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Total no. of page: 84

***....From the Desk of Editors***

Respected Seniors and My Dear Friends,

As we step into the month of March, we find ourselves at the threshold of the financial year's closure—a crucial period for tax professionals, businesses, and individuals alike. This is the time when meticulous compliance, strategic tax planning, and regulatory adherence take centre stage. The role of professionals like us becomes even more pivotal in ensuring a smooth transition into the new fiscal year.

The past months have witnessed significant developments in the realm of direct taxation, with evolving jurisprudence, policy amendments, and administrative measures shaping our professional landscape. The Union Budget 2025 has introduced several proposals that require careful examination followed by placement of New Income Tax Bill 2025 before the Parliament and our association remains committed to analyzing their impact and guiding our members through these changes.

At DTPA, we continue to uphold our mission of fostering knowledge-sharing and professional excellence. This month's Journal contains diversified area of updates on various statutes which we are sure that the readers of our Monthly Journal will find useful. Our endeavor is to equip you with relevant and practical knowledge to navigate the complexities of taxation with confidence.

Apart from professional engagements, March also serves as a reminder of our collective responsibility towards ethical tax practices and the broader economic well-being of the nation. In an era where technology-driven tax administration is gaining prominence, our adaptability and commitment to continuous learning will define our success as professionals.

On 1st March 2025, our Association organised a full day Conference on Information Technology, namely ACCOUNTTECH 4.0 at Park Hotel, Kolkata wherein our Association had invited speakers from all over India and the same was attended by more than 200 delegates and the entire event was covered by Media which was live on Social Media throughout the day. To sum-up, it was a grand success.

Our Association organised a 3 days Workshop on New Income Tax Bill 2025 at our DTPA Conference Hall on hybrid mode and the same was attended by almost 60 delegates. The deliberations were made by Top 10 Income Tax Experts of our own Association and each and every aspect were discussed threadbare. A Book on New Income Tax Bill 2025 was distributed amongst the delegates who attended physically followed by dispatch of the same who attended online. We feel very happy to mention that many delegates who attended online hailed from out of the State of West Bengal.

I extend my sincere gratitude to our editorial team and contributors for their dedication in curating this edition. The DTPA Journal Committee warmly invites accomplished fellow professionals to embrace opportunity to devote their valuable time to craft enlightening articles, enrich the discourse within our esteemed profession and pen down wonderful articles in their areas of expertise as also provide an opportunity to speak on the DTPA Platform.

To quote "Kautilya (Chanakya), an ancient economist and author of Arthashastra"- "The state should ensure that taxation does not become an instrument of oppression."

As we prepare to bid farewell to FY 2024-25, let us reaffirm our commitment to excellence, integrity, and service. Wishing you all a productive month and a new financial year 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 of DTPA,**

As February comes to a close, I'm happy to look back on a month full of learning, growth, and important achievements for DTPA. We had a productive month, with sessions that helped us all learn more, and we successfully completed two major events that truly reflect the core values of DTPA.

February commenced with our live coverage of the Budget 2025, where we featured real-time analysis and reviews from our esteemed members and guests. The event was attended by a diverse group of members and delegates, setting the tone for an engaging month ahead.

Additionally, we had the honor of releasing our publication on the Union Budget 2025, which included a thorough analysis and commentary from our expert on various provisions of the Finance Bill 2025. This was presented during the Seminar on the Union Budget, organized by the Institute of Chartered Accountants of India, EIRC, in collaboration with all CPE Study Circles of the EIRC of ICAI, at the Kala Mandir. The event attracted a large and engaged audience, further reinforcing the importance of our shared knowledge.

One of the month's highlights was the highly interactive session on "Writ Petitions in Income Tax Proceedings" presented by Adv. R.R. Modi from the High Court, alongside a thought-provoking discussion on "Recording and Retraction of Statements and Cross-Examination of Witnesses" by our Past President, Dr. Adv. Paras Kochar. This session proved to be immensely enriching, offering timely insights into the relevance of these topics in today's legal and tax landscape.

Another standout event was **Accounttech 4.0**, which saw the participation of over 150 delegates. This event featured distinguished speakers who shared invaluable perspectives on how professionals can leverage AI and technology to streamline their practices, boosting efficiency and effectiveness. The feedback we received was overwhelmingly positive, and we are confident that this event has empowered our members with the tools and insights to elevate their professional practices.

As we near the close of the financial year, most of us are extremely busy, engaged in assisting clients with year-end reconciliations and reviews. With non-compliance carrying substantial consequences, let us continue to emphasize the importance of robust compliance as a driver of stronger brand reputations and greater profitability for businesses. I encourage our young professionals to remain active and reach out with any questions or doubts they may have, whether via our WhatsApp groups or by contacting us at [dtpakolkata@gmail.com](mailto:dtpakolkata@gmail.com). We are here to offer quick and insightful guidance.

With the Statutory Bank Audit season approaching, we are organizing a Seminar on Bank Audit to offer valuable insights. We are also carefully planning future sessions to benefit both professionals in practice and those in the industry. I invite you to collaborate with us in shaping these initiatives by suggesting important topics that can add value and help our community grow. If you have any ideas or suggestions, please don't hesitate to reach out to me directly.

As DTPA continues to expand its reach, I encourage all members to actively share the organization's activities with friends and colleagues who could benefit from our enriching sessions. This will help us broaden our community and extend the value of DTPA to an even wider professional audience.

Thank you for your unwavering support, engagement, and commitment to excellence. Let us collectively ensure that March is a month of continued growth, learning, and significant contributions to the future of our profession.

Warm regards,

**CA Barkha Agrawal**

President

20<sup>th</sup> March, 2025



## Glimpses of Live Budget on 01.02.2025 at DTPA Conference Hall









## Glimpses of Union Budget Seminar at Kalamandir on 04.02.2025









## Glimpses of Study Circle Meeting at DTPA Conference Hall held on 26.02.2025





**Forthcoming Programs of CA CPE STUDY CIRCLE**

DTPA CA CPE Study Circle of EIRC of ICAI

Ph No :- 033 2242-0638/4003-5451

Email :- dtpacasc@gmail.com

**STUDY CIRCLE MEETING ON  
BANK AUDIT****CA Dipankar Chatterjee**

Speaker

**TOPIC:**

Mental Preparation for  
Bank Audit, IRAC Norms  
& LFAR Insights

**CA Suman Chaudhury**

Speaker

**TOPIC:**

Tech Tools for Efficient  
Bank Audit

**Saturday**

29th Mar, 2025

**Time**

3 PM - 6 PM



DTPA Conference Hall

**PARTICIPATION CHARGES:****RS. 200/-**

**CA Rajesh Kr Agrawal**  
Convenor

**CA Shyam Agarwal**  
Deputy Convenor



## Compliance Calendar for March, 2025

Statute	Due dates	Compliance Period	Details	
<b>Income Tax Act, 1961</b>	02nd March 2025	Feb-25	Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA, 194IB, 194S & 194M in the month of January, 2025	
	07th March 2025	Feb-25	Securities Transaction Tax - Due date for deposit of tax collected for the month of February, 2025	
	07th March 2025	Feb-25	Commodities Transaction Tax - Due date for deposit of tax collected for the month of February, 2025	
	07th March 2025	Feb-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 February, 2025	
	07th March 2025	Feb-25	Collection and recovery of equalisation levy on specified services in the month of February, 2025	
	07th March 2025	Feb-25	Due date for deposit of Tax deducted/collected for the month of February 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	
	15th March 2025	Jan 24 – March 25	Fourth instalment of advance tax for the assessment year 2025-26, Due date for payment of whole amount of advance tax in respect of assessment year 2025-26 for assessee covered under presumptive scheme of section 44AD / 44ADA.	
	15th March 2025	Feb-25	Due date for furnishing Form 24G by an office of the Government where TDS/TCS for the month of February, 2025	
	15th March 2025	Feb-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 February, 2025	
	15th March 2025	Feb-25	Due date for furnishing statement in Form No. 3BC by a recognized association in respect of transactions in which client codes have been modified after registering in the system for the month of February, 2025	
	17th March 2025	Feb-25	Due date for issue of TDS Certificate for tax deducted under section 194-IA, 194-IB and 194-S in the month of January 2025 in Form 16B, 16C and 16E respectively.	
	30th March 2025	Feb-25	Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA, 194-IB, 194M and 194S in the month of February, 2025	
	31st March 2025	Feb-25	Country-By-Country Report in Form No. 3CEAD for the previous year 2023-24 by a parent entity or the alternate reporting entity, resident in India, in respect of the international group of which it is a constituent of such group.	
	31st March 2025	Feb-25	Country-By-Country Report in Form No. 3CEAD for a reporting accounting year (assuming reporting accounting year is April 1, 2023 to March 31, 2024) by a constituent entity, resident in India, in respect of the international group of which it is a constituent if the parent entity is not obliged to file report under section 286(2) or the parent entity is resident of a country with which India does not have an agreement for exchange of the report etc.	
	31st March 2025	Feb-25	Uploading of statement [Form 67], of foreign income offered to tax and tax deducted or paid on such income in previous year 2022-23, to claim foreign tax credit [if return of income has been furnished within the time specified under section 139(1) or section 139(4).	
	31st March 2025	FY 21-22	Furnishing of an updated return u/s 139(8A) of Income Tax Act, 1961 for the Assessment Year 2022-23.	
Statute	Due dates	Compliance Period	Return	Turnover/Complying Taxpayer
<b>GST</b>	10th March 2025	Feb-25	GSTR-7	Monthly Return by Tax Deductor for February 2025
	10th March 2025	Feb-25	GSTR-8	Monthly Return by E-Commerce Operators for February 2025
	10th March 2025	Feb-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 March 2025	Feb-25	GSTR-5	Summary of Outward taxable supplies and tax payable by a non-resident taxable person



	13th March 2025	Feb-25	GSTR-6	Details of ITC received and distributed by an ISD
	20th March 2025	Feb-25	GSTR-5A	Summary of outward taxable Supplies and tax payable by a Person supplying OIDAR services
	20th March 2025	Feb-25	GSTR-3B	Due Date for filling GSTR – 3B return for the month of February 2025 for the taxpayer with Aggregate turnover exceeding INR 5 crores during previous year
	20th March 2025	Feb-25	GSTR-3B	Due Date for filling GSTR – 3B return for the month of February 2025 for the taxpayer with Aggregate turnover less than INR 5 crores during previous year and not opted for QRMP Scheme.
<b>Statute</b>	<b>Due dates</b>	<b>Compliance Period</b>	<b>Details</b>	
<b>Prof. Tax on Salaries</b>	10th March 2025	Feb-25	Professional Tax (PT) on Salaries for February 2025	
<b>ESI &amp; PF</b>	15th March 2025	Feb-25	Provident Fund (PF) & ESI Returns and Payment for February 2025	



## Compliance Calendar for April, 2025

Statute	Due dates	Compliance Period	Details	
Income Tax Act, 1961	07th April 2025	Mar-25	Securities Transaction Tax - Due date for deposit of tax collected for the month of March, 2025	
	07th April 2025	Mar-25	Commodities Transaction Tax - Due date for deposit of tax collected for the month of March, 2025	
	07th April 2025	Mar-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 March, 2025	
	07th April 2025	Mar-25	Collection and recovery of equalisation levy on specified services in the month of March, 2025	
	07th April 2025	Mar-25	Due date for deposit of Tax deducted/collected for the month of March 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 April 2025	Mar-25	Due date for issue of TDS Certificate for tax deducted under section 194-IA, 194-IB, 194M and 194S in the month of February, 2025.	
	15th April 2025	Mar-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 March, 2025	
	15th April 2025	Mar-25	Quarterly statement in respect of foreign remittances (to be furnished by authorized dealers) in Form No. 15CC for the quarter ending March 2025.	
	30th April 2025	Mar-25	Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA, 194-IB, 194M and 194S in the month of March 2025.	
	30th April 2025	Mar-25	Due date for furnishing of Form 24G by an office of the Government where TDS/TCS for the month of March 2025 has been paid without the production of a challan.	
	30th April 2025	Mar-25	Due date for uploading declarations received from recipients in Form. 15G/15H during the quarter ending March 2025.	
	30th April 2025	Mar-25	Due date for deposit of TDS for the period January 2025 to March 2025 when Assessing Officer has permitted quarterly deposit of TDS under section 192, 194A, 194D or 194H	
	30th April 2025	Mar-25	Due date for deposit of Tax deducted by an assessee other than an office of the Government for the month of March 2025.	
	30th April 2025	Mar-25	Due date for e-filing of a declaration in Form No. 61 containing particulars of Form No. 60 received during the period October 1, 2024, to March 31, 2025.	
Statute	Due dates	Compliance Period	Return	Turnover/Complying Taxpayer
GST	10th April 2025	Mar-25	GSTR-7	Monthly Return by Tax Deductor for March 2025
	10th April 2025	Mar-25	GSTR-8	Monthly Return by E-Commerce Operators for March 2025
	11th April 2025	Mar-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 April 2025	Mar-25	GSTR-5	Summary of Outward taxable supplies and tax payable by a non-resident taxable person
	13th April 2025	Mar-25	GSTR-6	Details of ITC received and distributed by an ISD
	20th April 2025	Mar-25	GSTR-5A	Summary of outward taxable Supplies and tax payable by a Person supplying OIDAR services
	20th April 2025	Mar-25	GSTR-3B	Due Date for filling GSTR – 3B return for the month of March 2025 for the taxpayer with Aggregate turnover exceeding INR 5 crores during previous year
	20th April 2025	Mar-25	GSTR-3B	Due Date for filling GSTR – 3B return for the month of March 2025 for the taxpayer with Aggregate turnover less than INR 5 crores during previous year and not opted for QRMP Scheme.
	18 <sup>th</sup> April 2025	Jan'25 to Mar'25	CMP-08	Details or Summary of Self-assessed tax which is payable for a given quarter by taxpayers who are registered as Composition Taxable Person or taxpayer who have opted for composition levy.

Statute	Due dates	Compliance Period	Details
Prof. Tax on Salaries	30th April 2025	Mar-25	Payment of Professional Tax (PT) on Salaries for March 2025
	30th April 2025	FY 24-25	Filing of Return of Professional Tax (PT) on Salaries for FY 24-25
ESI & PF	15th April 2025	Mar-25	Provident Fund (PF) & ESI Returns and Payment for March 2025

**Feedback and suggestions are Invited:**

*We are hopeful that you will like the approach and appreciate the efforts of the DTPA Journal Committee. A one liner feedback at [dtpejournal@gmail.com](mailto:dtpejournal@gmail.com) from you will guide us to move further and motivate in touching new heights in professional excellence.*



## 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

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## 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](mailto: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](mailto:dtpejournal@gmail.com) and at Mob: 9830255500 / 9831016678

Thanks and Regards,

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## DIRECT TAXES

### 1. STATUTORY UPDATES

- 1.1 CBDT outlines procedures for information sharing with the Department of Food & Public Distribution - **ORDER F. NO. 225/235/2024/ITA-II, DATED 31-01-2025**

**Editorial Note:** CBDT vide Notification No. 12/2025, dated 30.01.2025, had notified DGIT (Systems) as specified authority for sharing info with the Dept. of Food & Public Distribution. Now, the board has specified the mechanism for sharing such information.

- 1.2 CBDT notifies amendment in Rule 2F for setting up of Infrastructure Debt Fund as NBFC - **NOTIFICATION NO. G.S.R. 121(E) [NO. 13/2025/F.NO. 370142/9/2024-TPL], DATED 07-02-2025**

**Editorial Note :** The Central Board of Direct Taxes (CBDT) has amended Rule 2F that provide that an Infrastructure Debt Fund (IDF) shall be set up as a Non-Banking Financial Company (NBFC). The IDF shall conform to and satisfy the conditions laid down in the regulatory framework provided by the Reserve Bank of India (RBI).

- 1.3 CBDT amends Rule 114DA; prescribe due date for furnishing of statement by NR having Liaison Office in India - **NOTIFICATION NO. G.S.R. 125(E) [NO. 14/2025/F.NO. 370142/2/2025-TPL], DATED 07-02-2025**

**Editorial Note :** The Central Board of Direct Taxes (CBDT) has amended Rule 114DA to specify the due date for filing Form 49C. The Finance (No. 2) Act, 2024, amended Section 285 by removing the 60-day submission deadline for non-residents with liaison offices and replacing it with a period to be prescribed by the Board. CBDT has set this period as 8 months from the end of the financial year through an amendment to Rule 114DA.

- 1.4 CBDT notifies 'Bhaikaka University' Anand, Gujarat as 'University, college or other institution' for Sec. 35 Relief - **NOTIFICATION S.O. 673(E) [NO.15/2025/F.NO. 203/27/2024/ITA-II], DATED 10-02-2025**

**Editorial Note :** The Central Government has approved 'Bhaikaka University' Anand, Gujarat for 'Scientific Research' under the category of 'University, college or other institution' for the purposes of section 35(1)(ii) of the Income-tax Act, 1961 read with rules 5C and 5E of the Income-tax Rules, 1962.

- 1.5 CBDT extends the due date of filing of Form 56F for AY 2024-25 to March 31, 2025 - **CIRCULAR NO. 2/2025 [F.NO. 300173/11/2025-ITA-I], DATED 18-02-2025**

**Editorial Note :** The Central Board of Direct Taxes (CBDT) has extended the due date for filing of Form No. 56F for the Assessment Year 2024-25. This form is required to be filed by the assessee to claim exemption under section 10A/10AA. The extended due date is 31-03-2025.

- 1.6 CBDT notifies circular on TDS for salaries; Circular 24/2022 remains applicable for FY 2024-25 - **CIRCULAR NO. 3/2025 [F. NO. 275/107/2024-IT(B)], DATED 20-02-2025**

**Editorial Note :** The CBDT has issued a new circular incorporating amendments from the Finance (No.2) Act 2024, Finance (No.1) Act 2024, and Finance Act 2023 in respect to the deduction of TDS on salaries. The board also clarified that Circular No. 24/2022 remains applicable for FY 2024-25, where no changes were made regarding other salaries-related provisions.

- 1.7 CBDT amends due dates for furnishing of statements in Form 64A and 64E by business trust & securitisation trust - **NOTIFICATION G.S.R. 145(E) [NO. 17/2025/F. NO. 370142/28/2024-TPL], DATED 24-02-2025**

**Editorial Note :** The Central Board of Direct Taxes (CBDT) has revised Rule 12CA and Rule 12CC, altering the due date for submitting Form 64A and Form 64E by business trusts and securitisation trusts. The deadline has been changed from November 30 of the financial year following the previous year in which the income was distributed to June 15 of the financial year following the previous year in which the income was distributed

- 1.8 Budget 2025: No income-tax on income up to Rs. 12 lakh

**Editorial Note :** The Finance Minister, Smt. Nirmala Sitharaman, has presented the Union Budget 2025 in the Parliament. This marks the first full budget of the Modi Government in its third term, following the Lok Sabha elections in 2024.

- 1.9 Govt. releases FAQs on changes proposed in the Finance Bill 2025

**Editorial Note :** The Central Board of Direct Taxes (CBDT) has released FAQs on the changes proposed by the Finance Minister Nirmala Sitharaman in the Finance Bill 2025

- 1.10 Government releases section-wise comparison table and FAQs on the Income-tax Bill 2025

**Editorial Note :** The government has released a detailed section-wise comparison table on the Income-tax Act, 1961, and the proposed Income-tax Bill, 2025. A comprehensive set of Frequently Asked Questions (FAQs) has also been released to clarify the changes introduced in the new Bill.



## 1.11 Top 50 changes in the Income-tax Bill 2025 v. Income-tax Act 1961

**Editorial Note:** The Finance Minister, Smt. Nirmala Sitharaman tabled the Income-tax Bill in the parliament on 13th February 2025. The top 50 changes proposed in the Income-tax Bill 2025 ('ITB') in comparison to the Income-tax Act, 2025 ('ITA') are given below.

## 2. SUPREME COURT

### SECTION 2(47) OF THE INCOME-TAX ACT, 1961 - CAPITAL GAINS - TRANSFER

- 2.1 Where original owner executed General Power of Attorney (POA) and agreement to sell in favour of holder, however, POA and agreement to sell were not registered, even though POA and agreement to sell were contemporaneous documents executed by original owner in favour of same beneficiary, in absence of registration under section 17(1)(b) of Registration Act, it would not be open for holder of POA to contend that she had a valid right, title and interest in immovable property to execute registered sale deed in favour of appellant, hence, sale deed executed by General POA holder after death of original owner was invalid - **M. S. Ananthamurthy v. J. Manjula** - [2025] 172 taxmann.com 7 (SC)

### SECTION 73 OF THE INCOME-TAX ACT, 1961 - LOSSES - IN SPECULATION BUSINESS

- 2.2 SLP dismissed against impugned order of High Court that where Assessing Officer issued reopening notice under section 148 for reasons that as per Explanation to section 73 loss arrived on account of purchase and sale of shares would have been considered as speculation loss instead of business loss, since applicability of section 73 was a subject of consideration during original assessment proceedings, notice issued under section 148 deserved to be set aside - **Assistant Commissioner of Income-tax v. BSIFS P. Ltd.** - [2025] 171 taxmann.com 416 (SC)

### SECTION 90 OF THE INCOME-TAX ACT, 1961 - DOUBLE TAXATION RELIEF - WHERE AGREEMENT EXISTS

- 2.3 SLP dismissed against order of High Court that where a notification under section 90(1) would be a mandatory condition to give effect to a DTAA, or any protocol changing its terms or conditions, which would have effect of altering existing provisions of law; for a party to claim benefit of a 'same treatment' clause, based on entry of DTAA between India and another state which is member of OECD, relevant date would be entering into treaty with India and not a later date, when, after entering into DTAA with India, such country becomes an OECD member, in terms of India's practice - **Societe de Participations Financiers v. Assistant Commissioner of Income-tax** - [2025] 171 taxmann.com 393 (SC)

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

- 2.4 SLP dismissed against order of High Court that date of filing of original return under section 139(1) has to be considered for purpose of computing period of limitation under sub-section (2) of section 143 and not date on which defects actually came to be removed under section 139(9) - **Deputy Commissioner of Income-tax v. Travel Designer India (P.) Ltd.** - [2025] 171 taxmann.com 734 (SC)

### SECTION 148 OF THE INCOME-TAX ACT, 1961 - INCOME ESCAPING ASSESSMENT - ISSUE OF NOTICE FOR

- 2.5 SLP dismissed against impugned order of High Court that where notice under section 148, assessment order as also penalty notice and demand notice had been issued in name of a non-existing entity despite having been informed to Assessing Officer about factum of amalgamation of said entity with assessee-company, assessment order and notices impugned were untenable in law - **Deputy Commissioner of Income-tax v. Sterlite Technologies Ltd** - [2025] 171 taxmann.com 427 (SC)

### SECTION 271AAA OF THE INCOME-TAX ACT, 1961 - PENALTY - WHERE SEARCH HAS BEEN INITIATED

- 2.6 Where assessee admitted certain amount as undisclosed income during search and substantiated manner in which said undisclosed income was derived and paid tax together with interest thereon, albeit belatedly, all conditions precedent mentioned in section 271AAA(2) stood satisfied and, therefore, penalty under section 271AAA(1) was not attracted on said amount - **K. Krishnamurthy v. Deputy Commissioner of Income-tax** - [2025] 171 taxmann.com 413 (SC)

### SECTION 276C OF THE INCOME-TAX ACT, 1961 - OFFENCE AND PROSECUTION - WILLFUL ATTEMPT TO EVADE TAX, ETC.

- 2.7 SLP dismissed against order of High Court that where assessee filed revised return waiving off claims of deduction of long-term capital gain/short-term capital loss after search was conducted upon him, it was a case of delayed payment of tax, therefore, proceedings pending against assessee for offence punishable under section 276C(1) were to be quashed - **Income-tax Department v. Bioworth India (P.) Ltd.** - [2025] 171 taxmann.com 338 (SC)

### SECTION 276CC OF THE INCOME-TAX ACT, 1961 - OFFENCE AND PROSECUTION - FAILURE TO FURNISH RETURN OF INCOME

- 2.8 Point in time when offence under section 276CC could be said to be committed is day immediately following due date prescribed for filing of return under section 139(1), and actual date of filing of return at belated stage would not affect in any manner determination of date on which offence under section 276CC was committed - **Vinubhai Mohanlal Dobaria v. Chief Commissioner of Income-tax** - [2025] 171 taxmann.com 268 (SC)

**2.9** Where assessee filed return for relevant year belatedly after show cause notice was already issued for prosecution for earlier assessment year, since offence under section 276CC could be said to have been committed on date immediately following due date for furnishing return under section 139(1) and accordingly, offences under section 276CC with respect to both assessment years were committed prior to date of issue of any show cause notice for prosecution, offence committed for relevant assessment year would be covered by expression 'first offence' as defined under 2014 guidelines and compounding application preferred by assessee could not be rejected - **Vinubhai Mohanlal Dobaria v. Chief Commissioner of Income-tax - [2025] 171 taxmann.com 268 (SC)**

### 3. HIGH COURT

#### SECTION 2(14) OF THE INCOME-TAX ACT, 1961 - CAPITAL GAINS - CAPITAL ASSET

**3.1** Where assessee sold a plot of land and claimed that it was an agricultural land and, thus, not a capital asset, since land in question was not used for any agricultural purpose and was embedded with commercial opportunity and viability for commercial exploitation, income derived from sale of such land was chargeable to tax - **Prashant Jaipal Reddy v. Income-tax Officer Ward-9(1)(3) - [2025] 171 taxmann.com 844 (Bombay)**

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

**3.2** Where Assessing Officer had concluded that transaction of purchase and sale of shares was a sham transaction, disallowing short-term capital loss claimed by assessee, did not raise any substantial question of law - **Trends Pharma v. Income-tax Officer-24(3)(4)C-11 - [2025] 171 taxmann.com 848 (Bombay)**

