNESDAY, MARCH 19, 2025

[SAKA 1946

PART IV—Bills introduced in the West Bengal Legislative Assembly; Reports of Select Committees presented or to be presented to that Assembly; and Bills published before introduction in that Assembly.

GOVERNMENT OF WEST BENGAL**LAW DEPARTMENT****Legislative****NOTIFICATION**

No. 318-L.— 19th March, 2025.—The Governor having been pleased to order, under rule 66 of the Rules

of Procedure and Conduct of Business in the West Bengal Legislative Assembly, the publication of the following Bill, together with the Statement of Objects and Reasons which accompanies it, in the *Kolkata Gazette*, the Bill and the Statement of Objects and Reasons are accordingly hereby published for general information:—

Bill No. 5 of 2025

**REVOCAION OF WEST BENGAL INCENTIVE SCHEMES AND
OBLIGATIONS IN THE NATURE OF GRANTS AND
INCENTIVES BILL, 2025.**

**A
BILL**

to rescind, revoke and discontinue all West Bengal Incentive Schemes sanctioned by the Government of West Bengal and to rescind, revoke and discontinue all other kinds of incentives by whatever name called.

WHEREAS it is necessary and expedient to pass this Act with the aim of subserving larger public interest;

AND WHEREAS it is expedient that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;

*Revocation of West Bengal Incentive Schemes and
Obligations in the Nature of Grants and
Incentives Bill, 2025.
(Clauses 1, 2.)*

AND WHEREAS the object of this Act is to make State finances available for various social welfare schemes formulated and under operation in the State of West Bengal, which are intended for utilisation by the socio-economically disadvantaged and marginalized sections of the State and not to expend such finances to provide special assistance, financial incentives, state support, benefits, concessions or special privileges at the cost of the marginalised;

AND WHEREAS the State Government is satisfied that the above change of policy is required in larger public interest;

AND WHEREAS in the larger public interest, this Act aims to withdraw the West Bengal Incentive Schemes and all kinds of obligations of the State Government and/or its Authorised Agents under such Schemes and/or under any Grants and Obligations, by whatever name called;

It is hereby enacted in the Seventy-sixth Year of the Republic of India, by the Legislature of West Bengal, as follows:—

Short title and commencement.

1. (1) This Act may be called the Revocation of West Bengal Incentive Schemes and Obligations in the Nature of Grants and Incentives Act, 2025.

(2) It shall come into force on the date of its notification in the *Official Gazette* and shall take effect retrospectively with effect from the date of implementation of each of the schemes included in Schedule, as had been notified in the *Official Gazette*.

Definitions.

2. In this Act, unless the context otherwise requires,—

- (a) “appointed day” means date of notification of this Act in the *Kolkata Gazette*;
- (b) “Authorised Agents” shall mean and include parastatals, undertakings, instrumentalities or any other agency or agent of the State Government, as mentioned in any Schemes or Grants or Obligations;
- (c) “Grants” shall mean and include but are not limited to, all arrangements, assignments, contracts, agreements, promises and undertakings, by whatever name called and includes any Incentive under any contract or agreement or law of the State Legislature;
- (d) “Incentive” shall mean and include but is not limited to State financial support given to industrial units under the West Bengal Incentive Schemes and shall include all kinds of financial incentives, benefits, State support, subsidies, waiver of interest, duties, refund or exemption or remission or reimbursement of taxes, tax incentives, exemptions, special packages or any other form of industrial promotional assistance or any Incentive or promise or assurance under any contract or agreement or law of the State Legislature;
- (e) “Obligations” shall mean and include but are not limited to those of the State Government or its Authorised Agents, arising from or in relation to all communications, correspondence, commitments, contracts, agreements or promises, by whatever name called;

*Revocation of West Bengal Incentive Schemes and
Obligations in the Nature of Grants and
Incentives Bill, 2025.*

(Clauses 3, 4.)

- (f) "Schedule" is the list of all the West Bengal Incentive Schemes notified and sanctioned by the State Government;
- (g) "Schemes" or "West Bengal Incentive Schemes" means Schemes mentioned in the Schedule of this Act;
- (h) "State Government" or "State" means the State of West Bengal.

Effect and
operation.

3. (1) Notwithstanding anything to the contrary contained in any other law for the time being in force, or in any Schemes, Grants and Obligations or contracts, agreements or promises, or in any judgement, decree, order, arbitral award of any court or tribunal, or direction of any authority, all West Bengal Incentive Schemes set out in Schedule and all other kinds of Incentives, by whatever name called, contained in any Grants or Obligations or contracts or agreements or promises, are hereby retrospectively withdrawn, rescinded, revoked and discontinued from the date of implementation of the respective Schemes, as notified in the *Official Gazette*.

(2) Notwithstanding anything to the contrary contained in any other law for the time being in force, or in any Schemes, Grants and Obligations, or contracts, agreements or promises, or in any judgement, decree, order, arbitral award of any court or tribunal, or direction of any authority, by the effect and operation of this Act:—

- (a) industrial units in the State of West Bengal, shall no longer be entitled to claim or demand or enforce past arrears or dues in relation to any Incentives including but not limited to any financial incentives, benefits, State support, subsidies, waiver of interest, duties, refund or exemption or remission or reimbursement of taxes, tax incentives, exemptions, advances or any other form of industrial promotional assistance of any nature whatsoever under the West Bengal Incentive Schemes and Grants and Obligations or any Incentive under any contract or agreement or promises or any law of the State Legislature; and
- (b) industrial units in the State of West Bengal, shall no longer be entitled to raise or enforce any future claims or demands in relation to any Incentives including but not limited to financial incentives benefits, State support, subsidies, waiver of interest, duties, refund or exemption or remission or reimbursement of taxes, tax incentives, exemptions, advances or any other form of industrial promotional assistance of any nature whatsoever under the West Bengal Incentive Schemes and Grants and Obligations or any Incentive under any contract or agreement or promises or any law of the State Legislature.

Overriding effect.

4. (1) Notwithstanding anything to the contrary contained in any judgement, arbitral award, decree, order or direction of any authority, court or tribunal, the State Government and/or its Authorised Agents shall no longer have any past, present or future liabilities or obligations under the West Bengal Incentive Schemes and/or under any Grants and Obligations, of any nature whatsoever, or for any Incentive under any contract or agreement or promises or any law of the State Legislature.

(2) The State Government is empowered to extend the operation of this Act to any other Schemes and/or Grants and/or Obligations, as may be notified from time to time by inclusion in Schedule.

*Revocation of West Bengal Incentive Schemes and
Obligations in the Nature of Grants and
Incentives Bill, 2025.
(Clauses 5 – 7.)*

(3) The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any,—

- (a) Grants, Obligations, eligibility certificate, registration certificate, sanction letter, allotment or any other instrument by virtue of any law other than this Act or any decree of any Court or authority;
- (b) law for the time being in force, judgements, awards, decrees, decisions, directions or orders passed by any court, tribunal or authority.

(4) Notwithstanding anything contained in any other law for the time being in force, no suit or other proceeding shall lie or be maintained or be proceeded with or continued in any court or before any tribunal or authority for claiming any Incentive and/or for payment and/or refund of any Incentive under any Schemes or Grants or Obligations, and no enforcement shall be made by any court, tribunal or authority of any judgement, decree, order, arbitral award or direction of any authority directing payment and/or refund of any benefits or Incentive under any Schemes or Grants or Obligations, and all such proceedings, irrespective of the stage and nature of such proceedings, if pending, shall abate forthwith.

Savings.

5. Save as otherwise provided in this Act, where any amounts in excess of entitlement under the Schemes or under any Grants or Obligations as the case may be, are found to be disbursed by the State Government or its Authorised Agents to any person or industrial units, the State Government shall be entitled to recover such excess amounts in the same manner as an arrear of land revenue, and nothing contained in this Act or any other law for the time being in force shall be construed to impinge on the rights of the State Government or its Authorised Agents to recover such excess amounts paid to any person or industrial units.

Power to make rules.

6. (1) The State Government may make rules for carrying out the purposes of this Act.

(2) Every rule made under sub-section (1) shall, as soon as may be after it is made, be laid before the State Legislature.

Power to remove difficulties.

7. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the *Official Gazette*, make provisions, not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for removing the difficulty.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before the State Legislature.

Revocation of West Bengal Incentive Schemes and Obligations in the Nature of Grants and Incentives Bill, 2025.
(Schedule.)

SCHEDULE.

List of all the West Bengal Incentive Schemes sanctioned by the State Government [including amendments, if any, from time to time].

1. West Bengal Incentive Scheme, 1993;
2. West Bengal Incentive Scheme, 1999;
3. West Bengal Incentive Scheme, 2000;
4. West Bengal Incentive Scheme, 2004;
5. West Bengal Incentive to Power Intensive Industries Scheme, 2005;
6. West Bengal Incentive Scheme, 2008;
7. West Bengal State Support for Industries Scheme, 2008;
8. West Bengal State Support for Industries Scheme, 2013;
9. West Bengal Incentive Scheme, 2015;
10. West Bengal Incentive Scheme, 2021.

*Revocation of West Bengal Incentive Schemes and
Obligations in the Nature of Grants and
Incentives Bill, 2025.*

STATEMENT OF OBJECTS AND REASONS.

It is considered necessary and expedient to propose a legislative approach to revoke the financial incentives towards the Industrial units through the introduction of the "Revocation of West Bengal Incentive Schemes and Obligations in the Nature of Grants and Incentives Bill, 2025" for the following reasons:—

(1) the continuation of such incentives has necessitated significant and ongoing financial expenditures from the State exchequer. It has been observed that the positive impact of these incentives has been largely confined to a limited number of beneficiaries and has had a minimal effect on the broader process of industrialization;

(2) the continued provision of these Schemes places considerable strain on the State's finite financial resources, which could be more effectively allocated to sectors of greater public interest, such as social welfare, human development through education and healthcare, or infrastructure enhancement;

(3) it is therefore, essential that State financial resources be directed towards initiatives that yield direct and substantial benefits for socio-economically disadvantaged and marginalized communities, thereby ensuring their upliftment and overall well-being. While industrial growth remains a crucial pillar of economic progress, evidence suggests that financial incentives have not proven to be an effective mechanism for fostering sustainable industrial expansion or improving industrial efficiency;

(4) the current incentive schemes disproportionately favour specific industries, geographic regions, or corporate entities, leading to economic disparities. A reallocation of state finances can help ensure more equitable development across various sectors and communities.

(5) to discontinue all existing industrial incentive Schemes and absolve the State Government and its authorized agencies from obligations arising under such programmes, including grants and other financial commitments;

(6) a substantial number of industrial enterprises that benefited from State incentives have either ceased operations or have undergone liquidation. This raises questions about the effectiveness and long-term viability of such financial assistance;

(7) to ensure that State financial resources are utilized to uplift socio-economically disadvantaged and marginalized sections of society. Rather than expending State finances on industrial incentives, in the public interest the focus should be on initiatives that provide broader social and economic benefits, including public health, education and infrastructure development.

2. The Bill has been framed with the above objectives in view.

3. There is no financial implication involved in giving effect to the provisions of the Bill.

KOLKATA,
The 18th March, 2025.

DR. SHASHI PANJA,
Member-in-charge.

By order of the Governor,

PRADIP KUMAR PANJA,
Pr. Secy. to the Govt. of West Bengal,
Law Department.

Input Tax Credit when Exempted as well as Taxable Supplies Made



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Where the goods or services or both are used by the registered taxable person partly for the purpose of any business and partly for other purposes then as per section 17(1) of the CGST Act the amount of ITC shall be restricted to so much of the ITC as is attributable to the purposes of his business.

As per section 17(2), where the goods and / or services are used by the registered person partly for effecting taxable supplies including Zero Rated Supplies under CGST or IGST Act and partly for effecting exempt supplies, the amount of ITC shall be restricted to only to that extent to which such credit is attributable to the taxable supplies including Zero Rated Supplies.

The Central or State Government may by notification issued in this behalf, prescribe the manner in which such proportionate ITC is to be taken.

Taxable Supply means a supply of goods or services or both which is leviable to tax as per section 2(109) of CGST Act.

Non Taxable Supply means a supply of goods or services or both which is not leviable to tax under CGST or IGST Act.

Zero Rated Supply means a supply of goods or services or both in terms of section 16 of IGST Act. Export of goods or services or both and supplies of goods or services or both to SEZ Unit or SEZ Developer for authorized operations shall be treated as Zero Rated Supplies. ITC may be availed for making zero rated supplies even if such supply is exempt supply, subject to the provisions of section 17(5) i.e., Blocked Credit. The registered person making zero rated supply can claim refund under either of two options i.e., (a) supply goods under bond or LUT without payment of IGST and claim refund of unutilized ITC or (b) supply goods on payment of IGST and claim refund of IGST paid on goods and services.

Value of Exempt Supply : Exempt Supply means supply of any goods or services or both which attracts NIL rate of tax or which maybe wholly exempt from tax under section 11 of CGST Act or

under section 6 of IGST Act and includes non taxable supply which is not leviable to tax under CGST Act or IGST Act.

- (a) Exempt Supply and Non Taxable Supply cannot include any activity which is not supply at all. Activities included in Schedule III are excluded from this scope.
- (b) Exempt Supply includes value of land, building and securities.
- (c) Apportionment of ITC between taxable supply and exempt supply on the basis of value except in case of real estate services.
- (d) Activities covered under Schedule III except those covered in paragraphs 5 and 8(a) are not exempt supply.
- (e) Value of supply of goods from Duty Free Shops at arrival terminal do fall under Exempt Supply w.e.f. 1-10-2023.
- (f) Electricity is exempt supply.
- (g) Interest is not exempt supply for the purposes of rules 42 and 43 i.e. no reversal of ITC required.
- (h) Exempt Supply shall not include supply of services to Nepal and Bhutan for ITC Reversal upto 1-2-2019.
- (i) Exempt Supply shall include outward freight from India to outside India for ITC Reversal w.e.f. 1-10-2023.
- (j) Exempt Supply shall not include value of duty credit scrips.

Special Provisions for Banks, FI and NBFC : A banking company or a financial institution including a NBFC shall have the option to either comply with the provisions of sec 17(2) of CGST Act or avail in every month an amount equal to 50% of the eligible ITC on Inputs, Capital Goods and Input Services. The option once exercised cannot be withdrawn for the remaining part of the financial year. This 50% restriction shall not apply to the tax paid on supplies made by one registered person to another registered person having the same PAN. This provision applies when Bank / FI / NBFC in one state provides good or services to its own branch in another state.

Determination of ITC when partly used for taxable supply and partly for exempt supply : The detailed mode of calculation has been prescribed in rule 42 of CGST Rules. Initially, ITC used exclusively for taxable or exempt supplies are segregated. Then for common ITC, eligible credit is calculated on ratio basis. Non eligible ITC is reversed. Final calculations are made at end of the financial year of eligible ITC before the due date for filing the return for the month of September following the end of the financial year on same basis.

Rules 42(3) to 42(6) make provisions for final calculations of eligible ITC in case of real estate projects or residential and commercial apartments.

Calculation of ITC to be done for commercial portion of ITC of a real estate project other than residential real estate project (RREP).

Where any ITC is used for more than one project, then ITC with respect to such input or input service shall be assigned to each project on a reasonable basis and credit reversal pertaining to each project shall be carried on as per rule 42(3) to 42(6).

Determination of ITC in respect of capital goods used partly for taxable supply and partly for exempt supply: In such cases the ITC on capital goods is available on proportionate basis.

First, identify capital goods which are to be used exclusively for exempted goods. Do not take ITC on these goods. Identify those capital goods which are to be used exclusively for taxable goods. Take entire ITC on tax paid on such capital goods.

Balance credit is of common capital goods. Divide it by 60 months to arrive at monthly credit in respect of common capital goods. Credit the entire amount to your ITC. Later, every month find the ratio between exempted goods and total goods. Apply that ratio to monthly credit of capital goods and reverse that credit by adding that amount to output tax liability, with applicable interest. The meaning of the words “with applicable interest” is not clear. In my view, interest can only apply when the amount is not added to the output liability by 20th of next month at the time of filing GSTR3B.

There is no provision to make final calculations at end of every financial year.

The calculations are to be made separately for CGST, SGST, IGST and UTGST.

If the capital goods were earlier used exclusively for exempted goods which are later used for taxable goods, its credit can be added by reducing the tax paid on capital goods at 5% per quarter. On the other hand if the capital goods were earlier used exclusively for taxable goods which are later used for exempted goods, its credit is to be reversed by reducing the tax paid on capital goods at 5% per quarter.

This calculation is really complicated and a clumsy one.

Reversal of ITC means ITC not taken : Wherever a rate has been prescribed in the notification nos. 13/2017-CT and 10/2027-CT, subject to the condition that ITC on goods or services used in supplying the service has not been taken it shall mean that – (a) ITC on goods or services used exclusively in supplying such service has not been taken and (b) ITC on goods or services used partly for supplying such service and partly for effecting other supplies eligible for ITC is reversed as if supply of such service is an exempt supply attracting the provisions of sec 17(2) of CGST Act, 2017.

COMPANY AND SEBI LAWS UPDATES

1. STATUTORY UPDATES

- 1.1** SEBI mandates SCORES registration at trustee level for 'Special Purpose Distinct Entities' under LODR Regulations - **NOTIFICATION F. NO. SEBI/LAD-NRO/GN/2025/244, DATED 29-04-2025**

Editorial Note : SEBI has amended Regulation 13 of the SEBI (LODR) Regulations, 2015 relating to Grievance Redressal Mechanism. In case of securitised debt instruments, SEBI now mandates that SCORES registration may be obtained at the trustee level, covering all Special Purpose Distinct Entities (SPDUs) for which they act as trustees. They shall come into force on the date of their publication in the Official Gazette i.e., 29.04.2025.

- 1.2** SEBI revises thresholds and categorisation for Regulated Entities under 'Cybersecurity and Cyber Resilience Framework' - **CIRCULAR NO. SEBI/HO/ITD-1/ITD_CSC_EXT/P/CIR/2025/60, DATED 30-04-2025**

Editorial Note : SEBI has issued clarifications to the Cybersecurity and Cyber Resilience Framework (CSCRF) for SEBI-regulated entities, revising thresholds and categorisation for REs such as Stock Brokers, DPs, IAs, RAs, and Portfolio Managers. Stock Brokers will now be classified based on client count and trading volume, with those exceeding 10 lakh clients or Rs. 10 lakh crore in volume designated as Qualified REs. REs registered under multiple categories will follow the highest applicable norms.

- 1.3** SEBI mandates cooling-off period for non-independent directors before joining another MII, with prior SEBI approval - **NOTIFICATION NO. SEBI/LAD-NRO/GN/2025/246, DATED 30-04-2025**

Editorial Note : SEBI has amended Regulation 24 of the Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2018, relating to the appointment of directors. A non-independent director of a recognised stock exchange or clearing corporation may now be appointed in another recognised stock exchange, clearing corporation, or depository only after a cooling-off period, as specified by the governing board, and with SEBI's prior approval.

- 1.4** SEBI mandates a cooling-off period before appointing non-independent directors across market infrastructure institutions - **NOTIFICATION NO. F. NO. SEBI/LAD-NRO/GN/2025/245, DATED 30-04-2025**

Editorial Note : SEBI has notified the SEBI (Depositories and Participants) (Second

Amendment) Regulations, 2025. A proviso has been inserted to Reg 25(1), which states that the non-independent director on the governing board of the depository may be appointed in a recognised stock exchange, a recognised clearing corporation, or another depository with the prior approval of the Board only after a cooling-off period as may be specified by the governing board of the depository.

- 1.5** IFSCA and NISM sign an MOU to advance capacity building in the financial sector - **PRESS RELEASE NO. 24/2025, DATED 02-05-2025**

Editorial Note : The IFSCA and the National Institute of Securities Markets (NISM) today signed a bilateral Memorandum of Understanding to advance capacity building in the financial sector. The MoU envisages that NISM will act as a training partner for IFSCA, and the various intermediaries registered with IFSCA. NISM will also conduct relevant certification examinations, including certification examinations mandated under the IFSCA Regulations, for the intermediaries registered with IFSCA.

- 1.6** SEBI allows stock brokers to undertake securities market-related activities in GIFT-IFSC under a Separate Business Unit - **CIRCULAR NO. SEBI/HO/MIRSD/MIRSD-POD/P/CIR/2025/61, DATED 02-05-2025**

Editorial Note : SEBI has allowed stock brokers to undertake securities market-related activities in GIFT-IFSC without taking its approval. Stock brokers proposing to undertake these activities are permitted to do so under a Separate Business Unit (SBU) of a stock broking entity. These activities can also be carried out if the branch qualifies as an SBU. Further, the existing practice of carrying out securities market-related activities in GIFT-IFSC through a subsidiary is also allowed.

- 1.7** SEBI mandates originators to submit quarterly reports on performance of underlying asset pool to trustees - **NOTIFICATION F. NO. SEBI/LAD-NRO/GN/2025/247, DATED 05-05-2025**

Editorial Note : SEBI has notified an amendment to SEBI (Issue and Listing of Securitised Debt Instruments and Security Receipts) Regulations, 2008, inserting Regulation 10A on mandatory periodic disclosures. Now, the originator shall provide the periodic reports to the trustee regarding the performance of the underlying asset pool, atleast on a quarterly basis. Further, originator shall provide a certificate from its auditor regarding the disclosures of underlying asset pool assigned to the securitization trust

- 1.8** SEBI mandates KRAs to publish an Investor Charter on their websites and at their offices to enhance investor awareness - **CIRCULAR NO. SEBI/HO/MIRSD/PODFATF/P/CIR/2025/62, DATED 06-05-2025**

Editorial Note : SEBI has directed all KYC Registration Agencies (KRAs) to publish an Investor Charter on their websites and at prominent places in offices. The Investor Charter for KRAs, inter-alia, details the services provided to Investors, Rights of Investors, various activities of KRAs, Dos and Don'ts for Investors and Grievance Redressal Mechanism. These disclosure requirements are in addition to those already mandated by SEBI.

- 1.9** SEBI revises guidelines for disclosure of financial information in the offer documents by InvITs and REITs - **CIRCULAR NO. SEBI/HO/DDHS/DDHS-POD-2/P/CIR/2025/63, DATED 07-05-2025**

Editorial Note : SEBI has revised guidelines for disclosure of financial information in offer documents/placement memorandum by InvITs and REITs. As per the revised guidelines, REITs and InvITs issuing offer documents must disclose audited financial statements for the last three financial years and a stub period, if applicable. Further, InvITs and REITs must submit annual financial results to stock exchanges within 60 days from end of the financial year. Also, annual financial information must be audited.

- 1.10** MCA notifies Ind AS 21 amendments to guide on currency exchangeability and spot rate estimation - **NOTIFICATION G.S.R. 291(E) [F. NO. 01/01/2009-CL-V (PART. XV)], DATED 07-05-2025**

Editorial Note : MCA, in consultation with NFRA, has amended the Companies (Indian Accounting Standards) Rules, 2015, revising Ind AS 21 to address situations where a currency is not exchangeable. The amendments provide guidance on assessing exchangeability, estimating spot exchange rates, and making relevant disclosures. Ind AS 101 has also been updated for first-time adoption impacts. These changes, based on NFRA's 20th meeting (24.02.2025), will apply from annual period beginning 1 April 2025.

- 1.11** SEBI proposes revised disclosure formats for 'High Value Debt Listed Entities' - **DRAFT CIRCULAR, DATED 09-05-2025**

Editorial Note : SEBI has proposed amendments to Chapter VII of Master Circular on listing obligations and disclosure requirements for NCS, Securitised Debt Instruments, and/or Commercial Paper. This chapter outlines the formats for corporate governance disclosures by High Value Debt Listed Entities (HVDLEs). SEBI has suggested revised formats for secretarial compliance reports, corporate governance disclosures, and RPT disclosures. The objective is to align these formats with Chapter VA of LODR Regulations.

- 1.12** SEBI extends NISM certification deadline for AIFs to July 31, 2025 - **CIRCULAR NO. SEBI/HO/AFD/AFD-POD-1/P/CIR/2025/066, DATED 13-05-2025**

Editorial Note : SEBI has extended the deadline for AIF Managers to obtain the NISM Series-XIX-C certification for at least one key investment team member, as mandated under the AIF Regulations. The said Regulation has come into force with effect from May 10, 2024. Originally due by May 9, 2025, the timeline is now extended to July 31, 2025, for applicable AIF schemes. The circular is effective immediately.

- 1.13** SEBI simplifies bond pricing by standardising yield calculations using fixed payment dates on Request for Quote platform - **CIRCULAR NO. SEBI/HO/DDHS/DDHSPD1/P/CIR/2025/72, DATED 13-05-2025**

Editorial Note : SEBI modernises bond platform framework to simplify yield-to-price calculations on the Request for Quote (RFQ) platform by using scheduled payment dates without day count adjustments. Issuers must disclose and update detailed cash flow schedules in the corporate bond database within one working day. These rules apply to new and existing debt securities w.e.f. August 18, 2025, aiming to enhance transparency, ease of operations, and investor protection in the corporate bond market.

- 1.14** SEBI urges investors to exercise caution while dealing with Strata SM REIT after its registration was cancelled - **PRESS RELEASE NO. 25/2025, DATED 14-05-2025**

Editorial Note : SEBI has accepted the surrender of registration by Strata SM REIT after reviewing news reports and legal proceedings involving its promoter. Following discussions with key personnel, the entity will no longer act or represent itself as a SEBI-registered SM REIT. It is important to note that Strata SM REIT has not launched any schemes to date. Investors are advised to exercise caution while dealing with the entity.

- 1.15** SEBI updates Investor Charter for RTAs to strengthen Investor Protection - **CIRCULAR NO. SEBI/HO/MIRSD/MIRSD-POD/P/CIR/2025/67, DATED 14-05-2025**

Editorial Note : SEBI has revised the Investor Charter for Registrars to an Issue and Share Transfer Agents (RTAs) to strengthen financial consumer protection, considering developments like the ODR platform and SCORES 2.0. RTAs must display the updated charter on their websites and office premises. Additionally, they are also required to continue disclosing monthly data on complaints received and redressed, by the 7th of the following month, in the prescribed format.

- 1.16** SEBI expands CRA internal audit eligibility to include Cost Accountants and DISSA-certified professionals from ICMAI - **CIRCULAR NO. SEBI/HO/DDHS/DDHS-POD-2/P/CIR/2025/68, DATED 14-05-2025**

Editorial Note : SEBI has expanded the eligibility criteria for Credit Rating Agencies (CRAs) internal audit teams by allowing Cost Accountants (ACMA/FCMA) and Diploma in Information System Security Audit (DISSA)-certified professionals from ICMAI to be part of the audit team. Updated norms now require the team to include at least a CA or Cost Accountant, and a CISA/DISA/DISSA-certified auditor.

- 1.17** Govt. appoints Justices N Sessa Sayee and Mohammad Faiz Alam Khan as Judicial Members of NCLAT - **NOTIFICATION NO. S.O. 2210(E) [F. NO. A-12023/2/2023-AD.IV-MCA], DATED 14-05-2025**

Editorial Note : Central government appoints Justice N Sessa Sayee and Justice Mohammad Faiz Alam Khan as Judicial Members of the National Company Law Appellate Tribunal (NCLAT). Their tenure will be for four years from the date they assume office, or until they turn 67, whichever is earliest.

- 1.18** SEBI allows use of EL-based rating scale by CRAs for municipal bonds issued to finance infrastructure projects - **CIRCULAR NO. SEBI/HO/DDHS/DDHS-POD-2/P/CIR/2025/70, DATED 15-05-2025**

Editorial Note : As per Para 5.6.1 of SEBI's Master Circular for Credit Rating Agencies dated 16.05.2024, CRAs may use an Expected Loss (EL) based Rating Scale, in addition to standardized scales, for rating instruments or projects in the infrastructure sector. Now, SEBI has decided that CRAs may, in addition to the standardised rating scale, extend the EL-based Rating Scale for rating of Municipal Bonds which are issued for financing infrastructure assets.

- 1.19** SEBI extends ODI and segregated FPI disclosure deadline to November 17, 2025 - **CIRCULAR NO. SEBI/HO/AFD/AFD-POD-3/P/CIR/2025/71, DATED 16-05-2025**

Editorial Note : SEBI has extended the timeline for implementing disclosure requirements under its circular dated December 17, 2024, aimed at addressing regulatory arbitrage related to Offshore Derivative Instruments (ODIs) and FPIs with segregated portfolios. The timeline of the said circular has been extended to November 17, 2025. All other provisions of the original circular remain unchanged.

- 1.20** SEBI mandates EBP Platform for private placements of debt, NCRPS, and municipal bonds of Rs. 20 crore or more - **CIRCULAR NO. SEBI/HO/DDHS/DDHS-POD-1/P/CIR/2025/0000000073, DATED 16-05-2025**

Editorial Note : SEBI has amended the Electronic Book Provider (EBP) provisions under the Master Circular dated 22.05.2024. Use of the EBP platform is now mandatory for private placement of debt securities, NCRPS, and municipal debt securities if: (i) the issue size including green shoe option is Rs.20 crore or more; (ii) cumulative shelf issue tranches in a financial year total Rs. 20 crore or more; or (iii) a subsequent issue causes aggregate issuances in the year to reach Rs. 20 crore.

- 1.21** SEBI urges investors of Karvy Stock Broking Ltd. to file their claims before the approaching June 2, 2025 deadline - **PRESS RELEASE NO. 26/2025, DATED 16-05-2025**

Editorial Note : NSE had declared Karvy Stock Broking Ltd. a defaulter on November 23, 2020, and

invited claims from affected investors. The deadline for submitting such claims has been set as June 2, 2025. As this date approaches, investors who have not yet lodged their claims are urged to do so at the earliest.

- 1.22** Govt amends stock exchange membership norms; member investments excluded as business unless involving client funds/liabilities - **NOTIFICATION NO. G.S.R. 318(E) [F. NO. 13/5/SM/2023], DATED 19-05-2025**

Editorial Note : The Govt. has amended Rule 8(f) of the Securities Contracts (Regulation) Rules, 1957, on stock exchange membership qualifications. Presently, no person shall be eligible if engaged in any business other than securities or commodity derivatives, except as a broker or agent without personal financial liability. A new proviso has been added clarifying that member investments won't be treated as business unless involving client funds, securities, or financial liabilities on the broker.

- 1.23** SEBI issues norms for MIIs requiring internal audit of operations, compliance and other functions once every financial year - **CIRCULAR NO. SEBI/HO/MRD/POD 3/P/CIR/2025/69, DATED 19-05-2025**

Editorial Note : SEBI has introduced norms for the Internal Audit Mechanism and Audit Committee composition of Market Infrastructure Institutions (MIIs). Each MII must conduct an internal audit covering all functions—Critical Operations (Vertical 1), Regulatory/Compliance/Risk/Investor Grievances (Vertical 2), and Other Functions (Vertical 3)—at least once every financial year. The circular will take effect from the 90th day of issuance, i.e., May 19, 2025.

- 1.24** MCA extends CSR-2 filing due date for FY 2023-24 from March 31, 2025 to June 30, 2025 - **NOTIFICATION NO. G.S.R. 317(E) [F. NO. 1/19/2013-CL-V PARTIV-PART(1)], DATED 19-05-2025**

Editorial Note : The Ministry of Corporate Affairs (MCA) has notified an amendment to the fourth proviso of Rule 12(1B) of the Companies (Accounts) Rules, 2014, relating to the 'filing of financial statements'. Through this amendment, the deadline for filing Form CSR-2 for the financial year 2023-24 has been extended. The due date, which was earlier March 31, 2025, has now been revised to June 30, 2025.

- 1.25** SEBI cautions investors on Stock Market Scams via Social Media Platforms - **PRESS RELEASE NO.27/2025, DATED 21-05-2025**

Editorial Note : SEBI observed that certain entities use social media platforms to deceive investors in securities market. These entities adopt strategies aimed at gaining investors' confidence to mislead them. SEBI has warned investors against unsolicited invitations, particularly in the form of links to join WhatsApp groups. Investors are also advised to verify the registration status of such entities with SEBI and to carry out transactions only via authentic trading apps of SEBI-registered intermediaries.

- 1.26** SEBI widens Category II AIF investment scope to include listed debt rated 'A' or below and securitised instruments - **NOTIFICATION F. NO. SEBI/LAD-NRO/GN/2025/248, DATED 21-05-2025**

Editorial Note : SEBI has notified an amendment to Regulation 17(a) of the SEBI (Alternative Investment Funds) Regulations, 2012. Under the revised norms, the scope of permissible investments for Category II AIFs has been expanded. They may now invest in unlisted securities and/or listed debt securities rated 'A' or below (including securitised debt instruments), either directly or through units of other AIFs, as disclosed in the Placement Memorandum.

- 1.27 Govt notifies draft 'Wages (Central Advisory Board Amendment) Rules, 2025' - **NOTIFICATION NO. G.S.R. 335(E), DATED 23-05-2025**

Editorial Note : The Ministry of Labour and Employment has notified the draft 'Wages (Central Advisory Board Amendment) Rules, 2025'. It proposes amending Rule 3(3)(i) of the Wages (Central Advisory Board) Rules, 2021, by substituting 'Minister of State, Government of India' with 'Minister in Charge, Ministry of Labour and Employment, Government of India'. Objections may be sent to Shri Nitesh Bhasin, Under Secretary (email: nitesh.bhasin@nic.in), Ministry of Labour and Employment.

- 1.28 SEBI issues revised FAQs on account opening by persons with disability - **CIRCULAR NO. SEBI/HO/MIRSD/ SEC FATF/P/CIR/2025/74, DATED 23-05-2025**

Editorial Note : SEBI has issued revised FAQs on account opening by persons with disability. FAQs clarify that persons with disabilities can open securities accounts. A guardian is only needed if legally required, as per relevant acts. Both the person with disability and guardian must complete KYC. Online/digital KYC is available with accessibility support, and thumb impressions are accepted for e-signing. Disability type and percentage can be captured digitally.

- 1.29 SEBI revises the process for appointment, re-appointment, termination or resignation of specific KMPs of MIIIs - **CIRCULAR NO. SEBI/HO/MRD/MRD-POD-3/P/CIR/2025/75,, DATED 26-05-2025**

Editorial Note : SEBI has revised the process for appointing, re-appointing, terminating or accepting the resignation of specific KMPs in Market Infrastructure Institutions (MIIs). The revised process involves appointing an independent external agency to identify and recommend suitable candidates, the Nomination and Remuneration Committee to evaluate the agency's recommendations, and the Governing Board to make final decision on appointing such KMPs. Also, SEBI has reviewed the process for reappointing PIDs.

- 1.30 SEBI limits expiry of all equity derivatives contracts on an exchange to either Tuesday or Thursday - **CIRCULAR NO. SEBI/HO/MRD/MRD-TPD-1/P/CIR/2025/76, DATED 26-05-2025**

Editorial Note : SEBI has limited the expiry of all equity derivatives contracts on an exchange to Tuesday or Thursday. Every Exchange will continue to be allowed one weekly benchmark index options

contract on its chosen day. All the other equity derivatives will be offered with a minimum one-month tenor, and the expiry will be in the last week of every month on the chosen day. Also, exchanges must obtain prior approval from SEBI before modifying the existing settlement day of their derivatives contracts.

- 1.31 SEBI announces measures for enhancing trading convenience and strengthening risk monitoring in equity derivatives - **CIRCULAR NO. SEBI/HO/MRD/TPD-1/P/CIR/2025/79, DATED 29-05-2025**

Editorial Note : SEBI has announced several measures to enhance trading convenience and strengthen risk monitoring in the equity derivatives market. The key measures include formulating Delta-Based Open Interest (OI) calculation, redefinition of market-wide position limits (MWPL) for index futures and index options, imposing trading restrictions during ban periods, and setting eligibility criteria for derivatives on non-benchmark indices.

- 1.32 IEPFA and SEBI to hold Niveshak Shivir in Pune on June 1 to assist investors with claims, KYC, and dividend transfers - **PR NO.28/2025, DATED 30-05-2025**

Editorial Note : IEPFA and SEBI are jointly organizing Niveshak Shivir on June 1, 2025, from 10 AM to 4 PM at Lemon Tree Premier, City Center, Pune. Key participants include NSE, BSE, NSDL, CDSL, and various RTAs. The event will help investors with unpaid dividend transfers, KYC/nomination updates, and pending IEPFA claims. Attendees must carry valid government ID such as Voter ID, PAN card, or Driver's licence.

- 1.33 SEBI proposes mandatory dematerialisation of existing securities held by select shareholders prior to IPO

Editorial Note : SEBI has released a consultation paper proposing an amendment to the SEBI (ICDR) Regulations, 2018. SEBI has proposed mandating select shareholders, including directors, KMP, senior management, QIBs & registered stock brokers, to hold shares in demat form before filing an initial public offer (IPO). Currently, ICDR Regulations mandate that all specified securities held by promoters must be in dematerialised form before filing offer document. Public comments may be submitted by May 20, 2025.

- 1.34 SEBI proposes alignment of minimum allotment lot with trading lot for privately placed InvITs

Editorial Note : SEBI has released a consultation paper on regulatory amendments for Real Estate Investment Trusts (REITs) and Infrastructure Investment Trusts (InvITs). SEBI has proposed aligning the minimum allotment lot for the primary market with the trading lot size of the secondary market for privately placed InvITs. Accordingly, the minimum allotment is proposed to be revised to Rs 25 lacs for all privately placed InvITs. Also, SEBI proposed introducing the investor charter for REITs and InvITs.

- 1.35 SEBI proposes rationalisation of placement document for Qualified Institutional Placement

Editorial Note : SEBI has released a consultation paper proposing rationalisation of placement document for Qualified Institutional Placement (QIP). Currently, issuers must disclose the details in placement document as prescribed in Schedule VII of SEBI (ICDR) Regulations.

Such disclosures are detailed, and preparing a lengthy placement document is time-consuming. SEBI has now proposed to rationalise the content of placement document for QIBs by prescribing only the relevant information regarding the issue.

- 1.36** SEBI proposes separate voluntary delisting norms for PSUs with 90% or more promoter holding

Editorial Note : SEBI has notified a consultation paper proposing a separate framework for voluntary delisting of Public Sector Undertakings (PSUs) with promoter holdings greater than equal to 90%. Further, it has also been proposed that an eligible PSUs may be delisted through a fixed price delisting process, irrespective whether the shares are frequently traded or infrequently traded. Public comments are invited by 27.05.2025.

- 1.37** SEBI proposes allowing AIFs to offer co-investment opportunities to investors via a separate 'Co-Investment Vehicle' scheme

Editorial Note : SEBI has proposed enabling Alternative Investment Funds (AIFs) to offer co-investment opportunities in unlisted securities via a Co-Investment Vehicle (CIV), structured as a separate scheme of AIF. The term 'co-investment' refers to providing an investment opportunity to AIF investors to make additional investments in unlisted securities of an investee company in which AIF has invested. Also, SEBI has proposed relaxing conditions attached to provision of advisory services by AIF managers.

- 1.38** SEBI proposes permitting IAs and RAs to use liquid mutual funds for compliance with deposit requirements

Editorial Note : As per existing norms, IAs and RAs must maintain a bank deposit with a lien marked in favour of their supervisory authority as a condition for registration. They must comply with the deposit requirements by June 30, 2025. However, SEBI has received feedback from IAs and RAs highlighting challenges in opening fixed deposit accounts and establishing the required lien. Accordingly, SEBI has proposed allowing lien-marked liquid mutual fund units to fulfil the deposit obligation.

- 1.39** Gift of shares by promoter to daughter may trigger contra trade norms unless exempted by compliance officer; SEBI clarifies

Editorial Note : SEBI sought informal guidance on whether an off-market inter-se gift of shares by a promoter to his daughter, both part of promoter group, constitutes a contra trade under PIT norms. SEBI clarified that gifting is considered trading. Clause 10 of Schedule B under Reg. 9 restricts contra trades within six months but allows the same if approved by compliance officer. Thus, such a gift may attract contra trade restrictions unless exempted by compliance officer as per Company's Code of Conduct.

- 1.40** SEBI proposes relaxed norms for FPIs investing in Indian Government Bonds

Editorial Note : SEBI has released a Consultation Paper proposing relaxed compliance norms for FPIs investing solely in Indian Government Bonds (IGBs). Key proposals include aligning KYC review timelines with RBI norms, exempting such FPIs from submitting investor group details, and allowing unrestricted NRI/OCI/RI contributions to their corpus. Comments/suggestions may be submitted by June 03, 2025.

- 1.41** SEBI clarifies scope of 'material pecuniary relationship' for independent directors under LODR framework

Editorial Note : A query was raised on whether an independent director's consultancy role with a foreign subsidiary affects their independence under LODR. SEBI, through informal guidance, clarified that the term "material pecuniary relationship" under Regulation 16(1)(b)(iv) of the LODR Regulations lacks a defined threshold. Listed entities must assess independence as per LODR and Section 149(6) of the Companies Act based on the specific facts and roles involved.

- 1.42** SEBI issues updated FAQs on ICDR Norms covering public issues, IDRs, ASBA, UPI integration, & Rights Entitlement process

Editorial Note : SEBI has released updated FAQs on the Issue of Capital and Disclosure Requirements (ICDR) Regulations, 2018, as of May 15, 2025. The document provides comprehensive guidance on Issues by Indian Companies in India, Issues by foreign companies in India (Indian Depository Receipts) (IDRs), Applications Supported by Blocked Amount (ASBA) Facility, Use of Unified Payments Interface (UPI) with ASBA in public issue process, and Rights Entitlement (RE) issued under Rights Issue Process.