#### SECTION 6 OF THE INCOME-TAX ACT, 1961 - RESIDENTIAL STATUS

**3.3** Where Assessing Officer sought to reopen assessment on ground that assessee should have been taxed at rate applicable to foreign company for assessment year 2014-15 based on tax residency certificate submitted during scrutiny proceedings for assessment year 2016-17, where assessee was assessed as non-resident and income was taxed at foreign company rate, however, there was no allegation regarding any failure on assessee's part to fully and truly disclose any material facts necessary for assessment, impugned reopening notice was to be set aside - **Oxford University Press v. Deputy Commissioner of Income-tax, (IT) - [2025] 171 taxmann.com 655 (Bombay)**

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

**3.4** Interest/premium paid on capital borrowed outside India would fall within ambit of exception carved under section 9(1)(v)(b) and, thus, was not taxable in India under section 195 - **Sun Pharmaceutical Industries Ltd. v. Income-tax Officer - [2025] 171 taxmann.com 469 (Delhi)**

**3.5** Where Principal Commissioner had failed to either advert to or examine aspect on anvil of DTAA and stand of assessee that 'make available' condition was not satisfied and expenditure was thus not liable to be viewed as royalty on which tax could have been validly imposed, impugned order of Principal Commissioner dismissing assessee's application on ground that assessee had not deducted tax at source while making payment was to be quashed - **SMEC India (P.) Ltd. v. Principal Commissioner of Income-tax - [2025] 171 taxmann.com 502 (Delhi)**

**3.6** Where reopening notice was issued to assessee, a non-resident company, on ground that it had not filed any return of income but claimed exemption from payment of tax on capital gains under section 46A as per India-Singapore DTAA, since assessee had subsequently filed its return of income manually, it could be given a reasonable opportunity to explain its case afresh in the light of CBDT Circular No. 3/2016 dated 26-2-2016 - **Verizon Services Singapore Pte. Ltd. v. Assistant Commissioner of Income-tax, International Taxation - [2025] 171 taxmann.com 507 (Madras)**

**3.7** Where assessee, US company, provided freight logistic support services to its Indian subsidiary by helping customers clear shipments through customs by apprising persons of various rules and regulations, since rules and regulations pertaining to clearance of customs frontiers was clearly not specialized skill or knowledge acquired or possessed by assessee, services rendered by assessee did not qualify as FTS - **Commissioner of Income-tax. (IT) v. Expeditors International of Washington Inc - [2025] 171 taxmann.com 576 (Delhi)**

**3.8** Where assessee, a tax resident of Ireland, entered into a reseller agreement with an Indian company, SFDC India and appointed SFDC India as a non-exclusive reseller of its products, since there was little indication at least at this stage, that amounts paid by SFDC India to assessee as consideration for sale of products would be chargeable to tax in India, assessee's application under section 197 for nil withholding tax was to be allowed - **SFDC Ireland Ltd. v. Commissioner of Income-tax - [2025] 171 taxmann.com 731 (Delhi)**

**3.9** Amount paid by assessee-company for purchase of software, cloud computing, cloud space hiring involving transfer of right to use software was not royalty, thus, there was no requirement to deduct tax at source from those payments under section 195 - **Commissioner of Income-tax, International Taxation v. Urban Ladder Home Decor Solutions (P.) Ltd. - [2025] 171 taxmann.com 549 (Karnataka)**



- 3.10** Where assessee-company made payments to non-resident companies towards advertisement charges, since facilities provided by non-resident companies were only enabling facilities which helped assessee to place its advertisement contents on their platform, said payments made by assessee to non-resident companies could not be considered as 'royalty payments' and there was no requirement to deduct tax at source from those payments under section 195 - **Commissioner of Income-tax, International Taxation v. Urban Ladder Home Decor Solutions (P.) Ltd. - [2025] 171 taxmann.com 549 (Karnataka)**

#### SECTION 10 OF THE BLACK MONEY (UNDISCLOSED FOREIGN INCOME AND ASSETS) AND IMPOSITION OF TAX ACT, 2015 - ASSESSMENT

- 3.11** Proceedings under Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 could not continue when return had been filed by assessee prior to implementation of Black Money Act and dispute had been settled under Chapter XIX-A of Income-tax Act, 1961 - **Arun Mammen v. Deputy Director of Income-tax (Investigation) - [2025] 171 taxmann.com 570 (Madras)**

#### SECTION 12AA OF THE INCOME-TAX ACT, 1961 - CHARITABLE OR RELIGIOUS TRUST - REGISTRATION PROCEDURE

- 3.12** Where Tribunal, after having held that communication/order of Director (Exemptions) to BCCI did not amount to either cancellation or withdrawal of registration under section 12A, exceeded its jurisdiction in examining communication/order on its merits, such observations and findings were without jurisdiction - **Board of Control for Cricket in India v. Assistant Commissioner of Income-tax - [2025] 171 taxmann.com 537 (Bombay)**

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

- 3.13** Where assessee-firm entered into transactions in Futures & Options (F&O) trading which resulted into loss and such loss was duly reflected in profit and loss account, Assessing Officer was not justified in issuing reopening notice against assessee after period of 4 years based on information received from insight portal without any independent verification - **Ashvin Dye-Chem Industries v. Income-tax Officer - [2025] 171 taxmann.com 687 (Gujarat)**

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

- 3.14** Where Assessing Officer issued reopening notice against assessee on ground that depreciation on goodwill was not allowable in view of sixth proviso to section 32(1) and section 43(6)(c), provision of section 43(6)(c) was not amended at relevant point of time for assessment year 2017-18, therefore, amended

provision denying depreciation on goodwill which came into effect from 1-4-2021 could not have formed basis for reopening to come to conclusion that there was escapement of income by claiming of depreciation on goodwill - **GTPL Hathway Ltd. v. Deputy Commissioner of Income-tax Circle 2(1)(1) - [2025] 171 taxmann.com 616 (Gujarat)**

- 3.15** Where Assessing Officer reopened assessment for relevant assessment year on basis of DRP's order in assessment year 2014-15 disallowing depreciation claimed on goodwill on ground that recording of goodwill was in contradiction with amount which was recorded in books of acquired company before acquisition, since addition made on account of DRP's recommendation was deleted by Tribunal on applicability of section 92BA, only because Tribunal had not dealt with merits of matter, same could not be considered as an information, so as to assume jurisdiction to issue reopening notice - **Ammann India (P.) Ltd. v. Assistant Commissioner of Income-tax - [2025] 171 taxmann.com 838 (Gujarat)**

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

- 3.16** Where Assessing Officer issued reopening notice on ground that interest claim of assessee-company should be proportionately disallowed under section 36(1)(iii) read with section 37(1) since assessee had made adequate declarations not only in returns filed by assessee but also in balance sheet, profit and loss account and there was true and full disclosure of all intimation by assessee along with return, impugned reopening notice was to be quashed - **Prabhu Spinning Mills (P.) Ltd. v. Joint Commissioner of Income-tax - [2025] 171 taxmann.com 805 (Madras)**

#### SECTION 36(1)(vii) OF THE INCOME-TAX ACT, 1961 - BAD DEBTS

- 3.17** Where assessment was sought to be reopened in case of assessee after expiry of four years from end of relevant assessment year on ground that assessee had misrepresented deductions claimed under section 36(1)(vii)/section 36(1)(viii), however, issue relating to section 36(1)(vii) had already been discussed in assessment order, thus, there being no failure to fully and truly disclose all material facts necessary in assessment, impugned reassessment proceedings were to be quashed and set aside - **ICICI Bank Ltd. v. Deputy Commissioner of Income-tax-2(3)(1) - [2025] 171 taxmann.com 617 (Bombay)**

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

- 3.18** Licence fee paid by assessee, a law firm, to RSCPL, a partnership firm which was owner of goodwill, for use of goodwill in law firm was wholly and exclusively for business of assessee and thus allowable as deduction under section 37(1) - **Pr. Commissioner of Income-tax -21 v. Remfry & Sagar - [2025] 171 taxmann.com 391 (Delhi)**
- 3.19** Where assessee had unrealized loss on account of foreign currency transaction which was added as income and it had deducted unrealized gain and also claimed net expenses in profit and loss for computation of book profit and Assessing

Officer reopened assessment on ground that there was likelihood of any gain on account of revenue expenses incurred by assessee, since fact remained that assessee had unrealized gain and unrealized loss which was not claimed and duly reflected in computation of income as assessee had claimed only bank charges expenditure for hedging of foreign currency, impugned reopening of assessment was without any basis - **GTPL Hathway Ltd. v. Deputy Commissioner of Income-tax Circle 2(1)(1)** - [2025] 171 taxmann.com 616 (Gujarat)

- 3.20 Where Assessing Officer issued reopening notice against assessee on ground that rent paid by assessee on equipment taken on lease included principal plus interest which was not allowable under any provisions of Act, since Assessing Officer had not taken into consideration nature of repetitive nature of transactions in form of lease rent which was claimed by assessee from year to year from 2012-13 onwards and no addition was made since then, Assessing Officer could not have assumed jurisdiction to re-open assessment - **GTPL Hathway Ltd. v. Deputy Commissioner of Income-tax Circle 2(1)(1)** - [2025] 171 taxmann.com 616 (Gujarat)

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

- 3.21 Where assessee filed writ challenging reopening notice which was issued on ground that deduction under section 54F was to be restricted to cost of acquisition of assessee's share in property, since there was an alternate and efficacious remedy available by way of appeal under Act, High Court should not exercise its extraordinary jurisdiction under article 226 - **Vijay Vasant Kulkarni v. Assistant Commissioner of Income-tax** - [2025] 171 taxmann.com 473 (Bombay)

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

- 3.22 Where assessee company had issued shares to a person in lieu of goodwill and without any monetary consideration, since transaction did not represent an actual receipt of any cash in hands of assessee company, provisions of section 68 were not attracted - **Principal Commissioner of Income-tax v. Zexus Air Services (P.) Ltd.** - [2025] 171 taxmann.com 211 (Delhi)
- 3.23 Assessing Officer can assess income chargeable to tax which has escaped assessment and which has not specifically been pointed out in reopening order and comes to his notice subsequently in course of proceedings under Section 147 - **Deputy Commissioner of Income-tax v. Toor Finance Company Ltd.** - [2025] 171 taxmann.com 505 (Gauhati)

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

- 3.24 Where Assessing Officer issued a reopening notice on assumption that assessee had sold shares at price below its correct value, however, same issue was subject matter of examination in earlier round of reassessment under section 147 wherein Assessing Officer had accepted assessee's explanation, impugned notice was to be set aside - **Sarika Kansal v. Assistant Commissioner of Income-tax** - [2025] 171 taxmann.com 545 (Delhi)

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

- 3.25 Where assessee filed a writ application challenging an assessment order passed by NFAC making addition under section 69A on account of cash deposits made by assessee which remained unexplained, since notices under section 148 and 142(1) were duly served on registered e-mail of assessee but assessee did not submit any response and in course of faceless assessment at every stage approval from competent authorities were obtained, it was not a case of jurisdictional error for invoking an extraordinary writ jurisdiction - **Awadh Kishor Singh v. National Faceless Assessment Centre** - [2025] 171 taxmann.com 722 (Patna)

- 3.26 Where assessee filed a writ petition seeking investigation into alleged illegal cash transactions and financial misconduct by certain individuals, since petition was predicated upon a matrimonial feud and involved highly complex and disputed questions of facts which were beyond Income Tax department's purview to adjudicate and fact that assessee was seeking a roving and fishing inquiry through court process, instant petition was to be dismissed - **Ateesh Agarwal v. Union of India** - [2025] 172 taxmann.com 1 (Delhi)

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

- 3.27 Where Assessing Officer framed reassessment order and made additions with respect to bogus purchase bills, since said order was passed without disposing off objection raised by assessee against reason recorded for reopening, impugned order was to be set aside - **Principal Commissioner of Income-tax 13 Kolkata v. Champalal Omprakash** - [2025] 171 taxmann.com 796 (Calcutta)

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

- 3.28 Where objections of assessee against reopening of assessment were never disposed of and a combined order disposing of objections and making assessment was made u/s. 80-IA, since assessee's objections were not disposed of by a separate order nor assessee was granted any reasonable opportunity of questioning order disposing of objections, such a procedure involved breaching principles of natural justice and fair play and, thus, same was to be quashed - **Kesar Terminals & Infrastructure Ltd. v. DCIT** - [2025] 171 taxmann.com 800 (Bombay)



- 3.29** Where assessee, a cargo terminal operator, entered into an agreement with Delhi International Airport Limited (DIAL) for upgradation and maintenance of cargo terminal, since DIAL did not fall within ambit of principal qualifying provision as same was not a statutory body, concession which DIAL granted to assessee would also not qualify for deduction under section 80-IA - **Principal Commissioner of Income-tax v. Celebi Delhi Cargo Management India (P.) Ltd. - [2025] 172 taxmann.com 3 (Delhi)**

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

- 3.30** Where Assessing Officer made addition on account of alleged guarantee fee connected with issuance of bonds by subsidiary in hands of assessee by holding it to be an international transaction as defined under section 92B, since it was only TPO which could have undertaken that exercise, matter should be remanded to Assessing Officer to first examine whether undertaking of obligation in question amounts to an international transaction and only once it comes to a conclusion that obligation amounts to an international transaction, consider transmitting matter to TPO - **New Delhi Television Ltd. v. Assistant Commissioner of Income-tax - [2025] 171 taxmann.com 425 (Delhi)**
- 3.31** Where assessee was undisputedly a debt free company and it was not case of TPO that borrowed funds had been appropriated enabling AE to make delayed payment on receivables, outstanding receivables was not a separate international transaction and delay in realization of sale proceeds was incidental to transaction of sale and, thus, no notional interest could be levied by treating same as unsecured loan - **PR. Commissioner of Income-tax - 1 v. AT&T Communication Services India (P.) Ltd. - [2025] 171 taxmann.com 688 (Delhi)**

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

- 3.32** An agreement arrived at by competent authorities of two contracting states under MAP cannot substitute determination of ALP under Act and Rules in cases which are not covered under MAP - **Aon Consulting (P.) Ltd. v. Principal Commissioner of Income-tax 1 - [2025] 171 taxmann.com 336 (Delhi)**
- 3.33** Where assessee filed an application under MAP with competent authority of US under article 27 of India US-DTAA and settlement had been arrived at between competent authority of India with respect to adjustment on account of transfer pricing issues related to US transaction, Tribunal was not justified in directing TPO to adopt same approach for non-US transactions as adopted in MAP for US transactions - **Aon Consulting (P.) Ltd. v. Principal Commissioner of Income-tax 1 - [2025] 171 taxmann.com 336 (Delhi)**

- 3.34** ALP in respect of royalty paid for acquiring technical know how from assessee cannot be determined as Nil on ground that assessee had incurred losses - **Commissioner of Income-tax v. Benetton India (P.) Ltd. - [2025] 171 taxmann.com 536 (Delhi)**

- 3.35** Where certain employees of foreign AEs were seconded to assessee and salaries and perquisite costs of such employees were reimbursed at costs by assessee to its AE and functions performed by said employees were directly for benefit of assessee, TPO was not justified in determining ALP for transaction relating to reimbursement of expatriate costs at Nil on ground that assessee had not derived any benefit from expatriate employees - **Commissioner of Income-tax v. Benetton India (P.) Ltd. - [2025] 171 taxmann.com 536 (Delhi)**

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

- 3.36** Where Assessing Officer accepted assessee's computation of book profits under section 115J without examining issue of decapitalization of interest, order passed by Tribunal affirming revision order of Commissioner invoking revision under section 263 was justified - **KEC International Ltd. v. Deputy Commissioner of Income-tax - [2025] 171 taxmann.com 541 (Bombay)**

#### SECTION 115JB OF THE INCOME-TAX ACT, 1961 - MINIMUM ALTERNATE TAX - PAYMENT OF

- 3.37** Where Assessing Officer added certain amount to book profits under section 115JB on ground that same was capital expenditure debited to profit and loss account, accordingly tax demand was raised, since Tribunal held that Assessing Officer had jurisdiction to disturb profit and loss account and assessee himself admitted that expenditure was capital in nature, no case was made out for an unconditional stay and interim relief was to be granted subject to assessee depositing with revenue an amount of Rs. 60 crores - **Malco Energy Ltd. v. Assistant Commissioner of Income-tax Circle 2(1) (1) - [2025] 171 taxmann.com 843 (Bombay)**

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

- 3.38** Where CBI and Serious Fraud Investigation Office (SFIO) had concluded that claim of income generated in relevant years was false stating that assessee-company had suffered a loss of Rs. 126 crores as income-tax on fictitious amounts, CBDT was directed to re-quantify/re-compute income of assessee-company by conducting fresh and proper assessment upon revised excluding fictitious sales and fictitious interest income reflected in books of accounts - **Satyam Computer Services Ltd. v. Central Board of Direct Taxes - [2025] 171 taxmann.com 656 (TELANGANA)**

- 3.39** Where assessee filed revised return for assessment year 2008-09 on 25.7.2016 claiming refund of excess tax paid by it, since time period of limitation of six years from relevant year for filing application for refund as prescribed by Instruction No. 13/2006 had already expired on 31.03.2015,

impugned application was to be rejected and assessee could not be given benefit of his own wrong though claim for refund was genuine and bonafide - **PCIT v. Subash Menon** - [2025] 171 taxmann.com 504 (Karnataka)

- 3.40 Where assessee-trust was late by 1 hour, 19 minutes and 16 seconds in uploading audit report, since time overrun was a little more than an hour on report uploaded in wee hours of next day, delay would not have hampered work of revenue in dealing with report, hence, impugned order rejecting application for condonation of delay was perverse and report filed in Form 10B was to be considered as compliance by assessee - **Silicon Institute of Technology, BBSR v. CIT** - [2025] 171 taxmann.com 695 (Orissa)

#### SECTION 127 OF THE INCOME-TAX ACT, 1961 - INCOME-TAX AUTHORITIES - POWER TO TRANSFER CASES

- 3.41 Where transfer of jurisdiction over assessee was proposed on ground that incriminating materials were found during search conducted in case of other entities and allegations that assessee had made unaccounted cash payments for purchase of plot, since revenue failed to disclose any incriminating material or evidence justifying allegations and further, assessee was not provided with reasonable opportunity to respond to allegations due to inadequate notice for hearing, impugned transfer order was to be set aside - **Kvell Properties (P.) Ltd. v. PCIT** - [2025] 171 taxmann.com 651 (Calcutta)

#### SECTION 132B OF THE INCOME-TAX ACT, 1961 - SEARCH AND SEIZURE - RETAINED ASSETS, APPLICATION OF

- 3.42 Where pursuant to search certain jewellery of assessee was seized and after death of assessee, legal heir called upon department to release seized jewellery, however, tax department and bank were blaming each other for loss of jewellery, matter was to be investigated by CBDT or Chairperson and MD of nationalised bank and they would be directed to take some immediate action from their end to immediately secure jewellery to legal heir of assessee - **Hiralal H Malu v. Deputy Director of Income-tax (Investigation)** - [2025] 171 taxmann.com 260 (Bombay)

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

- 3.43 Where assessee challenged assessment order on ground that after issuance of notice under section 143(2) there could not have been issued notice under section 142(1), however, it was noted that sequence of notices was irrelevant, as both sections served purpose of making a valid assessment and since assessee had complied with both notices, allegation of not having had full opportunity was without basis - **Hexa Steel and Power (P.) Ltd. v. National Faceless Assessment Centre** - [2025] 171 taxmann.com 539 (Orissa)

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

- 3.44 Where Assessing Officer completed faceless assessment making addition on account of capital gains on sale of land without issuing a prior show cause notice as well as draft assessment order before passing impugned assessment order, there was blatant violation of mandatory procedure under Faceless Assessment Scheme as stipulated in section 144B and, thus, impugned assessment order was to be set aside - **Saurabh Rohitbhai Modi HUF v. ADDL/JOINT/DY./ACIT/ITO National Faceless Assessment Centre or His Successor** - [2025] 171 taxmann.com 806 (Gujarat)

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

- 3.45 Time limit provided under section 144C(13) is mandatory and, therefore, an assessment order made after expiry of time limit provided under section 144C(13) has to be held as invalid - **Principal Commissioner of Income Tax-13 v. Sterling Oil Resources Ltd.** - [2025] 171 taxmann.com 581 (Bombay)

#### SECTION 148 OF THE INCOME-TAX ACT, 1961 - INCOME ESCAPING ASSESSMENT - ISSUE OF NOTICE FOR

- 3.46 Distribution of functions between jurisdictional Assessing Officer (JAO) and National Faceless Assessment Centre (NFAC) is complimentary and concurrent as contemplated under various schemes and statutory provisions, thus JAO cannot be completely deprived of power to assess or reassess merely because section 144B and Faceless Reassessment Scheme 2022 have been introduced - **Kanwaljeet Kaur v. Assistant Commissioner of Income-tax** - [2025] 171 taxmann.com 174 (Delhi)
- 3.47 Where assessee's father died and assessee had informed department regarding death of his father during assessment proceedings in compliance of notice under section 142(1) and in spite of aforesaid, no action was taken to implead assessee as legal representative, as envisaged under section 159(2)(a), issuance of notice under section 148 in name of deceased could not be sustained - **Rohit Baveja v. Principal Commissioner of Income-tax** - [2025] 171 taxmann.com 501 (Madhya Pradesh)
- 3.48 Assessing Officer could not have assumed the jurisdiction to reopen assessment merely and solely relying upon the information made available on the insight portal without forming any independent opinion on the basis of the material on record - **Ashvin Dye-Chem Industries v. Income-tax Officer** - [2025] 171 taxmann.com 687 (Gujarat)
- 3.49 Where while issuing notice u/s. 148, respondents by pure inadvertence had annexed/attached information pertaining to some other individual/assessee and not assessee, such aspect appeared to be an error or mistake and neither deliberate nor wilful, hence, no fatality could be said to attach to issuance of impugned notice under section 148 - **Monish Gajapati Raju Pusapati v. Assessment Unit Income-tax Department** - [2025] 171 taxmann.com 874 (Delhi)



**SECTION 148A OF THE INCOME-TAX ACT, 1961 - INCOME ESCAPING ASSESSMENT - CONDUCTING INQUIRY, PROVIDING OPPORTUNITY BEFORE ISSUE OF NOTICE UNDER SECTION 148**

- 3.50** Judgment of Supreme Court in Union of India v. Ashish Agarwal [2022] 444 ITR 1 (SC) / [2022] 138 taxmann.com 64 (SC) on 4-5-2022) had not given any direction to Assessing Officer to reopen assessment even when reassessment had already been completed earlier by treating notice issued under section 148 as notice issued under section 148A(b) as amended with effect from 1-4-2021 - **Merton v. Deputy Commissioner of Income-tax** - [2025] 171 taxmann.com 544 (Madras)
- 3.51** Where assessee challenged validity of reopening notice on ground that same was not served upon her, since assessee had changed her address but same was not informed to revenue, no fault could be attributed to revenue on account of non-service of notice, however in view of fact that assessee being an individual lady, and her husband being on transferable job, impugned notice was to be quashed - **Srimani Basu v. Income-tax Officer** - [2025] 171 taxmann.com 548 (Bombay)
- 3.52** Assessing Officer is required to grant time to assessee to file reply of notice issued under section 148A(b) if assessee prays for adjournment - **Pratul Krishnakant Shroff v. Deputy Commissioner of Income-tax** - [2025] 171 taxmann.com 758 (Gujarat)
- 3.53** Where Assessing Officer issued show cause notice under section 148A(b) on ground that assessee had made bogus purchases from fictitious entity, ZMEPL and on receipt of clarification from assessee that transactions were undertaken with entity named ZIEPL not ZMEPL, physical verification at address of ZIEPL was conducted by Assessing Officer thereafter, reopening notice was issued on reaching conclusion that said entity was non-existent bogus entity, since said conclusion was never put to assessee in show cause notice, impugned reopening notice was to be set aside - **Vivo Mobile India (P.) Ltd. v. Assistant Commissioner of Income tax** - [2025] 171 taxmann.com 657 (Delhi)
- 3.54** Where Assessing Officer issued reopening notice against assessee-trust on ground that assessee had deposited certain amount in its bank account, however, it was clear from reasons recorded in notices issued under section 148A(a) and section 148A(b) that there was no cash deposit made by assessee in any of bank accounts and there was no information of any escaped income with Assessing Officer so as to initiate reopening proceedings, Assessing Officer could not have assumed jurisdiction to reopen assessment - **Mahatma Gobarji Seva Sansthan ILOL v. Income-tax Officer Ward - 1** - [2025] 172 taxmann.com 89 (Gujarat)

**SECTION 149 OF THE INCOME-TAX ACT, 1961 - INCOME ESCAPING ASSESSMENT - TIME LIMIT FOR ISSUANCE OF NOTICE**

- 3.55** Where assessee challenged reassessment action commenced in violation of time frames which stood enumerated in section 149 prior to amendments introduced by Finance Act, 2021, Assessing Officers were to be directed to evaluate individual show cause notices issued under section 148 bearing in mind prior High Court and Supreme Court decisions which had conclusively settled issues - **Kanwaljeet Kaur v. Assistant Commissioner of Income-tax** - [2025] 171 taxmann.com 174 (Delhi)

**SECTION 151 OF THE INCOME-TAX ACT, 1961 - INCOME ESCAPING ASSESSMENT - SANCTION FOR ISSUE OF NOTICE**

- 3.56** Where reassessment was proposed to be initiated before expiry of four years from end of relevant assessment year, approval could have been accorded by Joint Commissioner, however, approvals if granted by a Joint Commissioner post 1-4-2021 would not sustain - **Kanwaljeet Kaur v. Assistant Commissioner of Income-tax** - [2025] 171 taxmann.com 174 (Delhi)