- 1.43** ICSI releases updated format of the Annual Secretarial Compliance Report

Editorial Note : ICSI has issued the updated format of the Annual Secretarial Compliance Report. The new format removes some redundancy, such as lengthy descriptions already implied under statutory references. The updated format retains the general structure, including introductory paragraphs, a compliance checklist, and observations. The new format offers a more streamlined and standardised presentation

2. SUPREME COURT

SECTION 4 OF THE MAHARASHTRA PROTECTION OF INTEREST OF DEPOSITORS (IN FINANCIAL ESTABLISHMENTS) ACT, 1999 - ATTACHMENT OF PROPERTIES ON DEFAULT OF RETURN OF DEPOSITS

- 2.1** No priority of interest can be claimed by Secured Creditors against properties attached under MPID Act and that provisions of MPID Act would override any claim for priority of interest by Secured Creditors in respect of properties which have been attached under MPID Act - **National Spot Exchange Ltd. v. Union of India - [2025] 174 taxmann.com 709 (SC)**

- 2.2 There is no overlap or inconsistency between provisions contained in IBC and MPID Act; properties of judgment debtors and garnishees attached under provisions of MPID Act, would be available for execution of decrees against judgment Debtors by Supreme Court Committee, despite provision of Moratorium under section 14 of IBC - **National Spot Exchange Ltd. v. Union of India** - [2025] 174 taxmann.com 709 (SC)

SECTION 334 OF THE COMPANIES ACT, 2013 - WINDING UP - TRANSFERS, ETC., AFTER COMMENCEMENT OF WINDING UP TO BE VOID

- 2.3 Where High Court vide impugned order had partly allowed respondent's appeal and passed a remand order without deciding issue of maintainability of those appeals raised by appellants, since appeals could not have been decided on merits without first deciding issue of maintainability, impugned order was to be set aside and High Court was to be directed to first decide issue of maintainability raised by appellants - **Anoop Jain v. CRB Capital Markets Ltd.** - [2025] 174 taxmann.com 619 (SC)

SECTION 482 OF THE CRIMINAL PROCEDURE CODE, 1973 - INHERENT POWER OF HIGH COURT

- 2.4 Where in a complaint filed by appellant, an FIR was registered against respondent for offence under section 420 and 120B of IPC, since investigation was still underway and respondent was main beneficiary of alleged fraudulent transaction, High Court exceeded its inherent jurisdiction under section 482 CrPC by allowing petition filed by respondent for release of funds withheld by BSE thus, order passed by High Court was to be set aside - **NDA Securities Ltd. v. State (NCT of Delhi)** - [2025] 174 taxmann.com 517 (SC)

3. HIGH COURT

SECTION 25 OF THE MAHARASHTRA STAMP ACT, 1958 - COMPUTATION OF STAMP DUTY ON SCHEME OF ARRANGEMENT

- 3.1 Under article 25(da) of Schedule to Maharashtra Stamp Act, stamp duty on a scheme of arrangement is to be computed on basis of market value of shares issued and allotted in exchange plus consideration paid for such transaction and, not on net worth of demerged undertaking - **Bharti Airtel Ltd. v. Chief Controlling Revenue Authority** - [2025] 174 taxmann.com 476 (Bombay)

SECTION 434 OF THE COMPANIES ACT, 2013 - TRIBUNAL AND APPELLATE TRIBUNAL - TRANSFER OF CERTAIN PENDING PROCEEDINGS

- 3.2 Where a winding up petition was transferred to NCLT Chandigarh at request of respondent company, since

NCLT has discretion to transfer proceedings depending upon stage of proceedings and, there was nothing that could be said to have become irretrievable, there's no reason to interfere with view taken by Company Judge - **Elecon Engineering Company Ltd. v. Inox Wind Ltd.** - [2025] 174 taxmann.com 183 (Himachal Pradesh)

4. Security Appellate Tribunal

SECTION 15T OF THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 - APPEAL TO THE SECURITIES APPELLATE TRIBUNAL

- 4.1 Where on scheduled date appellant did not want to argue matter, appeal was to be dismissed for lack of prosecution - **Sanket Investments and Marketing Ltd. v. Securities and Exchange Board of India** - [2025] 173 taxmann.com 613 (SAT - Mumbai)

SECTION 12A OF THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 - PROHIBITION OF MANIPULATIVE AND DECEPTIVE DEVICES, INSIDER TRADING AND SUBSTANTIAL ACQUISITION OF SECURITIES OR CONTROL

- 4.2 Where there was no evidence that appellant had access to UPSI and preponderance of probabilities also did not indicate that appellants were in possession of UPSI concerning company Aptech and traded in scrip of company on basis of said UPSI, there was no violation of SEBI Act and PIT Regulations and, thus, appeal against direction of SEBI for disgorgement as well as debarment was to be allowed - **Lashit Sanghvi v. Securities & Exchange Board of India** - [2025] 174 taxmann.com 309 (SAT - Mumbai)

SECTION 15T OF THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 - APPEAL TO THE SECURITIES APPELLATE TRIBUNAL

- 4.3 Where a mutual fund scheme managed by 'Motilal'-AMC was reopened for new investors and complaint by appellant-investor seeking necessary directions to "Motilal" to distribute recoveries made from IL & FS group to old and existing investors was rejected by SEBI vide impugned order, said order was justified in view of fact that reopening of scheme and allowing new investors to come in was as per market practices was supported by necessary approvals and disclosures ensuring investor protection within ambit of applicable laws and SEBI circulars - **Rajeshkumar Champaklal Gandhi v. Securities and Exchange Board of India** - [2025] 174 taxmann.com 667 (SAT - Mumbai)

SECTION 15W OF THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 - LIMITATION

- 4.4 Where appellant, a Non-Executive Director and Chairman of a ZEE had given a 'Letter of Comfort' to a bank without Board's approval, which led SEBI to restrain him from holding a director's position, later appellant filed an appeal with a 100 days delay, citing that his travel schedules for social purposes and his decision to change advocates had

caused delay in filing appeal against SEBI's order, since there was no sufficient cause to condone delay by exercising discretionary jurisdiction, delay in filing appeal could not be condoned - **Subhash Chandra v. Securities and Exchange Board of India** - [2025] 174 taxmann.com 1041 (SAT - Mumbai)

REGULATION 8 OF THE SEBI (PROHIBITION OF INSIDER TRADING) REGULATIONS, 2015 - CODE OF FAIR DISCLOSURE

- 4.5 Where information relating to significant investment of 9.9 per cent equity shares by Facebook group in JPL (a subsidiary of RIL) was disclosed by unknown persons in international print media, appellant- RIL was required to make prompt disclosure of said information under Principle 1 of Schedule A of PIT Regulations, 2015, when it was disclosed selectively in certain media by unknown sources, and, therefore, order of SEBI imposing monetary penalty upon appellants for violation of Principle 4 of Schedule A, read with regulation 8(1) of PIT Regulations was to be upheld. - **Reliance Industries Ltd. v. Securities & Exchange Board of India** - [2025] 174 taxmann.com 235 (SAT - Mumbai)

5. NCLAT

SECTION 103 OF THE COMPANIES ACT, 2013 - MEETINGS - QUORUM FOR

- 5.1 NCLT has no jurisdiction to fix number of shareholders to form a quorum; quorum for meeting of shareholders shall be as prescribed under section 103 - **Dhani Services Ltd., In re v.** - [2025] 174 taxmann.com 761 (NCLAT- New Delhi)

SECTION 213 OF THE COMPANIES ACT, 2013 - INVESTIGATION - INTO COMPANY'S AFFAIRS IN OTHER CASES

- 5.2 Where appellant company had deliberately avoided appearing before NCLT despite being given multiple opportunities, order passed by NCLT directing investigation into affairs of appellant company had not been passed ex-parte or without hearing appellant and, therefore, no interference was to be called for with impugned order - **Unique Training Corporation India (P.) Ltd. v. Smt. Lakshmi Satish Kumar** - [2025] 174 taxmann.com 314 (NCLAT - Chennai)
- 5.3 Where appellant creditor filed a petition under section 213(b) against respondent company alleging that business of respondent company was being conducted with an intent to defraud its creditors, since appellant was not a member of company, he could not allege that business of respondent company was being conducted oppressively towards its members - **Jitesh Sanmukhlal Shah v. Corrttech International Ltd.** - [2025] 174 taxmann.com 440 (NCLAT- New Delhi)

SECTION 230 OF THE COMPANIES ACT, 2013 - COMPROMISE AND ARRANGEMENT

- 5.4 There is no statutory bar created under Insurance Act, which could have called for a prior compliance of section 35 of Insurance Act, for amalgamation of insurance company with a non-insurance company - **Insurance Regulatory and Development Authority of India v. Shriram General Insurance Company Ltd.** - [2025] 174 taxmann.com 359 (NCLAT - Chennai)
- 5.5 Where appellant, a minority shareholder holding challenged scheme of arrangement and delisting of shares proposed by merging companies, appellant was not entitled to object scheme and had also failed to demonstrate any illegality in either process followed for sanctioning of Scheme or in terms of Scheme itself. - **Manu Rishi Guptha v. ICICI Securities Ltd.** - [2025] 174 taxmann.com 260 (NCLAT- New Delhi)

SECTION 231 OF THE COMPANIES ACT, 2013 - COMPROMISE AND ARRANGEMENT - POWER OF TRIBUNAL TO ENFORCE

- 5.6 Where NCLT by impugned order held that all employees of transferor company stood transferred to appellant pursuant to scheme of arrangement which was entirely misplaced, impugned order was to be set aside - **CMS Info Systems Ltd. v. Bharatiya Kamgar Karamchari Mahasangh** - [2025] 174 taxmann.com 621 (NCLAT- New Delhi)

SECTION 241 OF THE COMPANIES ACT, 2013 - OPPRESSION AND MISMANAGEMENT - APPLICATION TO TRIBUNAL FOR RELIEF

- 5.7 Where appellant's husband was a secretary of respondent and a party to a petition under Sections 241 and 242 of Companies Act, 2013 filed against respondent and in said petition, various orders were passed by NCLT from time to time, in view of fact that appellant was not a party to original proceedings, she had no locus to file an application to recall NCLT's order, and hence, rightly rejected by NCLT - **Mrs. Ritu Khanna v. Delhi Gymkhana Club Ltd.** - [2025] 174 taxmann.com 560 (NCLAT- New Delhi)
- 5.8 Shareholder cannot seek relief of their appointment as a director on doctrine of legitimate expectation in an oppression and mismanagement petition - **Surinder Singh v. Achintya Healthcare (P.) Ltd.** - [2025] 174 taxmann.com 945 (NCLAT- New Delhi)

SECTION 252 OF THE COMPANIES ACT, 2013 - REMOVAL OF NAME FROM REGISTER

- 5.9 Where appellant company's name was struck off by Registrar of Companies (RoC) and NCLT ordered restoration of name of appellant company in register of RoC on premise that there were recoveries/outstanding demands against appellant company for assessment year 2012-13, since appellant despite notice and paper publication had not appeared before NCLT, appeal against order of NCLT was to be dismissed - **Topline Comtech (P.) Ltd. v. Income-tax Officer** - [2025] 174 taxmann.com 1042 (NCLAT- New Delhi)

**SECTION 421 OF THE COMPANIES ACT, 2013 -
TRIBUNAL AND APPELLATE TRIBUNAL -
APPEAL FROM ORDERS OF**

5.10 Where order passed by Tribunal staying Annual General Meeting (AGM) of a company was exclusively interlocutory in nature and did not affect or determine rights of parties, it would not be an appealable order under section 421 - **Venkata Shiva Prasad Devulapalli v. M. Chandra Sekhar Rao** - [2025] 174 taxmann.com 480 (NCLAT - Chennai)

5.11 Where appellant filed appeal before Appellate Tribunal with delay of about 2659 days from date of NCLT order, delay being inordinate and falling outside scope of proviso to sub-section (3) of section 421, same could not be condoned - **Harsha Vardhan Reddy v. Merit Inn Southern Star (P.) Ltd.** - [2025] 174 taxmann.com 879 (NCLAT - Chennai)

**SECTION 424 OF THE COMPANIES ACT, 2013 -
TRIBUNAL AND APPELLATE TRIBUNAL -
PROCEDURE BEFORE**

5.12 Where NCLT dismissed applications under section 424(3) for formulating a decree, stating it was beyond its powers under Order XX of CPC, since formulating a decree didn't prevent execution of an order under section 424(3), NCLT should have made an exception instead of rejecting application thus, relief sought in application was to be modified and read as a request for passing an order - **Bhagyodayam Company v. George Gomez** - [2025] 174 taxmann.com 984 (NCLAT - Chennai)

**SECTION 425 OF THE COMPANIES ACT, 2013 -
TRIBUNAL AND APPELLATE TRIBUNAL -
POWER TO PUNISH FOR CONTEMPT**

5.13 Where appellant filed contempt application alleging that respondents were deliberately breaching order of Appellate Tribunal, but appellant had not made out any case where it could be conclusively concluded based on material placed before Tribunal that respondents had engaged in a deliberate and intentional non-compliance of order amounting to commission of contempt, it would not be a fit case in which contempt proceedings could be drawn against respondents - **IDBI Bank Ltd. v. P. Manoj Kumar** - [2025] 174 taxmann.com 985 (NCLAT - Chennai)

**SECTION 441 OF THE COMPANIES ACT, 2013 -
SPECIAL COURTS - COMPOUNDING OF
CERTAIN OFFENCES**

5.14 Where NCLT compounded offence of not attaching Board's Report with balance sheet filed with Registrar of Companies at rate of 20 per cent of maximum penalty leviable in case of company and 30 per cent of maximum penalty leviable in case of directors, in view of fact that penalty levied for compounding was excessive in view of orders issued by same NCLT and other Tribunals in similar cases,

penalty should be levied at rate of Rs. 50 per day for every day during which default continued, both for company and for directors - **Neurosynaptic Communications (P.) Ltd. v. Registrar of Companies** - [2025] 174 taxmann.com 234 (NCLAT - Chennai)

6. NCLT

**SECTION 241 OF THE COMPANIES ACT, 2013 -
OPPRESSION AND MISMANAGEMENT - APPLICATION
TO TRIBUNAL FOR RELIEF**

6.1 Where subject property of company MPTA was sold to firm 'B' and sale in question was made when there was no status quo order existing with respect to properties of MPTA and entire sale proceeds have been given to secured creditor in discharge of its dues, thus, a sale which had been otherwise conducted in a legal manner could not be set aside - **Madhukar Anantrao Pathak v. MPTA Ltd.** - [2025] 174 taxmann.com 1213 (NCLT - Mum.)

7. SEBI

**SECTION 12A OF THE SECURITIES AND EXCHANGE
BOARD OF INDIA ACT, 1992 - PROHIBITION OF
MANIPULATIVE AND DECEPTIVE DEVICES, INSIDER
TRADING AND SUBSTANTIAL ACQUISITION OF
SECURITIES OR CONTROL**

7.1 Where noticee was indulged in execution of reversal trades in stock options segment of BSE and such trades were alleged to be non-genuine in nature and created false or misleading appearance of trading in terms of artificial volumes in stock options and therefore were alleged to be manipulative and deceptive in nature, monetary penalty of ? 5 Lakh was to be imposed on noticee for alleged violation of PFUTP Regulations - **Shashi Jain., In re v.** - [2025] 174 taxmann.com 563 (SEBI)

**REGULATION 4 OF THE SEBI (PROHIBITION OF
FRAUDULENT AND UNFAIR TRADE PRACTICES
RELATING TO SECURITIES MARKET) REGULATIONS,
2003 - PROHIBITION OF MANIPULATIVE, FRAUDULENT
AND UNFAIR TRADE PRACTICES**

7.2 Where stock broker PWAPL placed buy/sell orders away from prevailing market price to create false impression of increased demand/supply in scrips and subsequently traded on opposite side of order book and earned profits, PWAPL had prima facie violated provisions of SEBI Act and PFUTP Regulations and, therefore, was liable for penalty - **Patel Wealth Advisors (P.) Ltd., In re v.** - [2025] 174 taxmann.com 518 (SEBI)

**REGULATION 30 OF THE SEBI (LISTING OBLIGATIONS
AND DISCLOSURE REQUIREMENTS) REGULATIONS,
2015 - DISCLOSURE OF EVENTS OR INFORMATION**

7.3 Where in matter of ongoing litigation between noticee company and C Ltd, an order was passed by HC, whereby noticee was directed to deposit a bank guarantee and noticee failed to make a disclosure in respect of said order to Stock Exchanges, noticee had violated regulation 30(2) of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 and section 15HB of SEBI Act and, therefore, penalty was to be imposed on noticee - **Vikas Lifecare Ltd., In re v.** - [2025] 174 taxmann.com 1090 (SEBI)

COMPETITION LAW

1. STATUTORY UPDATES

- 1.1 CCI notifies 'Determination of Cost of Production' Regulations, 2025; expands the definition of 'Long Run Average Incremental Cost' - **NOTIFICATION NO. 02 OF 2025 [F.NO. CCI/ REG-COP/01/ 2025-26], DATED 06-05-2025**

Editorial Note : CCI has notified 'Determination of Cost of Production' Regulations, 2025, replacing the 2009 norms. The notified regulations expand the definition of Long-Run Average Incremental Cost (LRAIC), introduce Average Total Cost (ATC), and revise the methodology for cost determination, including provisions for expert engagement. Depreciation is now part of the total cost. The changes align with the legal basis for assessing predatory pricing, where cost is determined as per the notified regulation.

- 1.2 CCI issues FAQs on 'Combinations' under Competition Act, 2002

Editorial Note : The Competition Commission of India (CCI) has released a set of Frequently Asked Questions (FAQs) on 'Combinations' under the Competition Act, 2002. The FAQs provide clarity on key areas such as the definition and scope of combinations, jurisdictional thresholds, deal value thresholds, fund management activities, available exemptions, pre-filing consultations, and the review process for combinations, thereby aiding stakeholders in compliance and filing procedures.

2. NCLT

SECTION 43 OF THE COMPETITION ACT, 2002 - PENALTY FOR FAILURE TO COMPLY WITH DIRECTIONS OF COMMISSION AND DIRECTOR GENERAL

- 2.1 Where CCI imposed penalty upon appellants and NCLAT remanded matter back to CCI to reconsider penalty, since CCI had no objection if FDRs were released in favour of appellants, FDRs deposited by appellants as penalty were to be released - **Saara Traders (P.) Ltd. v. Competition Commission of India - [2025] 174 taxmann.com 399 (NCLAT- New Delhi)**

3. CCI

SECTION 3 OF THE COMPETITION ACT, 2002 - ANTI-COMPETITIVE AGREEMENTS

- 3.1 MoUs and agreements entered into between the OP-bank and two-wheeler/four-wheeler dealers/manufacturers for facilitating their customers loan facility for purchasing these products cannot be considered as anti-competitive, ipso facto, and are not likely to cause an appreciable adverse effect on competition, as mandated under Section 3 - **Umar Javeed v. Jammu and Kashmir Bank - [2025] 174 taxmann.com 883 (CCI)**
- 3.2 Where in tender floated by Railway for supply of electro locomotive item motor suspension unit to various railway production units, no indications or evidence of bid rigging between OPs was found, thus, there was contravention of provisions of section 3 and accordingly, instant reference case was to be closed forthwith in terms of provisions of Section 26(2) - **CMM/ Loco BLW Varanasi v. Kharagpur Metal Reforming Industries (P.) Ltd. - [2025] 174 taxmann.com 762 (CCI)**

FEMA BANKING AND INSURANCE LAWS

1. STATUTORY UPDATES

- 1.1 Companies/Firms must now show 3-year gems and jewellery trade record to open Diamond Dollar Account: RBI - **NOTIFICATION F. NO. FEMA 10 (R)(6)/2025-RB, DATED 29-04-2025**

Editorial Note : The RBI has notified FEM (Foreign Currency Accounts by a Person Resident in India) (Sixth Amendment) Regulations, 2025. An amendment has been made to annexure titled 'Application for Opening Diamond Dollar Account' under Schedule II of the principal regulations. Now, for applying to open DDA, exporter firms and companies must have a track record of at least 3 years (in place of the earlier 2 years) in the import/export of diamonds and coloured gemstones studded jewellery.

- 1.2 Govt. appoints Dr. Poonam Gupta as Deputy Governor of RBI - **PRESS RELEASE NO. 2025-26/235, DATED 02-05-2025**

Editorial Note : The Government has appointed Dr. Poonam Gupta as the Deputy Governor of the Reserve Bank of India for a period of three years from the date of joining the post or until further orders, whichever is earlier. As Deputy Governor, Dr. Gupta will oversee the Monetary Policy Department, Financial Markets Operations Department, Financial Stability Department, International Department, Department of Statistics and Information Management, Budget Department, and Department of Communication.

- 1.3 RBI releases Report of Working Group on 'Comprehensive review of trading and settlement timings of markets' - **PRESS RELEASE NO. 2025-26/233, DATED 02-05-2025**

Editorial Note : Earlier, the RBI announced setting up a Working Group to undertake a 'comprehensive review of trading and settlement timings of markets'. The Working Group has now submitted its report, which is being placed on RBI website today. The Working Group has recommended that the trading hours of the call money market be extended till 7 PM, while trading hours for market repo and Tr-Party Repo be synchronised and extended till 4 pm. Comments on the Report may be submitted via email by May 30, 2025.

- 1.4 RBI to act through 'Payments Regulatory Board' under amended PSS Act effective May 9, 2025 - **NOTIFICATION NO. S.O. 2031(E), DATED 06-05-2025**

Editorial Note : Govt. has notified 09.05.2025, as the effective date for enforcement of Sections 152 and 153 of the Finance Act, 2017. These sections relate to amendments to Payment and Settlement Systems Act, 2007. Chapter II, relating to 'designated authority' has been amended. It states that RBI shall exercise powers, perform functions & discharge duties under this Act via a 'Payments Regulatory Board'. Earlier, RBI was required to constitute a committee of its Central Board to discharge these functions.