**SECTION 153C OF THE INCOME-TAX ACT, 1961 - SEARCH AND SEIZURE - ASSESSMENT OF ANY OTHER PERSON**

- 3.57** Where conditions for exercise of jurisdiction under section 153C are satisfied and Assessing Officer issues a notice as required under section 153C, any reassessment under section 147 would obviously, be impermissible - **Kanwaljeet Kaur v. Assistant Commissioner of Income-tax** - [2025] 171 taxmann.com 174 (Delhi)
- 3.58** Where proceedings under section 153C were initiated against assessee company on basis of search conducted at premises of its chairman, since no separate satisfaction was recorded by Assessing Authority as if documents seized from searched person belonged to assessee i.e. other person, entire proceedings initiated under section 153C was void ab initio - **Commissioner of Income-tax Central-I v. SRM Systems and Software (P.), Ltd.** - [2025] 171 taxmann.com 764 (Madras)

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

- 3.59** Where assessment in case of assessee was reopened under section 148 and an assessment order was passed under section 147 read with section 144B and subsequently, a rectification order was passed under section 154 read with section 143(3) correcting earlier order under section 147, assessee should be given liberty to challenge rectification order and impugned assessment order before Commissioner (Appeals) within period of 30 days - **Vadodara Bharuch Tollway Ltd. v. Income-tax Officer** - [2025] 171 taxmann.com 849 (Madras)

**SECTION 170 OF THE INCOME-TAX ACT, 1961 -  
SUCCESSION TO BUSINESS OTHER THAN ON  
DEATH**

- 3.60** Where assessee-company was merged with another company and factum of merger was specifically brought to attention of revenue, impugned notice for reassessment issued in name of pre-merger assessee could not be sustained - *Moonlight Equity (P.) Ltd. v. Union of India* - [2025] 171 taxmann.com 580 (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 pursuant to an assessment order passed in relation to certain transactions, assessee filed an appeal which remained pending, and thereafter, assessee claimed assessment was based on incomplete information, while department cited non-cooperation, since assessee later submitted bank statements and secured limited stay under section 220(6), no interference was warranted with impugned assessment order - *Sree Balaji Developers v. Additional/Joint/Deputy/Assistant Commissioner of Income-tax, National Faceless Less Assessment Centre, Delhi* - [2025] 171 taxmann.com 503 (Madras)
- 3.62** Where Assessing Officer directed assessee to pay at least 20 per cent of demand raised against it and assessee insisted on an unconditional stay on ground of financial hardships, since more than adequate opportunity was granted to assessee to submit genuine proof of financial hardships but no such evidence was adduced by assessee, no case was made out for grant of unconditional stay - *Nisarg Developers v. Assistant Commissioner of Income-tax* - [2025] 171 taxmann.com 804 (Bombay)

**SECTION 234A OF THE INCOME-TAX ACT, 1961 -  
INTEREST, CHARGEABLE AS**

- 3.63** Where assessee deposited advance tax in assessment year 2014-15 on estimated capital gains arising out of sale of shares, however, since transfer of shares actually got materialized only in assessment year 2015-16, capital gains on such transfer became liable to tax only in assessment year 2015-16 and, assessee was subjected to interest under sections 234A, 234B and 234C for assessment year 2015-16, Commissioner was to be directed to re-examine/reassess declaration filed by assessee under Vivad Se Vishwas Scheme and decide on its merits - *Seema Tripathi v. Principal Commissioner of Income-tax* - [2025] 171 taxmann.com 761 (Delhi)

**SECTION 238 OF THE INSOLVENCY AND  
BANKRUPTCY CODE, 2016 - OVERRIDING EFFECT  
OF CODE**

- 3.64** Where resolution plan approved by NCLT had overriding effect, as per section 238 of IBC and expressly precludes reassessment or revision proceedings for period prior to effective date stipulated in plan, reassessment proceedings initiated against corporate debtor after initiation of CIRP were to be quashed - *Mcnelly Bharat Engineering Co. Ltd. v. Union of India* - [2025] 171 taxmann.com 423 (Calcutta)

**SECTION 239 OF THE INCOME-TAX ACT, 1961 -  
REFUNDS - LIMITATION**

- 3.65** Limitation of two years for making a claim of refund of excess TDS stipulated under paragraph 9 of CBDT Circular No. 7/2007, dated 23-10-2007 is ultra vires provisions of Act - *Sun Pharmaceutical Industries Ltd. v. Income-tax Officer* - [2025] 171 taxmann.com 469 (Delhi)

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

- 3.66** Where Assessing Officer passed an adjustment order under section 245 directing that amount of refund be adjusted against outstanding demand for certain assessment years, since assessee had raised objections to proposed adjustments but no consideration was given to same and no formal order was also made dealing with assessee's objections, impugned adjustment order was to be quashed and revenue was directed to deposit adjusted amount in Court - *Trent Ltd. v. Deputy Commissioner of Income-tax* - [2025] 171 taxmann.com 506 (Bombay)
- 3.67** Where tax refund pertaining to assessment year 2010-11 was adjusted against old tax dues of corporate debtor, Successful Resolution Applicant's (SRA's) claim to have refund for assessment year 2010-11, was to be rejected because SRA could only claim to have stepped into and managed affairs of corporate debtor from date of approval of resolution plan on 7-11-2017 - *Sree Metaliks Ltd. v. Director General of Income-tax* - [2025] 171 taxmann.com 847 (Orissa)

**SECTION 254 OF THE INCOME-TAX ACT, 1961 -  
APPELLATE TRIBUNAL - ORDER OF**

- 3.68** Where jurisdictional assessing officer under faceless regime passed an ex-parte assessment order without affording assessee an opportunity of being heard, and ITAT failed to address that infirmity and decided case on merits despite ex-parte order, it amounted to violation of principles of natural justice and therefore, matter would be remanded to ITAT for fresh adjudication - *Vijay Shrinivasrao Kulkarni v. Income-tax Appellate Tribunal* - [2025] 171 taxmann.com 696 (Bombay)

**SECTION 264 OF THE INCOME-TAX ACT, 1961 -  
REVISION - OF OTHER ORDERS**

- 3.69** An intimation under section 143(1) was an 'order' for purposes of section 264 and, thus, same would be revisable - *Kamal Pasricha As Trustee of Kuldip Kaur Trust v. Income-tax Officer, Ward 19(2) (2)* - [2025] 171 taxmann.com 620 (Bombay)



- 3.70 Revision authority could not have refused to exercise its revisional jurisdiction on ground that alternate remedy of instituting an appeal against impugned intimation u/s. 143(1) was available to assessee - **Kamal Pasricha As Trustee of Kuldip Kaur Trust v. ITO, Ward 19(2) (2) - [2025] 171 taxmann.com 620 (Bombay)**

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

- 3.71 Where tax effect involved in appeals was less than Rs. 2 crores, revenue could not pursue appeals by relying upon any exception created in circular dated 15.03.2014 which by virtue of paragraph 10 was to be applied only to appeals to be filed henceforth - **Principal Commissioner of Income-tax-23 v. IPL Loan Trust - [2025] 171 taxmann.com 725 (Bombay)**

#### SECTION 269ST OF THE INCOME-TAX ACT, 1961 - MODE OF UNDERTAKING TRANSACTIONS

- 3.72 Where plaintiff entered into a collaboration agreement with defendant for redevelopment of immovable property and paid certain amount in cash, however, suspecting certain fraud plaintiff claimed refund of amount paid to defendant in cash, mere receipt of cash in violation of section 269ST would not, by itself, render underlying agreement void or unenforceable in a civil court - **Birmala Projects (P.) Ltd. v. Ashwani Ahluwalia - [2025] 171 taxmann.com 755 (Delhi)**

#### SECTION 271(1)(c) OF THE INCOME-TAX ACT, 1961 - PENALTY - FOR CONCEALMENT OF INCOME

- 3.73 Where assessee developed a plot of land purchased by it and revalued this plot and introduced it as its capital into partnership firm formed by assessee and six others, since very constitution of firm and transaction of assessee inflating value of plot of land and contributing it to stock in trade, followed by withdrawals of its investment within a short period, amounted to a device or subterfuge or conduit to facilitate tax evasion, minimum prescribed penalty was rightly imposed on assessee - **Veena Estate (P.) Ltd. v. Commissioner of Income-tax - [2025] 171 taxmann.com 472 (Bombay)**

#### SECTION 271C OF THE INCOME-TAX ACT, 1961 - PENALTY - FOR FAILURE TO DEDUCT TAX AT SOURCE

- 3.74 Where assessee-company did not effect TDS from monies payable to foreign entity under contract relating to supply of off-shore equipments on professional advice that TDS was required to be deducted inasmuch as no income was deemed to accrue or arise in India pursuant to subject off-shore contract, since non-deduction of TDS was not tainted with mala fide and reasonable cause was shown for not deducting TDS, penalty under section 271C was not leviable - **Commissioner of Income-tax v. Jindal Tractebel Power Co. Ltd. - [2025] 171 taxmann.com 799 (Karnataka)**

#### SECTION 275 OF THE INCOME-TAX ACT, 1961 - PENALTY - BAR OF LIMITATION FOR IMPOSITION

- 3.75 Where penalty proceedings under section 271DA were initiated **against** assessee within a period of eleven days of culmination of assessment proceedings, this period could not be termed as unreasonable period and therefore, it would not be necessary to examine whether period of limitation would stand extended on account of such delay - **Property Plus Realtors v. Union of India - [2025] 171 taxmann.com 426 (Delhi)**

#### SECTION 276B OF THE INCOME-TAX ACT, 1961 - OFFENCE AND PROSECUTION - FAILURE TO PAY TAX ON DISTRIBUTED PROFITS OF DOMESTIC COMPANIES/DEDUCTED AT SOURCE

- 3.76 Where specific averment was made in complaint that accused were at helm of affairs of company and were responsible for conduct of business of company and it was also found that they were connected with management **and** administration of company and also that they were to be considered as principal officers, Trial Court committed an error in discharging them from offence of not remitting deducted TDS to Central Government - **Income-tax Department v. Vishweshwara Rao Chava - [2025] 171 taxmann.com 763 (Karnataka)**

#### SECTION 276CC OF THE INCOME-TAX ACT, 1961 - OFFENCE AND PROSECUTION -FAILURE TO FURNISH RETURN OF INCOME

- 3.77 Prosecution for offence punishable under section 276CC could be initiated against an accused for willful and deliberate delay in filing returns and since there is a presumption available under section 278E with regard to culpable mental status of accused, it was for accused to rebut said **presumption** in accordance with law - **Rajkumar Agarwal v. Income-tax Department - [2025] 171 taxmann.com 465 (Karnataka)**

## 4. TRIBUNAL

#### SECTION 2(14) OF THE INCOME-TAX ACT, 1961 - CAPITAL GAINS - CAPITAL ASSET

- 4.1 Where Assessing Officer framed assessment in reassessment proceedings without issuing any notice under section 143(2), such assessment was liable to be quashed - **Balbir Singh v. Assistant Commissioner of Income-tax - [2025] 171 taxmann.com 572 (Raipur - Trib.)**
- 4.2 Where Tribunal restored matter back to file of Assessing Officer to examine distance of land from municipal limit and revenue filed an application seeking to recall order on ground that Tribunal had overlooked fact that land sold by assessee was capital asset and not agricultural land, instant application was beyond scope of provisions of section 254(2) - **Income-tax Officer v. Smt. Laxmiben Amratlal Patel - [2025] 171 taxmann.com 732 (Surat-Trib.)**

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

- 4.3** Statutory corporation, board or any other body set up by state government or central government, charging amounts for achieving what were essentially public functions/services, might resemble trade, commercial, or business activities, however, since their objects were essential for advancement of public purposes/functions, such receipts were prima facie to be excluded from mischief of business or commercial receipts - **JCIT-OSD(E) v. Gujarat Housing Board** - [2025] 171 taxmann.com 648 (Ahmedabad - Trib.)
- 4.4** Where Assessing Officer without considering activities of assessee society, involved in imparting first aid training to students, schools, companies and institutions etc., held that activity carried on by assessee fell under 'advancement of any other object of public utility', matter was to be restored back to Assessing Officer for giving finding as to whether activity of imparting first aid training and collecting fees for certification and protection awards fell within objects of clauses of assessee's society and, in turn, it was charitable activity or general public utility - **ITO (Exemption) v. St. John Ambulance Association** - [2025] 171 taxmann.com 766 (Delhi - Trib.)

**SECTION 2(19AA) OF THE INCOME-TAX ACT, 1961 - DEFINITIONS**

- 4.5** Where assessee-company claimed transfer of its treasury unit as demerger, since assessee had only transferred assets held by treasury unit while keeping liabilities with it, it could be held that revenue had rightly treated demerger as transfer of capital assets taxable under head 'income from capital gain' - **Reckitt Benckiser Healthcare India (P.) Ltd. v. DCIT** - [2025] 171 taxmann.com 694 (Ahmedabad - Trib.)

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

- 4.6** Amount of service fees received by assessee, US based company, was not taxable as FIS under article 12(4)(b) of India-USA DTAA since no knowledge, skill or technical know-how was made available to client/customers - **Korn Ferry (US), California, United States v. ACIT, International Taxation** - [2025] 171 taxmann.com 650 (Delhi - Trib.)
- 4.7** Payments made by assessee-LLP to group company for providing assistance in implementing brand strategy for use of network of members and also providing member firms with common training, policies and guidance related to brands could not be reckoned as use of or right to use any copyright of literary, artistic or scientific work and, thus, did not fall in scope and definition of royalty under article 13(3) of India UK DTAA - **DCIT (International Taxation) v. Deloitte Haskins & Sells LLP** - [2025] 171 taxmann.com 615 (Mumbai - Trib.)

- 4.8** Reimbursement of GIS charges from Indian AE to assessee, a foreign company, did not amount to FTS as no transfer of technical knowledge took place and mere subletting of software licenses did not involve any transfer of technical knowledge, experience, or skill from assessee to Indian AEs - **Atkins Realis UK Ltd. v. Deputy Commissioner of Income-tax, International Taxation** - [2025] 171 taxmann.com 721 (Bangalore - Trib.)

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

- 4.9** Wheres application for grant of fresh approval under section 10(23C)(vi) by an educational institution which was converted into section 8 company was rejected on ground that assessee-company's objects included running rehabilitation centres, medical centres, clinics, providing free medical services to poor people which were not solely for educational or incidental to educational activities, since assessee had already modified its objects by removing "objectionable" objects referred to by Commissioner (Exemption), matter was to be remitted back to Commissioner (Exemption) - **G.H.R. Educational Foundation v. Commissioner of Income-tax Exemption** - [2025] 171 taxmann.com 646 (Nagpur - Trib.)
- 4.10** Running hostels separately on a commercial basis, with fees significantly exceeding costs, constitutes a business activity rather than a charitable purpose, disqualifying exemption under section 10(23C)(vi). - **Deputy Commissioner of Income-tax v. Vallabh Seva Kendra** - [2025] 171 taxmann.com 809 (Ahmedabad - Trib.)

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

- 4.11** Where assessee-trust, initially claimed exemption under section 11(1)(2) as Rs. 71.77 lakhs instead of Nil and later filed a revised audit report and claimed repayment of loan as application of income, since assessee's claim was supported by audited financials, revised audit report, revised computation and bank statements reflecting repayment of loan, Assessing Officer was to be directed to accept revised computation and allow exemption under section 11 - **Rani Adaikalaraj Educational and Charitable Trust v. Income-tax Officer** - [2025] 171 taxmann.com 466 (Chennai - Trib.)

**SECTION 12A OF THE INCOME-TAX ACT, 1961 - CHARITABLE OR RELIGIOUS TRUST - REGISTRATION OF**

- 4.12** Where assessee applied for registration under section 12A and complied with all notices issued by Commissioner (Exemption), however Commissioner (Exemption) rejected application for registration on ground that he was not satisfied about charitable nature and genuineness of activities of assessee, matter was to be remanded back to Commissioner (Exemption) with a direction to decide application for registration afresh after providing reasonable opportunity of hearing to assessee - **Chandragupt Shephards Welfare Association v. Commissioner of Income-tax, Exemption** - [2025] 171 taxmann.com 538 (Pune - Trib.)



**4.13** Where assessee-trust while applying for registration u/s. 12A(1)(ac)(iii) enclosed provisional registration granted u/s. 10(23C)(vi) instead of one granted u/s. 12A(1)(ac)(vi), since provision of section 12A(1)(ac)(iii) had been amended with effect from 1-10-2024 as per which registration u/s. 12A could be allowed on basis of provisional approval u/s. 10(23C)(vi), assessee's application would be maintainable - ***Infinite Happiness Spiritual Foundation v. CIT (Exemption) - [2025] 171 taxmann.com 649 (Ahmedabad - Trib.)***

**4.14** Where Commissioner (Exemption) rejected application of assessee-trust for registration u/s. 12A on ground that assessee did not show any charitable activities, since Commissioner (Exemption) had not given sufficient time to assessee to present its case and assessee had furnished several documents and evidences to establish genuineness of activities of trust, matter was to be remanded back to Commissioner (Exemption) to rehear and consider all documents submitted by assessee - ***Aggarwal Sabha Puran Enclave old Faridabad v. C.I.T(E) - [2025] 171 taxmann.com 837 (Delhi - Trib.)***

**4.15** Where assessee-trust filed applications for renewal of registration u/s. 12A(1)(ac)(iii) and approval u/s. 80G(5)(iii), however, Commissioner (Exemption) rejected same on ground of non-compliance of notices, since assessee had filed its responses within due date mentioned in notice, rejection of applications on incorrect factual grounds violates natural justice, matter was to be remanded back to Commissioner (Exemption) for fresh adjudication - ***Apna Charitable Trust v. CIT (Exemption) - [2025] 171 taxmann.com 686 (Ahmedabad - Trib.)***

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

**4.16** Commissioner (Exemptions) had afforded three opportunities to assessee-society to furnish documents/details but assessee had failed to avail, there was no substance in assessee's claim that order of rejection of its application u/s. 12AB had been passed without affording of an adequate opportunity to it - ***Bijapur Jan Shikshan Sansthan v. CIT (Exemption) - [2025] 171 taxmann.com 690 (Raipur - Trib.)***

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

**4.17** Where assessee-company earned dividend income which was claimed as exempt u/s. 10(34) and in computation of income, assessee had itself disallowed a sum of certain amount u/s. 14A as expenses incurred towards earning tax free income, since assessee was having enough interest free own funds and there was no unsecured loan reflected in balance sheet of company, further disallowance of interest expenses u/s. 14A was to be deleted - ***Reckitt Benckiser Healthcare India (P.) Ltd. v. DCIT - [2025] 171 taxmann.com 694 (Ahmedabad - Trib.)***

**4.18** Where assessee had received exempt dividend from its subsidiary company and there was no other source of exempt income nor fresh investment was made during year in shares of subsidiary, no disallowance under section 14A was to be made - ***Bharti Airtel Ltd. v. Principal CIT - [2025] 171 taxmann.com 754 (Delhi - Trib.)***

#### **SECTION 26 OF THE INCOME-TAX ACT, 1961 - INCOME FROM HOUSE PROPERTY - CO-OWNERS**

**4.19** Where assessee AOP engaged in managing rental income from co-owned immovable property contended that co-ownership agreement clearly specified shares of co-owners, making section 167B inapplicable and income should have been taxed under section 26 in hands of individual co-owners, since record did not conclusively establish tax rates applicable to each co-owner, matter was to be remanded back to Assessing Officer to verify taxability of each co-owner to ensure that correct rate of taxation was applied - ***Nam Group Aslali v. AO, CPC - [2025] 171 taxmann.com 424 (Ahmedabad - Trib.)***

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

**4.20** Where assessee, an investment banker, incurred losses in its investment banking business and earned income from cash market long term transactions which was claimed by assessee as exempt under section 10(38), since assessee itself was investment banker and made investments in stock in order to make profit, assessee could not treat above transaction as capital gains just because its long term as well as it had paid security transaction tax on above investment - ***Canara Securities Ltd. v. Deputy Commissioner of Income-tax - [2025] 171 taxmann.com 383 (Hyderabad - Trib.)***

**4.21** Where Assessing Officer disallowed loss claimed by assessee on ground that assessee was involved in transaction involving Client Code Modification (CCM) to absorb contrived losses from other parties, in absence of any findings that assessee had given specific instruction to broker to make such CCM, assessee could not be held responsible in such modification and thus, loss could not be disallowed - ***Canara Securities Ltd. v. Deputy Commissioner of Income-tax - [2025] 171 taxmann.com 383 (Hyderabad - Trib.)***

#### **SECTION 36(1)(va) OF THE INCOME-TAX ACT, 1961 - EMPLOYEE'S CONTRIBUTIONS**

**4.22** Where assessee-employer deposited amount of employees contribution towards Provident Fund and Employee's State Insurance Corporation beyond due date stipulated in respective Acts, said employees contribution would be treated as income of assessee under section 2(24)(x) - ***Checkmate Services (P.) Ltd. v. Deputy Commissioner of Income-tax - [2025] 172 taxmann.com 4 (Ahmedabad - Trib.)***

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

**4.23** Where assessee-company, engaged in business of providing remote infrastructure management and other services for foreign customers, claimed deduction of finance lease rental payment, following decision of Tribunal in assessee's own case for earlier assessment year, said claim was to be allowed - **DCIT v. NTT Global Data Centres Cloud Infrastructure India (P.) Ltd. - [2025] 171 taxmann.com 654 (Mumbai - Trib.)**

**4.24** Where assessee paid fees for technical services to a foreign company for selection of suitable technical staff for project, review of contractual documents, etc., since services were actually rendered, fees paid for technical services was to be allowed u/s. 37(1) - **DCIT v. Gulermak TPL Joint Venture - [2025] 171 taxmann.com 384 (Mumbai - Trib.)**

**4.25** Provisions for sales return based on scientific basis and past experience was an allowable expenditure - **Reckitt Benckiser Healthcare India (P.) Ltd. v. DCIT - [2025] 171 taxmann.com 694 (Ahmedabad - Trib.)**

**4.26** Where assessee incurred product registration expenses for registering its product in various countries to enable it to sell product in such countries, since assessee was getting benefit of enduring nature of registration of product, impugned product registration expenses incurred by assessee were to be treated as capital expenditure - **Reckitt Benckiser Healthcare India (P.) Ltd. v. DCIT - [2025] 171 taxmann.com 694 (Ahmedabad - Trib.)**

**4.27** Where assessee, a telecom service provider, made payment of interest and penalty on account of non-payment of additional license fee, since additional liability arose due to dispute between assessee and licensor DoT with regard to various heads of revenue, as part of AGR, on which license fee was payable and incidence of interest and penalty was outcome of business decision to defend license fee quantum, thus, same were compensatory in nature and could not be considered to have submerged with license fee as capital expenditure - **Bharti Airtel Ltd. v. Principal CIT - [2025] 171 taxmann.com 754 (Delhi - Trib.)**

#### **SECTION 40(a)(ia) OF THE INCOME-TAX ACT, 1961 - BUSINESS DISALLOWANCE - INTEREST, ETC., PAID TO A RESIDENT WITHOUT DEDUCTION OF TAX AT SOURCE**

**4.28** Where AO disallowed certain amount u/s. 40(a)(ia) on ground that assessee had failed to comply with TDS provisions qua certain payments made during year, since payments were made by assessee to Government of Maharashtra which would not get covered under TDS provisions and further, in respect of payment made to Village Level Entrepreneurs, assessee had demonstrated that in relevant year said amount was neither paid nor credited to concerned vendors and as and when, amount was paid in subsequent years, since TDS provisions had been fully complied with, disallowance made u/s. 40(a)(ia) was unsustainable - **Mahaonline Ltd. Directorate of Information Technology v. CIT (Appeals) - [2025] 171 taxmann.com 756 (Mumbai - Trib.)**

#### **SECTION 44AD OF THE INCOME-TAX ACT, 1961 - PRESUMPTIVE TAXATION**

**4.29** Where assessee-firm was engaged in business of running a nursing home and income generated from doctors' fees was separately declared by respective doctors in their individual tax returns, turnover of assessee-firm should not be considered as professional income and, addition made by Assessing Officer on account of undisclosed income was unwarranted, particularly when remaining receipts had been treated as business income and net profit rate had been accepted by Assessing Officer - **Kety Medicare Centre v. ACIT CC-2, Thane - [2025] 171 taxmann.com 728 (Mumbai - Trib.)**

#### **SECTION 44C OF THE INCOME-TAX ACT, 1961 - NON-RESIDENT - HEAD OFFICE EXPENDITURE IN CASE OF**

**4.30** Prior to amendment of article 7(3) by way of protocol dated 28-11-2007, head office expenses allocated to PE in India was to be allowed in full without applying restrictions imposed under section 44C - **Mashreq Bank Psc v. Deputy Commissioner of Income-tax - [2025] 171 taxmann.com 230 (Mumbai - Trib.)**

#### **SECTION 50 OF THE INCOME-TAX ACT, 1961 - CAPITAL GAINS - COMPUTATION IN CASE OF DEPRECIABLE ASSETS**

**4.31** Where assessee sold two trademarks which were acquired by assessee prior to 01-04-1998 and in year of acquisition of aforesaid trademarks, there was no provision in Act which mandated inclusion of intangible assets in block of assets, provisions of section 50 would not be applicable and, thus, capital gains arising on transfer of trademarks were to be treated as LTCG - **Johnson & Johnson (P.) Ltd. v. Dy. Commissioner of Income-tax, Circle - 7(1) - [2025] 171 taxmann.com 619 (Mumbai - Trib.)**

#### **SECTION 54B OF THE INCOME-TAX ACT, 1961 - CAPITAL GAINS - TRANSFER OF LAND USED FOR AGRICULTURAL PURPOSES**

**4.32** Where assessee sold lands and claimed exemption under section 54B, since on a bare perusal of 'Form P-II/Khasra' (forming part of sale deeds of lands), it was found that agricultural operations i.e. growing paddy crop were being carried out by assessee on subject lands in two years immediately preceding date on which same were sold, thus, pre-condition as regards usage of lands for agricultural purposes in two years immediately preceding date on which they were sold was satisfied, assessee's claim for exemption under section 54B was to be allowed - **Rahul Bajpai v. Deputy Commissioner of Income-tax - [2025] 171 taxmann.com 500 (Raipur - Trib.)**

#### **SECTION 56 OF THE INCOME-TAX ACT, 1961 - INCOME FROM OTHER SOURCES - CHARGEABLE AS**

**4.33** Where assessee purchased a flat prior to insertion of clause (x) of sub-section (2) of section 56 by Finance Act 2017, provisions of section 56(2)(x) were not applicable - **Smt. Kajari Banerjee v. Income-tax Officer - [2025] 171 taxmann.com 468 (Kolkata - Trib.)**



**4.34** Where case of assessee was selected for limited scrutiny for examination of specific issue, Assessing Officer could not have ventured into a different issue (difference in purchase consideration of property) that did not form basis for taking up case for such scrutiny assessment without getting said limited scrutiny converted into complete scrutiny as per CBDT Circular No.20/2015 dated 29.12.2015 - **Rahul Bajpai v. Deputy Commissioner of Income-tax** - [2025] 171 *taxmann.com* 500 (Raipur - Trib.)

**4.35** Where Assessing Officer issued reopening notice against assessee on ground that assessee had issued equity shares at premium which was more than fair market value and, thus, it had resulted in under assessment of income in hands of assessee, since issue of share premium was duly examined by Assessing Officer in original assessment proceedings and he formed his opinion about non-applicability of provision of section 56(2)(viib), impugned reopening notice was unjustified - **Income-tax Officer v. HSG Propmart (P.) Ltd.** - [2025] 171 *taxmann.com* 540 (Delhi - Trib.)

**4.36** Where assessee purchased under construction property and builder reduced value of property to accommodate increase in GST, adjustment of GST value in total value of consideration would not fall within ambit of section 56(2)(x) - **Jayantilal Umashankar Chavji v. National E Assessment Centre** - [2025] 171 *taxmann.com* 618 (Mumbai - Trib.)

**4.37** Where consumer mobile business undertaking was acquired by assessee on wholesome basis without valuation of an individual asset and lumpsum consideration through process of demerger, since valuation of this demerger was done by professional valuers and valuation was accepted in scheme of arrangement by NCLT and High Court, provisions of section 56 would not be applicable - **Bharti Airtel Ltd. v. Principal CIT** - [2025] 171 *taxmann.com* 754 (Delhi - Trib.)

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

**4.38** Where Assessing Officer made additions to income of assessee on grounds that assessee had availed loan from a company, BCCL which was only paper company formed to show accommodation entries, since loan availed from said company was recorded by assessee in its books and even in subsequent year, assessee had received a loan from BCCL and paid interest thereon, assessee had proven existence of said company and impugned addition made under section 68 was to be deleted - **M P Ferrous and Non Ferrous India (P.) Ltd. v. Dy. Commissioner of Income-tax Circle-7(2)(2), Mumbai** - [2025] 171 *taxmann.com* 496 (Mumbai - Trib.)

**4.39** Where Assessing Officer had not examined genuineness of loan taken by assessee from a party despite records **revealing** that no interest income was returned to tax by said party who had given loan to assessee, impugned revision invoked by Principal Commissioner was to be upheld - **Hari Enterprise v. Principal Commissioner of Income-tax** - [2025] 171 *taxmann.com* 762 (Ahmedabad - Trib.)

**4.40** Where Principal Commissioner invoked revision on ground that assessee had received loan from four persons by showing same PAN, though assessee had explained to Principal Commissioner transaction to be on **account** of advances received from sale of property and furnished evidences to prove genuineness of transaction by filing return of income of all four persons, and their ledger accounts, but fact remained that all these contentions of assessee needed verification, which was not done at first stage itself by Assessing Officer, impugned revision was justified - **Hari Enterprise v. Principal Commissioner of Income-tax** - [2025] 171 *taxmann.com* 762 (Ahmedabad - Trib.)

**4.41** Where Assessing Officer based on seized documents noted that assessee, real estate developer, had been collecting major portion of sale consideration in cash, however, cash receipts were never accounted for in books and accordingly, additions were made, since additions were **made** on basis of uncorroborated materials (scribbling pad/loose slips) which lacked evidentiary value, issue was to be remitted to Assessing Officer for fresh consideration - **Hindusthan Bawa Builders v. ACIT** - [2025] 171 *taxmann.com* 461 (Bangalore - Trib.)

**4.42** Where assessee had shown exempt income under section 10(38) in his return of income from sale of shares, since assessee had not maintained books of **account** and credit of share sale proceeds was not found credited in books of account, impugned addition made under section 68 was to be deleted - **Smt. Vimladevi Parasmal Jain v. Income-tax Officer** - [2025] 171 *taxmann.com* 547 (Mumbai - Trib.)

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

**4.43** Where investment in flat by assessee was made in earlier year and was duly reflected in **balance** sheet and further, payments for purchase of flat were made through banking channel right from financial year 2012-13 to assessment year 2018-19, Assessing Officer had wrongly made addition under section 69 on account of said investment - **Smt. Kajari Banerjee v. Income-tax Officer** - [2025] 171 *taxmann.com* 468 (Kolkata - Trib.)

**4.44** Where Assessing Officer **reopened** assessment to make addition under section 69 on ground that assessee had made unexplained investment in purchase of land in name of another person, since issue involved qua benami transaction was under adjudication before authorities under PBPT Act, matter was to be restored to file of AO - **Prem Singh Saluja v. Income-tax Officer** - [2025] 171 *taxmann.com* 498 (Raipur - Trib.)

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

- 4.45** Where assessee had made cash deposits in her two-saving bank accounts and AO after going through day-wise cash books and narrations therein for explanations towards source of deposit, details of interest and nature of business, accepted returned income, order passed by AO could not be treated as erroneous by Principal Commissioner u/s. 263 - **Chandani Jain v. PCIT - [2025] 171 taxmann.com 614 (Raipur - Trib.)**

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

- 4.46** Where Assessing Officer based on JDA entered between landowners and assessee, real estate developer, deemed that assessee made certain cash payments to landowners for acquiring construction rights in project and assessed said amount as unaccounted investments in hands of assessee, assessee claimed that there were two parties on developer side in JDA and entire amount could not be charged in hands of assessee, since assessee was not provided with opportunity of cross examination to establish payment made by it, issue was to be remitted back to Assessing Officer to carry out necessary enquiry - **Hindusthan Bawa Builders v. ACIT - [2025] 171 taxmann.com 461 (Bangalore - Trib.)**

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

- 4.47** Where Assessing Officer based on seized documents noted that assessee, real estate developer, made substantial cash payments outside books of account to various contractors for investment/construction of various projects and accordingly made additions, since additions were made on basis of uncorroborated materials (scribbling pad/loose slips) which lacked evidentiary value, issue was to be remitted to Assessing Officer for fresh consideration - **Hindusthan Bawa Builders v. ACIT - [2025] 171 taxmann.com 461 (Bangalore - Trib.)**

**SECTION 72A OF THE INCOME-TAX ACT, 1961 - LOSSES - AMALGAMATION/DEMERGER CARRY FORWARD AND SET OFF OF**

- 4.48** Where assessee-company acquired consumer wireless mobile business undertaking of TTSL pursuant to a scheme of demerger, approved by NCLT which provided for issue of preference shares by assessee company to at least three fourth shareholders of demerged company, since there was no specific definition or reference to a particular type of shares being issued for clause (iv) and (v) of section 2(19AA), issuance of preference shares compliance with mandate of clause (v) of section 2(19AA) and thus, invoking revisionary jurisdiction to deny benefit of section 72A to assessee was not justified - **Bharti Airtel Ltd. v. Principal CIT - [2025] 171 taxmann.com 754 (Delhi - Trib.)**

**SECTION 72A OF THE INCOME-TAX ACT, 1961 - LOSSES - CARRY FORWARD AND SET OFF OF ACCUMULATED LOSS, ETC., IN CASE OF AMALGAMATION**

- 4.49** Where assessee-company acquired consumer wireless mobile business undertaking of TTSL pursuant to a scheme of demerger, approved by NCLT which provided for issue of preference shares by assessee company to at least three fourth shareholders of demerged company, since there was no specific definition or reference to a particular type of shares being issued for clause (iv) and (v) of section 2(19AA), issuance of preference shares compliance with mandate of clause (v) of section 2(19AA) and thus, invoking revisionary jurisdiction to deny benefit of section 72A to assessee was not justified - **Bharti Airtel Ltd. v. Principal CIT - [2025] 171 taxmann.com 754 (Delhi - Trib.)**

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

- 4.50** Where assessee-society applied for registration under section 80G(5)(iii) and Commissioner (Exemptions) in absence of furnishing requisite details/documents by assessee declined registration, Commissioner (Exemptions) was justified in his view - **Bijapur Jan Shikshan Sansthan v. Commissioner of Income-tax (Exemption) - [2025] 171 taxmann.com 690 (Raipur - Trib.)**
- 4.51** Where Commissioner (Exemptions) rejected assessee-trust's application for registration under section 80G on technical ground that application was not filed under correct provisions, however there was no mention of query or show cause to assessee about ineligibility to file an application under provisions of clause (iv)(B) of first proviso to section 80G(5) in impugned order, principles of natural justice had been violated by rejecting application without confronting assessee about reasons for such rejection, thus, matter was to be remanded back - **Bhagwan Mahaveer Jain Relief Trust v. Commissioner of Income-tax (Exemption) - [2025] 171 taxmann.com 574 (Raipur - Trib.)**
- 4.52** Where Commissioner (Exemption) cancelled approval under section 80G granted to assessee-trust on ground that funds of assessee-trust were lying idle year-to-year in bank accounts/FDRs without its actual utilization, since assessee trust had placed on record details of FCRA funds utilization for assessment years 2021-22 to 2023-24 to meet out its objects by complying with statutory requirements under Act, impugned order passed by Commissioner (Exemption) was unjustified - **Tiger Research an Conservation Trust v. Income Tax Officer, Ward-1 Exemption - [2025] 171 taxmann.com 767 (Nagpur - Trib.)**
- 4.53** Where assessee trust was otherwise eligible for approval under section 80G, non-filing of application for approval under section 80G within six months of commencement of activities should not be considered an impediment in granting registration under section 80G - **Aggarwal Sabha Puran Enclave old Faridabad v. C.I.T(E) - [2025] 171 taxmann.com 837 (Delhi - Trib.)**



- 4.54** Where assessee-trust filed an application in Form No. 10AB seeking approval under section 80G and Commissioner (Exemptions) dismissed assessee's application merely on a technical ground, matter was to be remanded back for fresh adjudication - **Jal Minocher Mistry Memorial Foundation v. CIT (Exemption) - [2025] 171 taxmann.com 726 (Mumbai - Trib.)**

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

- 4.55** Where assessee was a contractor for execution of metro rail project, it was not entitled to claim deduction under section 80-IA as it was not carrying on business of developing, operating and maintaining any infrastructural facility - **Deputy Commissioner of Income-tax v. Gulermak TPL Joint Venture - [2025] 171 taxmann.com 384 (Mumbai - Trib.)**

#### SECTION 80-IC OF THE INCOME-TAX ACT, 1961 - DEDUCTIONS - SPECIAL PROVISIONS IN RESPECT OF CERTAIN UNDERTAKINGS OR ENTERPRISES IN CERTAIN SPECIAL CATEGORY STATES

- 4.56** Disallowance made under section 40(a)(ia) would not increase assessee's claim of deduction under section 80-IC and same was to be allowed as deduction - **Reckitt Benckiser Healthcare India (P.) Ltd. v. Deputy Commissioner of Income-tax - [2025] 171 taxmann.com 694 (Ahmedabad - Trib.)**
- 4.57** Where assessee had earned miscellaneous income comprising of scrap income from its manufacturing unit, profits and gains from scraps resulting in manufacturing process were eligible for deduction under section 80-IC - **Reckitt Benckiser Healthcare India (P.) Ltd. v. Deputy Commissioner of Income-tax - [2025] 171 taxmann.com 694 (Ahmedabad - Trib.)**
- 4.58** Where Assessing Officer restricted profits of assessee's Baddi unit to those derived from manufacturing alone for purpose of section 80-IC, since sale and market division were integral part of manufacturing unit which could not be separated on artificial basis and all activities from beginning to end of process together constituted business of assessee, profit derived from entire process was eligible for tax holiday and not from separate activities of unit - **Reckitt Benckiser Healthcare India (P.) Ltd. v. Deputy Commissioner of Income-tax - [2025] 171 taxmann.com 694 (Ahmedabad - Trib.)**

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

- 4.59** Where assessee, a co-operative society, derived interest income from its investments held with a co-operative bank, it would be entitled to claim deduction under section 80P(2)(d) - **Sai Ankur Co-operative Housing Society Ltd. v. Income-tax Officer - [2025] 171 taxmann.com 44 (Mumbai - Trib.)**

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

- 4.60** Where assessee had provided financial guarantee to a foreign bank on behalf of its foreign Associated Enterprises (AEs) in respect of loans availed by said AEs from said bank, ALP of corporate guarantee commission determined by assessee at rate of 0.41 per cent per annum applying internal CUP was at arm's length not requiring any transfer pricing adjustment, particularly when TPO had not brought on record any material to support Guarantee Commission Rate at 1.25% per annum - **DCIT v. Greatship (India) Ltd. - [2025] 171 taxmann.com 577 (Mumbai - Trib.)**
- 4.61** Where assessee, availed business support services from its AE and entered into various international transactions and aggregated all transactions, since management support services was separate and independent to other international transactions of assessee, same could not be aggregated with other transaction for working out ALP - **Caterpillar Financial Services India (P.) Ltd. v. ACIT - [2025] 171 taxmann.com 172 (Bangalore - Trib.)**
- 4.62** Where assessee, availed business support services from its AE and simply filed master agreement, statement of work, invoice of AE and few emails by assessee which did not ipso facto establish fact of receiving of services from AE and lower authorities held that impugned business support charges represented allocation of cost which was nothing but shareholders services but there there was lack of supporting documents to draw conclusion whether impugned cost was an allocation of cost or represented services availed by assessee, issue should be restored to file of TPO for fresh/de-novo adjudication - **Caterpillar Financial Services India (P.) Ltd. v. Assistant Commissioner of Income-tax - [2025] 171 taxmann.com 172 (Bangalore - Trib.)**
- 4.63** Where assessee-company has trade receivables from its AE and has already factored impact of receivables on working capital adjustment thereby on its pricing/profitability vis-a-vis that of its comparables, any further adjustment on basis of outstanding receivables would distort profitability and re-characterize transaction - **Brake Parts India (P.) Ltd. v. ACIT-5(1) - [2025] 171 taxmann.com 691 (Delhi - Trib.)**
- 4.64** Where assessee-company issued FCCDs to its foreign holding company and paid interest on same, since FCCDs were denominated in Indian currency, interest payment on same was to be benchmarked by applying SBI PLR and not LIBOR as considered by TPO - **Hyderabad Infratech (P.) Ltd. v. Deputy Commissioner of Income-tax Circle-2(2) - [2025] 171 taxmann.com 385 (Hyderabad - Trib.)**
- 4.65** Where assessee had availed administrative support services from its AE and had submitted cost benefit analysis and relevant documentary evidence of these services, transfer pricing adjustment made by revenue for want of documents to establish availing of administrative support services deserved to be deleted - **Corteva Agriscience India (P.) Ltd. v. DCIT Circle-8(1) - [2025] 171 taxmann.com 797 (Delhi - Trib.)**

**4.66** Matter remanded back to TPO to benchmark transaction of royalty payment by assessee to its AE in view of decision of Tribunal in earlier years - *Vodafone Idea Ltd. v. ACIT* - [2025] 171 taxmann.com 582 (Mumbai - Trib.)

**4.67** Where TPO determined ALP for payments pertaining to expenses reimbursed by assessee to its AE as 'Nil for reason that assessee had not been able to substantiate back to back payment of said amount, it would be appropriate to grant to assessee another opportunity to substantiate its claim that said sum was incurred in relation to employees deputed with assessee and that same, having being recovered on cost to cost basis from assessee, was at arm's length - *Vodafone Idea Ltd. v. ACIT* - [2025] 171 taxmann.com 582 (Mumbai - Trib.)

**4.68** Where assessee filed a supplementary TP analysis study before DRP, adopting TNMM as MAM and claimed that specified domestic transactions were at ALP, however DRP did not consider supplementary TP analysis study, since TPO himself had accepted TNMM as MAM for determining ALP in subsequent assessment year, supplementary TP analysis ought to have been considered for purpose of determining ALP for year under consideration - *Aurobindo Pharma Ltd. v. ACIT* - [2025] 171 taxmann.com 611 (Hyderabad - Trib.)

**4.69** Where assessee, manufacturer and seller of Active Pharmaceutical Ingredients as well as generic pharmaceutical products, transferred raw materials from its non-SEZ units to its SEZ units and was selling its formulation under 11 families from one unit to another unit, while determining ALP in respect of SDTs, entire lot of formulation would be considered as a basket of products and TPO was not justified in picking only some of products which were having low price and excluding products having higher prices in comparison to unrelated transactions of assessee - *Aurobindo Pharma Ltd. v. ACIT* - [2025] 171 taxmann.com 611 (Hyderabad - Trib.)

**4.70** Where assessee invoked MAP and entered into a BAPA where under revenue authorities of both countries agreed that OP/OC arm's length margin for services provided under R&D services segment by assessee to AE would be 16.7 per cent, since assessee's OP/OC margin was higher than 16.7% as agreed under BAPA, no adjustment was warranted - *DCIT-1(3)(2) v. Unilever Industries (P.) Ltd.* - [2025] 171 taxmann.com 768 (Mumbai - Trib.)

#### SECTION 92CC OF THE INCOME-TAX ACT, 1961 - ADVANCE PRICING AGREEMENT

**4.71** Where assessee had already paid tax in respect of international transactions of provisions of software development services and interest on delayed receivables, in terms of price agreed between parties as per Advance Pricing Agreement (APA), TP adjustment made in respect of these two international transactions was to be deleted - *Broadridge Financial Solutions (India) (P.) Ltd v. DCIT* - [2025] 171 taxmann.com 613 (Hyderabad - Trib.)

#### SECTION 124 OF THE INCOME-TAX ACT, 1961 - ASSESSING OFFICER - JURISDICTION OF

**4.72** Sub-section (3) of section 124 places an obligation upon assessee to call in question jurisdiction of Assessing Officer within time period therein stipulated only in a case where objection pertains to territorial jurisdiction and not otherwise - *ITO-4(1) v. Bhagyaarna Gems & Jewellery (P.) Ltd.* - [2025] 171 taxmann.com 689 (Raipur - Trib.)

#### SECTION 127 OF THE INCOME-TAX ACT, 1961 - INCOME-TAX AUTHORITIES - POWER TO TRANSFER CASES

**4.73** Where assessee-company filed return with ITO-4(1), Kolkata and thereafter assessee's case was transferred from ITO-4(1), Kolkata to ITO-1(1), Raipur and then to ITO-4(1), Raipur who had framed assessment and made additions, since officers were not sub-ordinate to same Commissioner, in absence of any order of transfer passed by Commissioner under section 127, ITO-4(1), Raipur had invalidly assumed jurisdiction and assessment was to be quashed - *ITO-4(1) v. Bhagyaarna Gems & Jewellery (P.) Ltd.* - [2025] 171 taxmann.com 689 (Raipur - Trib.)

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

**4.74** There is no specific requirement u/s. 143(1) that auditor has to make a specific observation regarding admissibility/inadmissibility with regard to any claim of expenditure and all that is required u/s. 143(1) is that disallowance of such expenditure should be indicated in audit report - *Checkmate Services (P.) Ltd. v. DCIT* - [2025] 172 taxmann.com 4 (Ahmedabad - Trib.)

#### SECTION 144 OF THE INCOME-TAX ACT, 1961 - BEST JUDGMENT ASSESSMENT

**4.75** Where AO passed ex-parte order u/s. 144 making addition on account of cash deposit in assessee's bank account in absence of evidences, in view principles of natural justice, matter was to be restored back to AO to decide issue afresh and allow assessee to file submissions and evidence in support of cash deposit - *Mahesh Mohanlal Desai v. ITO* - [2025] 172 taxmann.com 90 (Surat-Trib.)

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

**4.76** For purpose of section 145, accounting method must reflect real income, and hypothetical income recorded in books but not realized cannot be subject to tax and a change in accounting method is permissible, especially when justified by valid circumstances. - *ITO v. Pallon Shapoorji Mistry* - [2025] 171 taxmann.com 464 (Mumbai - Trib.)

#### SECTION 145A OF THE INCOME-TAX ACT, 1961 - METHOD OF ACCOUNTING IN CERTAIN CASES

**4.77** Where Principal Commissioner found that closing stock was undervalued, since assessee had pointed out to Principal Commissioner that for valuation of closing stock, it had adopted formula prescribed by Guidance Note for Accounting of Real Estate Transaction and had also pointed out mistake



being done by Principal Commissioner while calculating closing stock of assessee at a much higher figure but Principal Commissioner had not dealt with any of contention of assessee and had simply gone to record a finding of error in order of AO vis-a-vis valuation of closing stock, impugned revision order was unjustified - ***Hari Enterprise v. PCIT - [2025] 171 taxmann.com 762 (Ahmedabad - Trib.)***

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

- 4.78** Where AO reopened assessment based on information received from investigation wing that assessee had taken bogus loans from a company which was providing accommodation entries, since no scrutiny assessment was conducted in assessee's case and only data available with AO was data provided along with return and information received subsequently from investigation wing, said information would constitute new and tangible material for initiating reassessment proceedings - ***M P Ferrous and Non Ferrous India (P.) Ltd. v. DCIT Circle-7(2)(2), Mumbai - [2025] 171 taxmann.com 496 (Mumbai - Trib.)***

#### SECTION 151 OF THE INCOME-TAX ACT, 1961 - INCOME ESCAPING ASSESSMENT - SANCTION FOR ISSUE OF NOTICE

- 4.79** Date of sanction for issuance of notice u/s. 148 was to be taken when same was uploaded on ITBA portal of department, not when same was communicated manually - ***Prem Singh Saluja v. ITO - [2025] 171 taxmann.com 498 (Raipur - Trib.)***

#### SECTION 192 OF THE INCOME-TAX ACT, 1961 - DEDUCTION OF TAX AT SOURCE - SALARY

- 4.80** Where AO made addition to assessee's income based on salary received by assessee as reflected in Form 26AS, but TDS credited available in Form 26AS was not allowed to assessee, since legitimate credit of TDS was not allowed by AO in spite of having such facts on records, matter was to be remanded back to AO for fresh adjudication - ***Kushal Prashad Sahu v. Assistant Commissioner of Income-tax - [2025] 171 taxmann.com 802 (Raipur - Trib.)***

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

- 4.81** Where assessee by mistake deducted TDS under section 194J instead of section 194C on payments made, assessee was liable to pay interest under section 201(1A), however, Assessing Officer was to be directed to look into assessee's contention with regard to incorrect levy of interest under section 201(1A) on account of admitted short deduction of TDS and pass order afresh in accordance with law - ***Accounts Officer, BSNL v. Deputy Commissioner of Income-tax, TDS - [2025] 171 taxmann.com 683 (Delhi - Trib.)***

#### SECTION 194-I OF THE INCOME-TAX ACT, 1961 - DEDUCTION OF TAX AT SOURCE - RENT

- 4.82** Where assessee had not deducted TDS on all rent paid during year and nor was any explanation on merits furnished to Principal Commissioner as to why no TDS was deducted, Principal Commissioner rightly held that AO's order was erroneous for not having verified TDS on rent u/s. 194-I - ***Hari Enterprise v. Principal Commissioner of Income-tax - [2025] 171 taxmann.com 762 (Ahmedabad - Trib.)***

#### SECTION 194IC OF THE INCOME-TAX ACT, 1961 - PAYMENT UNDER SPECIFIED AGREEMENT

- 4.83** Where assessee-developer paid compensation to occupants for alternative accommodation due to disposition from property under development, said compensation could not be treated as consideration paid as part of share in land or building under specified agreement, thus, same would not fall within provisions of section 194-IC - ***Income-tax Officer (TDS) v. N. Rose Developers (P.) Ltd. - [2025] 171 taxmann.com 652 (Mumbai - Trib.)***

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

- 4.84** Where Principal Commissioner invoked revision on ground that assessee had made payments towards professional and technical services of Rs. 22.02 lakhs, however, TDS was deducted only on Rs. 17.34 lakhs, since TDS under section 194J was leviable only on Rs. 17.79 lakhs, which assessee undisputedly had demonstrated to be examined by Assessing Officer, there was no finding of error in order of Assessing Officer vis-a-vis this issue, thus, impugned revision was unjustified - ***Hari Enterprise v. Principal Commissioner of Income-tax - [2025] 171 taxmann.com 762 (Ahmedabad - Trib.)***

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

- 4.85** Where assessee made payments to non-residents in non-treaty countries on account of communication charges and bandwidth charges without deduction of tax at source, no disallowance under section 40(a)(i) was called for in this regard - ***Bharti Airtel Ltd. v. Principal CIT - [2025] 171 taxmann.com 754 (Delhi - Trib.)***

#### SECTION 205 OF THE INCOME-TAX ACT, 1961 - DEDUCTION OF TAX AT SOURCE - BAR AGAINST DIRECT DEMAND ON ASSESSEE

- 4.86** Where assessee claimed TDS credit, but Form 26AS did not reflect full credit and Assessing Officer disallowed excess claim per CBDT guidelines but assessee argued TDS should be allowed based on its claim, irrespective of Form 26AS, and submitted supporting documents which were unavailable when return was processed under section 143(1) and rectified under section 154, in such circumstances, matter required reconsideration for proper verification - ***Xander Finance (P.) Ltd. v. Assistant Commissioner of Income-tax, Circle-1 (1) - [2025] 171 taxmann.com 623 (Raipur - Trib.)***

**SECTION 251 OF THE INCOME-TAX ACT, 1961 -  
COMMISSIONER (APPEALS) - POWERS OF**

- 4.87** Power of enhancement of assessment and penalty by Commissioner (Appeals) can be exercised only when there is an existence of enforceable order of Assessing Officer, hence, where High Court quashed order of Assessing Officer, there being no existence of order of Assessing Officer, Commissioner (Appeals) could not have directed Assessing Officer to re-compute demand - **Emaar India Ltd. v. DCIT Circle-74(1)** - [2025] 171 taxmann.com 798 (Delhi - Trib.)