- 1.5 RBI recognises 'FIMMDA' as a Self-Regulatory Organisation *in* financial markets - **PRESS RELEASE NO. 274/2025-2026, DATED 07-05-2025**

Editorial Note : The Reserve Bank of India has recognised the Fixed Income Money Market and Derivatives Association of India (FIMMDA) as a Self-Regulatory Organisation (SRO) in financial markets regulated by it. This decision follows a comprehensive assessment of FIMMDA's application in line with the RBI's Framework for Recognition of SROs.

- 1.6 RBI issues Digital Lending Directions, 2025 to streamline & consolidate existing regulatory instructions on digital lending - **CIRCULAR NO. DOR.STR.REC.19/21.07.001/2025-26, DATED 08-05-2025**

Editorial Note : RBI has issued Digital Lending Directions, 2025. These directions shall apply to all digital lending activities of Regulated Entities (REs), including banks and non-banking finance companies engaged in digital lending. As per the directions, REs will now be required to report details of their Digital Lending Apps (DLAs) via the RBI's Centralised Information Management System (CIMS) portal. Also, REs must ensure that the reporting for all DLAs on the CIMS Portal is completed by June 15, 2025.

- 1.7 FPIs can now invest in corporate debt securities via general route without short-term investment and concentration limits: RBI - **CIRCULAR NO. FMRD.FMD.NO.01/14.01.006/2025-26, DATED 08-05-2025**

Editorial Note : The RBI has amended Master Directions on 'Non-Resident Investment in Debt Instruments, 2025 dated January 7, 2025. Currently, investments by FPIs in corporate debt securities through the general route are subject to the short-term investment and concentration limits. To provide greater ease of investment to FPIs, the RBI has now decided to withdraw the requirement for compliance with these limits. The directions are effective immediately.

- 1.8 MHA allows NGOs with expired FCRA registration to pay compounding penalty and fees via FCRA online portal - **PUBLIC NOTICE NO. II/21022/58(10)/12/2025-RA(MU), DATED 14-05-2025**

Editorial Note : The Ministry of Home Affairs (MHA) has permitted NGOs/associations whose FCRA registration has expired to pay the compounding penalty and fees from their designated FCRA SBI bank account via the FCRA online portal. This addresses the restriction under Rule 12(5) of the FCRR, 2011, which bars the use of foreign contributions after registration expires, enabling affected entities to complete the compounding process despite lapsed registration.

- 1.9 Govt. grants exemption to Indian Bank for holding shares exceeding 30% of paid up capital in Asset Reconstruction Company - **NOTIFICATION S.O. 2138(E) [F. NO. 7/11/2022-BOA.I], DATED 14-05-2025**

Editorial Note : The Government, on the recommendation of the RBI, has exempted Indian Bank from the shareholding cap under Section 19(2) of the Banking

Regulation Act, 1949, allowing it to hold over 30% stake in Asset Reconstruction Company (ASREC) India Ltd. Generally, banks cannot hold more than 30% of a company's paid-up share capital or 30% of their own paid-up share capital and reserves, whichever is lower. This exemption is valid until March 31, 2026.

- 1.10** RBI notifies draft norms capping a single Regulated Entity's investment in any AIF scheme at 10% of its corpus - **PRESS RELEASE NO. 2025-26/366, DATED 19-05-2025**

Editorial Note : RBI has issued revised draft Directions on investments by Regulated Entities (REs) in AIFs to address evergreening risks. Key proposals include: a single RE's contribution to any AIF scheme capped at 10% of its corpus; collectively, a 15% ceiling for all REs in an AIF scheme; and investments by a RE up to 5% of the corpus allowed without restriction. Comments on the draft Directions are invited from stakeholders till June 8, 2025.

- 1.11** RBI notifies 'Payments Regulatory Board' Regulations, 2025 - **NOTIFICATION NO. CO.DPSS.BD.NO.S168 /02-01-012/2025-26, DATED 20-05-2025**

Editorial Note : RBI has notified the 'Payments Regulatory Board Regulations, 2025'. These regulations specify norms relating to the Composition of the Board, eligibility and tenure of members, vacation of office, and assistance to the Board. Further, they cover norms relating to the Code of Conduct for Board members, meetings of the Board and quorum requirements, and the constitution of committees. Also, the regulations specify the remuneration and other allowances payable to the members and invitees.

- 1.12** RBI alters the name of "North East Small Finance Bank Limited" to "Slice Small Finance Bank Limited" - **CIRCULAR NO. DOR.RET.REC.20/12.07.160/2025-26, DATED 21-05-2025**

Editorial Note : The RBI has altered the name of "North East Small Finance Bank Limited" to "Slice Small Finance Bank Limited" in the Second Schedule to the Reserve Bank of India Act, 1934.

- 1.13** IFSCA issues framework to facilitate Co-investment by Venture Capital Scheme and Restricted Scheme - **CIRCULAR NO. F. NO. IFSCA-AIF/6/2025-CAPITAL MARKETS, DATED 21-05-2025**

Editorial Note : IFSCA has issued a framework to facilitate co-investment by Venture Capital Schemes and Restricted Schemes through a Special Purpose Vehicle (referred to as a 'Special Scheme'). An FME with an operational Venture Capital Scheme, a Restricted Scheme, or both shall be eligible to launch a Special Scheme. The scheme must be constituted as a company, LLP, or trust under the applicable laws of India. Further, the scheme must be classified as a Category I or Category III AIF.

- 1.14** IFSCA allows IBUs to join international payment systems for cross-border transactions without prior approval - **CIRCULAR E.FILE. NO. IFSCA-FMPP0BR12/2023/BANKING-PART(2), DATED 21-05-2025**

Editorial Note : IFSC Authority has laid down the policies for IFSC Banking Units (IBUs) participating in international payment systems. Now, IBUs may participate as/be members of international payment systems for making or receiving payments to/from banks/financial institutions outside IFSC without prior approval of the Authority. However, systems facilitating payments among IBUs (domestic IFSC transactions) require IFSCA authorisation.

- 1.15** RBI grants grace period for Investment Vehicles to file Form InVI for pre-May 23, 2025 partly paid units without LSF - **A.P. (DIR SERIES 2025-26) CIRCULAR NO. 06, DATED 23-05-2025**

Editorial Note : Earlier, the RBI had permitted Investment Vehicles (IVs) to issue partly paid units to PROI. Now, the RBI has prescribed that IVs that had issued partly paid units prior to May 23, 2025 are now allowed to report issuances in Form InVI within a grace period of 180 days from the issuance of this circular. No late submission fee (LSF) will be levied. Further, for issuances on or after 23-05-2025, the existing requirement of filing Form InVI within 30 days of issuance remains applicable.

- 1.16** RBI issues draft norms permitting Business Correspondents to assist in KYC updation - **PRESS RELEASE NO. 2025-2026/402, DATED 23-05-2025**

Editorial Note : RBI has issued a draft circular proposing amendments to paragraph 38 of the Master Direction - KYC, 2016. The proposed amendment aim to ease KYC updation by allowing Business Correspondents (BCs) to facilitate the process. Banks are also advised to conduct camps and campaigns to promote periodic KYC updation, especially in rural, semi-urban, and high-pendency branches.

- 1.17** RBI proposes Business Correspondents to aid KYC updation for **activating** inoperative accounts - **PRESS RELEASE NO. 2025-2026/403, DATED 23-05-2025**

Editorial Note : RBI has released a draft circular titled 'Inoperative Accounts/ Unclaimed Deposits in Banks - Revised Instructions (Amendment) 2025', modifying paragraph 6.1 of the circular dated 01.01.2024. Currently, banks are mandated to offer KYC updation for activating inoperative accounts/unclaimed deposits at all branches and via V-CIP, if requested and available. The amendment now allows authorized Business Correspondents to also facilitate activation. Comments are invited till June 6, 2025.

- 1.18** IFSCA extends the timeline for appointment of **Custodian** under Fund Management Regulations, 2025 - **CIRCULAR NO. F. NO. IFSCA-IF-10PR/7/2024-CAPITAL MARKETS, DATED 24-05-2025**

Editorial Note : IFSCA has extended the timeline for appointing an independent custodian under Regulation 132 of the Fund Management Regulations, 2025. Fund Management Entities (FMEs) were initially given 12 months to appoint a custodian in the IFSC. Now, an additional 6-month extension is granted for schemes taken on record after the FM Regulations come into effect, i.e. Feb 19, 2025, or for other specific schemes, providing FMEs more flexibility to comply with custodial service requirements.

- 1.19 Govt. notifies Foreign Contribution (Regulation) Amendment Rules, 2025 - **NOTIFICATION NO. G.S.R. 342(E) [F. NO. II/21022/23(12)/2020-FCRA-III], DATED 26-05-2025**

Editorial Note : Govt. has notified Foreign Contribution (Regulation) Amendment Rules, 2025. An amendment has been made to Form FC-3B relating to application for obtaining prior permission of Central Government to accept foreign contributions for cultural, economic, educational or social programme. A note enclosing a list of documents has been inserted after heading 'Declaration and Undertaking' for obtaining permission. Similar notes have been added to Forms FC-6A, FC-6B, FC-6C, & FC-6D for other purposes.

- 1.20 RBI includes 'Vishweshwar Sahakari Bank Ltd., Pune' in the list of Scheduled Banks under Schedule II of RBI Act, 1934 - **CIRCULAR NO. DOR.RET.REC.21/12.07.160/2025-26, DATED 27-05-2025**

Editorial Note : In exercise of the powers conferred under section 42 of the Reserve Bank of India Act, 1934, the RBI has directed the inclusion of 'Vishweshwar Sahakari Bank Ltd., Pune', in the list of Scheduled Banks. Now, the bank will be covered under the second schedule of the RBI Act.

2. SUPREME COURT

SECTION 4 OF THE PROHIBITION OF BENAMI PROPERTY TRANSACTIONS ACT, 1988 - PROHIBITION OF THE RIGHT TO RECOVER PROPERTY HELD BENAMI

- 2.1 Where High Court in exercise of its supervisory powers under Article 227 of Constitution of India, wrongly rejected plaint of appellant on ground that it was barred by Prohibition of Benami Property Transactions Act, 1988 since, High Court had not only substituted itself as a Trial Court but also rendered nugatory a valuable right to appeal available to appellant, impugned order passed by High Court was to be set aside - **K. Valarmathi v. Kumaresan - [2025] 174 taxmann.com 96 (SC)**

SECTION 13 OF THE SECURITISATION AND RECONSTRUCTION OF FINANCIAL ASSETS AND ENFORCEMENT OF SECURITY INTEREST ACT, 2002 - ENFORCEMENT OF SECURITY INTEREST

- 2.2 Where in pursuance of proceedings under SARFAESI Act, 2002, an auction was conducted and a bid of Rs. 108 was accepted, however, later a higher offer of Rs.120 crore was accepted to maximize recovery, since best available offer was accepted, there was no need to examine quantum of debt - **GBJ Hotels (P.) Ltd. v. Sriharan Sripathmanathan - [2025] 174 taxmann.com 944 (SC)**

SECTION 44 OF THE PREVENTION OF MONEY LAUNDERING ACT, 2002 - OFFENCES TRIABLE BY SPECIAL COURTS

- 2.3 Provisions of Chapter XVI, containing sections 223 to 226 of BNSS, will apply to a complaint under section 44 of Prevention of Money Laundering Act, 2002; where a complaint was filed under section 44(1)(b) of PMLA after 1-7-2024, when BNSS had come into force but, an opportunity of being heard as mandated under section 223 of BNSS was not given by Special Judge to appellant before taking cognizance of offence, thus impugned order was to be set aside - **Kushal Kumar Agarwal v. Directorate of Enforcement - [2025] 174 taxmann.com 1212 (SC)**

SECTION 45 OF THE PREVENTION OF MONEY LAUNDERING ACT, 2002 - OFFENCES TO BE COGNIZABLE AND NON-BAILABLE

- 2.4 Accused under PMLA can seek unrelayed documents at bail or defence stage, but not at charge stage, unless barred by section 233(3) CrPC or risk of prejudicing investigation - **Sarla Gupta v. Directorate of Enforcement - [2025] 174 taxmann.com 400 (SC)**

SECTION 138 OF THE NEGOTIABLE INSTRUMENTS ACT, 1881 - DISHONOUR OF CHEQUE FOR INSUFFICIENCY, ETC., OF FUNDS IN THE ACCOUNT

- 2.5 Where respondent partner of accused partnership firm had filed a petition under section 482 of CrPC before High Court taking plea that proceedings against him under section 136 of Negotiable Instruments Act could not be continued as he had ceased to be a partner of firm on date of issuance of dishonoured cheque, in view of fact that respondent was involved in day-to-day affairs of accused firm, requirements under section 141 of NI Act had been satisfied and, therefore, respondent could not escape from liability concerning dishonoured cheques issued by accused firm. - **Shivappa Reddy v. S. Srinivasan - [2025] 174 taxmann.com 764 (SC)**

SECTION 141 OF THE NEGOTIABLE INSTRUMENTS ACT, 1881 - 32[OFFENCES BY COMPANIES

- 2.6 Where appellant filed complaint under section 138 against respondent No. 1 company and its directors including respondent No. 2 and it was clearly averred in complaint that respondent No. 2 being director was responsible for day-to-day affairs, management and working of company, averments in complaint fulfilled requirement of section 141 and, therefore, High Court was not justified in quashing criminal proceedings against respondent No. 2 - **HDFC Bank Ltd. v. State of Maharashtra - [2025] 174 taxmann.com 895 (SC)**

SECTION 143A OF THE NEGOTIABLE INSTRUMENTS ACT, 1881 - POWER TO DIRECT INTERIM COMPENSATION

- 2.7 Where in a complaint under section 138 of NI Act cheque amount to tune of Rs. 2 lakh and compensation amount to tune of Rs. 30 thousand, as imposed by Trial Court, had already been paid by accused, in exercise powers under Article 142 of Constitution of India, accused was to be acquitted by compounding offence - **Rajendra Anant Varik v. Govind B. Prabhugaonkar - [2025] 174 taxmann.com 519 (SC)**

3. HIGH COURT

SECTION 3 OF THE PREVENTION OF MONEY LAUNDERING ACT, 2002 - OFFENCE OF MONEY-LAUNDERING

- 3.1 Where arrest of petitioner was made at New Delhi and FIR was lodged in District Saharanpur, however, ECIR was lodged in Delhi, High Court of Himachal Pradesh would not have jurisdiction to entertain writ petition challenging arrest order - **Gian Chand v. State of Himachal Pradesh** - [2025] 174 *taxmann.com* 477 (Himachal Pradesh)

SECTION 5 OF THE FOREIGN TRADE (DEVELOPMENT & REGULATION) ACT, 1992 - FOREIGN TRADE POLICY

- 3.2 Where DRI initiated investigation as to whether Service Exports from India Scrips (SEIS) were properly issued to petitioner by Directorate General of Foreign Trade (DGFT), since DRI was only at investigation stage and hadn't reached any conclusions, petitioner could not be aggrieved at stage of investigation by DRI however, DRI was also directed not to take coercive action against petitioner during course of investigation - **Advantage Health Care Solutions v. Union of India** - [2025] 174 *taxmann.com* 357 (Gujarat)

SECTION 13 OF THE SECURITISATION AND RECONSTRUCTION OF FINANCIAL ASSETS AND ENFORCEMENT OF SECURITY INTEREST ACT, 2002 - ENFORCEMENT OF SECURITY INTEREST

- 3.3 Where One Time Settlement (OTS) submitted by petitioners was considered by bank, but petitioners had failed to remit amounts within time specified in sanction issued by bank, High Court could not, in exercise of jurisdiction under article 226, direct bank to extend time for payment under OTS even by imposing any additional condition - **Thilakarajan.K.P. v. State of Kerala** - [2025] 174 *taxmann.com* 310 (Kerala)
- 3.4 Where respondent No.1 bank initially accepted a Rs. 108 crore bid from respondent No.6 for petitioners' mortgaged property, but later a higher offer of Rs.120 crore from GRT was accepted by EARCL to maximize recovery, Court directed bank to proceed with GRT's offer in interest of value maximization - **Sriharan Sripathanathan v. Edelweiss Asset Reconstruction Company Ltd.** - [2025] 174 *taxmann.com* 668 (Madras)

SECTION 14 OF THE FOREIGN TRADE (DEVELOPMENT & REGULATION) ACT, 1992 - GIVING OF OPPORTUNITY TO THE OWNER OF THE GOODS, ETC.

- 3.5 Where a Show Cause Notice was issued by Respondent to Company 'P' and its Directors, including Petitioner for failing to fulfill export

obligations and subsequently, four adjudication orders (O-I-Os) were passed imposing significant penalties on Company and its Directors and revision petition against said order was dismissed through impugned order, in view of fact that Principles of natural justice were not followed as proper show cause notices were not served to Petitioner individually; also Company had been ordered to be wound up in 1998, petitioner had no control over Company post-winding up, penalty imposed on the Petitioner was deemed arbitrary, and therefore, Impugned Order and Four O-I-Os was to be set aside - **Anand Mehta v. Director General of Foreign Trade** - [2025] 174 *taxmann.com* 983 (Delhi)

SECTION 45 OF THE PREVENTION OF MONEY LAUNDERING ACT, 2002 - OFFENCES TO BE COGNIZABLE AND NON-BAILABLE

- 3.6 Where petitioner, an 86-year-old suffering from multiple ailments, was deemed 'infirm' under proviso to section 45(1) and was not required to meet twin conditions outlined in section 45(1) and, therefore, he was entitled to grant of bail - **Ramesh Chandra v. Directorate of Enforcement** - [2025] 173 *taxmann.com* 274 (Delhi)

SECTION 138 OF THE NEGOTIABLE INSTRUMENTS ACT, 1881 - DISHONOUR OF CHEQUE FOR INSUFFICIENCY, ETC., OF FUNDS IN THE ACCOUNT

- 3.7 Where a complaint was filed against accused on ground that cheque issued by her in discharge of her liability had been dishonoured, and accused failed to raise a probable defence, there was no infirmity in conviction of accused for offence under section 138 - **Alka Kaushal v. Gulshan Arora** - [2025] 174 *taxmann.com* 396 (Delhi)
- 3.8 Where petitioner, accused under section 138 had repeatedly failed to use opportunities given by Trial Court to cross-examine complainant, since section 311 of Cr.P.C. could not be misused to derail proceedings or to cause inconvenience to other party, Trial Court had rightly rejected petitioner's application to recall complainant and present defense evidence - **Hippocampus Infotech (P.) Ltd. v. State NCT of Delhi** - [2025] 174 *taxmann.com* 708 (Delhi)
- 3.9 Where Trial Court had acquitted accused of offence under section 138 on ground that accused had been able to rebut presumption under section 139, no perversity was found in impugned judgment of Trial Court - **Sanjeev Suri v. Jyoti Sadana** - [2025] 174 *taxmann.com* 520 (Delhi)

SECTION 141 OF THE NEGOTIABLE INSTRUMENTS ACT, 1881 - 32[OFFENCES BY COMPANIES

- 3.10 Where complainant filed a complaint under section 138 on ground that accused company and its directors, including petitioner approached complainant for supply of rice and issued cheques to settle their legal debts, which were dishonoured however, petitioner was neither a signatory to dishonoured cheques nor actively involved in financial decision-making of company therefore, he could not be held vicariously liable under section 141 - **Rahul Sood v. Government of NCT of Delhi** - [2025] 174 *taxmann.com* 184 (Delhi)

- 3.11 Where in complaint for dishonour of cheque issued by accused-Limited Liability Partnership (LLP), no specific role of petitioner-designated partner of accused-LLP was ascribed in alleged offence and petitioner had specifically denied his liability, averments in complaint were not sufficient to attract rigour of section 141 of Negotiable Instruments Act to create vicarious liability upon petitioner and, therefore, criminal complaint in relation to petitioner was to be quashed. - **Dipanjani Bhattacharjee v. Ms. Lad Devi Jain** - [2025] 174 taxmann.com 358 (Calcutta)

4. SAFEMA

SECTION 3 OF THE FOREIGN EXCHANGE MANAGEMENT ACT, 1999 - DEALING IN FOREIGN EXCHANGE, ETC

- 4.1 Where from business premises of appellant, loose sheets and a note-book were recovered, which were said to be an account book of appellant containing business transaction, including details of business of hawala on day-to-day basis, penalties were rightly imposed for contravention of section 3 - **Ramesh Doshi v. Special Director, Directorate of Enforcement** - [2025] 174 taxmann.com 478 (SAFEMA - New Delhi)

SECTION 3 OF THE PREVENTION OF MONEY LAUNDERING ACT, 2002 - OFFENCE OF MONEY-LAUNDERING

- 4.2 Property which is inherited or acquired prior to commission of scheduled offence can also be attached by ED as value thereof, under second limb of definition of "proceeds of crime" under Section 2(1)(u) of PMLA - **M. Rajkumar v. Deputy Director, Directorate of Enforcement** - [2025] 174 taxmann.com 880 (SAFEMA - New Delhi)