**SECTION 269SS OF THE INCOME-TAX ACT, 1961 -  
DEPOSITS - MODE OF TAKING /ACCEPTING**

- 4.88** An agent in a transaction of transfer of immovable property between a buyer and seller, cannot be held liable for penal consequence under section 269SS for receiving, for or behalf of and handing over money to, his principal - **R. Anbuvelrajan v. Additional Commissioner of Income-tax** - [2025] 171 taxmann.com 499 (Chennai - Trib.)

**SECTION 271(1)(c) OF THE INCOME-TAX ACT, 1961 -  
PENALTY - FOR CONCEALMENT OF INCOME**

- 4.89** Where Assessing Officer had failed to put assessee to notice as regards default for which penalty under section 271(1)(c) was sought to be imposed on him by clearly and explicitly pointing out specific default/defaults in show cause notice, it had divested assessee of an opportunity to put forth an explanation before Assessing Officer that no such penalty was called for in his case, therefore, penalty order could not be sustained - **Ganesh Prasad Khetan v. Deputy Commissioner of Income-tax** - [2025] 171 taxmann.com 647 (Raipur - Trib.)
- 4.90** Where additions to assessee's income were made by Assessing Officer based on application of estimated rate of NP on gross receipts following rejection of books of account, penalty could not be sustained/imposed under section 271(1)(c) - **AKM Resorts v. ACIT** - [2025] 171 taxmann.com 685 (Chandigarh - Trib.)

**SECTION 271E OF THE INCOME-TAX ACT, 1961 -  
PENALTY - FOR FAILURE TO COMPLY WITH SECTION 269T**

- 4.91** Where Assessing Officer imposed penalty under section 271E finding that assessee had violated provisions of section 269T, by making repayment of a sum in cash, since Assessing Officer had not recorded satisfaction in assessment order that it was a case calling for initiation of penalty proceedings under section 271E, impugned penalty order deserved to be set aside - **Anil Sharma v. Income-tax Officer** - [2025] 172 taxmann.com 94 (Jaipur - Trib.)

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

- 5.1** Where provisional attachment order under section 5 of Prevention of Money Laundering Act, 2002 was passed attaching an amount of Rs. 80 lakhs, received from 'Y' in accounts of 'RC' in name of 'R' and 'V' and subsequently transferred to RKE and said amount was held as Benami Property by Initiating Officer, however, investigation had itself revealed that funds were not transferred by alleged Beneficial Owner, Adjudicating Authority had rightly not confirmed Provisional Attachment Order - **Initiating officer v. Ramesh Chand Sharma** - [2025] 171 taxmann.com 759 (SAFEMA - New Delhi)

**SECTION 2(9)(D) OF THE PROHIBITION OF BENAMI  
PROPERTY TRANSACTIONS ACT, 1988 - BENAMI  
TRANSACTION**

- 5.2 Determination:** Where assessee, a partnership firm engaged in leasing equipment, sand, gravel, and brick earth sales, was subject to a search and seizure operation, leading to confiscation of huge cash and gold, however, investigation revealed corroborative evidence suggesting that assessee firm had merely lent its name to conceal identity of unknown beneficial owners, attached properties were rightfully classified as Benami Properties under PBPTA. - **DCIT v. SRS Mining** - [2025] 171 taxmann.com 765 (SAFEMA - New Delhi)

## **Clubbing of Income: A Comparative Analysis of the Income-tax Act, 1961 and the Income-tax Bill, 2025**



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### **Introduction**

Clubbing of income is a critical anti-tax avoidance provision embedded in income tax law to prevent the artificial transfer of income to family members or related parties to reduce tax liability. These provisions, originally outlined in Chapter V (Sections 60 to 65) of the Income-tax Act, 1961, have been retained with structural simplifications in the Income-tax Bill, 2025, as Sections 96 to 100. While the underlying principles remain unchanged, the Income-tax Bill, 2025, aims to enhance clarity and certainty by introducing simplified language, removing redundant provisions, and incorporating formula-based calculation where necessary. This article delves into the clubbing provisions under both laws, highlighting key changes and improvements in the Income-tax Bill, 2025.

### **Clubbing of income: Concept and rationale**

The clubbing provisions operate on the principle that income should be taxed in the hands of the person who has real control over it, rather than allowing individuals to divert income to lower-taxed relatives or entities to reduce overall tax liability. The most common situations where income is clubbed with another person's income include:

- Transfer of income without transfer of the underlying asset (Section 60 / Section 96 of the new Bill)
- Revocable transfer of assets (Section 61 / Section 97 of the new Bill)
- Transfer of assets to a spouse or son's wife without adequate consideration (Section 64 / Section 99 of the new Bill)
- Income of a minor child (Section 64(1A) / Section 99(1)(c) of the new Bill)
- Transfer of property to an HUF (Section 64(2) / Section 99(3) of the new Bill)



Comparing Income Tax Act, 1961 and Income Tax Bill, 2025			
Provisions	Income Tax Act, 1961	Income Tax Bill, 2025	Key Changes
Transfer of Income without transfer of asset	Section 60	Section 96	No changes in taxability but language is simplified
Revocable transfer of assets	Section 61,62	section 97	Simplified language with explicit exclusions
Definition of "Transfer" and "Revocable transfer of asset"	Section 63	Section 98	Simplified definition of revocable transfer
Clubbing of Spouse's Income	Section 64(1)(ii),(iv),(v) ii), Explanation 1	Section 99(1)(a)	Relevant sub sections merged into section 99(1)(a) further Sec 64(1) Explanation 1 converted into 99(5)(a)(i) and (ii)
Clubbing of Son's wife income	Section 64(1)(vi),(viii)	Section 99(1)(b)	Relevant sub sections merged into section 99(1)(c)
Clubbing of Minor Income	Section 64(1A)	Section 99(1)(c ), Section 99(5)	Proviso incorporated in section 99(1)© and Explanation replaced with 99(5)(b)
Transfer of Property to Hindu Undivided Family	Section 64(2)	Section 99(3), 99(4)	Paragraph replaced with points and Explanation replaced with a sub section (4)
Income from Reinvestment of Clubbed Income	Explanation 3 to section 64(1))	Section 99(2)	Complex language of the explanation replaced with a nseperate sub section with simple formula for easier computation
Liability to Pay tax on Clubbed Income	Section 65	Section 100	Reinforces the liability of the legal owner of the asset even if tax is clubbed in another's hands

## Section wise contents in the Income Tax Bill, 2025

### Section 97: Chargeability of Income in transfer of assets

Sec 97(1) states that any income arising from revocable transfer of assets will be considered as income of the transferor and shall be included in his total income.

Sec 97(2) provides that in the following two cases the income arising from transfer of asset will not be charged in the hands of the transferor:

- Where transfer is by way of trust which is not revocable during the lifetime of the of the beneficiary or
- Where transfer made by the transferor is not revocable during the lifetime of the transferee,

and the transferor does not derive any direct or indirect benefit from such income as referred in clause (a) and (b) ,

Sec 97(3) states that from the date the power to revoke the transfer of the assets arises the income arising from such assets will be clubbed in the hands of the transferor.

### Section 98: “Transfer” and “revocable transfer” defined

This section defines the word transfer and revocable transfer used in section 96 and 97 of the Income Tax Bill, 2025

While the word **transfer** is defined to include **settlement, trust covenant agreement or arrangement**, the term **revocable transfer** is defined as a **transfer in which the transferor directly or indirectly exercises control/right over the asset transferred or over the income transferred**.

### Section 99: Income of any individual, for a tax year, shall include income of spouse, minor child etc

Sec 99(1)(a) and relevant portion sec 99(5): Covers three different situations vide its sub clauses (i), (ii) and (iii) when income of spouse to be included in the income of the Individual:

While clause (i) states that where **remuneration is received by the spouse of an individual** from a concern in which the individual is having substantial interest, such remuneration will be clubbed with the income of the individual if the spouse is not having any Technical or Professional Knowledge, experience and professional qualification to justify the remuneration received. **Imp: While use of words like technical or professional knowledge and experience before the words professional qualification hints upon the fact that any remuneration paid to spouse for technical or professional knowledge and experience will not be clubbed in the hands of the individual, we will have to wait and watch as to how the same is interpreted by the department!**

Further sub clause (ii) states that, if an individual transfers (directly or indirectly) his/her asset (other than house property) to his or her spouse otherwise than for adequate consideration, then income from such asset will be clubbed with the income of the individual (i.e., transferor). Income from transfer of house property without adequate consideration will also attract clubbing provisions, however, in such a case clubbing will be done as per section 25(a) and not under section 99(1)(a)(ii). However, provision of sec 99(1)(a)(ii) will not be attracted in cases where asset is transferred to spouse without adequate consideration or in connection with agreement to live apart.

Sub clause (iii) states that where an individual transfers any asset say to any person or association of person without adequate consideration then any income arising from such asset shall be clubbed in the hands of the individual to the extent to which the income from such asset is for the immediate or deferred benefit of the spouse. Let us understand this with an example: Say Mr A transfers shares in Company worth Rs.5,00,000/- to his wife, Mrs A by placing the shares in a trust. The trust specifies that the income generated from the shares such as annual dividend of Rs. 25,000/- will be used for the benefit of Mrs. A, but at a later date, say after 10 years from now. In this case Rs. 25,000/- annual dividend income will be clubbed in the hands of Mr. A for tax purpose, even though the

benefit will be deferred to Mrs. A in future. Therefore, Mr. A will be liable to pay taxes on Rs. 25,000/- dividend income, which will be eventually be for his wife's benefit.

Sec 99(5)(a)(i) and (ii): The income referred to in these sub-clauses will be clubbed in the hands of the spouse whose total income before such inclusion is greater. Further once such income is included in the total income of either spouse for a tax year, the same shall not be included in the income of the other spouse unless the assessing Officer is so satisfied after giving an opportunity of being heard.

Sec 99(5)(a)(iii) An individual shall be deemed to have substantial interest in any concern, if such individual alone or along with his relatives beneficially holds at any time during the previous year 20% or more of the equity shares (in case of a company) or is entitled to 20% of profit (in case of concern other than a company).

Sec 99(1)(b); Covers two different situations vide its sub clause (i) and (ii) when income of son's wife will be clubbed in the hands of the individual:

While sub clause (i) state that if an individual transfer( directly or indirectly) his/her asset to his /her son's wife on or after 1st June 1973 for inadequate consideration , then income from such asset will be clubbed with the income of the Individual (i.e the transferor), Clause (ii) states that if any asset is transferred by the individual for the immediate or deferred benefit of his/her son's wife to any person or trust for inadequate consideration, then the income arising from such asset will continue to be clubbed in the hands of the individual (i.e, transferor)

Sec 99(1)(c) and relevant portion of sec 99(5)(b):When Income arising to Minor Child is to be clubbed in the hands of the Individual:

As per section 99(1)(c), state that any income arising to a minor child of an individual will be included in the total income of the individual. Income of minor child earned on account of manual work or any activity involving application of his/her skill, knowledge, talent, experience, etc. will not be clubbed with the income of his/her parent. However, accretion from such income will be clubbed with the income of parent of such minor. Provisions of this section will not apply to any income of a minor child suffering from disability specified under section 154.

Sec 99(5)(b)(i) and (ii): Income of minor will be clubbed with the income of that parent whose income (excluding minor's income) is higher. If the marriage of parents does not sustain, then minor's income will be clubbed with the income of parent who maintains the minor. Further any such income once included in the income of one of the parent will not be included in the income of the other person unless the Assessing officer is so satisfied after giving an opportunity of being heard.

Sec 99(2) states that if any transferred asset, as mentioned in Section 99(1)(a) or 99(1)(b), is reinvested into another asset, then the income generated from such reinvestment will also be clubbed in the hands of the original transferor, for calculating which a simple formula has been provided. Thus, the complex language of Explanation 3 to section 64(1) of the Income Tax Act, 1961 has been replaced with a formula in section 99(2) of the Income tax Bill, 2025.



Let us understand the same with a simple example:

On April 1, 2024, Mr. X transfers Rs. 10,00,000 to his wife, Mrs. X, without any adequate consideration. On April 5, 2024, Mrs. X invests this amount as capital in a partnership firm, where she is admitted as a partner. Including her own funds, Mrs. X's total capital contribution in the firm amounts to Rs. 25,00,000. The firm pays 12% per annum interest on capital, credited at the end of the financial year on March 31, 2025. Given this interest rate, the total interest earned by Mrs. X for the financial year 2024-25 amounts to Rs. 3,00,000. Since Rs. 10,00,000 out of Mrs. X's total capital (Rs. 25,00,000) came from Mr. X's transferred asset, the portion of interest to be clubbed is calculated as  $(10,00,000 \div 25,00,000) \times 3,00,000 = \text{Rs. } 1,20,000$ .

Sec 99(3), sec 99(4): Clubbing of Income derived from property transferred by an Individual to the Hindu Undivided Family (HUF) in which he is a member

As per section 99(3), when an individual, being a member of HUF, transfers his property to the HUF otherwise than for adequate consideration or converts his property into the property belonging to the HUF (it is done by impressing such property with the character of joint family property or throwing such property into the common stock of the family, or through direct or indirect transfer), then clubbing provisions will apply as follows:

- i. Before partition of the HUF, entire income from such property will be clubbed with the income of transferor.
- ii. After partition of the HUF, such property is distributed amongst the members of the family. In such a case income derived from such property by the spouse of the transferor will be clubbed with the income of the individual and will be charged to tax in his hands.
- iii. The income stated in (i) and (ii) on being included in the total income of the individual will be excluded from the total income of the family or spouse.

As per Sec 99(4), the provisions of the sub-section (3) shall not apply where such transfer of property by the individual takes place before 31st December, 1969.

**Sec100: Liability of person in respect of income included in income of another person**

Section 100 acts as a safeguard for tax enforcement, ensuring that tax on clubbable income remains recoverable from the legal owner of the asset even if it is taxed in another person's hands. It prevents tax evasion and strengthens compliance by making both the assessee and the legal owner of the asset responsible for tax payment.

For example: Suppose Mr. A transfers Rs. 20,00,000 to his wife, Mrs. A, without adequate consideration, and Mrs. A invests this amount as capital in a partnership firm where she earns interest on capital and profit share. According to Section 99, the interest on capital (but not the profit share) is clubbable with Mr. A's taxable income. If Mrs. A earns Rs. 2,40,000 as interest on capital, this amount will be added to Mr. A's income for tax purposes. However, if Mr. A fails to pay the tax, the Assessing Officer can demand the tax from Mrs. A under Section 100 since she is the legal

owner of the capital in the firm. This ensures that the government can recover tax from either the assessee (Mr. A) or the person in whose name the income- generating asset stands (Mrs. A)

**Conclusion**

The Income-tax Bill, 2025, while retaining the essence of the clubbing provisions, enhances clarity, compliance, and certainty through simplification of language, removal of ambiguity, and formula-based computation. By mapping Sections 60-65 of the 1961 Act to Sections 96-100 of the new Bill, it is evident that no substantive changes have been made, but taxpayer convenience has been prioritized. These refinements are expected to reduce the litigation and make compliance more straightforward for both taxpayers and tax professionals. However only time will reveal whether expected result will be achieved or not.

# GST & INDIRECT TAXES

## 1. STATUTORY UPDATES

- 1.1** CBIC directed dept. to withdraw appeals filed for wrong calculation of interest & penalty if tax is paid as per Section 128A - **INSTRUCTION NO. 2/2025- GST [CBIC-20016/39/2024 GST-SECTION], DATED 07-02-2025**

**Editorial Note :** The CBIC has issued instruction to department to withdraw appeal in cases where tax amount has been fully paid by the taxpayer on demands made u/s. 73 of the CGST Act as per Section 128A and department is in appeal or under the process of filing an appeal only on account of wrong interest calculation and/or wrong imposition or non-imposition of penalty amount.

- 1.2** CBIC notifies effective dates for various amendments in CGST Rules - **NOTIFICATION NO. 9/2025-CENTRAL TAX [G.S.R. 129(E)/F. NO. CBIC-20006/21/2024-GST], DATED 11-02-2025**

**Editorial Note :** The CBIC has issued a notification to specify the effective dates for the amendments introduced in CGST Rules vide Notification No. 12/2024- Central Tax, Dated 10-07-2024. The amendments related to Aadhar authentication, E-Way Bill, Form GSTR-3B will come in force w.e.f. 11-02-2025, while amendment related to the provisions of Input service distributor, Form GSTR-7 & GSTR-8 will be made effective with from 01-04-2025.

- 1.3** GSTN issued advisory on e-way bill generation for goods under Chapter 71

**Editorial Note :** The GSTN has issued an update to inform that various industry stakeholders have voluntarily been generating EWBs for goods u/C. 71 due to the availability of this option in the EWB system. In this regard, it is clarified that while the system previously allowed EWB generation for goods u/C. 71, this facility has now been withdrawn.

- 1.4** GSTN issued new advisory for GST Registration process

**Editorial Note :** The GSTN has issued an update to inform that if taxpayers choose not to authenticate via Aadhaar, they must visit the designated GST Suvidha Kendra (GSK) for photo capturing and document verification. It is also informed that applicants must adhere to the steps as per Rule 8 of the CGST Rules, 2017. If taxpayers are opting for Aadhaar authentication, they should first visit the GSK for biometric authentication and photo capturing, followed by the Primary Authorized Signatory (PAS).

- 1.5** GSTN issued advisory on Introduction of Form ENR-03 for enrolment of unregistered dealers to generating E-way Bill

**Editorial Note :** The GSTIN has issued an update to inform a new feature in Form ENR-03 has been introduced, effective from 11-02-2025 in accordance with Notification No. 12/2024 dated 10-07-2024 for the enrolment of unregistered dealers. Unregistered dealers transporting goods can now generate e-way bills by enrolling on the EWB portal and obtaining a unique Enrolment ID, which serves as an alternative to Supplier or Recipient GSTIN. A user manual for Form ENR-03 has also been provided for taxpayers.

- 1.6** GSTN issued advisory for Biometric Aadhaar Authentication and Document Verification for GST Registration Applicants in Jharkhand and Andaman & Nicobar Islands

**Editorial Note :** The GSTIN has issued an update to inform that in accordance with Rule 8 of CGST Rules, Biometric-based Aadhaar Authentication and document verification has been rolled out in Jharkhand and Andaman and Nicobar Islands on 15-02-2025. The functionality includes applicants photograph capture, original document verification and appointment booking. After submitting the application in Form GST REG-01, applicants will receive links in the email and required to carry the specified documents.

## 2. SUPREME COURT

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

- 2.1** Powers to summon, arrest and prosecute are ancillary and incidental to power to levy and collect GST; thus, sections 69 and 70 of GST Acts are not ultra vires Constitution, as GST Acts, in pith and substance, pertain to Article 246A of Constitution - **Radhika Agarwal v. Union of India - [2025] 171 taxmann.com 832 (SC)**

### SECTION 104 OF THE CUSTOMS ACT, 1962 - POWER TO ARREST

- 2.2** Section 104(1) of Customs Act, 1962 stipulates that a customs officers may only arrest a person if they have 'reasons to believe' that he has committed an offence and not otherwise; this 'reasons to believe' represents a more stringent standard than 'mere suspicion' threshold as provided u/s. 41 of Cr. PC, 1973 for reason that unbridled exercise of power to arrest without a warrant can result in arbitrariness and errors in decision making process - **Radhika Agarwal v. Union of India - [2025] 171 taxmann.com 832 (SC)**

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

- 2.3** SC stays impugned order of HC wherein it was held that section 107 of CGST Act, 2017 does not exclude provisions of section 5 of Limitation Act, 1963 and, therefore, Appellate Authority should consider condonation of delay in filing appeal beyond prescribed period - **Joint Commissioner v. S.K. Chakraborty and Sons - [2025] 171 taxmann.com 414 (SC)**



### 3. HIGH COURT

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

- 3.1 Where SCN was issued alleging that assessee ought to have paid GST on supply of text books being ancillary supply to supply of platform solution services, assessee had reversed/ did not avail ITC qua sale of books considering sale of books as exempt supply, factual position however, not considered in show cause notice, respondent was to be directed to take into account contentions regarding non-availment of ITC and effect thereto - **Leadership Boulevard (P.) Ltd. v. Union of India - [2025] 171 taxmann.com 708 (Bombay)**

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

- 3.2 Where assessee impugned summons, emanated from a search conducted by CGST authorities, documents had already been submitted to State Authority who had framed final orders u/s. 73 of CGST Act, search by CGST authority would stand clearly distinct and separate from proceedings which authorities, be it Central or State, may propose to undertake u/s. 73 or 74 of GST Act, impugned summons were not to be interdicted - **Armour Security India Ltd. v. Commissioner CGST Delhi East Commissionerate - [2025] 171 taxmann.com 658 (Delhi)**

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

- 3.3 Flavoured milk would be classified under Tariff Heading No.0402 9990 attracting tax at rate of 2.5% for CGST and SGST, respectively - **Heritage Foods Ltd. v. Addl. Commissioner and Others - [2025] 171 taxmann.com 151 (Andhra Pradesh)**
- 3.4 Where assessee was awarded contract prior to commencement of GST and had paid GST, however there was total inaction on part of respondent authority with regard to refund of GST, respondent was to be directed to process claim of assessee within 90 days - **B.K. Chawla Contractor v. State of Chhattisgarh - [2025] 171 taxmann.com 430 (Chhattisgarh)**
- 3.5 Where assessee had completed works and completion certificate was issued however claim of assessee for reimbursement of GST had not been processed, respondent was to be directed to process claim of assessee within 8 weeks - **Banka Constructions v. State of Chhattisgarh - [2025] 171 taxmann.com 431 (Chhattisgarh)**

#### SECTION 11 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - LEVY AND COLLECTION OF TAX - EXEMPTION - POWER TO GRANT

- 3.6 Where petitioner imported 100 MT of Lactulose, claiming exemption under Sr. No. 166(A) of Notification No. 50/2017-Customs, but revenue denied clearance, alleging it was a Bulk Drug under Sr. No. 166(B), since a similar issue was adjudicated in Petitioner's favor under Notification No. 12/2012-CUS and attained finality, revenue's refusal was unsustainable, therefore Lactulose is eligible for partial exemption under Sr. No. 166(A), subject to furnishing a bond - **Inspira Bio Pharma (P.) Ltd. v. Union of India - [2025] 171 taxmann.com 665 (Bombay)**

#### SECTION 14 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - SUPPLY - CHANGE IN RATE OF TAX

- 3.7 Where assessee transported coal for respondent, as per agreement entered into in 2015, was paid based on normative rate fixed as per agreement, normative rates were revised in 2023 making it applicable from 2018, amount paid since 2018 including GST to assessee pursuant to earlier normative rates was deducted, it was to be directed that if fresh representation is preferred by assessee before concerned authorities, same was to be decided in accordance with law - **Firstmove Logistics (P.) Ltd. v. Union of India - [2025] 171 taxmann.com 512 (Chhattisgarh)**

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

- 3.8 Where as per notifications, time limit for furnishing details of return, u/s. 39(1) of CGST Act for months of July, 2019 to September, 2019 was to be notified in Official Gazette, which was not notified, if assessee had complied with requisite conditions under provisions of Act and Rules and was lawfully entitled to ITC, same was not to be denied on technicalities - **Pioneer Cooperative Car Parking Servicing And Construction Society Ltd. v. State of West Bengal - [2025] 171 taxmann.com 153 (Calcutta)**
- 3.9 Where assessee impugned order involving availing of input tax credit after due date for F.Y. 2019-20, following W.P.(MD) Nos.25081 of 2024, dated 17-10-2024 and WP(MD) No.31980 of 2024, dated 6-7-2024 and taking note of amendment to section 16 of CGST Act, which came into force with retrospective effect from 1-7-2017, impugned order was to be set aside - **Aamutham Enterprises v. Superintendent of Central GST and Central Excise - [2025] 171 taxmann.com 231 (Madras)**
- 3.10 Where benefit of ITC was denied to assessee vide impugned orders on ground that on certificates of suppliers of assessee GSTIN was not mentioned, however on perusal, it was found that GSTIN was specifically mentioned, impugned orders were to be set aside and matter was to be remanded - **Bhagwan Das Agrahari v. State of U.P. - [2025] 171 taxmann.com 698 (Allahabad)**
- 3.11 Where case of assessee was covered by amendment brought in vide Finance Act 2024, whereby time limit to claim ITC for FYs 2017-18 to 2020-21 had been extended, respondent authority were to be directed to consider matter of assessee in view of aforesaid amendment and no coercive action was to be taken against assessee - **Arunas Snack Product v. State of Assam - [2025] 171 taxmann.com 624 (Gauhati)**

- 3.12** Under Section 16(2), since the burden is on recipient to prove receipt of goods, and petitioner failed to provide any documents confirming receipt or an accompanying e-Way bill, ITC granted based on invoices from proprietary firm supplying rubber to petitioner had to be treated as provisional and had to be reversed, instant writ petition was to be dismissed - **Devi Traders v. The State Tax Officer** - [2025] 171 taxmann.com 350 (Madras)

#### SECTION 18 OF THE REAL ESTATE (REGULATION AND DEVELOPMENT) ACT, 2016 - RETURN OF AMOUNT AND COMPENSATION

- 3.13** Where there was no specific mention in Sale and Construction Agreement about deduction of GST in case of cancellation of purchase of flat made by respondent's father, appellant/promoter was not entitled to deduct amounts towards GST before refunding pre-deposit - **Emerald Haven Realty Developers (Paraniputhur) (P.) Ltd. v. S.V. Ramesh** - [2025] 171 taxmann.com 321 (Madras)

#### SECTION 22 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - REGISTRATION - PERSONS LIABLE FOR

- 3.14** Where GST registration sought by petitioner was rejected on ground that petitioner did not belong to state of Andhra Pradesh, petitioner could not be deprived of his right to carry on trade or business in state of Andhra Pradesh, thus order of rejection was to be set aside and respondent was to be directed to register petitioner - **Tirumala Balaji Marbles and Granites v. Assistant Commissioner ST** - [2025] 171 taxmann.com 594 (Andhra Pradesh)

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

- 3.15** Where pursuant to issuance of a show cause notice, registration of assessee was cancelled, however proceeding with regard to said notice had not been finalized, concerned authority was to be directed to finalize proceeding expeditiously and preferably within two weeks - **Gopal Enterprises v. Principal Commissioner of Central Goods and Service Tax, North Delhi** - [2025] 171 taxmann.com 236 (Delhi)
- 3.16** Where registration of assessee was cancelled and assessee agreed to pay any outstanding revenue dues, respondent authority was to be directed to restore registration of assessee and open portal for 45 days to enable assessee to make payment of any outstanding dues - **Biswajit Majumder v. State of West Bengal** - [2025] 171 taxmann.com 699 (Calcutta)
- 3.17** Where registration of assessee was cancelled, subject to payment of tax, interest and penalty, registration of assessee was to be restored - **Faisal Construction Company v. Union Territory of J&K** - [2025] 171 taxmann.com 627 (Jammu & Kashmir and Ladakh)

- 3.18** Where registration of assessee was cancelled and assessee agreed to pay any outstanding revenue dues, respondent authority was to be directed to restore registration of assessee and open portal for 45 days to enable assessee to make payment of any outstanding dues - **Chhabi Rani Kundu v. Union of India** - [2025] 171 taxmann.com 583 (Calcutta)

- 3.19** Where assessee challenged SCN proposing to cancel registration of assessee, petition of assessee could not be entertained at instant stage and same was to be disposed of directing authority to conclude proceedings expeditiously - **Gurpreet Singh v. Commissioner of Delhi State GST** - [2025] 171 taxmann.com 663 (Delhi)

- 3.20** Where petitioner's GST registration was cancelled based on a cryptic show cause notice without a hearing, despite a physical verification report confirming firm's existence, and as petitioner was not provided proper material or a hearing, said cancellation order was to be quashed - **Rashid Proprietor of MS Enterprises v. Union of India** - [2025] 171 taxmann.com 515 (Delhi)

- 3.21** Where registration cancelled for not conducting business from declared place, appellate authority cannot reject appeal based on grounds not mentioned in original SCN. - **Jagdamba Marble v. Joint Commissioner (Appeals)** - [2025] 171 taxmann.com 589 (Chhattisgarh)

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

- 3.22** Where pursuant to cancellation of registration of assessee, delay in assessee's invoking proviso to Rule 23 was to be condoned subject to assessee depositing all tax and penalties etc. and application of assessee for revocation of cancellation of registration was to be considered in accordance with law - **Pradeep Kumar Mohapatra v. Commissioner, CGST, CX & Customs, Bhubaneswar** - [2025] 171 taxmann.com 197 (Orissa)
- 3.23** Where registration of assessee was cancelled and assessee agreed to any outstanding revenue dues, respondent authority was to be directed to restore registration of assessee and open portal for 45 days to enable assessee to make payment of any outstanding dues - **Ashis Roychowdhury v. State of West Bengal** - [2025] 171 taxmann.com 551 (Calcutta)
- 3.24** Where pursuant to cancellation of registration of assessee, assessee filed instant writ petition and submitted that assessee was willing to pay entire tax dues, application of assessee was to be considered by competent authority subject to payment of entire tax dues, interest and penalty - **Mangalam Associates v. Commissioner, State Goods and Services Tax Commissionerate** - [2025] 171 taxmann.com 741 (Uttarakhand)
- 3.25** Where pursuant to cancellation of registration of assessee, delay in assessee's invoking proviso to Rule 23 was to be condoned subject to assessee depositing all tax and penalties etc. and application of assessee for revocation of cancellation of registration was to be considered in accordance with law - **Babulu Patel v. Commissioner GST and Central Excise** - [2025] 171 taxmann.com 812 (Orissa)

**SECTION 44 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - RETURNS - ANNUAL RETURN**

- 3.26** Word "reconciliation" used in section 44 of CGST Act could mean that there can be a rectification of any error which might have occurred when taxpayer files his return in FORM GSTR -3B - *Pioneer Cooperative Car Parking Servicing And Construction Society Ltd. v. State of WB* - [2025] 171 taxmann.com 153 (Calcutta)

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

- 3.27** Where assessee's application u/s. 54(1) of GST Act for refund of pre-deposit amount was rejected by virtue of a deficiency memo, refund of pre-deposit is a right vested on an assessee after an appeal is allowed in its favour, rejection order was to be set-aside - *BLA Infrastructure (P.) Ltd. v. State of Jharkhand* - [2025] 171 taxmann.com 187 (Jharkhand)
- 3.28** Where revenue rejected refund applications on ground that Non-Woven Fabric and PPSB Bed Sheets should be classified under HSN Chapter 39, making them liable for a higher tax rate, instead of appellant's claimed classification under Chapter 63 since said issue of classification had been previously adjudicated in favor of petitioner under VAT and Central Excise and attempt of revenue to resurrect a settled issue is impermissible under law, said order rejecting refund was to be set aside - *Harsh Polyfabric (P.) Ltd. v. Union of India* - [2025] 171 taxmann.com 588 (Calcutta)
- 3.29** Where assessee's refund claim, covered by earlier final orders of appellate authority, rejected by appellate authority, appellate authority was to be directed to pass orders in accordance with law following principle of judicial discipline, after following principles of natural justice, and if GSTN portal does not permit filing of claims under category "Export of Services", assessee was to be permitted to file claims under "Others" - *Vodafone Idea Ltd. v. Union of India* - [2025] 171 taxmann.com 364 (Bombay)
- 3.30** Refund of accumulated TDS in cash ledger permissible after tax liability discharged through ITC, as per CBIC Circular No.166/22/2021-GST. - *Shapoorji Pallonji and Company (P.) Ltd. v. Union of India* - [2025] 171 taxmann.com 521 (Andhra Pradesh)
- 3.31** Where assessee had paid tax on 'Holographic stickers' (excise labels) under RCM, since such stickers purchased by assessee from Prohibition and Excise Department was supply of goods, assessee was not liable to pay tax on same, thus respondent authority was to be directed to process refund claim of assessee - *United Breweries Ltd. v. Jt. Commissioner of GST and Central Excise (Appeals II)* - [2025] 171 taxmann.com 596 (Madras)

- 3.32** 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. - *Priyanka Refineries (P.) Ltd. v. Deputy Commissioner ST* - [2025] 171 taxmann.com 240 (Andhra Pradesh)

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

- 3.33** Where impugned assessment order was issued in case of assessee without mentioning DIN number, following decision of Supreme Court in Pradeep Goyal v. Union of India [2022] 141 taxmann.com 64/93 GST 378/63 G.S.T.L. 286 and circular No.128/47/2019-GST, dated 23-12-2019, wherein it was held that order which does not contain a DIN number would be non est and invalid, impugned order was to be set aside - *Gayatri Enteprises v. State of Andhra Pradesh* - [2025] 171 taxmann.com 703 (Andhra Pradesh)

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

- 3.34** Where assessee challenged investigation, summons, and pre-SCN recovery under Section 67, recovery without adjudication violated Article 265, lacked voluntariness under Section 74(5), and refund with interest was upheld. - *Intelligence Officer, Directorate General of GST Intelligence v. Kesar Color Chem Industries* - [2025] 171 taxmann.com 739 (Karnataka)

**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**

- 3.35** Where respondent no.1-department passed an assessment order dated 16.08.2024 on ground that petitioner-assessee had not submitted its reply nor attended any personal hearing, however, petitioner-assessee had already filed its reply to show cause notice issued by respondent no.1-department, therefore, in view of above irregularity, impugned order was to be set aside. - *H.K. Enterprises v. Commercial Tax Officer* - [2025] 171 taxmann.com 587 (Madras)
- 3.36** Where assessee had approached high court vide instant writ petition, however sought to withdraw same with liberty to apply for Amnesty Scheme, writ petition was to be dismissed with liberty as prayed for - *Bhag Chand Jain v. Union of India* - [2025] 171 taxmann.com 432 (Rajasthan)
- 3.37** Time limit set out under section 73(2) of CGST Act is mandatory and any violation of that time period cannot be condoned, and would render show cause notice otiose - *Cotton Corporation of India v. Assistant Commissioner (ST) (Audit) (FAC)* - [2025] 171 taxmann.com 326 (Andhra Pradesh)



**3.38** Where assessee impugned order passed u/s. 73 of AGST Act on ground that no proper and prior SCN prescribed u/s. 73(1) of AGST Act was issued, only attachment to determination of tax u/s. 73(3) and a summary of SCN in Form GST DRC-01 issued, were not in compliance with section 73(1) of AGST Act and Rule 142(1) of AGST Rules, impugned order was to be set aside - **Sri Bitu Paul v. State of Assam** - [2025] 171 taxmann.com 475 (Gauhati)

**3.39** Where investigation was undertaken by a unit of Haryana State and assessee had also deposited certain amount under duress, writ petition of assessee filed before Delhi HC could not be entertained only on ground of existence of unit of assessee in Delhi - **Hardwyn India Ltd. v. Directorate General of GST Intelligence** - [2025] 171 taxmann.com 664 (Delhi)

**3.40** Where no proper and prior SCN prescribed u/s. 73(1) of AGST Act was issued, only attachment to determination of tax u/s. 73(3) and a summary of SCN in Form GST DRC-01 were issued, same were not in compliance with section 73(1) of AGST Act and Rule 142(1) of AGST Rules, impugned order issued u/s. 73 of AGST Act was to be set aside - **MS DNA Agrotech (P.) Ltd. v. State of Assam** - [2025] 171 taxmann.com 660 (Gauhati)

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

**3.41** Seizure of cash by GST authorities from premises, unless forming part of stock in trade, is illegal and subsequent transfer to Income Tax Department on requisition u/s. 132A cannot validate such retention. - **Centre C Edtech (P.) Ltd. v. Intelligence Officer, Offiintelligence Unit, State GST Department, Kerala** - [2025] 171 taxmann.com 659 (Kerala)

**3.42** Where assessee challenged SCN issued u/s. 74 and Single judge directed that issues raised by assessee were to be treated as preliminary issue and an order with regard to same was to be passed before proceeding further, power of HC could not be invoked by assessee seeking a part adjudication of lis, therefore order passed by Single Judge was to be modified and assessee was to be directed to appear before authority and a composite final order was to be passed before 15-2-2025 - **Deputy Commissioner (Intelligence) v. Minimol Sabu** - [2025] 171 taxmann.com 216 (Kerala)

**3.43** Where assessee filed instant writ petition apprehending that a composite order would be passed for 6 separate AYs and Single Judge directed respondent to pass separate orders, considering provision of section 74, whereunder exercise of determination was to be conducted in relation of each year, there was no reason to interfere with order of Single Judge - **Joint Commissioner (Intelligence & Enforcement) v. Lakshmi Mobile Accessories** - [2025] 171 taxmann.com 214 (Kerala)

**3.44** Where assessee challenged show cause notice issued under section 74 on ground that same pertained to a separate entity having separate registration and that there was no cause of action for issuance of said notice, said issues were to be treated as preliminary issue by authorities and an order with regard to same was to be passed before proceeding further with other issues in SCN - **Minimol Sabu v. State of Kerala** - [2025] 170 taxmann.com 875 (Kerala)

**3.45** Where petitioner-assessee challenged invocation of Show Cause Notice under Section 74 on ground that invocation was unjustified, however in WP(C) No. 31434 of 2024, it had been held that validity of invoking Section 74 would be treated as a preliminary issue before proceeding with final adjudication, therefore, following aforementioned precedent, it was directed that petitioner-assessee's reply must be considered before issuing final orders and respondent-department was also directed to assess petitioner-assessee's objection regarding applicability of Section 74 as a preliminary issue before proceeding further with final adjudication. - **Honey Rose Varghese v. State of Kerala** - [2025] 171 taxmann.com 630 (Kerala)

**3.46** Where assessee filed instant writ petition on ground that without granting sufficient opportunity, respondent authority was proposing to issue a composite order of determination, respondent authority were to be directed to pass separate orders for assessment period 2018-19 onwards after affording reasonable opportunity of hearing to assessee - **Lakshmi Mobile Accessories v. Joint Commissioner (Intelligence & Enforcement)** - [2025] 170 taxmann.com 874 (Kerala)

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

**3.47** Where assessee's bank account was attached under section 83 of GST Act, assessee engaged in real estate development business and allegation was of wrong availment of input tax credit under section 17(5)(d) of GST Act, material available to Commissioner to form an opinion that assessee was likely to defeat demand was not mentioned, impugned order was to be set aside - **Goisu Realty (P.) Ltd. v. State of Maharashtra & Ors.** - [2025] 171 taxmann.com 322 (Bombay)

**3.48** On expiry of period of one year, provisional attachment order issued under section 83 of CGST Act loses its efficacy and automatically pales into insignificance and on same set of facts, a fresh order of provisional attachment under section 83(1) of CGST Act cannot be issued thereafter - **Additional Director General v. Ali K.** - [2025] 171 taxmann.com 429 (Kerala)

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

**3.49** Provisions of Limitation Act, 1963, particularly section 5, cannot be invoked to condone delay in filing appeal beyond prescribed period of three months plus one month under CGST Act, 2017 - **Addichem Speciality LLP v. Special Commissioner I, Department of Trade and Taxes** - [2025] 171 taxmann.com 315 (Delhi)

**3.50** Period of three months mentioned in section 107(1) and period of one month u/s. 107(4) is to be interpreted as period of 90 days and 30 days respectively or actual number of days in a calendar month and date of receipt of order is to be excluded in counting prescribed period of limitation - **Brand Protection Services (P.) Ltd. v. State of Bihar** - [2025] 171 taxmann.com 318 (Patna)

**3.51** Where assessee's appeal against order in original was rejected on ground that no pre-deposit had been made through Form GST DRC-03A, due to non-availability of facilities to pay pre-deposit through online, assessee had voluntarily made payment through Form GST DRC-03, Form GST DRC-03A was introduced subsequently, therefore rejection order was to be set aside - **AR Foundations (P.) Ltd. v. Appellate Dy. Comm. (ST)** - [2025] 171 taxmann.com 508 (Madras)

**3.52** Where assessee had preferred appeal against an order of jurisdiction and same was dismissed on grounds of limitation ignoring observations in S.K. Chakraborty & Sons v. Union of India [2024] 159 taxmann.com 259 (Calcutta), order passed in appeal was to be set aside and Appellate Authority was to be directed to consider appeal on merits - **Binoy Kolay v. Senior Joint Commissioner, State Tax, Bally** - [2025] 171 taxmann.com 552 (Calcutta)

**3.53** Assessee's appeal against order passed u/s. 73(9) of CGST Act was rejected u/s. 107 of CGST Act, on ground that same was barred by limitation, without taking note of grounds for condonation of delay, assessee made pre-deposit and also prayer that by reasons of lack of proper knowledge of GST portal there had been delay in filing, there was no lack of bona fide on part of assessee, appellate authority was to be directed dispose of appeal on merit - **Kamala Stores v. State of WB** - [2025] 171 taxmann.com 514 (Calcutta)

**3.54** Where assessee's appeal filed u/s. 107 of CGST Act with application for condonation of delay and requisite pre-deposit was rejected holding that delay can only be condoned provided same was filed within period of one month, assessee was a small businessman and there was no lack of bona fide on part of assessee, impugned order was to be set aside and delay in filing appeal was to be condoned - **JP Aviation Services (P.) Ltd. v. Deputy Commissioner, State Tax** - [2025] 171 taxmann.com 738 (Calcutta)

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

**3.55** Where assessee filed writ petition against order passed by Appellate Authority as Appellate Tribunal had not been constituted yet, interim stay was to be granted and on payment of 10 percent of disputed amount over and above amount deposited u/s. 107(6), interim stay was to continue till further orders - **Adani Wilmar Ltd. v. Deputy Commissioner of State Tax** - [2025] 171 taxmann.com 697 (Calcutta)

**3.56** Where assessee challenged order passed under section 107 and Appellate Tribunal had not yet been constituted, subject to payment of 10 percent of balance amount of tax in dispute, order passed in appeal was to be stayed - **BWN Alloys (P.) Ltd. v. State of West Bengal** - [2025] 171 taxmann.com 771 (Calcutta)

**3.57** Where assessee aggrieved by order passed by first appellate authority wanted to file appeal before Tribunal, however same had not yet been constituted, appellate order was to be stayed subject to deposit of 10 percent of disputed tax amount over and above 10 percent deposited for filing appeal - **Chinmay Khuntia v. Additional Commissioner of State Tax (Appeal)** - [2025] 171 taxmann.com 476 (Orissa)

**3.58** Where assessee aggrieved by order passed by first appellate authority wanted to file appeal before Tribunal, however same had not yet been constituted, appellate order was to be stayed subject to deposit of 10 percent of disputed tax amount over and above 10 percent deposited for filing appeal - **Anil Kumar Prusty v. Commissioner of CT & GST** - [2025] 171 taxmann.com 550 (Orissa)

**3.59** Where assessee aggrieved by order passed by first appellate authority wanted to file appeal before Tribunal, however same had not yet been constituted, appellate order was to be stayed subject to deposit of 10 percent of disputed tax amount over and above 10 percent deposited for filing appeal - **Durga Prasanna Sahu v. Additional State Tax Officer, CT and GST Circle** - [2025] 171 taxmann.com 584 (Orissa)

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

**3.60** Where assessee challenged order imposing penalty pursuant to detention of goods and vehicle of assessee, since there was inaction on part of assessee and matter had been dealt with casually, writ petition of assessee could not be entertained - **HDB Financial Services Ltd. v. State of U.P.** - [2025] 171 taxmann.com 238 (Allahabad)

**3.61** Where goods in vehicle matched invoices in quantity and description, inspection authority conducted a roving inquiry beyond invoice details, no intent to evade tax was established, and Section 129 proceedings were unjustified, requiring impugned order to be set aside - **Ashok Sharma v. State of West Bengal** - [2025] 171 taxmann.com 682 (Calcutta)

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

**3.62** Where assessee impugned appellate order, approving order-in-original of adjudication officer disallowing assessee's claim in TRAN-1 of input tax credit for capital goods in transit as on appointed date, no facility provided in section 140 of CGST Act for claim of credit of excise duty paid on such goods before appointed date, there were no errors in impugned orders - **JMD Alloys Ltd. v. Union of India** - [2025] 171 taxmann.com 192 (Patna)

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

**3.63** Since assessment order was issued without proper service of notice as required under Section 169(1), it was liable to be set aside - ***M.Vimalraj v. Union of India*** - [2025] 171 taxmann.com 324 (Madras)

**3.64** Where assessment order was passed by respondent-department against petitioner-assessee by solely uploading show cause notice on GST portal, however, in WP (MD) No.26481 of 2024, it was held that assessment order was unsustainable if notice was not effected through any prescribed means viz. registered e-mail ID, registered post or personal delivery as per Section 169, therefore, relying upon judgment in WP (MD) No.26481 of 2024, impugned assessment order passed by respondent-department was to be set aside. - ***P.N.Traders v. Deputy State Tax Officer*** - [2025] 171 taxmann.com 746 (Madras)

**RULE 78 OF THE CENTRAL GOODS AND SERVICES TAX RULES, 2017 - MATCHING OF DETAILS FURNISHED BY THE E-COMMERCE OPERATOR WITH THE DETAILS FURNISHED BY THE SUPPLIER**

**3.65** Where impugned demand order was issued for mismatch between GSTR-1 and GSTR-8, neither show cause notice nor order of assessment was served directly but uploaded under 'view additional notices' tab on GST Portal, denying assessee opportunity to file reply and participate in proceedings, impugned order was to be set aside subject to assessee depositing 25% of disputed taxes - ***Fazari Multicuisine Restaurant v. Assistant Commissioner (ST)*** - [2025] 171 taxmann.com 401 (Madras)

**RULE 86A OF THE CENTRAL GOODS AND SERVICES TAX RULES, 2017 - CONDITIONS OF USE OF AMOUNT AVAILABLE IN ELECTRONIC CREDIT LEDGER**

**3.66** Where assessee impugned order alleging justification of appropriating future input tax credit as becomes available to assessee, assessee not been able to demonstrate assertion by revenue of appropriation, no right reserved to revenue to initiate recovery proceedings under section 73 or 74 rather than invoking rule 86A, blocking serves purpose of being security for revenue on recovery, writ petition was to be disposed off - ***Atulya Minerals v. Commissioner of State Tax*** - [2025] 171 taxmann.com 395 (Orissa)



## Input Service Distributor (ISD)



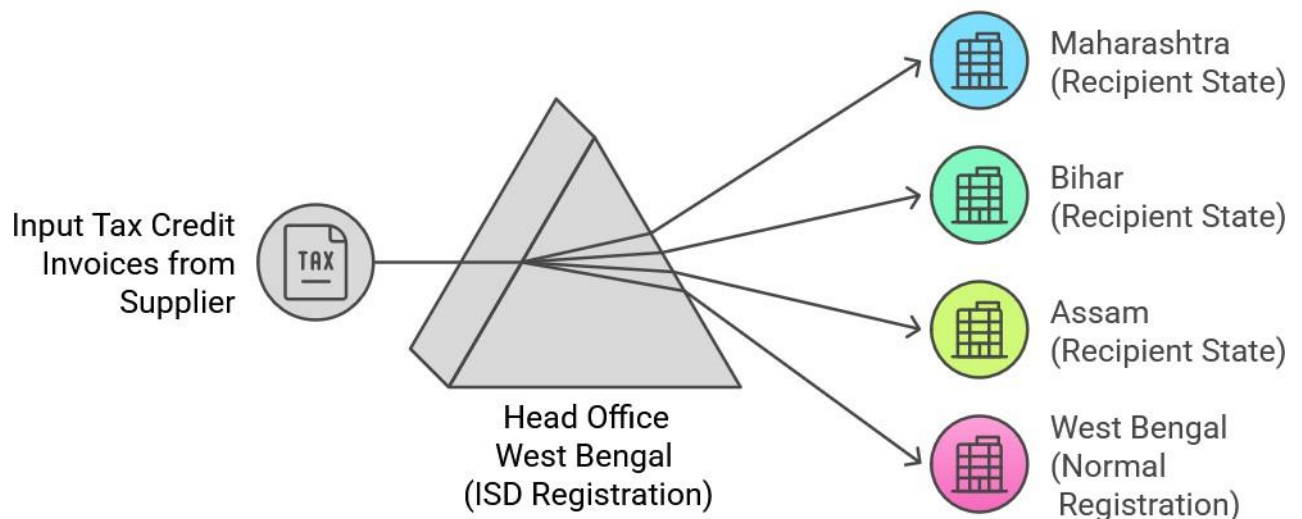
**Adv. Ankit Kanodia**

**E-mail: ankit@advocateak.com**

### A. Introduction [Section 2(61)]

- ISD is an **office** of the supplier of goods or services or both
- which **receives tax invoices** towards the **receipt of input services** including invoices in respect of services liable to tax under **Reverse Charge u/s 9(3)/(4) of CGST Act 2017**.
- **for or on behalf of distinct persons** referred to in section 25, and
- **distribute the input tax credit** in respect of such invoices to **concerned distinct person** in the manner provided in section 20 of CGST Act 2017.

ABC Co. Ltd. having registration in multiple states



**Note – As shown above, the ISD registration shall receive invoices pertaining to common input services and distribute the same to deemed distinct person including to the regular registration in the same state as that of ISD.**

**B. Obtaining Registration Under ISD [Section 24]**

- For all the taxpayer having **registration under GST in multiple states**, obtaining ISD has been made **mandatory w.e.f. 1.4.2025**.
- Registration Under ISD needs to be taken in state where expenses is incurred at company level. Generally, the Head Office of an organization incurs expenses in the nature of **software license fee, audit fee, advertisement fee, legal and professional fee etc.** and therefore, ISD registration should be mandatorily taken in state where HO is located.
- For obtaining Registration as ISD, application in **FORM GST REG 01** should be filed specifying the type of taxpayer as "Input Service Distributor".
- **Invoices for all common input services needs to be routed through ISD only.**

**Non-Compliance of above might lead to -**

- Penal actions under section 125 of the Central Goods and Services Tax Act, 2017
- ITC directly availed by branch offices can be denied.
- Penal action under section 122 for incorrect availment of ITC can be initiated. Penalty in such case can extend upto Rs. 10000 or ITC availed whichever is higher.