SECTION 5 OF THE PREVENTION OF MONEY LAUNDERING ACT, 2002 - ATTACHMENT OF PROPERTY INVOLVED IN MONEY LAUNDERING

- 4.3 ED cannot investigate and file complaints qua offence of benami properties under PBPT Act, but certainly, properties can be attached under PMLA, if it is revealed that said properties are purchased by beneficial owner in name of Benamidar in pursuance to conspiracy by committing a fraud on bank on shoulder of a Benamidar - **Rebba Satyanarayana v. Deputy Director Directorate of Enforcement** - [2025] 174 taxmann.com 261 (SAFEMA - New Delhi)
- 4.4 Where properties were mortgaged with bank, even then, appellants/mortgagors could transfer said property by any other mode, without discharging loan liability to any third party by way of lease of any period (without knowledge to ED and mortgagee bank) etc and, appellants could not be allowed to say that there was no apprehension or reason to believe

that mortgaged properties, if not attached immediately, could likely frustrate any proceeding - **Rebba Satyanarayana v. Deputy Director Directorate of Enforcement** - [2025] 174 taxmann.com 261 (SAFEMA - New Delhi)

- 4.5 Where appellant had entered into an agreement to sell his property to one 'SRS' company and 'SRS' company paid Rs. 2.02 crores to appellant as earnest money for purchase of property but 'SRS' company had duped SBI bank of Rs. 46.42 crores, funds passed on by 'SRS' company to appellant as earnest money was out of proceeds of crime obtained by duping bank and, therefore, same was rightly attached by ED under PMLA - **Ashish Srivastava v. Deputy Director Directorate of Enforcement** - [2025] 174 taxmann.com 620 (SAFEMA - New Delhi)

- 4.6 Section 5(1) of PMLA besides requiring Deputy Director issuing Provisional Attachment Order (PAO) to have reason to believe to be recorded in writing on basis of material in his possession that any person is in possession of any proceeds of crime, he should also have reason to believe that such proceeds of crime are likely to be concealed, transfer or dealt with in any manner which may result in frustrating any proceedings relating to confiscation of such proceeds of crime - **Oli Jagadeesha v. Deputy Director Directorate of Enforcement** - [2025] 174 taxmann.com 561 (SAFEMA - New Delhi)

SECTION 8 OF THE FOREIGN EXCHANGE MANAGEMENT ACT, 1999 - REALISATION AND REPATRIATION OF FOREIGN EXCHANGE

- 4.7 Where appellant-ED sought to enhance penalty imposed on respondent company by Adjudicating Authority for contravention of section 8 of Foreign Exchange Management Act, 1999, argued that penalty of 1% of contravened amount was too low however, respondent's strong export track record, with most proceeds had been recovered despite some non-payment by overseas buyers and, Adjudicating Authority had carefully considered case and evidence, finding no reason to increase penalty thus, order of Adjudicating Authority needed no interference - **Union of India v. Access Diamonds (P.) Ltd.** - [2025] 174 taxmann.com 182 (SAFEMA - New Delhi)

SECTION 8 OF THE FOREIGN EXCHANGE REGULATION ACT, 1973 - RESTRICTIONS ON DEALING IN FOREIGN EXCHANGE

- 4.8 Restrictions under section 8(1) of Foreign Exchange Regulation Act (FERA) do not apply to someone who is not considered a 'person resident in India' under section 2(p) of FERA; where appellant was not a citizen of India, he did not fall under this definition, and therefore, restrictions could not be applied to him - **Keith Fairbrother v. Special Director Directorate of Enforcement** - [2025] 174 taxmann.com 622 (SAFEMA - New Delhi)

REGULATION 11 OF THE FOREIGN EXCHANGE MANAGEMENT (TRANSFER OF ISSUE OF SECURITY BY A PERSON RESIDENT OUTSIDE INDIA) REGULATION, 2000 - REMITTANCE OF SALE PROCEEDS

- 4.9 Where appellant bank had allowed outward remittance of Rs. 140 crores to JP Morgan without approval of RBI, there was a contravention of section 6(3)(b), section 10(5) and section 47(3) of Act, read with regulation 11(2)(b) of 2000 Regulations, however, penalty of Rs. 14 crores imposed on appellant bank was disproportionate and, therefore, same was to be reduced to Rs. 1.4 crores - **HDFC Bank Ltd. v. Directorate of Enforcement - [2025] 174 taxmann.com 707 (SAFEMA - New Delhi)**

SECTION 17 OF THE PREVENTION OF MONEY LAUNDERING ACT, 2002 - SEARCH AND SEIZURE

- 4.10 Where appellant, Enforcement Directorate (ED) failed to follow mandatory steps as laid down in Act, including forwarding reasons and material to Adjudicating Authority immediately after search, recording reason to believe that property or record was required to be retained for purposes of adjudication as provided under sections 20(1) and 21(1) and forwarding a copy of retention order along with material in possession to AA, Adjudicating Authority was justified in releasing seized properties - **Deputy Director ED v. Sameer Maheshwari - [2025] 174 taxmann.com 943 (SAFEMA - New Delhi)**

SECTION 19 OF THE FOREIGN EXCHANGE MANAGEMENT ACT, 1999 - APPEAL TO APPELLATE TRIBUNAL

- 4.11 Where in a case where Rs.20 crore penalty was imposed on appellant for FEMA violations, appellant appealed and sought a stay on proceedings, citing a moratorium under Section 14 of IBC imposed by NCLT, appellant also requested a waiver of pre-deposit requirement for appeal, in view of fact that impugned order was passed before moratorium and appellant did not show financial hardship, Section 14 did not apply to waive pre-deposit, thus, instant appeal under Section 19 was to be allowed upon depositing 25% of penalty amount - **Fairdeal Supplies Ltd. v. Special Director Directorate of Enforcement - [2025] 174 taxmann.com 308 (SAFEMA - New Delhi)**

SECTION 52 OF THE FOREIGN EXCHANGE REGULATION ACT, 1973 - APPEAL TO APPELLATE BOARD

- 4.12 Where an appeal was dismissed by Tribunal due to non-compliance with a mandatory pre-deposit of Rs. 25 lakhs by appellant as directed, since Tribunal had directed that failure to deposit said amount would render appeal non-maintainable, hence, application to restore said appeal was rightly rejected - **Kamlesh Shah v. Special Director Directorate of Enforcement - [2025] 174 taxmann.com 1088 (SAFEMA - New Delhi)**

SECTION 72 OF THE PREVENTION OF MONEY LAUNDERING ACT, 2002 - CONTINUATION OF PROCEEDINGS IN THE EVENT OF DEATH OR INSOLVENCY

- 4.13 Provisions of section 72 of PMLA, 2002 reflect intention of Parliament to continue proceedings in event of death or insolvency and, therefore, it would be lawful for legal representative of demised appellant to continue proceedings before Tribunal - **Smt. Beeramma v. Deputy Director Directorate of Enforcement - [2025] 174 taxmann.com 1000 (SAFEMA - New Delhi)**

5. SAT

SECTION 14 OF THE INSURANCE REGULATORY AND DEVELOPMENT AUTHORITY ACT, 1999 - DUTIES, POWERS AND FUNCTIONS OF AUTHORITY

- 5.1 Where appellant insurance company was receiving advance renewal premium from corporate agent but no commensurate insurance cover was provided for said advance renewal premium, directions to pay interest on amount of advance renewal premium received by appellant was justified - **TATA AIG General Insurance Co. Ltd. v. Insurance Regulatory & Development Authority of India - [2025] 174 taxmann.com 946 (SAT - Mumbai)**

INSOLVENCY AND BANKRUPTCY CODE

1. STATUTORY UPDATES

- 1.1 RP must inform AA and seek directions if debtor fails to file plan under Sec. 105: IBBI - **NOTIFICATION NO. IBBI/2025-26/GN/REG125, DATED 19-05-2025**

Editorial Note : The IBBI has inserted a new Regulation 17B under the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulations, 2019. This regulation mandates that if a debtor fails to submit a repayment plan under Section 105 of the Code, the resolution professional, with creditor approval, must notify the Adjudicating Authority and request appropriate directions.

- 1.2 CIRP forms must be e-filed within set timelines or face fee, penalties: IBBI - **NOTIFICATION NO. IBBI/2025-26/GN/REG126, DATED 19-05-2025**

Editorial Note : IBBI amends Regulation 40B of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. It mandates filing of specific forms by the interim or resolution professional during the Corporate Insolvency Resolution Process with electronic submissions within set timelines. Late filings incur a fee, and professionals may face penalties, including refusal of authorisation for assignment, for incomplete or delayed submissions

- 1.3 IBBI launches revised forms for monitoring Corporate Insolvency Resolution Process - **CIRCULAR NO. IBBI/CIRP/85/2025, DATED 26-05-2025**

Editorial Note : IBBI has launched revised forms for the Corporate Insolvency Resolution Process (CIRP). Accordingly, the existing nine forms (consisting of Form IP-1 and CIRP Forms 1 to 8) are being consolidated into five forms (CP-1 to CP-5). The new forms will be available on IBBI's website from 1st June, 2025, and the existing forms shall be discontinued with effect from the said date. Further, no penalty will be levied for any delay in filing of forms during the initial quarter (July-September 2025).

- 1.4 CoC may direct RP to invite providers of interim finance as observers without voting rights to meetings of Committee - **NOTIFICATION F. NO. IBBI/2025-26/GN/REG127, DATED 26-05-2025**

Editorial Note : IBBI has notified IBBI (Insolvency Resolution Process for Corporate Persons) (Fourth Amendment) Regulations, 2025. A new sub-regulation has been inserted to Regulation 18 relating to 'Meetings of the Committee'. It states that the Committee of Creditors (CoC) may direct the resolution professional to invite providers of interim finance to attend as observers without voting rights, such meetings of committee, as the committee may decide. Also, RP may, invite expression of interest for submission

- 1.5 IBBI issues revised guidelines for appointment of Insolvency Professionals as IRPs, Liquidators, RPs & Bankruptcy Trustees

Editorial Note : IBBI has issued the 'Insolvency Professionals to act as IRPs, Liquidators, RPs and Bankruptcy Trustees (Recommendation) Guidelines, 2025', effective from July 1 to December 31, 2025. The guidelines aim to streamline the process of preparing a panel of Insolvency Professionals (IPs) for appointments under the IBC, to enhance efficiency and reduce delays. The key provisions include IP eligibility, panel formation, conditions for IPs, and norms for inviting Expression of Interests in Form A.

2. SUPREME COURT

SECTION 3(6) OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 – CLAIM

- 2.1 Where appellant, suspended director of corporate debtor had filed an application seeking to confine CIRP of corporate debtor to a single project only i.e., 'Spaze Arrow', since all financial creditors are entitled to file claim as per Insolvency and Bankruptcy Board of India (Insolvency Resolution for Corporate Persons) Regulations, 2016, there was no reason to pass an order confining CIRP to one project only - **Harpal Singh Chawla v. Vivek Khanna - [2025] 174 taxmann.com 816 (SC)**

SECTION 3(12) OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 – DEFAULT

- 2.2 Where corporate debtor had failed to repay its debt and financial creditor had successfully proved existence of debt and default, meeting requirements under section 7, Adjudicating Authority had rightly admitted section 7 application filed by financial creditor - **Sandeep Jain v. IDBI Trusteeship Services Ltd. - [2025] 174 taxmann.com 51 (SC)**

SECTION 5(6) OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 - CORPORATE INSOLVENCY RESOLUTION PROCESS - DISPUTE

- 2.3 Where there had been a settlement between parties and entire outstanding amount of operational creditor had been settled, impugned order passed by Appellate Tribunal was to be set aside - **Romi Datta v. Sigma Supply Chain Solutions (P.) Ltd. - [2025] 174 taxmann.com 1089 (SC)**

SECTION 8 OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 - CORPORATE INSOLVENCY RESOLUTION PROCESS - DEMAND BY OPERATIONAL CREDITOR

- 2.4 Where demand notice under section 8 was sent to Key Managerial Personnel (KMP) of corporate debtor at its registered office address and in official capacity, same could be construed as a deemed service of demand notice as required under section 8 and approach of NCLT and

NCLAT in rejecting section 9 petition on technical ground that no notice was sent to corporate debtor was incorrect and unsustainable in law - **Visa Coke Ltd. v. Mesco Kalinga Steel Ltd.** - [2025] 174 *taxmann.com* 22 (SC)

SECTION 12A OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 - CORPORATE INSOLVENCY RESOLUTION PROCESS - WITHDRAWAL OF APPLICATION

2.5 Where appeal filed by appellant/erstwhile director of corporate debtor seeking directions for respondent/operational creditor to withdraw proceedings under section 9 was dismissed on ground that decision to continue or withdraw lay solely with operational creditor, since appellant had placed on record settlement agreement and application for withdrawal of company petition, it was open to IRP to proceed in accordance with law and, if deemed appropriate, file an application under section 12A for withdrawal of company petition - **Kalyan Muppaneni v. K. Computers** - [2025] 174 *taxmann.com* 665 (SC)

SECTION 31 OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 - CORPORATE INSOLVENCY RESOLUTION PROCESS - RESOLUTION PLAN- APPROVAL OF

2.6 Where JSW submitted revised consolidated resolution plan with addendum under garb of complying with amendments made in CIRP Regulations, 2016, and same was approved by CoC, however, JSW even after approval of its plan, willfully contravened and not complied with terms of said approved resolution plan for a period of about two years, same being in flagrant violation and contravention of expressed provisions of IBC and CIRP Regulations, resolution plan of JSW as approved by CoC was to be rejected - **Kalyani Transco v. Bhushan Power and Steel Ltd.** - [2025] 174 *taxmann.com* 155 (SC)

2.7 Where resolution plan approved by CoC offered 100 per cent refund of principal amount to appellants, commercial space buyers, since payment offered to appellants in resolution plan did not violate provisions of section 30(2)(b), there were no sufficient grounds to interfere with order approving resolution plan - **Praveen Arya v. Anju Agarwal** - [2025] 174 *taxmann.com* 1086 (SC)

SECTION 61 OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 - CORPORATE PERSON'S ADJUDICATING AUTHORITIES - APPEALS AND APPELLATE AUTHORITY

2.8 Where appellant filed an appeal within 30 days and within further condonable period of 15 days, NCLAT vide impugned rightly condoned delay in filing appeal, as it was filed within permissible period and sufficient cause was shown - **Naren Sheth v. Axis Bank Ltd.** - [2025] 174 *taxmann.com* 98 (SC)

2.9 NCLAT has no power to condone delay beyond period stipulated u/s. 61(2); once prescribed and condonable periods (i.e., 30 + 15 days) expire, NCLAT has no jurisdiction to entertain appeals, regardless of reason for delay - **Tata Steel Ltd. v. Raj Kumar Banerjee** - [2025] 174 *taxmann.com* 360 (SC)

SECTION 140 OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 - INDIVIDUAL/FIRM'S BANKRUPTCY - BANKRUPT, DISQUALIFICATION OF-

2.10 Power to suspend Resolution Professional is bestowed by regulation 23A of Insolvency and Bankruptcy Board of India (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016, r.w.s. 140 of IBC and same would not violate Articles 14, 19 and 21 of Constitution of India - **CA V. Venkata Sivakumar v. Insolvency and Bankruptcy Board of India (IBBI)** - [2025] 174 *taxmann.com* 152 (SC)

3. HIGH COURT

SECTION 33 OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 - CORPORATE LIQUIDATION PROCESS - INITIATION OF

3.1 Where proceeding under FEMA was initiated much prior to order of liquidation of corporate debtor but in terms of section 33(5) once an order for liquidation was passed, no suit or other legal proceeding shall be instituted by liquidator on behalf of corporate debtor with prior approval of Adjudicating Authority and, therefore, provisional seizure order passed under FEMA in respect of assets of corporate debtor could not have been passed - **Anup Kumar Singh v. Union of India** - [2025] 174 *taxmann.com* 12 (Calcutta)

SECTION 43 OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 - CORPORATE LIQUIDATION PROCESS - PREFERENTIAL TRANSACTIONS AND RELEVANT TIME

3.2 Where petitioner, a company director, was declared a wilful defaulter by respondent bank, petitioner challenged said action, citing lack of access to key documents and a fair hearing, since personal hearing could not be construed to be meaningful with petitioner having his hands tied behind by withholding necessary documents, show cause notice and orders passed by respondent bank were to be set aside - **Ankit Bhuwalka v. IDBI Bank Ltd.** - [2025] 174 *taxmann.com* 397 (Bombay)

4. NCLAT

SECTION 3(6) OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 - CLAIM

4.1 Where appellant entered into a Joint Development Agreement (JDA) with corporate debtor, however, said JDA was executed by a disqualified director of corporate debtor and appellant failed to provide necessary documents to substantiate its claim thus, claim was rightly rejected by RP and Adjudicating Authority - **Anindya Infrastructure (P.) Ltd. v. Shubhkamna Buildtech (P.) Ltd.** - [2025] 174 *taxmann.com* 439 (NCLAT- New Delhi)

4.2 Where appellant, suspended director of corporate debtor had filed an application seeking to confine CIRP of corporate debtor to a single project only i.e., 'Spaze Arrow', since all financial creditors are entitled to file claim as per Insolvency and Bankruptcy Board of India (Insolvency Resolution for Corporate Persons) Regulations, 2016, there was no reason to pass an order confining CIRP to one project only - **Harpal Singh Chawla v. Vivek Khanna** - [2025] 174 *taxmann.com* 664 (NCLAT- New Delhi)

SECTION 4 OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 - CORPORATE INSOLVENCY RESOLUTION PROCESS - APPLICATION OF

4.3 When NCLT is forum for initiating CIRP against personal guarantor and process against personal guarantor are to be taken by same forum before whom insolvency resolution process of corporate debtor is to be held, threshold for application to be filed against personal guarantor before NCLT shall be Rs. 1 crore. - **Mudraksh Investfin (P.) Ltd. v. Gursev Singh** - [2025] 174 *taxmann.com* 763 (NCLAT- New Delhi)

SECTION 5(6) OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 - CORPORATE INSOLVENCY RESOLUTION PROCESS - DISPUTE

4.4 Where corporate debtor had admitted that it owed an operational debt to operational creditor and had failed to produce plausible evidence to corroborate that there was a pre-existing dispute between parties, Adjudicating Authority had not committed any error in admitting application filed under section 9 - **Romi Datta v. Sigma Supply Chain Solutions (P.) Ltd.** - [2025] 174 *taxmann.com* 882 (NCLAT- New Delhi)

SECTION 5(13) OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 - CORPORATE INSOLVENCY RESOLUTION PROCESS - INSOLVENCY RESOLUTION PROCESS COSTS

4.5 Lease premium and lease rent could not be considered as similar grant or right under section 14(1)(d) - **Sunil Kumar Agarwal v. Anand Sonbhadra Resolution Professional of Shubhkamna Buildtech (P.) Ltd.** - [2025] 174 *taxmann.com* 564 (NCLAT- New Delhi)

SECTION 5(21) OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 - CORPORATE INSOLVENCY RESOLUTION PROCESS - OPERATIONAL DEBT

4.6 Note to Form 5 of Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 is for limited purpose of filing appropriate application in individual or joint capacity by one person but said Note cannot be read in any manner to empower different/ other Operational Creditors to join in one application for completing threshold for filing Section 9 application. - **Kavindra Kumar v. Desein (P.) Ltd.** - [2025] 174 *taxmann.com* 986 (NCLAT- New Delhi)

4.7 Where principal amount had already been paid by corporate debtor during pendency of section 9 proceedings and, only a contested interest claim had remained, since there was no legally enforceable unpaid operational debt as required under section 9(5) to trigger CIRP, CIRP could not be initiated solely for interest component - **SNJ Synthetics Ltd. v. PepsiCo India Holdings (P.) Ltd.** - [2025] 174 *taxmann.com* 398 (NCLAT- New Delhi)

SECTION 30 OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 - CORPORATE INSOLVENCY RESOLUTION PROCESS - RESOLUTION PLAN-SUBMISSION OF

4.8 Where appellants, who were allotted commercial spaces by corporate debtor under unregistered documents, sought exclusion of these spaces and execution of sale deeds during CIRP, since allotments did not transfer legal ownership or title to them, NCLT rightly rejected their plea to exclude assets or claim ownership - **Praveen Arya v. Anju Aggarwal** - [2025] 174 *taxmann.com* 881 (NCLAT- New Delhi)

4.9 Where resolution plan approved by CoC offered 100 per cent refund of principal amount to appellants, commercial space buyers, since payment offered to appellants in resolution plan did not violate provisions of section 30(2)(b), there were no sufficient grounds to interfere with order approving resolution plan - **Praveen Arya v. Anju Aggarwal** - [2025] 174 *taxmann.com* 881 (NCLAT- New Delhi)

SECTION 31 OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 - CORPORATE INSOLVENCY RESOLUTION PROCESS - RESOLUTION PLAN-APPROVAL OF

4.10 Where business of successful resolution applicant (SRA) was operated under a sole proprietorship of its promoter who transferred proprietary business to company as a going concern, net worth and turnover of promoter was included while determining eligibility of SRA to submit a resolution plan. - **Abhijit Realtors & Infraventures (P.) Ltd. v. Rohit Mehra** - [2025] 174 *taxmann.com* 759 (NCLAT- New Delhi)

4.11 Where appellant, a secured creditor of corporate debtor challenged approval of a resolution plan on ground that proposed acquisition (involving a merger and demerger) in resolution plan was a "combination" under Section 5 of Competition Act and thus required prior approval from Competition Commission of India (CCI), since corporate debtor's value was not more than Rs. 450 crores in India as per Notification dated 7-3-2024, section 5 of Competition Act was not applicable and there was no requirement of any prior approval from CCI - **Alchemist Asset Reconstruction Company Ltd. v. ASC Insolvency Services LLP** - [2025] 174 *taxmann.com* 914 (NCLAT- New Delhi)

SECTION 33 OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 - CORPORATE LIQUIDATION PROCESS - INITIATION OF

- 4.12 Where appellant, resolution applicant submitted its resolution plan, but CoC abstained from voting on any resolution plan, since CoC exercised its commercial wisdom and chose to abstain from voting, RP rightly proceeded with liquidation under IBC provisions - ***Subh Laxmi Investment Advisory (P.) Ltd. v. Committee of Creditors of Sintex Plastics Technology Ltd.*** - [2025] 174 taxmann.com 237 (NCLAT- New Delhi)

SECTION 35 OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 - CORPORATE LIQUIDATION PROCESS - LIQUIDATOR- POWERS AND DUTIES OF

- 4.13 Regulation 10 of IBBI (Liquidation Process) Regulations empowering liquidator to disclaim a contract is well within statutory powers and is in accordance with provisions of IBC and has been enacted to give effect to provisions of IBC - ***Sarla Performance Fibres Ltd. v. Vivek Murlidhar Dabhade*** - [2025] 174 taxmann.com 562 (NCLAT- New Delhi)

SECTION 36 OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 - CORPORATE LIQUIDATION PROCESS - LIQUIDATION ESTATE

- 4.14 Upon liquidation, dues must be distributed strictly according to waterfall mechanism outlined in section 53; where respondent bank received funds directly from a guarantor during liquidation of a corporate debtor without complying with section 36 and section 52 since, said amount should have been part of Liquidation Estate, impugned order passed by Adjudicating Authority directing liquidator to refund a certain amount to liquidation account was to be set aside - ***Anil Kohli v. Punjab National Bank*** - [2025] 174 taxmann.com 706 (NCLAT- New Delhi)

SECTION 61 OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 - CORPORATE PERSON'S ADJUDICATING AUTHORITIES - APPEALS AND APPELLATE AUTHORITY

- 4.15 When last date for filing appeal against order of NCLT falls on holiday, benefit of section 4 of Limitation Act, 1963 is admissible with regard to 30 days period of limitation but said benefit is not to be extended when 45 days are computed - ***Raj Kumar Banerjee v. Supriyo Kumar Chaudhuri*** - [2025] 172 taxmann.com 863 (NCLAT- New Delhi)

SECTION 94 OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 - INDIVIDUAL/FIRM'S INSOLVENCY RESOLUTION PROCESS - APPLICATION BY DEBTOR

- 4.16 Where appellant / guarantor had unleashed a chain of litigations which have been doggedly and relentlessly pursued in various courts of law to derail recovery proceedings, this clearly shows that appellant had been ceaselessly orchestrating litigative proceedings and embroiled financial creditor in these proceedings clearly to subvert recovery proceedings initiated

against them and not for purpose of insolvency resolution, thus, section 94 application by appellant for restructuring their debt on basis of a repayment plan submitted by them was rightly dismissed by NCLT - ***Syed Sirajis Salikin Khadri v. Edelweiss Asset Reconstruction Company Ltd.*** - [2025] 174 taxmann.com 479 (NCLAT- New Delhi)

SECTION 95 OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 - INDIVIDUAL/FIRM'S INSOLVENCY RESOLUTION PROCESS - APPLICATION BY CREDITOR

- 4.17 Adjudicatory functions of Adjudicating Authority commences under Section 100 after submission of RP's report; Adjudicating Authority has to conduct an independent assessment not solely relying on RP's Report to decide fate of application - ***Mrs. Rajani Ajay Gupta v. Indian Bank*** - [2025] 174 taxmann.com 1040 (NCLAT- New Delhi)

SECTION 96 OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 - INDIVIDUAL/FIRM'S INSOLVENCY RESOLUTION PROCESS - INTERIM-MORATORIUM

- 4.18 Where an application under section 95 had already been filed by another financial creditor and interim moratorium was in place, NCLT was justified in rejecting financial creditor's application to initiate personal insolvency proceedings against personal guarantor, as no fresh legal actions could be initiated during moratorium - ***Indian Bank v. T. Prabhakar*** - [2025] 174 taxmann.com 987 (NCLAT - Chennai)

SECTION 97 OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 - INDIVIDUAL/FIRM'S INSOLVENCY RESOLUTION PROCESS - RESOLUTION PROFESSIONAL, APPOINTMENT OF

- 4.19 Where appellant/personal guarantor filed an appeal against appointment of Resolution Professional (RP) in proceedings under section 95, since at stage of appointment of RP no rights were determined or prejudiced, appellant did not have any cause of action to file an appeal against exercise of powers by Adjudicating Authority under section 97 - ***Sadananda Maiya P. v. Karnataka Bank Ltd*** - [2025] 174 taxmann.com 942 (NCLAT - Chennai)

SECTION 99 OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 - INDIVIDUAL/FIRM'S INSOLVENCY RESOLUTION PROCESS - RESOLUTION PROFESSIONAL, SUBMISSION OF REPORT BY

- 4.20 Requirement for RP to submit report within 10 days of appointment is directory and not mandatory; thus, report submitted after 10 days could be looked into by Adjudicating Authority for passing order under section 100, if delay in submission of report is properly explained - ***Suresh Atlani v. Omkara Asset Reconstruction (P.) Ltd.*** - [2025] 174 taxmann.com 442 (NCLAT- New Delhi)

SECTION 238A OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 - LIMITATION PERIOD

4.21 Where appellant/financial creditor filed an application under section 7 to initiate CIRP against a corporate debtor, since corporate debtor's account was declared a Non-Performing Asset (NPA) on 01.10.2012, and application was filed on 19.07.2020, thus application filed under section 7 was barred by limitation - **Canara Bank v. Daaj Hotels & Resorts (P.) Ltd.** - [2025] 174 taxmann.com 760 (NCLAT - Chennai)

5. NCLT

SECTION 31 OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 - CORPORATE INSOLVENCY RESOLUTION PROCESS - RESOLUTION PLAN- APPROVAL OF

5.1 Where unsuccessful resolution applicants were given ample opportunities to submit their resolution plan and bid according to challenge process, however, despite having availed all such opportunities, their plan was rejected by CoC while exercising their

commercial wisdom and in interest of value maximisation, application seeking rejection of resolution plan submitted by successful resolution applicant on unfounded, unreasonable and baseless grounds could not be allowed. - **Abhijit Realtor & Infraventures (P.) Ltd. v. Rohit Mehra** - [2025] 174 taxmann.com 618 (NCLT - Mum.)

SECTION 238A OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 - LIMITATION PERIOD

5.2 Where loan granted by Financial Creditor was within limits as provided by clause (c) of Sub Section 2 of Section 186 of Companies Act 2013 and default in repayment of financial debt was not refuted by Corporate Debtor, and also, section 7 application filed by financial creditor was within limitation period of three years, said section 7 application was to be admitted - **J.P Financial Services (P.) Ltd. v. Avadh Merchants (P.) Ltd.** - [2025] 174 taxmann.com 1144 (NCLT - Kolkata)

ACCOUNT AND AUDIT UPDATES

- 1.1 ICAI launches first edition of Guidance Note on Environmental Costing

Editorial Note : ICAI released its first "Guidance Note on Environmental Costing," introducing a Holistic Environmental Costing (HEC) Framework to help businesses measure and manage environmental impacts like emissions, water use, and waste. The note supports SEBI's BRSR compliance and aligns with global sustainability standards, offering practical tools for detailed environmental cost allocation. This advances ICAI's goal of integrating environmental responsibility into cost accounting.

- 1.2 ICAI to review IndusInd Bank's financial statements amid fraud concerns

Editorial Note : The Institute of Chartered Accountants of India (ICAI) is set to review IndusInd Bank's financial statements following the discovery of accounting discrepancies in its foreign exchange derivative portfolio. The bank revealed potential irregularities affecting its net worth by around 2.35%, raising concerns of possible financial misrepresentation. This investigation aims to ensure regulatory compliance and uphold transparency in the banking sector.

- 1.3 ICAI releases Exposure Draft of revised Forensic Accounting and Investigation Standards and its Implementation Guide

Editorial Note : ICAI's Digital Accounting and Assurance Board has released an Exposure Draft proposing revisions to Forensic Accounting and Investigation Standards and its Implementation Guide. The updates enhance clarity, structure, and best practices for forensic engagements, emphasising the distinction from statutory audits. Public feedback is invited until June 19, 2025, to help refine these professional standards.

- 1.4 Accounting treatment of dividend declared before reporting date but paid after reporting date under the Ind AS framework

Editorial Note: This story explores the accounting treatment of dividends under Indian Accounting Standards, emphasizing how the timing of dividend declarations before or after the reporting period impacts their recognition in financial statements. It explains the classification of events as adjusting or non-adjusting and highlights that dividends declared after the reporting period should not be recognized as a liability at the balance sheet date.

The Emergence of the Stock Market in India: From Trading Floors to Digital Fortunes - A Perspective for Tax Professionals



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The Indian stock market has witnessed a phenomenal transformation from its modest beginnings in the 19th century to becoming one of the largest and most dynamic equity markets in the world. This evolution is not just a story of economic progress, but a testament to India's regulatory foresight, technological advancement, and financial democratization. For tax professionals and those associated with financial compliance, understanding this transformation is essential to appreciate how capital markets influence individual portfolios, corporate behavior, and national growth.

1. Humble Origins: 19th Century Beginnings

India's journey with stock trading formally began in **1875** with the establishment of the **Native Share and Stock Brokers' Association** in Bombay—what we now know as the **Bombay Stock Exchange (BSE)**. It was Asia's first stock exchange and started under a banyan tree with a handful of brokers trading shares of cotton mills and British colonial enterprises.

In those early days, there were no formal regulations, no standardized settlement systems, and limited public participation. Trading was driven largely by speculation and insider knowledge. However, this laid the foundation for an organized financial marketplace.

2. Post-Independence Constraints and Controlled Capitalism

After India gained independence in **1947**, the government adopted a socialist pattern of development. A majority of capital investments were routed through public sector enterprises, and private capital raising was tightly controlled through legislations like the **Capital Issues (Control) Act, 1947**. This Act required companies to get prior approval from the Controller of Capital Issues before raising funds, thereby suppressing capital market activity.

Despite these constraints, the BSE continued to function as the primary exchange. Regional exchanges also emerged, such as the **Calcutta, Delhi, and Ahmedabad Stock Exchanges**, but they largely played a secondary role.

The lack of institutional investors, poor infrastructure, and a limited investor base kept the stock market's role peripheral to India's economic growth for several decades.

3. Liberalization and Transformation: The 1990s Turning Point

The real turning point came in **1991**, when India faced a severe balance of payments crisis and was forced to open its economy. This ushered in a wave of **economic liberalization**, spearheaded by then our Hon'ble Finance Minister Dr. Manmohan Singh. The government recognized the need for vibrant capital markets to support economic growth.

In this context, the **Securities and Exchange Board of India (SEBI)** was granted statutory powers in **1992**. SEBI's role was to regulate the stock market, protect investors, and foster fair practices. This marked the beginning of a new era of market governance and transparency.

One of the most important reforms came with the establishment of the **National Stock Exchange (NSE)** in **1994**. Unlike the BSE's open outcry system, the NSE introduced **screen-based electronic trading**, ensuring faster, more efficient, and transparent transactions. This not only reduced broker malpractices but also opened up access to a wider investor base across the country.

4. Technology-Driven Reforms: Demat, Online Trading, and Mobile Apps

The 1990s also saw the elimination of physical share certificates, which were prone to theft, loss, and forgery. The launch of the **National Securities Depository Limited (NSDL)** in **1996**, followed by **Central Depository Services Limited (CDSL)**, enabled the **dematerialization of securities**—transforming the way shares were held and traded.

By the early 2000s, stock trading had become internet-enabled. Investors could now open **Demat and trading accounts** online, execute trades in seconds, and access real-time data. Mobile apps, AI-based analytics further enhanced retail participation, bringing the stock market to the fingertips of common citizens.

5. Rise of Retail Participation and Financial Awareness

Historically, Indian households preferred gold, real estate, and bank deposits over equities. But over the past decade, particularly since the COVID-19 pandemic, there has been a notable shift. Between calendar year 2020 and 2024, **over 10 crores new Demat accounts** were opened—largely driven by millennials, Tier-2 and Tier-3 city investors, and salaried professionals exploring equity as a wealth creation tool.

This surge was also supported by a growing mutual fund industry, investor education campaigns, and ease of investment through **Systematic Investment Plans (SIPs)**.

6. AIFs, REITs, InvITs: New Instruments, New Challenges

India's market has also matured with the introduction of sophisticated investment instruments like **Alternative Investment Funds (AIFs)**, **Real Estate Investment Trusts (REITs)**, and **Infrastructure Investment Trusts (InvITs)**. These structures provide diversified opportunities but come with complex regulatory and tax implications.

Tax professionals are increasingly expected to be conversant with these developments, as HNIs and corporate clients seek guidance on structuring investments and ensuring tax efficiency.

7. Taxation of Market Gains: A Dynamic Framework

The tax landscape related to stock market investments has evolved significantly. Long-term capital gains (LTCG) on listed equity shares, which were once exempt, are now taxed at **12.50% above ₹1.25 lakhs** and short-term capital gains are taxed at **20%**, while **Securities Transaction Tax (STT)** continues to apply.

Dividend taxation has also shifted from **Dividend Distribution Tax (DDT)** to taxing dividends in the hands of shareholders at applicable slab rates, with **TDS provisions** applicable on pay-outs above ₹5,000.

For income tax professionals, this creates both opportunities and responsibilities—ranging from advising on capital gains computation, loss harvesting, filing revised returns due to TDS mismatches, and ensuring proper disclosures under Schedule CG and Schedule SI.

8. The Road Ahead: Integration, Inclusion, and Innovation

India's stock market is expected to continue its upward trajectory, supported by:

- **Increased financial literacy**
- **Broader regulatory sandbox initiatives**
- **Integration with global markets**
- **A robust start-up ecosystem and digital infrastructure**

The government's push for financial inclusion and digital adoption further ensures that the equity market will remain a core vehicle for household wealth creation and national economic development.

Conclusion: A Role Beyond Investment

The emergence of the Indian stock market is not just an economic story—it is a chronicle of regulatory maturity, investor empowerment, and digital revolution. For income tax professionals, understanding this landscape is no longer optional. Whether it's advising a client on capital gains, tax optimization in portfolio restructuring, or navigating the tax treatment of derivatives and IPO listings, the stock market intersects our work daily.

As India moves toward becoming a \$5 trillion economy, the capital market will play a pivotal role. Let us engage with it not just as consultants and compliance officers, but as informed facilitators of financial growth.

Managing Corporate Debtor as Going Concern



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Background

The Insolvency and Bankruptcy Code, 2016 (“Code”) is an Act to consolidate and amend the laws relating to re-organisation and insolvency resolution of corporate persons, partnership firms and individuals in a time bound manner for maximization of value of assets of such persons, promote entrepreneurship, availability of credit and balance the interests of all the stakeholders including alteration in the order of priority of payment of Government dues and to establish the Insolvency and Bankruptcy Board of India, and for matters connected therewith or incidental thereto.

Section 20 of the Code on “Management of Operations of Corporate debtor as a going concern” lays down the responsibility on the Insolvency Professional to make every effort to ensure the continuity of going concern status of the Corporate Debtor and states as under:

“The interim resolution professional shall make every endeavor to protect and preserve the value of the property of the corporate debtor and manage the operations of the corporate debtor as a going concern.”

For the purposes of sub-section (1), the interim resolution professional shall have the authority to appoint accountants, legal or other professionals as may be necessary; to enter into contracts on behalf of the corporate debtor or to amend or modify the contracts or transactions which were entered into before the commencement of corporate insolvency resolution process; to raise interim finance provided that no security interest shall be created over any encumbered property of the corporate debtor without the prior consent of the creditors whose debt is secured over such encumbered property: **Provided that no prior consent of the creditor shall be required where the value of such property is not less than the amount equivalent to twice the amount of the debt.**

The main emphasis of the Code is to arrive at resolution of the Corporate Debtor in a time bound manner for maximization of values of assets. This can be better achieved if the corporate debtor continues to maintain its status as a going concern entity thereby preserving its value. Hence, the role of the Resolution Professional (RP) is to make all efforts that the corporate debtor continues to remain as a going concern. The Corporate Debtor on commencement of Corporate Insolvency Resolution Process (CIRP) is beset with liquidity issues as it does not have adequate funds to meet its liabilities. Thus it faces problems in getting adequate credit from suppliers, vendors and also service providers to run its business.

“The continuation of the operations of the Corporate Debtor is a challenge for the Resolution Professional.”

The Resolution Professional ought to have adequate negotiation skill and understanding of business profile and financials of the corporate debtor for managing the business operations. The Resolution Professional is thus required to understand business profile, negotiate with various stakeholders including customers, suppliers and employees/workers; working capital management; monitor cash flows; take necessary steps for improving productivity and liquidity position and to seek approval of Committee of Creditors on issues as laid down in Code. All these efforts are required to keep corporate debtor as a going concern. In this Thought Leadership Paper we shall discuss each of the key components that the Resolution Professional is expected to give due consideration, to ensure that the Corporate Debtor is resolved as a Going Concern. Review of Business Profile Competition Whether the Corporate Debtor has developed niche market. How it has been able to cater to the market; face competition in terms of delivery, quality, price, and credit terms and compete with its competitors. Discussion with the employee/workmen, customers and visit of various facilities will facilitate understanding of these issues. Availability of Inputs the Corporate Debtor remains dependent on various inputs like Raw Materials including spares and tools, power, labour, water and other services to continue with the operations. Each Industry/ business has different challenges in terms of availability of these inputs.

“The Resolution Professional is required to have an immediate review and take measures for timely availability of these inputs.”

Customer Profile the Corporate Debtor remains dependent on the orders from customers and have to cater to their requirement in terms of delivery, quality and price. The Resolution Professional will have to understand the customer profile of the Corporate Debtor in terms of length and value of relationship, regularity in receipts of payment, proportionate of total sales of products/services by a particular

customer and any major issues faced in the past while dealing with these customers. All the information can be gathered by discussing with the concerned employees / workers in sales, marketing and production department. Further, the information can be known on perusal of sales ledger, account recoverable and customer wise ledger. This information will be useful to know the extent a customer is vital for the Corporate Debtor, while negotiating with them on various terms of trade. Each business has its peculiarities in terms of competition, availability of inputs, customer profile, production issues, productivity of workmen/employees, flow of orders, terms of trade and regulatory compliance. In order to take control of the operations of the corporate debtor as a going concern, it is pertinent to have a broad understanding of these business dynamics. Production issues and obsolete items The Corporate Debtor is expected to be facing financial crunch when admitted to CIRP. It is likely that it may be facing issues in terms of repairs and maintenance, adherence to quality standards, shortage of various spares, timely availability of raw material and obsolete finished goods that may not be put in use. The understanding of production process through discussion with employees/workers dealing at factory will provide insight on the critical issues that need to be tackled for ensuring that the production does not come to halt. Productivity of workmen/employees. The role of workmen/employees in continuing the business of the Corporate Debtor as a going concern is critical. The Resolution Professional will need to carry a dialogue with the employees/ workers to seek their co-operation and support.

“Genuine concerns of workmen/employees need to be understood and they be appraised of various efforts required to keep the Corporate Debtor as a going concern for eventual resolution to protect interest of various stakeholders including workmen/employees.”

Wherever required excess staff needs to be redeployed to improve productivity. Flow of orders and terms of trade The RP will have to examine all the pending orders and make efforts to get fresh orders from existing and new customers. As the Corporate Debtor is in financial stress, it is likely that the inputs from suppliers may be at a high rate while sales price negotiated with customers may be very competitive leaving little margin. Further, terms of payment may not be favourable with customers as well as suppliers. The Resolution Professional will have to peruse each such order and examine whether any such orders are at a loss. This will require verification of various costs and terms of trade. The RP may also examine general trade practice in the product/ services provided by the corporate debtor to help in further negotiation with the customers and suppliers.

Managing Corporate Debtor as a going concern- Review of Business Profile Regulatory compliances

The RP will have to understand and ensure various compliances that are required in terms of renewal of various licenses required for operating the business activity, Payment of statutory dues, filings with ROC, stock exchanges and other authorities, finalisation of financial statements, holding meetings at regular intervals as per the requirement of various laws applicable on the Corporate Debtor and such other compliances as are applicable from time to time.

Managing Corporate Debtor as a going concern- Working Capital Management

Working Capital Management Effective Working Capital management is a crucial factor in managing business activities especially in the manufacturing industry. It requires understanding of business cycle. The Corporate Debtor requires raw materials which have to be processed and then converted into finished goods. These will be dispatched and will be converted into sales (Sundry debtors) and payment will be received based on terms of the credit. Hence Working Capital will be required in maintaining optimum level of stock of raw material, stores and spares, stock in process, finished goods and sundry debtors. The Corporate Debtor will have to assess total Working Capital requirement so as to sustain the production and arrange for funding accordingly. In a stress situation, managing Working Capital is a difficult proposition and requires control of various expenses and negotiation with various stakeholders. The Corporates are generally short of Working Capital funds which impact production and timely delivery. Thus it requires managing with limited Working Capital funds in a liquidity strain situation. To overcome this situation, optimum level of inventory and receivables have to be determined and efforts made to arrange for working capital funds to meet these requirements.