**C. Identifying Common Services and intimating new GSTIN to suppliers of common services and maintaining separate ledger / registers.**

- After applying for the ISD Registration, it becomes important to identify the common services incurred by HO/ISD on behalf of the branch offices/distinct persons.
- **Identify Supplies** - Supplies falling under **forward charge mechanism** [like – Audit Fee, Membership & Subscription, Software License, Business Consultancy, Advertisement & Publicity, finance charges etc.] and those falling under **reverse charge mechanism** [like advocate/legal fee, Membership & Subscription (Foreign), Sponsorship (from other than body corporate), Director Sitting Fees etc] which are incurred for company as a whole needs to be identified and **separate ledger for such common services needs to be maintained.**
- **Identify Suppliers** - The Suppliers supplying above common services needs to be identified and should be informed well in advance that from 01.04.2025, all the invoices should be reported in the ISD GSTIN of the company instead of regular GSTIN.
- **Separate Ledgers** – Separate ledger for common services, ITC on such common services received and output tax distributed to be maintained.
- **Separate RCM register** – For RCM invoices raised upon ISD, payment shall be made by regular GSTIN located in the same state as that of ISD. Separate register for such RCM payments should be maintained. Also, a separate ledger for such RCM paid on behalf of ISD to be maintained.

**D. RCM payment for common services and its distribution.**

- At present, GST portal does not provide any facility to ISD for making payment of tax under Reverse Charge Basis, availing credit of said payment and distribution thereof.
- **Invoice by supplier** - As per **Rule 39(1A)** of the CGST Rules 2017, invoices for common input service (on which tax is payable under RCM), **INVOICE SHOULD be issued in the GSTIN of ISD.**
- **RCM payment** - Further, payment of tax under RCM basis shall be done by the **regular GSTIN located in the same state as that of the ISD.**
- **Transfer of Credit to ISD** - ITC on above payment shall be availed the **regular GSTIN** and the credit so availed needs to be **transferred to ISD GSTIN** by issuing **invoice as per Rule 54(1A)**. (ambiguity lies on whether regular GSTIN is eligible to avail ITC on invoices raised to ISD GSTIN – clarification is expected CBIC in this regard)
- **Separate Accounting ledgers** - Separate ledger for RCM payment, ITC availed on behalf of ISD and ITC transferred to ISD by issuing invoice needs to be maintained and the account should be squared off on monthly basis.

**E. Reconciliation of Inward supplies with GSTR-6A and identifying eligible credits.**

- The recipient needs to ensure that all its supplier upload the invoice in GSTIN of ISD and the **ITC gets reflected in GSTR-6A** of ISD Registration.
- Reconciliation of ISD credit as per books and that reflecting in FROM GSTR-6A should be done.
- If ITC is not reflected in FORM GSTR-6A, ITC of same cannot be distributed to the branch offices / distinct persons.
- **Segregation of inward supplies received by ISD between eligible and ineligible credits should be done.**
- All ITC of common services (eligible and Ineligible) should be distributed.

**F. Issuing document for Transfer of Credit / Invoicing.****Invoice raised by ISD to recipient Branches -**

- ISD for distribution of credit to deemed distinct person needs to issue invoice as per Rule 54(1) of CGST Rules 2017 which is considered as valid document for availing ITC by the recipient branches in terms of section 16(2)(a) of the CGST Act 2017.
- Invoice raised by ISD should contain –
  - Name, address and GSTIN of ISD.
  - Consecutive Invoice No.
  - Date of Invoice.
  - Name, address and GSTIN of Recipient Distinct Person having same PAN.
  - Amount of Credit Distributed.
  - Signature.
  - Declaration – “Invoice issued for distribution of Input Tax Credit”.



- **Separate invoice for distributing eligible and ineligible** credit should be raised by ISD.
- Invoices so raised needs to be disclosed in FORM GSTR-6 to be filed on monthly basis by ISD (due date - 13th of succeeding month)
- Invoices so disclosed will appear in FORM GSTR-2B of the recipient branch office having same PAN.

#### **Invoice Regular GSTIN for transferring RCM ITC to ISD –**

- As discussed above, for RCM invoices raised by suppliers to ISD, payment of tax shall be done by regular GSTIN having same state as that of ISD.
- Tax to be transferred as CGST/SGST only and the invoice so generated needs to be disclosed in FORM GSTR-1 so that same can appear in GSTR-6A of ISD.
- As per Rule 39(1A) read with Rule 54(1A) of the CGST Rules 2017, the Invoice raised by regular GSTIN to ISD for transferring credit shall include following details –
  - Name, address, GSTIN of Regular GSTIN.
  - Consecutive serial number.
  - Date
  - **GSTIN and invoice no. of original supplier of common service**
  - Name address and GSTIN of ISD
  - Taxable Value, Rate, amount of credit to be transferred.
  - Signature.
- Copy of invoice issued by ISD should be kept with the recipient branch office for availing ITC.

#### **G. Manner of Distribution.**

<b>Invoicing</b>	ISD shall issue an invoice in accordance with Rule 54(1) clearly indicating that it has been <b>issued for distribution of credit</b> only.
<b>To whom</b>	<b>Only to actual recipient of service.</b>
<b>Ratio of Distribution</b>	<b>ITC shall be distributed in the ratio of turnover in preceding financial year.</b>
<b>What if turnover of some or all units for previous financial year not available</b>	Then ITC shall be distributed in the ratio of <b>TURNOVER of LAST QUARTER</b> for which turnover for ALL units are AVAILABLE.
<b>Amount to be distributed</b>	ITC distributed should not exceed ITC available with ISD
<b>Should ineligible ITC be distributed?</b>	Both eligible and ineligible ITC shall be distributed separately.
<b>Can ISD issue debit and credit notes?</b>	Yes. ISD can issue Debit Notes for increasing ITC already distributed and Credit note for reducing ITC.
<b>Ratio for Debit Note (DN)</b>	For DN - Fresh Ratio to be calculated at time of issuing DN
<b>Ratio for Credit Note(CN)</b>	For CN - Same ratio to be used as that of original invoice. Credit Note should contain details of Original ISD Invoice.

**TAX HEAD for distributing Credit by ISD –**

Nature of ITC Available for DISTRIBUTION	ISD and Recipient UNIT Located in	DISTRIBUTED AS
IGST	SAME STATE/UT	IGST
IGST	DIFFERENT STATE/UT	IGST
CGST and SGST/UTGST	SAME STATE/UT	CGST and SGST/UTGST
CGST and SGST/UTGST	DIFFERENT STATE/UT	IGST

**H. Filing of Return [section 36(4) read with rule 65].**

- ISD needs to file monthly return FORM GSTR-6 within 13th of succeeding month for distributing ITC of available common input services to the actual recipient branch offices.
- In the above return, following reporting is to be done –
  - **ITC available for distribution** – Invoice level details of Invoices / CN / DN issued by suppliers needs to be uploaded.
  - **Eligible ITC distribution Invoice** – Invoice level details of document issued by ISD for transferring credit needs to be uploaded. All recipients should have same PAN as that of ISD.
  - **Ineligible ITC distribution Invoice** – Invoice level details of document issued by ISD for transferring ineligible credit needs to be uploaded. All recipients should have same PAN as that of ISD.
  - **Debit / Credit Note for increasing / decreasing credit distributed earlier** – In Credit Notes issued by ISD, reference invoice details of original invoice needs to be uploaded as well.
- ITC available for Distribution disclosed above should match with total of eligible and ineligible ITC distributed.
- Invoices so disclosed will appear in FORM GSTR-2B of the recipient branch office having same PAN and ITC can be accordingly availed by respective branch offices.

**I. Recovery of Excess Credit Distributed [Section 21].**

- In case excess credit is distributed by ISD
- then, such excess credit shall be **recovered from such recipients**
- along with interest and
- the provision of section 73 or section 74 shall apply for determination of amount to be recovered.

**J. ISD is not a substitute for Cross Charge.**

- ISD and Cross Charge are two completely different concepts.
- Making ISD mandatory does not mean that the companies do not have to issue cross charge invoices to deemed distinct person.
- ISD transfers ITC on common services received from other suppliers.
- However, purpose of **Cross Charge is not for transferring ITC**. Rather, same is **issued for valuing internally generated services (management services, business support services) provided by HO to its branch office**.
- Such Internally generated services given by HO to branch are deemed to be supply as per Schedule I (even without consideration).
- Thus, invoicing to distinct persons under cross charge is continued.

**K. Relevant Legal Provisions.**

- Section 2(61) of CGST Act 2017 – Definition of ISD
- Section 20 of CGST Act 2017 – Manner of Distribution of Credit by ISD
- Section 21 of CGST Act 2017 – manner of Recovery of excess ITC distributed.
- Section 24 of CGST Act 2017 – Mandatory Registration for ISD
- Section 39(4) of CGST Act 2017 – Due date for filing GSTR-6 by ISD.
- Rule 36(1)(e) of CGST Rules 2017 – ISD invoice mandatory for availing ITC
- Rule 39 of CGST Rules 2017 – Procedure for Distribution of Credit by ISD
- Rule 54 of CGST Rules 2017 – Invoicing in case of ISD.
- Rule 65 of CGST Rules 2017 – Form and manner of submission of return by ISD



# COMPANY AND SEBI LAWS UPDATES

## 1. STATUTORY UPDATES

- 1.1** SEBI proposes a structured UPI handle to ensure secure and verified payments to registered intermediaries - **DRAFT CIRCULAR, DATED 31-01-2025**

**Editorial Note :** SEBI has introduced draft circular introducing a structured UPI handle for payments to SEBI-registered intermediaries, enhancing investor security. In the proposed mechanism, Username will be an alphanumeric ID that will be generated for the user while the handle used will be a unique identifier linked to the bank of the registered intermediaries. Public comments on the initiative are invited until 21.02.2025, through SEBI's website.

- 1.2** SEBI proposes a framework to facilitate safer participation of retail investors in Algorithmic Trading via brokers - **CIRCULAR NO. SEBI/HO/MIRSD/MIRSD-POD/P/CIR/2025/0000013, DATED 04-02-2025**

**Editorial Note :** SEBI has proposed a regulatory framework to facilitate safer participation of retail investors in Algorithmic Trading through brokers. Under the framework, retail investors will get access to the approved algos only from the registered brokers, which will safeguard the interests of those investors. Further, the facility of algo trading would be provided by a stock broker only after obtaining requisite permission from the stock exchange for each algo.

- 1.3** SEBI requires DPs, CCs, stock exchanges & intermediaries using AI tools to ensure privacy & security of investors' data - **NOTIFICATION F.NO. SEBI/LAD-NRO/GN/2025/225, DATED 06-02-2025**

**Editorial Note :** SEBI has notified SEBI (Depositories & Participants), Intermediaries, Stock Exchange & Clearing Corporations (Amendment) Regulations, 2025. New norms regarding 'responsibility for the use of artificial intelligence' have been inserted. They state that a depository, any person regulated by SEBI or a stock exchange & clearing corporation, using artificial intelligence and machine learning tools must be responsible for the privacy, security, and integrity of investors' and stakeholders' data.

- 1.4** SEBI introduces 'Investor Charter' compliance across various regulations to enhance investor protection - **NOTIFICATION F. NO. SEBI/LAD-NRO/GN/2025/228, DATED 10-02-2025**

**Editorial Note :** SEBI has notified SEBI (Investor Charter) (Amendment) Regulations, 2025, mandating compliance with the Investor Charter across 19 key financial regulations, including Stock Brokers, Mutual

Funds, and Portfolio Managers, among others. Each entity is required to align its operations with the Investor Charter guidelines issued by SEBI periodically.

- 1.5** SEBI directs stock brokers to use 'Negotiated Dealing System-Order Matching' for G-Secs trading under Separate Business Unit - **CIRCULAR NO. SEBI/HO/MIRSD/MIRSD-POD/P/CIR/2025/14, DATED 11-02-2025**

**Editorial Note :** SEBI has permitted registered stock brokers to access the Negotiated Dealing System-Order Matching (NDS-OM) platform for trading in government securities under a separate business unit (SBU). This move came after RBI permitted SEBI-registered non-bank brokers to access NDS-OM. Stock brokers must ensure that NDS-OM activities under an SBU are segregated and ring-fenced from securities market-related activities and that an arms-length relationship between these activities is maintained.

- 1.6** MCA extends due date for mandatory dematerialisation compliance by Private Companies to June 30, 2025 - **NOTIFICATION NO. G.S.R. 131(E) [F.NO. 1/21/2013-CL-V], DATED 12-02-2025**

**Editorial Note :** MCA has notified the Companies (Prospectus and Allotment of Securities) Amendment Rules, 2025. Under the existing norms, a private company, that is not a small company as on the FY ending on or after March 31, 2023, must dematerialise its securities within 18 months of the closure of the FY i.e. 30.09.2024. MCA has now extended the due date for mandatory dematerialisation compliance to June 30, 2025.

- 1.7** SEBI proposes to reconsider the period for collecting advance fees by IAs and RAs from their clients - **CONSULTATION PAPER, DATED 12-02-2025**

**Editorial Note :** SEBI has released a consultation paper on the advance fee to be charged by Investment Advisers (IAs) and Research Analysts (RAs). SEBI has proposed reconsidering the period for IAs and RAs to collect advance fees from their clients for up to one year. The objective of the provision of advance fees was to protect the interests of the investors. Currently, IAs can charge fees for a maximum of six months and RAs for a maximum of three months. Comments may be invited by February 27, 2025.

- 1.8** SEBI issues guidelines to recognize 'Industry Standards Forums' for setting implementation standards in securities markets - **PRESS RELEASE, DATED 12-02-2025**

**Editorial Note :** SEBI has introduced guidelines to recognize Industry Standards Forums (ISFs) for setting Standards for implementation of the regulatory directions. ISFs will assist entities like MIs, mutual funds, and listed companies in implementing SEBI regulations. The

guideline outlines the constitution of ISF, the Chairperson of ISF, process for adoption of Industry Standards. Further, ISF shall issue Implementation Standards only after the Standards are recognized for implementation by SEBI.

- 1.9** SEBI proposes margin pledge reforms to curb misuse of client securities and enhance broker efficiency - **DRAFT CIRCULAR, DATED 12-02-2025**

**Editorial Note :** SEBI has introduced a draft circular on margin pledge reforms to prevent misuse of client securities and improve broker efficiency. It proposes a functionality where, if a client sells pledged securities under Margin/MTF/CUSPA pledge, depositories will enable a single instruction called 'Pledge release for early pay-in.' This will release the pledge and block securities in the client demat account for early pay-in, limited to the client's delivery obligation, without requiring instructions.

- 1.10** SEBI releases Industry Standards Recognition Manual to guide ISF formation and functioning - **PRESS RELEASE NO. 8/2025, DATED 12-02-2025**

**Editorial Note :** SEBI launched a pilot programme for Industry Standards Fora (ISF) in July, 2023 to formulate implementation standards for regulatory instructions issued by SEBI. SEBI has now released the Industry Standards Recognition Manual to provide guidance on the formation and functioning of Industry Standards Fora, which help in implementing regulatory instructions. These ISFs will facilitate good governance, ensuring high-quality compliance.

- 1.11** Issuance of equity shares against export advance payable to allottee will not fall u/r 163(3) of SEBI (ICDR) norms - **INFORMAL GUIDANCE NO. CFD/POD/OW/4775/1, DATED 12-02-2025**

**Editorial Note :** A company sought informal guidance from SEBI as to whether issue of equity shares against export advance payable to proposed allottee will fall under regulation 163(3) of SEBI (ICDR) norms. SEBI clarified that Reg. 163(3) allows 'issuance of specified securities on preferential basis for consideration other than cash' but in case of swap of shares. Since the preferential issue is against outstanding liability, the proposed issuance of equity shares will not fall u/r 163(3) of ICDR norms.

- 1.12** SEBI introduces MITRA platform to help investors trace inactive and unclaimed Mutual Fund folios and update KYC details - **CIRCULAR NO. SEBI/HO/IMD/IMD-SEC-3/P/CIR/2025/15, DATED 12-02-2025**

**Editorial Note :** SEBI has launched the MITRA platform, developed by CAMS and KFinTech, to assist investors in identifying inactive and unclaimed Mutual Fund folios. An inactive folio shall be defined as "Mutual Fund Folio(s) where no investor initiated transaction/s (financial and non-financial) have taken

place in the last 10 years but unit balance is available". Thus, Inactive folios include those where investors stayed invested in open-ended schemes but chose not to redeem or lost track.

- 1.13** SEBI notifies SEBI (Procedure for making, amending & reviewing of Regulations) Regulations, 2025 - **NOTIFICATION F. NO. SEBI/LAD-NRO/GN/2025/229, DATED 13-02-2025**

**Editorial Note :** SEBI has notified SEBI (Procedure for making, amending and reviewing of Regulations), 2025. This regulation specifies the process for regulation-making & mandates public consultation and engagement of stakeholders in the interest of transparency. The term "regulations" refers to regulations framed by the Board in the exercise of powers conferred under SCRA, the Depositories Act, Companies Act, 2013 or any enactment conferring powers on the Board.

- 1.14** SEBI revises timeline for submission of Consolidated Account Statement (CAS) by depositories - **CIRCULAR NO. SEBI/HO/MRD/POD1/CIR/P/2025/16, DATED 14-02-2025**

**Editorial Note :** To streamline compliance, the timelines for issuing Consolidated Account Statement (CAS) by depositories have been revised. Now AMCs/MF-RTAs must send monthly common PAN data to Depositories by the 5th of the following month. Depositories will then consolidate and dispatch e-CAS to investors by the 12th day from the month end and physical CAS by the 15th day from the end of the month. This decision follows discussions with MF-RTAs and Depositories to enhance efficiency in CAS issuance.

- 1.15** SEBI relaxes timelines for holding AIF's investments in Demat form - **CIRCULAR NO. SEBI/HO/AFD/POD-1/P/CIR/2025/17, DATED 14-02-2025**

**Editorial Note :** The SEBI has extended the timeline for mandatory dematerialisation of AIF investments from October 1, 2024, to July 1, 2025, providing a 9-month extension. The requirement to hold investments in demat form does not apply to AIF schemes ending by Oct 31, 2025, or in extension by Feb 14, 2025. AIFs making investments before July 01, 2025, may still invest in non-dematerialised securities.

- 1.16** Industry Standards Forum (ISF) issues Industry Standards for Related Party Transaction Disclosures - **CIRCULAR NO. SEBI/HO/CFD/CFD-PoD-2/P/CIR/2025/18, DATED 14-02-2025**

**Editorial Note :** Regl 23(2), (3) and (4) of SEBI LODR Regulations related party transactions ("RPTs") to be approved by the audit committee and by the shareholders, if material. The Industry Standards Forum (ISF), in order to facilitate a uniform approach and assist listed entities in placing the aforesaid information, has formulated industry standards, for minimum information to be provided for review by the audit committee and shareholders for RPTs approval. The circular shall be effective from Apr 1, 2025.

- 1.17** SEBI amends MF norms; directs AMCs to invest a percentage of employees' pay in units of MF schemes based on designation - **NOTIFICATION NO. SEBI/LAD-NRO/GN/2025/230, DATED 14-02-2025**

**Editorial Note :** SEBI has notified the SEBI (Mutual Funds) (Amendment) Regulations, 2025. An amendment has been made to Regulation 25 relating to 'Asset Management Company and its obligations'. A new sub-regulation 16B has been inserted, which requires an asset management company (AMC) to invest a percentage of the remuneration of employees as specified by the Board in units of MF schemes based on the designation or roles of the designated employees in the manner as specified by the Board.

- 1.18** SEBI mandates NISM certification for research analysts, officers, and associated persons, effective March 1, 2025 - **NOTIFICATION NO. SEBI/LAD-NRO/GN/2025/231, DATED 14-02-2025**

**Editorial Note :** SEBI has mandated NISM certification for individual registered as research analyst, a principal officer of a non-individual research analyst, individuals employed as research analysts, persons associated with research services, and in case of the research analyst being a partnership firm, the partners thereof if any, who are engaged in providing research services under the RA Regulations, 2014. This notification shall come into force from March 1, 2025.

- 1.19** SEBI notifies 'Important Terms and Conditions' for Investment Advisers and Research Analysts - **CIRCULAR NO. SEBI/HO/MIRSD/MIRSD-PoD/P/CIR/2025/19, DATED 17-02-2025**

**Editorial Note :** As per Research Analysts Regulations and Investment Advisers Regulations, Research Analysts and Investment Advisers must disclose the terms and conditions of research services, obtain client consent, and enter into an investment advisory agreement. Now, the Industry Standards Forum (ISF) for Research Analysts and ISF for Investment Advisers, in consultation with IAASB and SEBI, has introduced Most Important Terms and Conditions (MITC). This circular shall take effect immediately.

- 1.20** SEBI clarifies that 'Investor Education and Awareness' include financial inclusion initiatives as approved by SEBI - **CIRCULAR NO. SEBI/HO/IMD/PoD1/P/CIR/2025/21, DATED 20-02-2025**

**Editorial Note :** SEBI, vide the Master Circular dated June 27, 2024, on Mutual funds, directed AMCs to annually set aside at least 2 basis points on daily net assets within the maximum limit of total expense ratio for 'Investor Education and Awareness' initiatives. In this regard, SEBI clarified that initiatives under 'Investor Education and Awareness' include financial inclusion initiatives as may be approved by SEBI.

- 1.21** SEBI modifies investor charter for Stock Brokers to boost financial consumer protection - **CIRCULAR NO. SEBI/HO/MIRSD/MIRSD-PoD1/P/CIR/2025/22, DATED 21-02-2025**

**Editorial Note :** With a view to enhancing financial consumer protection alongside enhanced financial inclusion and financial literacy, the SEBI, has issued the modified investor charter for stock brokers. The modified charter includes vision, mission, services provided to investors by brokers, Dos and Don'ts for investors, grievance redressal mechanism and handling of investor's claims in case of default of a trading member along with the format for investor complaints data

- 1.22** Government to introduce revised Advocates (Amendment) Bill, 2025 for public consultation; Bar Council welcomes decision - **PRESS RELEASE, DATED 22-02-2025**

**Editorial Note :** Earlier, the Advocate (Amendment) Bill, 2025, was opened for public consultation on Feb 13, 2025, via the Department of Legal Affairs website, reflecting the government's commitment to transparency. Given the numerous suggestions received, the consultation process is now concluded. The revised draft will undergo further stakeholder consultation. The Bar Council of India has welcomed the government's decision to revise the Bill based on public feedback.

- 1.23** SEBI allows 'Association of Persons' to open demat accounts in their own name for holding securities - **CIRCULAR NO. SEBI/HO/MRD/POD1/CIR/P/2025/24, DATED 25-02-2025**

**Editorial Note :** SEBI has allowed 'The Association of Persons (AoP) to open demat accounts in their name for holding securities such as units of mutual funds, corporate bonds and Government Securities in demat accounts. However, such demat accounts will not be used to subscribe or hold equity shares. Further, AoP must be responsible for ensuring that it only subscribes to the financial instruments/securities that are permitted by statutes governing the constitution of AoP.

- 1.24** SEBI mandates listed entities to follow Industry Standards for effective disclosure of material events or information - **CIRCULAR NO. SEBI/HO/MRD/POD1/CIR/P/2025/25, DATED 25-02-2025**

**Editorial Note :** SEBI has mandated all listed entities to follow Industry Standards formulated by the Industry Standards Forum (ISF) for effective disclosure of material events or information as per Regulation 30 of LODR Regulations, 2015. The ISF comprises of representatives from three industry associations, viz. ASSOCHAM, CII and FICCI, under the aegis of the Stock Exchanges. Stock exchanges are advised to bring this to the notice of listed entities and ensure compliance.



- 1.25** SEBI Chairperson launches 'Bond Central' a Centralised Database Portal for Corporate Bonds - **PRESS RELEASE NO. 9/2025, DATED 27-02-2025**

**Editorial Note :** SEBI Chairperson launched Bond Central, a Centralised Database Portal for Corporate Bonds. This portal was developed by the Online Bond Platform Providers Association (OBPPA) in collaboration with Market Infrastructure Institutions. 'Bond Central' aims to create a single, authentic source of information on corporate bonds issued in India and is intended as an information repository for the public at large and is accessible free of cost.

- 1.26** SEBI mandates timely deployment of NFO funds by AMCs within 30 business days - **CIRCULAR NO. SEBI/HO/IMD/IMD-POD-1/P/CIR/2025/23, DATED 27-02-2025**

**Editorial Note :** To ensure timely deployment of funds raised in NFOs, SEBI has notified timelines for deployment of funds collected by AMCs in New Fund Offer (NFO) as per asset allocation of the scheme. The AMC shall deploy the funds garnered in an NFO within 30 business days from the date of allotment of units. Also, Trustees shall monitor the deployment of funds to ensure that the funds are deployed within a reasonable timeframe. This circular shall come into effect from 01.04.2025.

- 1.27** SEBI introduces framework for Specialized Investment Funds to bridge gap between MFs & Portfolio Management Services - **CIRCULAR NO. SEBI/HO/IMD/IMD-POD-1/P/CIR/2025/26, DATED 27-02-2025**

**Editorial Note :** SEBI has introduced a comprehensive regulatory framework for Specialized Investment Funds (SIFs), aimed at bridging the gap between Mutual Funds (MFs) and Portfolio Management Services (PMS). This move is designed to provide investors with greater portfolio flexibility while ensuring a level of investor protection. Under the framework, investors must invest at least Rs 10 lakh across all SIF strategies. The framework shall be effective from April 01, 2025.

- 1.28** Government appoints Shri Tuhin Kanta Pandey, IAS as Chairman, Securities and Exchange Board of India - **NOTIFICATION NO. S.O. 1018 (E), DATED 28-02-2025**

**Editorial Note :** Shri Tuhin Kanta Pandey, IAS (OR: 1987), has been appointed by the Central Government as the Chairman of the Securities and Exchange Board of India for an initial period of three years from the date of assuming charge or until further orders, whichever is earlier.

- 1.29** SEBI proposes to mandate a separate report on digital assurance of financial statement

**Editorial Note :** Earlier, Auditing and Assurance Standards Board & ICAI have jointly brought out a 'Technical Guide on Digital Assurance' to provide guidance to its members to adopt enhanced use of technology in audit by implementing the use of digitally available audit evidence and information. Now, SEBI has proposed to mandate a separate report on digital assurance of financial statement. The report will increase transparency, improve disclosure standards and enable better enforcement.