Inventory Holding The Corporate Debtor will have to maintain optimum level of inventory of Raw material, stock in process, Finished Goods, stores and spares. The levels are based on availability of these materials, time taken in ordering, alternate sources, minimum ordering quantity etc. **Raw Materials** In case raw material is available locally and there are large number of suppliers and no difficulty is envisaged in its procurement, the Resolution Professional may decide to hold a minimum level of stock of Raw Material to save on working capital. However, if there is difficulty in procuring these materials with long ordering period, sufficient inventory of Raw Material is required to avoid any production loss. The RP may be able to arrive at these levels after looking to past trend after discussion with production and marketing team. RP also needs to negotiate with major suppliers to seek their support in getting these materials in time and assuring of timely payment so that there is no discomfort/disruption in supplies. The RP may take necessary steps to sell any obsolete materials.

Stock in process The Corporate Debtor will have to maintain regular production process to remain as a going concern. The level of working capital funds that remain blocked in stock in process will be based on the total time taken in production process. The RP is required to examine the time taken at various stages of production and to cut delays. This will reduce the funds blocked in stock in process. These inadequacies generally creep in when the Corporate

Debtor is in financial stress. Stores and Spares Certain item of stores and spares are found to be critical for continuity of production process and it is required to maintain their adequate stock. Finished Goods (FG) The Corporate Debtor need to maintain a minimum level of FG so as not to block the working capital funds in higher inventory. The RP and his team need to carry out analysis/scrutiny of these at regular intervals so as to minimize funds blocked in finished goods. Receivables Management- The Corporate Debtor may have long pending receivables which need to be followed up so as to improve cash flows. Further, RP and his team needs to have a relook on the credit afforded to various customers and whether payments are received as per credit terms. The Corporate Debtor may examine various measures required to reduce funds blocked in receivables by offering discounts and concentrating on those customers who are regular in making payment. A regular follow up with customers to realize payment is of paramount importance and employees in sales/marketing need to be entrusted to discharge this role.

Managing Corporate Debtor as a going concern- Supplier's credit

The Corporate Debtor procure raw materials and various services either on credits or on an immediate cash basis. Availability of credit on purchases reduces the strain on the working capital requirements. The RP to contact suppliers in this regard and also assist them in submitting claims during CIRP for any pending dues. The RP should also make arrangement for making payment to these suppliers during CIRP Period, as also recently amended in Code. All these measures will help to gain credibility of Corporate Debtor with their suppliers. Working Capital Management Managing working capital Despite the availability of orders in hand for sale, corporate debtor may not be in a position to procure sufficient quantity of raw material and execute the orders, mainly due to paucity of funds. Hence, working capital management is crucial to maintain "going on concern" status of Corporate Debtor. This can be achieved by control on various components of current assets and current liabilities. Managing Corporate Debtor as a going concern- Monitoring Cash Flows Monitoring Cash Flows Cash budget for minimum next three months will provide insight on the availability of funds and their utilization. The RP and his team to prepare cash inflows and outflows and compare it with budgeted levels, and finding specific areas that need to be monitored. Follow up meetings could be arranged to discuss the receipt and payments position. If any funds shortage is observed, corrective measures should be initiated to reduce any other expenses. Approving Payments - The RP need to devise mechanism depending on the specific requirement of each Corporate Debtor to approve payment either by him/her or his/her team member so that effective control on the operation and cash flows is maintained.

"The RP need to seek specific approval of Committee of Creditors(CoC) as per section 28(h) of IBC,2016 for delegating its authority to any other person, if required. Follow up of sale proceeds"

The Corporate Debtor will be in a position to continue as a going concern only when it is proactive in follow up in sales realization. The RP need to assign this task to various employees in accounts and finance / sales and marketing so that this important task does not remain unattended. Regular meetings need to be conducted with the concerned employees to follow up on these issues. The Resolution Professional is required to have a strict control on cash flows of the Corporate Debtor. He/ She needs to coordinate with various banks where the Corporate Debtor maintains account and extract all relevant information regarding the current position of such accounts. The banks need to be communicated regarding permitting withdrawals from these bank accounts only with approval of RP and include his/her name in the authorised signatory.

Managing Corporate Debtor as a going concern- Interim Finance

Interim Finance It is likely that the Corporate Debtor may be facing liquidity issues due to various reasons including losses and funds blocked in obsolete stock and bad debts. It may not be possible to manage the business operations with the internal cash flows and thus it may require interim finance for funding the business. The RP needs to examine the financial position of the Corporate Debtor including available cash flows and determine minimum working capital fund requirement to arrive at possible options. A cash budget needs to be prepared that will project deficit in the short term range (3-6 months) that need to be funded. The RP will have to first satisfy that the Corporate Debtor can generate orders and execute them at a positive EBITDA level. In case operations likely to result in negative EBITDA, it is reflective of the non-viability and cannot sustain for a long period. Thus RP will have to first satisfy that the going on concern status will be at positive EBITDA level. **These issues needs to be discussed in meeting of CoC and specific approval as required under Section-28 of IBC,2016 needs to be obtained for raising such finance.** The RP may put forth his views/analysis with the CoC regarding need for such Interim financing that could help in maximization of value of Corporate Debtor. Interim financing may come with creation of security interest on assets of Corporate Debtor. The assets of the Corporate Debtor that are already charged in most cases with Financial Creditors (Banks), hence, prior approval of existing lenders are required to be obtained for extending charge on such assets for securing Interim Funding. Generally, the interest rate charged by NBFC and Banks who are active in providing Interim funding for Corporate debtor who are in CIRP is very high. The RP should examine all the pros and cons of raising interim funding.

Dealing with Committee of Creditors (CoC)

Dealing with Committee of Creditors (CoC): The Committee of Creditors (CoC) has a crucial role in approving various actions to be initiated by RP and also in approving Resolution Plan. The aim of the Code is to facilitate resolution of the Corporates that are undergoing insolvency. The efforts in this

direction include continuity of the operations as a going concern. **Section 28 (1) of Code** lays down the actions where approval of CoC is required for further carrying out the process that also include raise any interim finance in excess of the amount as may be decided by the committee of creditors in their meeting; create any security interest over the assets of the corporate debtor; undertake any related party transaction; and delegate its authority to any other person; In furtherance to above, **Regulation 29 of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016** allows resolution professional to sell unencumbered asset(s) of the corporate debtor, other than in the ordinary course of business, if he is of the opinion that such a sale is necessary for a better realisation of value under the facts and circumstances of the case. A sale of assets under this Regulation shall require the approval of CoC. Keeping in view the role of CoC in the resolution process, RP is expected to apprise the CoC about every relevant information/data pertaining to Corporate Debtor enabling the members of CoC to take appropriate action wherever necessary. Also, the RP shall evaluate the assets of the Company and its current status to decide whether there are any assets that can be sold in terms of Regulation 29 and place the matter before CoC. This shall enable the RP to dispose of such assets that can provide funds to improve operations as a Going Concern. The Resolution Professional may also provide facts w.r.t. operations of the Corporate Debtor to CoC, that includes following: All the above information is vital for continuing corporate debtor as a “going concern”. This will help him to get necessary feedback from members of CoC on these issues and to bring transparency in the entire process. • Monthly performance giving details of Sales, EBITDA, PBT & PAT; • Monthly cash flows; • Details of account recoverable; • Details of various litigations; • Pending statutory dues and compliances; • Details of Interim finance approved and availed; and

Conclusion

The continuation of Corporate Debtor as a going concern is dependent on various permutations and combinations and no common approach will suit each case. The specific strategies have to be devised depending on each case. Based on these strategies, RP and his team to negotiate with all the stakeholders to seek their cooperation. The employees/workers are interested to continue the Corporate Debtor as a going concern so that their jobs are not impacted. The RP may demand support/cooperation from workers/employees. The suppliers may be benefitted if Corporate Debtor continues as a going concern and thus seek their support for regular supplies. The expertise RP gains over a period of time goes long in resolving these issues that works well for the Corporate Debtor to continue as a going concern and eventual resolution under CIRP Services.

Responding to SEBI's Ex-Parte Orders in Illiquid Option Cases: Appeal Strategies and Key Consideration



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Over the past few years, SEBI has taken extensive enforcement action against entities involved in reversal trades in the illiquid stock options segment of BSE, particularly during the period from April 2014 to September 2015. These trades, often executed in the same contract, quantity and price between the same parties, were considered non-genuine and manipulative. SEBI issued thousands of Show Cause Notices (SCNs) under the **SEBI (Prohibition of Fraudulent and Unfair Trade Practices) Regulations, 2003 ("PFUTP Regulations")**, and in many cases, passed ex parte adjudication orders imposing monetary penalties.

To ease the regulatory burden and provide closure, SEBI introduced multiple settlement schemes over period of time, allowing noticees to resolve matters without admitting guilt. However, many individuals did not avail themselves of these settlement opportunities. In some cases, individuals were unaware of the proceedings altogether, as neither the SCN nor the adjudication order was received, often due to outdated address records. Others were constrained by professional commitments or misunderstood the implications of the proceedings.

This article offers practical insights as to how one should proceed in similar circumstances.

1. Nature of Alleged Violations

In almost all cases, SEBI alleged that the parties violated:

- Regulation 3(a), (b), (c), (d) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices) Regulations, 2003 i.e. PFUTP Regulations, 2003
- Regulation 4(1) and 4(2)(a) of the PFUTP Regulations, 2003 And imposed penalty under section 15HA of the SEBI Act, 1992 (Penalty for fraudulent and unfair trade practices)

2. Understanding the Alleged Violations:

- Regulation 3 prohibits dealing in securities in a fraudulent manner, including use of manipulative devices, fraudulent schemes, or conduct likely to deceive market participants.
- Regulation 4(1) prohibits all fraudulent and unfair trade practices in securities.
- Regulation 4(2)(a) includes, inter alia, acts that create false or misleading appearance of trading.

Reversal trades - the subject of SEBI's allegations are typically trades in which a party reverses its buy or sell position with the same counterparty in the same contract on the same day, often in identical quantity and price, creating an appearance of volume without market intent.

3. Penalty Framework

Section 15HA of the SEBI Act permits imposition of penalty for engaging in fraudulent or unfair trade practices. The penalty can range from ₹5 lakh to ₹25 crore or three times the profits made, whichever is higher.

However, Section 15J of the SEBI Act requires the Adjudicating Officer (AO) to consider the following factors:

- Disproportionate gain or unfair advantage
- Loss caused to investors
- Repetitive nature of default

In many cases, SEBI orders merely cite Section 15J without showing application of mind to these factors. Orders often admit that no quantifiable gain or loss is established, and the trades were isolated and non-repetitive, yet impose a flat penalty of ₹5,00,000/-.

4. Appeal Timelines and Delay Remedy

Under Section 15T of the SEBI Act, appeals to SAT must be filed within 45 days of receipt of the order. However, SAT may condone delay where sufficient cause is shown.

For instance, in few cases the appellant became aware of the order only upon a debit freeze message from their depository participant or bank. Upon discovery, the order was downloaded from SEBI's website and appeal was promptly initiated. In such cases:

- File a miscellaneous application for condonation of delay
- Support the application with medical records, address change proof, professional commitments

5. Situations Where Delay Was Justified

- **Unserved SCNs or Orders:** Delivered at old address; noticee unaware
- **Medical Conditions:** Appellant bedridden or hospitalized
- **Employment Outside City:** Communications went unattended at home address

6. Points to Urge in Appeal

Appellants may raise the following substantive arguments:

1. **Violation of Natural Justice:** SEBI failed to ensure proper service; no follow-up or use of alternative modes. This contravenes Rule 4 of the (Procedure for holding inquiry and imposing penalties by adjudicating officer) Rules, 1995.
2. **No Market Distortion Proven:** SEBI could not show a link between trades and market manipulation.
3. **Non-Genuineness Assumption is Misplaced:** Illiquid markets naturally involve wide price differences and large trades; this context is often overlooked.
4. **No Findings Under Section 15J:** No gain, no investor loss, and no repetition—thus penalty lacks proportionality.
5. **Lack of Service:** Neither SCN nor order was received; proceedings proceeded ex parte at an outdated address.
6. **Uniform Penalty:** ₹5 lakh imposed on ad hoc basis without individualized justification, despite minimal trading activity.
7. **No Evaluation of Counterparty Role:** Orders often attribute artificial volume solely to the noticee.
8. **Volume Percentage Misused:** Trade constituting a high % of market volume is cited, without assessing actual market impact or loss.

7. Steps to Take If Accounts Are Attached

SEBI may initiate attachment of:

- Bank accounts
- Demat accounts
- Mutual funds
- Immovable Properties

If such steps are taken:

- File for interim relief before SAT
- Seek lifting of attachment pending outcome of the appeal
- Provide evidence that penalty proceedings were ex parte or unfairly concluded

Conclusion

SEBI's crackdown on illiquid stock options has resulted in thousands of ex parte orders. While several affected persons opted for SEBI's settlement schemes, many others did not, due to lack of service of SCN and order, health conditions or miscommunication.

For those who are yet to act, a remedy still exists through a properly documented and legally supported appeal to SAT. The appellate forum has been considerate in granting relief where genuine grounds exist. Dormancy now may foreclose rights later, timely and informed action is key.

Hostile Takeover of NDTV by Adani: **A Strategic Deep Dive into Modern M&A Tactics**



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Understanding Hostile Takeovers

A **hostile takeover** occurs when one company attempts to acquire another without the approval of the target company's board of directors. Instead of going through management, the acquiring company makes a direct offer to shareholders—often at a premium—to gain control. These takeovers are usually motivated by the belief that the target firm is undervalued or holds strategic assets essential for expansion.

Introduction: A Landmark Deal in Indian Media

In 2022, the Adani Group's audacious acquisition of New Delhi Television Limited (NDTV) sent shockwaves through India's corporate and media landscapes. Executed without the consent of NDTV's founders, this hostile takeover is a masterclass in mergers and acquisitions (M&A) strategy, blending financial engineering, regulatory finesse, and corporate maneuvering. This article dissects the takeover's mechanics, its strategic brilliance, and its far-reaching implications for India's M&A ecosystem.

The Backdrop: NDTV and the Adani Ambition

Founded in 1988 by Radhika and Prannoy Roy, NDTV was a beacon of journalistic independence, renowned for its incisive government critiques. By 2022, the Roys, through their holding company RRPR Holdings Pvt. Ltd., controlled a 61% stake in NDTV. Meanwhile, the

Adani Group, led by Gautam Adani, was a conglomerate powerhouse with interests spanning ports, energy, and infrastructure. Its pivot to media, starting with the 2021 acquisition of Quintillion Business Media, signalled a strategic intent to shape narratives and counter criticism.

The takeover of NDTV, culminating in Adani securing a 64.71% stake by December 2022, was a calculated move to dominate India's media sector. Its hostile nature—bypassing NDTV's management—makes it a compelling case study in aggressive M&A tactics.

The Genesis: A Decade-Old Debt Trap

The seeds of the takeover were sown between 2009 and 2010, when RRPR, grappling with financial distress, secured an unsecured, interest-free loan of ₹403.85 crore from Vishvapradhan Commercial Private Limited (VCPL), a low-profile entity. The loan came with a catch: convertible warrants granting VCPL the right to claim a 99.9% stake in RRPR at any time. Since RRPR held 29.18% of NDTV's shares, these warrants were a ticking time bomb.

The loan terms included an 8% annual interest rate, a 10-year maturity, and conversion rights at ₹294 per share. This seemingly benign financial arrangement, dormant for over a decade, became the linchpin of Adani's strategy.

The Takeover: A Three-Act Strategy

Adani's acquisition unfolded in three meticulously planned stages, leveraging financial instruments, regulatory compliance, and post-acquisition diplomacy.

Act 1: Seizing VCPL

In August 2022, Adani's media arm, AMG Media Networks Limited (AMNL), acquired 100% of VCPL for ₹113.74 crore. This gave Adani control over the 2009 loan and its convertible warrants. AMNL swiftly exercised these warrants, converting the unpaid loan into a 99.5% stake in RRPR, thereby indirectly securing 29.18% of NDTV's shares.

This move was a textbook hostile tactic: by acquiring a shell company whose primary asset was the loan agreement, Adani bypassed NDTV's management entirely. The stealth acquisition of

VCPL masked Adani's intentions until the warrants were exercised, leaving NDTV's founders blindsided.

Act 2: The Mandatory Open Offer

Under India's SEBI Substantial Acquisition of Shares and Takeovers (SAST) Regulations, acquiring over 25% of a listed company's voting rights triggers a mandatory open offer for an additional 26%. Adani's 29.18% stake via RRPR necessitated this step.

In August 2022, AMNL announced an open offer for 26% of NDTV's shares at ₹294 per share, totalling ₹493 crore (~\$62 million). The offer price, significantly below the market rate (which surged post-announcement), was a strategic gamble. By November 2022, only 8.27% of shares were tendered, raising Adani's stake to 37.45%.

The below-market pricing minimized costs while fulfilling regulatory obligations. It also signalled Adani's dominance, discouraging rival bids and consolidating control without needing a majority stake.

Act 3: The Roys' Capitulation

Initially, the Roys resisted, citing a 2020 SEBI order barring them from trading NDTV shares until November 2022 due to insider trading allegations. However, by December 2022, they sold 27.26% of their 32.26% stake to AMNL, retaining just 5%. Framed as a "mutual agreement" after discussions with Gautam Adani, the deal incorporated the Roys' suggestions for NDTV's future.

This strategic retreat was driven by the inevitability of Adani's control, mounting legal costs, and the expiration of SEBI restrictions. Adani's diplomatic approach—allowing the Roys a minority stake and input—eased the transition and mitigated reputational fallout. The final stake of 64.71% cemented Adani's dominance.

Strategic Brilliance: Decoding Adani's Playbook

Adani's takeover showcases several M&A strategies:

1. **Weaponizing Financial Instruments:** The convertible warrants, embedded in a 2009 loan, were repurposed as a control mechanism, highlighting how dormant financial clauses can be activated years later to seize power.
2. **Indirect Acquisition:** Acquiring VCPL, a shell entity, allowed Adani to control NDTV's shares without direct purchases, minimizing regulatory scrutiny and market speculation.
3. **Regulatory Mastery:** Adani navigated SEBI's SAST rules with precision, using the open offer to legitimize its stake while strategically pricing it to limit shareholder uptake.
4. **Stealth and Speed:** The rapid acquisition of VCPL and warrant exercise caught NDTV off guard, limiting defensive options.
5. **Post-Acquisition Diplomacy:** Engaging the Roys post-takeover ensured a smoother integration, balancing aggression with cooperation.

NDTV's Defense: A Losing Battle

NDTV's resistance was constrained by the loan agreement and regulatory realities. The Roys leaned on the 2020 SEBI order to delay share transfers, but Adani countered that RRPR, not the Roys, held the shares, rendering the restriction irrelevant. Legal opinions upheld Adani's position, as the warrants allowed conversion without founder consent.

Unlike Western markets, Indian companies rarely use "poison pill" defenses (e.g., share dilution). NDTV's public statements labelling the takeover "unexpected" aimed to rally support, but financial and legal constraints limited their options. The Roys' eventual sale underscored the takeover's inevitability.

Implications for India's M&A Landscape

The Adani-NDTV takeover offers critical lessons:

1. **Media as Power:** Adani's media push, mirroring Mukesh Ambani's Network18 dominance, reflects conglomerates' quest to control narratives, raising concerns about editorial independence. Resignations like Ravish Kumar's fueled fears of a shift toward "Godi media" (pro-government outlets).
2. **Regulatory Vulnerabilities:** The use of convertible warrants exposed gaps in SEBI's SAST Regulations, prompting calls for tighter oversight of such instruments to protect minority shareholders.
3. **Hostile Takeovers' Rise:** While rare in India due to promoter control, this case—alongside precedents like L&T's Mindtree takeover—shows that strategic financial maneuvers can overcome barriers.
4. **Corporate Governance Risks:** The case underscores the dangers of financial agreements that enable backdoor control, urging founders to scrutinize loan terms.

Looking Ahead

The NDTV takeover will shape India's M&A strategies, particularly in regulated sectors like media. It may spur regulatory reforms to address convertible debt instruments and enhance shareholder protections. For corporate leaders, it's a cautionary tale about the long-term risks of financial covenants.

Beyond business, the takeover raises questions about media's role in democracy. As conglomerates tighten their grip on newsrooms, balancing market-driven consolidation with editorial autonomy will be a pressing challenge.

Conclusion

Adani's hostile takeover of NDTV is a landmark in Indian M&A, blending financial ingenuity, regulatory acumen, and strategic patience to reshape media ownership. By exploiting a decade-old loan,

IND AS 116 – An Comprehensive Overview



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Ind AS 116 – Leases: A Comprehensive Overview

Ind AS 116, effective in India from April 1, 2019, significantly altered the accounting treatment for leases, transforming financial reporting practices. Aligning closely with IFRS 16, this standard introduces a unified accounting model primarily impacting lessees, affecting financial statements and key financial metrics.

Key Changes Introduced by Ind AS 116

Ind AS 116 replaces Ind AS 17, shifting from a dual-model to a single-model approach. Under Ind AS 116, lessees must recognize nearly all leases on their balance sheet as a "right-of-use" asset and a corresponding "lease liability." This eliminates the earlier distinction between operating and finance leases for lessees, significantly affecting financial ratios and performance indicators.

Recognition and Measurement

Upon commencement, a lessee recognizes a right-of-use asset at cost, including initial lease liability measurement, pre-commencement lease payments, initial direct costs, and estimated dismantling or restoration costs. The lease liability is measured at the present value of lease payments, discounted at the lease's implicit interest rate or, if unavailable, the lessee's incremental borrowing rate.

Subsequent Measurement and Presentation

The right-of-use asset is typically depreciated on a straight-line basis, and interest expense is recorded on the lease liability. This approach results in front-loaded expense recognition, impacting profitability metrics like EBITDA and net profit in the early lease years.

On the balance sheet, entities present right-of-use assets separately or within property, plant, and equipment distinctly. Lease liabilities must also be presented separately or clearly distinguished within financial liabilities.

Disclosure Requirements

Ind AS 116 significantly expands disclosure requirements, providing detailed insights into leasing arrangements. Entities must disclose lease terms, renewal options, variable payments, discount rates, and significant judgments involved, ensuring transparency and enabling stakeholders to assess the financial impact.

Impact on Financial Metrics

The introduction of Ind AS 116 affects financial statements significantly:

- i) **Balance Sheet:** Increase in assets and liabilities.
- ii) **Income Statement:** EBITDA typically increases due to replacing operating lease expenses with depreciation and interest.
- iii) **Cash Flow Statement:** Operating cash flows increase, with lease payments divided into financing cash outflows (principal repayments) and operating/financing (interest payments).

Practical Example

Suppose Company XYZ leases office space for five years with annual lease payments of ₹1,00,000, payable at year-end. The implicit interest rate is unknown, so the company uses its incremental borrowing rate of 5%.

- **Lease Liability Calculation:**

- Year 1: $₹1,00,000 / (1+0.05)^1 = ₹95,238$
- Year 2: $₹1,00,000 / (1+0.05)^2 = ₹90,702$
- Year 3: $₹1,00,000 / (1+0.05)^3 = ₹86,383$
- Year 4: $₹1,00,000 / (1+0.05)^4 = ₹82,270$
- Year 5: $₹1,00,000 / (1+0.05)^5 = ₹78,352$

- Total Lease Liability = ₹432,945

At lease commencement, XYZ recognizes:

- **Right-of-use Asset:** ₹432,945
- **Lease Liability:** ₹432,945

Each year, the asset is depreciated, and the liability is reduced by annual lease payments, with interest expense recorded.

Real-Life Example: Indigo Airlines

Indigo Airlines adopted Ind AS 116 from April 1, 2019. Previously, aircraft leases were accounted as operating leases, off-balance-sheet. Post-adoption, Indigo recognized significant lease liabilities and right-of-use assets for aircraft leases.

This resulted in increased assets and liabilities on Indigo's balance sheet, significantly impacting its financial ratios such as debt-equity ratio and EBITDA.

Practical Challenges and Transition

Implementing Ind AS 116 poses challenges, including identifying leases, determining lease terms, and selecting discount rates. Entities had the option to apply full retrospective or modified retrospective approaches, affecting comparative information.

Conclusion

Ind AS 116 enhances financial transparency but demands rigorous lease contract management and judgment. Its adoption marks a significant shift, highlighting the importance of accurate lease data management and strategic stakeholder communication.

When to Start Booking profit in Stocks: The Hidden Signal of Falling Prices and Rising Shareholders



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Introduction: Decoding the art of profit booking

For retail investors, one of the most challenging decisions in the stock market is to know when to sell or book partial profits. While buying a stock often comes with careful analysis and optimism, selling—whether to book profits or cut losses—can be clouded by emotion and uncertainty. However, there are actionable indicators that can guide investors in making informed decisions. One such powerful metric, often overlooked, is the **relationship between a stock's price action and its shareholder count**. When a stock's price falls while the number of shareholders rises, it can signal potential trouble ahead—a pattern that may indicate a "smart money" exit and a retail investor trap. In this article, we explore this phenomenon, supported by real-world examples, to help investors identify when to be alert or book profits.

The Indicator: Falling Prices, Rising Shareholders

The concept is straightforward yet profound: a stock experiencing a declining price while simultaneously seeing a surge in its shareholder base may be a red flag. This pattern often suggests that institutional or "smart money" investors may be exiting their positions, while retail investors, drawn by the lower price, are entering the market. This dynamic can create a trap for retail investors, who may be buying into a stock on the verge of further decline. When shareholder numbers rise as prices fall, it may indicate that retail investors are chasing a falling stock, unaware of the broader distribution happening behind the scenes.

To illustrate this, let's examine seven real-world examples of stocks that exhibited this pattern between 2024 and 2025, highlighting the potential risks and opportunities for investors.

Case Studies: Learning from Real Examples

- **Gensol Engineering Ltd**

- Price Movement: From a high of 1,280 in February 2024 to a low of 68 in May 2025—a staggering 94.7% decline.
- Shareholder Change: The number of shareholders grew from 20,000 to 107,000, a fivefold increase.
- Insight: This dramatic crash, paired with a massive influx of retail investors, suggests a classic case of smart money exiting while retail investors entered at lower price levels, likely hoping for a rebound that never came.

- **Lancer Containers Lines Ltd**

- Price Movement: Dropped from 105 in February 2024 to 14.77 in May 2025, an 86% fall.
- Shareholder Change: Shareholders increased from 45,000 to 119,000.
- Insight: The sharp rise in shareholders during the price decline indicates a clear distribution phase, where retail investors bought into a falling stock, possibly lured by the lower price, while institutional players might be exited.

- **Waaree Renewables Tech Ltd**

- Price Movement: Fell from 2,748 in April 2024 to 1,011.6 in May 2025, a 63% decline.
- Shareholder Change: Shareholders surged from 28,900 to 322,000— an 11-fold increase.
- Insight: The euphoric rise in retail participation during the price drop signals a potential exit by smart money, leaving retail investors holding a depreciating asset.

- **Moschip Technologies Ltd**

- Price Movement: Declined from 302.40 in July 2024 to 180.25 in May 2025, a 40.4% drop.
- Shareholder Change: Shareholders rose from 85,000 to 250,000.
- Insight: Even a moderate correction like this, paired with a significant increase in retail investors, can hint at institutional exits during the downtrend.

- **Vertoz Ltd**

- Price Movement: Plummeted from 43.99 in March 2024 to 8.75 in May 2025, an 80.1% fall.
- Shareholder Change: Shareholders grew from 10,500 to 89,500.
- Insight: Retail investors entered late in the downtrend, a common trap that often leads to significant losses as the stock continues to decline.

- **Network 18 Media & Investments Ltd**

- Price Movement: Dropped from 127.65 in January 2024 to 48.73 in May 2025, a 61.8% decline.
- Shareholder Change: Shareholders increased from 135,000 to 574,000.
- Insight: The massive retail influx during the price fall is a strong signal of a potential smart money exit, indicating a risky position for new investors.

- **Vintage Coffee & Beverages Ltd**

- Price Movement: Declined from 140.3 in October 2024 to 99.71 in May 2025, a 28.9% drop.
- Shareholder Change: Shareholders rose from 7,900 to 20,200.
- Insight: While the price dip was milder, the strong retail build-up during this period warrants caution, as it may still indicate early signs of distribution.

Practical Takeaways for Investors

So, what should investors do when they encounter this pattern? Here are actionable steps to consider:

- **Monitor Shareholder Trends:** Regularly track changes in a stock's shareholder base alongside its price action. A rising shareholder count during a price decline should raise a red flag.
- **Set Profit Targets:** To avoid emotional decision-making, establish clear profit targets before entering a trade. If a stock reaches your target but shows signs of this pattern, consider booking partial profits to lock in gains.
- **Stay Disciplined:** Avoid emotional attachment to a stock. If the data suggests a potential trap, be prepared to exit, even if it means forgoing further unrealized gains.

Conclusion: Staying Ahead of the Curve

The stock market is a complex interplay of forces, where understanding the behavior of institutional investors can provide a significant edge for retail traders. The pattern of falling prices paired with a

rising shareholder count is a powerful indicator that can help investors avoid potential traps and make informed decisions about when to book profits or exit a position. While no metric can predict market movements with certainty, adding this indicator to your checklist can enhance your ability to navigate the market with confidence. As the examples of Gensol Engineering, Waaree Renewables, and others demonstrate, staying alert to these signals can mean the difference between securing gains and falling into a retail investor trap.

Disclaimer: The insights and examples in this article are for educational purposes only and should not be construed as buy or sell recommendations nor are we endorsing or disparaging any particular stock. We're simply presenting one metric to help you stay alert when you encounter this pattern in your own holdings. Investors are advised to conduct their own research or consult a financial advisor before making investment decisions.

- **Investment in securities market is subject to market risks. Read all the related documents carefully before investing.**
- **Registration granted by SEBI and certification from NISM is no way guarantee performance of the intermediary or provide any assurance of returns to investors.**

The Great Cooperative Bank Fiasco



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On February 14, 2025, while the world celebrated love and overpriced chocolates, the Reserve Bank of India (RBI) decided to play cupid with financial discipline and shot an arrow straight through the heart of New India Co-operative Bank. The regulator superseded the bank's board, citing "fund misappropriation" and concerns over the safety of depositor funds. Predictably, panic ensued. Depositors found themselves locked out of their own money, the bank was barred from issuing fresh loans, and a new administrator was appointed to untangle the mess.

If this sounds familiar, that's because it is. Co-operative banks in India have an uncanny ability to self-destruct with remarkable efficiency. The demise of New India Co-operative Bank follows the well-trodden path of other cooperative banking failures, proving yet again that these institutions function as personal ATMs for their managers—until the RBI shows up, that is.

A Brief History of How We Got Here

New India Co-operative Bank was never meant to collapse in a heap of regulatory violations and depositor angst. Once upon a time, it was a promising co-operative bank, positioning itself as a savior of the common depositor while attempting to navigate the complexities of modern banking. But like most cooperative banks, its biggest strength—being run by members for members—also became its Achilles' heel.

Regulatory oversight in the cooperative banking sector has always been lax. Unlike commercial banks, which answer directly to the RBI and follow stringent financial norms, co-operative banks operate in a strange limbo between RBI regulations and state government supervision. This dual control is a recipe for disaster, as it allows mismanagement to thrive under political patronage and weakens accountability.

New India Co-operative Bank's shareholders had even approved a resolution in early 2020 to convert into a Small Finance Bank (SFB), hoping to bring themselves under tighter RBI scrutiny and improve operational efficiency. Clearly, that never materialized.

The Usual Suspects: Fund Misuse, Regulatory Violations, and Unrealistic Lending Practices

RBI's crackdown came after mounting concerns over fund misappropriation and financial instability. As of March 31, 2024, the bank held deposits worth Rs. 24.36 billion and advances of Rs. 11.75 billion. But somewhere along the way, a significant chunk of these funds stopped being about banking and became about bankrolling bad loans, political connections, and possibly the good life for those at the helm.

If past cooperative bank failures are anything to go by, the modus operandi isn't difficult to guess:

- Loans disbursed to dubious entities, often with little to no collateral.
- Political interference leading to reckless lending.
- Financial irregularities, creative accounting, and a general disregard for regulatory norms.
- Donations and expenditures far exceeding permissible limits—so much so that the RBI had already fined the bank Rs. 1.5 million in January 2024 for breaching donation ceilings.

By the time the RBI decided to act, the situation had spiraled beyond repair. A former Chief General Manager of the State Bank of India has now been appointed as the administrator, with a Committee of Advisors in place to bring some semblance of order to the chaos.

The Forgotten Depositor: The Biggest Victim in This Mess

If there's one thing RBI actions don't immediately solve, it's the fate of depositors. The first thing that happens when a bank is put under restrictions is that withdrawals get frozen or severely restricted. That means lakhs of people—many of them middle-class savers—suddenly find themselves cut off from their own money.

Fortunately, deposits up to Rs. 5 lakh are insured under the Deposit Insurance and Credit Guarantee Corporation (DICGC). This covers a majority of the bank's depositors, but for those with larger savings, it's a waiting game. They will have to hope for a resolution that doesn't take years—though history suggests otherwise. PMC Bank depositors waited for nearly five years before the bank was merged with Unity Small Finance Bank in 2022, and even then, not everyone got their money back.

The Larger Cooperative Bank Problem

New India Co-operative Bank's downfall is not an isolated case but a symptom of a much larger malaise in the cooperative banking system. The sector has seen a steady stream of failures, and each time, the script is eerily similar:

- **Over-leveraging:** Lending far beyond means, often without sound risk assessment.
- **Political meddling:** Cooperative banks are often used as cash cows for politicians and their cronies.

- **Lack of professionalism:** Banking is a specialized business, yet cooperative banks are often run by individuals with more political acumen than financial expertise.
- **Regulatory gaps:** RBI oversight is limited, and state governments—who also have a say in how these banks function—are often slow to act.

Despite repeated warnings, reforms in the sector have been sluggish at best. In 2020, the Banking Regulation (Amendment) Act brought cooperative banks under greater RBI control, but implementation has been inconsistent. Political pressure and resistance from vested interests have ensured that cooperative banks remain a risky proposition.

What Happens Next?

For New India Co-operative Bank, the options are limited. The RBI can:

1. **Find a buyer:** A stronger bank may acquire New India Co-operative Bank, much like how Punjab & Maharashtra Co-operative Bank was merged with Unity Small Finance Bank.
2. **Liquidate the bank:** If no suitable buyer is found, the bank could be wound up, with depositors receiving their insured amounts and the remaining assets being liquidated over time.
3. **Rehabilitate the bank:** If the administrator and advisors manage to clean up operations, the bank may survive in a much-restricted form.

Given past trends, an outright revival is unlikely. Mergers and liquidation remain the most probable outcomes.

Lessons for Depositors

The collapse of New India Co-operative Bank serves as yet another reminder of why banking with co-operative banks is a high-risk endeavor. If you must bank with them, keep these principles in mind:

- Never keep more than Rs. 5 lakh in any one cooperative bank (since that's the insured limit).
- Watch for warning signs—frequent leadership changes, sudden regulatory penalties, or delayed withdrawals.
- Diversify your banking portfolio across stronger, well-regulated banks.

Final Thoughts

The co-operative banking sector in India continues to be a financial Wild West, with occasional interventions from the RBI serving as law enforcement. The collapse of New India Co-operative Bank will, like previous failures, dominate headlines for a while before fading into the background—until the next cooperative bank implodes. Meanwhile, depositors, as always, will be left wondering why their hard-earned money keeps getting caught in these messes.

The RBI's action is necessary but not sufficient. Until systemic reforms eliminate political interference and enhance accountability in cooperative banking, we're doomed to see this story play out again and again.

After all, in India, financial history doesn't just repeat itself—it rhymes, with a cruel sense of irony.

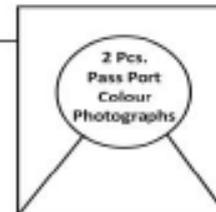
Direct Taxes Professionals' Association

(Registered under Societies Registration Act, 1961. Registration No. 5/60583 of 1988-89)

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APPLICATION FOR MEMBERSHIP



To
The Hony' Secretary,
DIRECT TAXES PROFESSIONALS' ASSOCIATION
3, Govt. Place, Income Tax Building, Kolkata-700001

Dear Sir,

I hereby apply for **LIFE / GENERAL MEMBER** of the Association.

I agree to abide by the Memorandum and Rules & Regulations of the Association as may be in force from time to time.

1. Name in Full (Mr. / Mrs. / Miss) : _____
(BLOCK LETTERS)
2. Father's Name : _____
3. Date of Birth : _____
4. Academic and/or Professional Qualifications : _____
5. Professional Status (Pls. specify) : In Practice In Service In Business Others
6. Organisation : _____
8. Mem. No. of CA/CS/ICWAI/Bar Council : _____
9. Blood Group : _____ (Self) _____ (Spouse)
10. Name of Spouse : _____
11. Office Address : _____

12. Residence Address : _____

13. Telephone (Nos.) : (Off.) : _____ (Resi.) : _____ Fax : _____
Mobile : _____ E-mail : _____
14. Address where Circular etc. should be sent : Office Residence
Enclosed herewith Rs. _____ (Rupees _____)
by Cash/Cheque No. _____ Dated _____ Drawn on _____
towards Life Membership General Membership.

Place : _____

Date : _____

Signature of the Applicant

Would you like to contribute to the following activities of DTPA ? (Pls. specify)

- Contributing articles for Journal Being part of the Core group which runs the functioning of DTPA
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Area of Professional Interest (Pls. specify) : Indian Income Tax International Tax

- FEMA Company Law Auditing Corporate Finance Indirect Tax General Management
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Signature : _____

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Signature : _____

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President

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NOTES : 1. Fee for Life Membership (a) Individual Rs. 7,500/- (G.S.T. Extra @ 18%), (b) If application is made within a period of 5 years of attaining first professional qualification Rs. 5,000/- (G.S.T. Extra @ 18%), (c) Corporate Bodies Rs. 50,000/- (G.S.T. Extra @ 18%).

2. Cheques should be drawn in favour of "Direct Taxes Professionals' Association".

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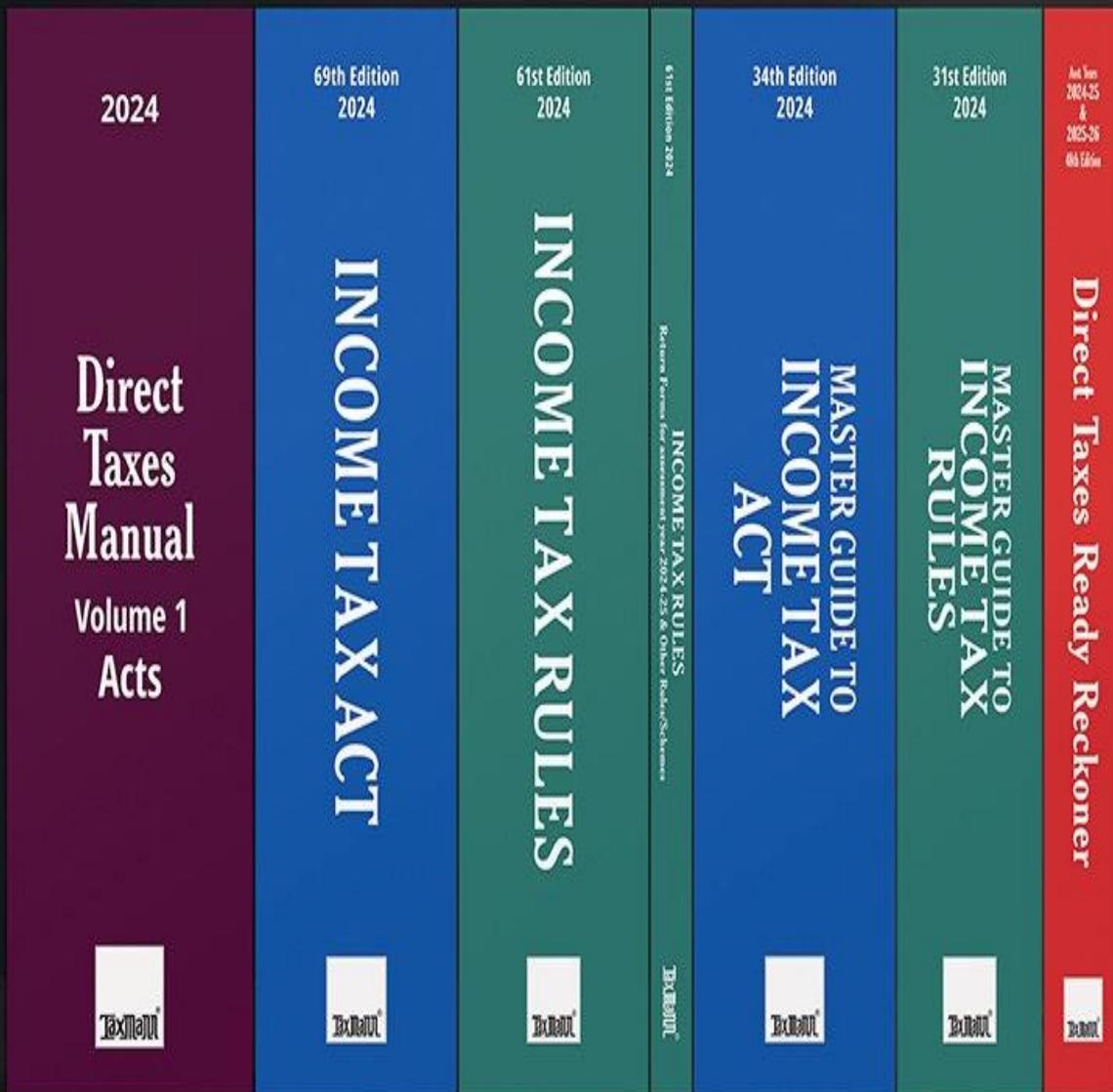
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