- 1.30** MCA issues guidelines for funding research, studies, workshops, & conferences under the 'Corporate Data Management' scheme

**Editorial Note :** MCA has notified guidelines for funding research, studies, workshops, & conferences under the 'Corporate Data Management' scheme. The major focus is to utilize the wealth of data available with the Ministry of Corporate Affairs by way of sponsoring Research Studies and Surveys etc. in areas related to corporate growth in overall macro-economic perspective. This is to be implemented by the Research and Analysis (R&A) Division of the Ministry, under the supervision of a 'Technical Committee'.

- 1.31** SEBI releases consultation paper on reviewing conditions for Category II AIFs to enhance Ease of Doing Business

**Editorial Note :** SEBI has released a consultation paper proposing amendments to Regulation 17(a) of SEBI (Alternative Investment Funds) Regulations, 2012, allowing Category II AIFs to invest more than 50% of their total investible funds in unlisted securities and/or listed debt securities with a credit rating of 'A' or below, either directly or through investment in units of other AIFs. This aims to address the shrinking universe of unlisted debt investments due to recent LODR amendments.

- 1.32** SEBI proposes trading window closure for immediate relatives of designated persons to curb insider trading risks

**Editorial Note :** SEBI has proposed to extend automated implementation of trading window closure to immediate relatives of designated persons, on account of declaration of financial results. The objective is to prevent non-compliance with insider trading norms. 'Immediate relative' means a spouse of a person, and includes parent, sibling, and child of a person or the spouse, any of whom is either dependent financially on such person, or consults such person in taking decisions w.r.t. trading in securities.

- 1.33** SEBI proposes to revise 'Annual Secretarial Compliance Report' format to strengthen corporate governance of listed entities

**Editorial Note :** SEBI has released a consultation paper on proposals to strengthen secretarial compliance report of a listed entity, specify the eligibility criteria for appointment of a statutory auditor, and clarify the applicability of RPT provisions. SEBI has proposed

revising the format of the Annual Secretarial Compliance Report (ASCR) to obtain explicit confirmation from PCS on compliance with specific provisions of securities laws. Comments may be submitted by February 28, 2025.

- 1.34** SEBI proposes a framework to manage unclaimed funds and securities with Trading Members

**Editorial Note :** SEBI has introduced a Consultation Paper on 'Treatment of unclaimed funds and securities of clients lying with Trading Members (TMs)'. As of 31.01.2025, unclaimed client funds totaled around INR 323 Cr., and unclaimed securities stood at INR 182 Cr. To address this significant amount, SEBI has now proposed a mechanism for managing these unclaimed funds and securities and tracing the respective clients. Public comments are invited on the proposal by 04.03.2025.

- 1.35** SEBI proposes measures to strengthen the framework for 'ESG Rating Providers'

**Editorial Note :** SEBI has released a Consultation Paper seeking public comments on the proposals to strengthen 'ESG Rating Providers' (ERPs). ESG stands for environmental, social and governance. SEBI has proposed the circumstances under which ERPs can withdraw ratings following the Subscriber-Pays business model and an Issuer-Pays business model. Under the Subscriber-Pays business model, an ERP can withdraw a rating if there are no subscribers for the rating on the date of withdrawal.

- 1.36** SEBI seeks public comments on proposed revisions to financial disclosure & compliance norms for REITs and InvITs

**Editorial Note :** SEBI has issued a draft circular seeking public comments on proposed revisions to financial disclosure and compliance norms for Real Estate Investment Trusts (REITs) and Infrastructure Investment Trusts (InvITs). The proposals include aligning period of disclosure of financial statements in the offer document with SEBI (ICDR) Regulations Framework for Calculation of Net Distributable Cash Flows etc. The Public can submit their comments latest by Mar 07, 2025.

- 1.37** SEBI plans SIM-based authentication to curb unauthorized transactions in demat accounts

**Editorial Note :** SEBI has proposed technology-based measures to create a secure trading environment and prevent unauthorized transactions in investors' trading and demat accounts. SEBI has proposed strengthening authentication by way of a SIM binding mechanism, i.e., One UCC-One Device-One SIM, similar to that of UPI payment applications, where the UPI application recognizes SIM along with mobile device and bank account details for carrying out UPI transactions. Comments may be submitted by 11.03.2025.

- 1.38** SEBI proposes enhanced financial disclosure norms for REITs and InvITs to improve transparency & investor protection

**Editorial Note :** SEBI has proposed measures to enhance the operational framework for REITs and InvITs. These proposals seek to improve business flexibility while safeguarding investor interests. SEBI's proposal mandates that REITs and InvITs present detailed, combined financial statements in their public offer documents. Also, the proposed measures introduce clear timelines & responsibilities for approval and listing of follow-on offers, aiming to streamline fund raising processes for publicly traded InvITs.

- 1.39** SEBI proposes to expand QIBs definition under SEBI ICDR, Regulations; seeks Public Comments

**Editorial Note :** SEBI has issued Consultation paper on expanding definition of Qualified Institutional Buyers under SEBI (ICDR) Regulations, 2018. SEBI proposes to include Accredited Investors in QIB's definition for the limited purpose of investments in Angel Funds. Further, it is also proposed to remove the limit of maximum 200 investors in an investment of Angel Fund. The public can submit their comments latest by 14th Mar, 2025 via online web-based form

- 1.40** SEBI plans to overhaul Open Interest measurement in equity derivatives with the FutEq method for better exposure tracking

**Editorial Note :** SEBI has proposed significant changes in how Open Interest (OI) in equity derivatives is measured, moving from notional value to a "Future Equivalent" (FutEq) or Delta-based approach to better reflect market exposure. The proposal includes revising Market Wide Position Limits (MWPL) based on daily trading volumes, adjusting position limits for index futures and options, and extending pre-open/post-closing sessions. SEBI also invites feedback on the proposals by March 17, 2025.

## 2. SUPREME COURT

### REGULATION 20 OF THE SECURITIES AND EXCHANGE BOARD OF INDIA (SUBSTANTIAL ACQUISITION OF SHARES AND TAKEOVERS) REGULATIONS, 2011 - COMPETING OFFERS

- 2.1** Upon a public announcement of an open offer for acquiring shares of a target company being made, any person, other than acquirer who has made such public announcement, shall be entitled to make a public announcement of an open offer within fifteen working days of date of detailed public statement made by acquirer who has made first public announcement - **Digvijay Laxhamsinh Gaekwad (Danny Gaekwad) v. Sapna Govind Rao - [2025] 171 taxmann.com 676 (SC)**

### 3. HIGH COURT

#### SECTION 3 OF THE REAL ESTATE (REGULATION AND DEVELOPMENT) ACT, 2016 - PRIOR REGISTRATION OF REAL ESTATE PROJECT WITH REAL ESTATE REGULATORY AUTHORITY

- 3.1 Where various FIRs were filed against petitioner, Managing Director of real estate company for misappropriating money collected from intending purchasers for various projects, writ petition filed for quashing those FIRs was to be dismissed - **Alok Kumar v. State of Bihar** - [2025] 171 taxmann.com 597 (Patna)

#### SECTION 10 OF THE SECURITIES CONTRACTS (REGULATION) ACT, 1956 - POWER OF SECURITIES AND EXCHANGE BOARD OF INDIA TO MAKE OR AMEND BYE-LAWS OF RECOGNISED STOCK EXCHANGES

- 3.2 Where petitioner challenged circular issued by NSE that if there was any levy of penalty for short/non-collection of upfront margins, it would be refunded if same had been passed on to clients after 11-10-2021, NSE could not impose a condition/restriction unilaterally in regard to a benefit that had been extended by SEBI, without prior sanction/approval and, hence, stipulation relating to date under said Circular was found to be arbitrary and was to be quashed. - **Vimal Kumar Gupta v. National Stock Exchange of India** - [2025] 171 taxmann.com 43 (Madras)

#### SECTION 79 OF THE REAL ESTATE (REGULATION AND DEVELOPMENT) ACT, 2016 - BAR OF JURISDICTION

- 3.3 RERA is a complete code providing exhaustive mechanism not only for adjudication of disputes, adherence of an obligation of respective parties but also to execute same as if it is a decree passed by Civil Court and, therefore, it excludes jurisdiction of Civil Court. - **Deepak Mawandia v. RSH Projects (P.) Ltd.** - [2025] 171 taxmann.com 639 (Calcutta)

#### SECTION 132 OF THE COMPANIES ACT, 2013 - NATIONAL FINANCIAL REPORTING AUTHORITY - CONSTITUTION OF

- 3.4 Section 132 of Companies Act represented a progressive regulatory shift, aimed at reinforcing compliance, raising bar for audit quality, and ensuring that no aspect of professional misconduct or deficiency in service remained unchecked, therefore, validity of section 132 and NFRA Rules was to be upheld - **Deloitte Haskins & Sells LLP v. Union of India** - [2025] 171 taxmann.com 256 (Delhi)

#### SECTION 137 OF THE COMPANIES ACT, 2013 - FINANCIAL STATEMENT - COPY TO BE FILED WITH REGISTRAR

- 3.5 Time for filing financial statements could not be extended beyond 30 days from date of AGM; Circular No. 13 of 2019 issued by MCA, extending due date for filing of financial statements by companies for financial year ended 31-3-2019, did not extend time for filing of financial statements beyond 30 days from date of AGM - **Ramakant and Co. (P.) Ltd. v. Union of India** - [2025] 171 taxmann.com 524 (Delhi)

#### SECTION 212 OF THE COMPANIES ACT, 2013 - SERIOUS FRAUD INVESTIGATION OFFICE - INVESTIGATION BY

- 3.6 Where petitioner was implicated in criminal complaint as he played key role in various activities relating to siphoning of public money obtained as loans from various banks and communication addressed by petitioner to Banks clinching established role played by petitioner along with other accused, bail application filed by petitioner was to be dismissed. - **Rahul Dinesh Surana v. Union of India** - [2025] 171 taxmann.com 160 (Madras)

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

- 3.7 Where petitioner filed suit seeking a declaration that they were entitled to 1/3rd of family assets, including business and properties, since reliefs pertaining to management of affairs of family companies were only consequential to primary reliefs, flowing from claim that could be traced back to joint family nucleus, NCLT would not have jurisdiction under sections 241 or 242 to decide title of parties either to shares or to assets of companies but would squarely come within purview of Civil Court - **Santosh Kumar Agarwala v. Sajjan Kumar Agarwala** - [2025] 171 taxmann.com 447 (Calcutta)

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

- 3.8 Where respondent company explicitly requested transfer of winding up petition filed under section 271 from High Court to NCLT, since no substantive proceedings had taken place for winding up of company, petition was to be transferred to NCLT for further proceedings - **Cowi India (P.) Ltd. v. Pinnacle Air (P.) Ltd.** - [2025] 171 taxmann.com 713 (Delhi)

### 4. Security Appellate Tribunal

#### REGULATION 3 OF THE SEBI (PROHIBITION OF FRAUDULENT AND UNFAIR TRADE PRACTICE RELATING TO SECURITIES MARKET) REGULATIONS, 2003 - PROHIBITION OF CERTAIN DEALINGS IN SECURITIES

- 4.1 Where a comprehensive inspection of appellant, stock broker by SEBI revealed **misutilization** of clients' funds and securities which ranged between Rs.42.47 lakhs to Rs.2.08 crores, consequently, SEBI imposed penalty of Rs. 30 lakhs on appellant, considering quantum of



penalty imposed in case similar to appellant where misutilisation was to extent of Rs. 32.97 crores and SEBI had imposed a penalty of Rs. 10 lakhs, keeping in view fact that appellant was a 'repeat offender', ends of justice would be met by reducing penalty from Rs.30 Lakhs to Rs. 15 Lakhs for alleged violation - **Beeline Broking Ltd. v. SEBI** - [2025] 171 taxmann.com 365 (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 SEBI on preponderance of probability was able to establish that appellant was in possession of Unpublished Price Sensitive Information (UPSI) concerning company Biocon and traded in scrip of company on basis of said UPSI, SEBI rightly held that appellant had violated SEBI Act and PIT Regulations and, thus, rightly restrained him from accessing securities market for a period of one year and imposed penalty upon him - **Kunal Ashok Kashyap v. SEBI** - [2025] 171 taxmann.com 566 (SAT - Mumbai)

## 5. NCLAT

#### SECTION 232 OF THE COMPANIES ACT, 2013 - AMALGAMATION

- 5.1 Where valuation of shares and determination of Fair Equity Share Exchange Ratio had been done by experts and scheme of amalgamation had been approved by overwhelming majority of nearly 100 per cent shareholders and 100 per cent of creditors, NCLT was not correct in rejecting scheme on issue of valuation or share swap ratio - **Indiabulls Real Estate Ltd. v. Department of Income-tax** - [2025] 171 taxmann.com 714 (NCLAT- New Delhi)

## 6. SEBI

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

- 6.1 Where Singapore based stock broker (noticee no. 1) had access to non-public information (NPI) with respect to substantial impending transaction of a big client and he routed said NPIs to indian stock broker (noticee no. 2) who then directed other noticees

(front runners) to take counter positions to match with position of big client, which resulted in unlawful gains, acts on part of noticees was prima facie in violation of PFUTP Regulation and all noticees were to be directed to disgorge unlawful gain made by them and were to be restrained from accessing securities market - **Rohit Salgaocar, In re v.** - [2025] 170 taxmann.com 454 (SEBI)

## 7. NCLT

#### SECTION 66 OF THE COMPANIES ACT, 2013 - SHARE CAPITAL - REDUCTION OF

- 7.1 Where special resolution approving capital reduction had been passed by 100 per cent of shareholders of petitioner company and none of creditors were objecting to proposed share capital reduction, reduction of share capital was to be confirmed - **YKM Holdings (P.) Ltd., In re v.** - [2025] 171 taxmann.com 753 (NCLT-Chd.)

#### SECTION 232 OF THE COMPANIES ACT, 2013 - AMALGAMATION

- 7.2 Where valuation reports for valuation of shares of amalgamating companies were in conflict with relevant ICAI valuation standards and IBBI notification, same could not form basis for a correct equity swap ratio among amalgamating companies and, therefore, valuation reports could not be considered relevant and reliable material to enable stakeholders to arrive at an informed decision for approving scheme of amalgamation. - **NAM Estates (P.) Ltd., In re v.** - [2025] 171 taxmann.com 523 (NCLT-Chd.)

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

- 7.3 Where respondent-shareholders/ directors of company were engaged in numerous acts of oppression and mismanagement against petitioners, including increase in share capital beyond authorized limit and illegal appointment/reappointment of respondent as MD, void nature of earlier acts and their continuous effect ensure that limitation period would not be a bar to relief sought by petitioners - **Chautakuri Sadashiv Rajender v. GBR Freight Forwarders (P.) Ltd.** - [2025] 171 taxmann.com 200 (NCLT - Hyd.)

# COMPETITION LAW

## 1. STATUTORY UPDATES

- 1.1** CCI notifies 'Manner of Recovery of Monetary Penalty' Regulations, 2025 - **NOTIFICATION NO. 01 OF 2025 [F. NO. CCI/REG.-R.R./2024-25], DATED 25-02-2025**

**Editorial Note :** The CCI has notified the 'Manner of Recovery of Monetary Penalty' Regulations, 2025. These regulations aim to specify the manner for recovery of monetary penalty. The Regulations prescribe norms relating to the issuance of demand notices for payment of penalty, extension of time for payment of penalty, and interest on penalty. Further, the Regulations outline the functions of Recovery Officer, modes of recovery, maintenance of penalty recovery register and the process for refund of penalty.

- 1.2** CCI aligns cost regulations with amended Competition Act to refine predatory pricing assessment

**Editorial Note :** Competition Commission of India has introduced draft CCI (Determination of Cost of Production) Regulations, 2025, to align with amendments under the Competition (Amendment) Act, 2023. These regulations define the cost benchmark for assessing predatory pricing under Section 4 of the Competition Act, 2002. These changes are being proposed to keep the regulations in sync with the evolution of competition law jurisprudence. Stakeholders can submit comments till 19.03.2025.

## 2. CCI

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

- 2.1** Where informant filed information alleging that OPs formed a cartel to restrict competition in tendering process for procurement of Edible Oil, OPs were independent companies and there was no evidence which would suggest presence of bid-rigging in impugned tendering process and, therefore, matter was to be closed forthwith under section 26(2) - **ADGST (SM) Army Purchase Organisation v. Gokul Agro Resources Ltd. - [2025] 171 taxmann.com 245 (CCI)**
- 2.2** Where informant alleged that OP-1 manufacturer of printers and its resellers arrayed as OP-2 to OP-8 had indulged in bid rigging in two tenders floated at Government e-Marketplace (GeM) for procurement of inkjet/LED printer with extended warranty, however, no material was placed on record substantiating allegations of cartelisation by OPs and no prima facie case of contravention of provisions of section 3 was made out against OPs, information alleging cartelisation was to be closed - **HP India Sales (P.) Ltd., In re v. - [2025] 171 taxmann.com 599 (CCI)**

### SECTION 4 OF THE COMPETITION ACT, 2002 - ABUSE OF DOMINANT POSITION

- 2.3** Where dealership agreement between informant and OP provided terms and conditions for termination of dealership and several warning letters, improvement letters, letter of caution, etc. were sent to informant in this regard, all inter se correspondences between parties reflected commercial disputes arising out of agreement and such transactional issues did not fall within purview of Act. - **Rajesh George v. Honda Motorcycle & Scooter India (P.) Ltd. - [2025] 170 taxmann.com 775 (CCI)**

# FEMA BANKING AND INSURANCE LAWS

## 1. STATUTORY UPDATES

- 1.1 RBI amends receipt and payment norms, transactions b/w two ACU residents are mandated through ACU mechanism - **NOTIFICATION NO. FEMA 14(R)(1)/2025-RB, DATED 04-02-2025**

**Editorial Note :** RBI has notified the FEM (Manner of Receipt & Payment) (Amendment) Regulations, 2025. An amendment has been made to Reg. 3(2)(I)(a)(ii) which specifies that payments between residents of two ACU member countries must be through the ACU mechanism or as directed by the Reserve Bank. For all other transactions between a resident in India and a resident of an ACU country (other than Nepal and Bhutan) payment can be made in INR or in any foreign currency.

- 1.2 IFSCA notifies IFSCA (Bullion Market) Regulations, 2025 to provide a framework for recognition of bullion exchanges & CCs - **NOTIFICATION F. NO. IFSCA/GN/2025/001, DATED 04-02-2025**

**Editorial Note :** IFSCA has notified IFSCA (Bullion Market) Regulations, 2025, to provide a framework for recognition of bullion exchanges & CCs, and registration of bullion depositories & vault managers. It specifies provisions related to an application for recognition of bullion exchange, conditions for grant of recognition, period of recognition, renewal & withdrawal of recognition. Also, it prescribes the operational framework of bullion exchange and the general obligations of bullion CCs.

- 1.3 RBI announces setting up of a Working Group to undertake a 'comprehensive review of trading & settlement timings of markets' - **PRESS RELEASE NO. 2024-25/2097, DATED 07-02-2025**

**Editorial Note :** RBI has announced the setting up of a Working Group to undertake a comprehensive review of trading and settlement timings of markets regulated by the RBI. The Terms of Reference (ToR) for the Working Group include (a) a review of current trading and settlement timings for various financial markets regulated by RBI including clearing, settlement & reporting of transactions, and (b) examine cross-country practices relating to market timings and their influence, if any, on market development.

- 1.4 RBI cuts repo rate by 25 bps to 6.25% - **PRESS RELEASE NO. 2024-25/2094, DATED 07-02-2025**

**Editorial Note :** The Monetary Policy Committee (MPC), chaired by RBI Governor Sanjay Malhotra, held its 53rd meeting (Feb 5-7, 2025) and unanimously decided to cut the repo rate by 25 bps

to 6.25%. The Standing Deposit Facility (SDF) rate was adjusted to 6.00%, and the Marginal Standing Facility (MSF) & Bank Rate to 6.50%. The neutral policy stance continues, aiming for CPI inflation at 4% ( $\pm 2\%$ ) while supporting growth. The focus remains on inflation stability and economic expansion.

- 1.5 RBI to introduce exclusive internet domain 'bank.in' for Indian banks to combat financial fraud - **PRESS RELEASE NO. 2024-25/2096, DATED 07-02-2025**

**Editorial Note :** RBI has released a Statement on Developmental and Regulatory Policies. The key measures include access for SEBI-registered non-bank brokers to Negotiated Dealing System-Order Matching (NDS-OM) and a comprehensive review of trading and settlement timings across various market segments. Further, RBI has proposed having an exclusive domain 'fin.in' for non-bank entities in the financial sector and introducing the 'bank.in' exclusive internet domain for Indian banks.

- 1.6 RBI issues updated Master Directions on 'Access Criteria for Negotiated Dealing System-Order Matching' - **CIRCULAR NO. FMRD.MIOD.NO. 12/11.01.051/2024-25, DATED 07-02-2025**

**Editorial Note :** RBI has issued master directions on 'Access Criteria for Negotiated Dealing System-Order Matching' (NDS-OM). These directions supersede the RBI (Access Criteria for NDS-OM) Directions, 2024 dated October 18, 2024. Any person/entity eligible to invest in Government securities must be eligible to access NDS-OM either through direct access, indirect access or via a stock broker. NDS-OM refers to ETP authorised by RBI for transactions in Government securities.

- 1.7 RBI revises Standing Liquidity Facility for Primary Dealers to repo rate of 6.25%, effective immediately - **CIRCULAR NO. REF.NO.MPD.BC. 398/07.01.279/2024-25, DATED 07-02-2025**

**Editorial Note :** As per the MPC's decision in the bi-monthly Monetary Policy Statement 2024-25, RBI has reduced the policy repo rate under the LAF by 25 basis points from 6.50% to 6.25%, effective immediately. Consequently, the Standing Liquidity Facility provided to Primary Dealers (PDs) as collateralized liquidity support from the RBI will now be available at the revised repo rate of 6.25%, also with immediate effect.

- 1.8 RBI expands scope of permissible contracts for sale or purchase of Govt. securities, gold-related & money market securities - **NOTIFICATION F. NO. FMRD.DIRD.14/14.03.042/2024-25, DATED 07-02-2025**



**Editorial Note :** The RBI has expanded the scope of permissible contracts for the sale or purchase of Government securities, gold-related securities and money market securities. Now, any contract specifically permitted by the RBI is included under the list of permissible contracts. Earlier, the permissible contracts included only spot contracts and other contracts traded on a recognised stock exchange as permissible under the SCRA, rules and bye-laws of such stock exchange.

- 1.9** IFSCA issues Fund Management Regulations, 2025; **mandates** registration for Fund Managers before operations in IFSC - **NOTIFICATION F. NO. IFSCA/GN/2025/002, DATED 10-02-2025**

**Editorial Note :** The IFSC Authority has notified the IFSCA (Fund Management) Regulations, 2025, requiring all entities undertaking fund management in an IFSC to obtain registration before commencing operations. The applicant must demonstrate a sound track record and maintain a reputation for fairness and integrity in business transactions. Further, The applicant shall have a sound track record and general reputation of fairness and integrity in all its business transactions.

- 1.10** RBI directs all Agency Banks dealing with Govt. **Transactions** to remain open on Monday, March 31, 2025 - **CIRCULAR NO. DOR.CO.SOG(LEG) NO. 59/09.08.024/2024-25, DATED 11-02-2025**

**Editorial Note :** The Govt. of India has requested to keep all branches of the banks dealing with Government receipts and payments open for transactions on March 31, 2025 (i.e. Monday) to account for all the Government transactions relating to receipts and payments in the FY 2024-25 itself. Accordingly, the RBI has advised all agency banks to keep all their branches dealing with government business open for March 31, 2025.

- 1.11** RBI exempts AIFI investments in long-term non-financial bonds from the 25% exposure ceiling under Basel III norms - **CIRCULAR NO. DOR.MRG.REC.60/00-00-017/2024-25, DATED 17-02-2025**

**Editorial Note :** RBI has notified the amendment in Basel III Capital Framework norms. Now, it has been decided that investments made by All India Financial Institutions (AIFIs), as per their statutory mandates, in long-term bonds and debentures (i.e., having minimum residual maturity of 3 years at the time of investment) issued by non-financial entities shall not be accounted for the purpose of the ceiling of 25 per cent applicable to investments included under Held to Maturity (HTM) category.

- 1.12** RBI allows NDS-OM matching for PM-GAH & inter-GAH **transactions**, enabling CCIL settlement - **CIRCULAR NO. FMRD.MIOD.NO.15/11.01.051/2024-25, DATED 17-02-2025**

**Editorial Note :** Presently, transactions between a Primary Member (PM) & its own Gilt Account Holder (GAH) & between 2 GAHs of the same PM aren't permitted to be matched on Negotiated Dealing System - Order Matching (NDS-OM) & are also not cleared and settled through Clearing Corporation of India Limited (CCIL). Now, RBI has permitted matching of transactions between a PM & its own GAH or between 2 GAHs of the same PM on both the anonymous Order Matching segment & the Request for Quote (RFQ) segment of NDS-OM.

- 1.13** IFSCA sets procedure for 'Fund Management Entity' (FME) to appoint or change KMPs post-registration - **CIRCULAR F. NO. IFSCA-IF-10PR/1/2023-CAPITAL MARKETS/6, DATED 20-02-2025**

**Editorial Note :** The IFSC Authority has prescribed the manner and procedure to be followed by a Fund Management Entity for effecting the appointment of or change to the Key Managerial Personnels (KMPs) subsequent to the grant of registration by the Authority to the FME. The FME shall file an intimation to the Authority regarding the proposal to appoint or change a KMP in the prescribed format. This circular shall come into force with immediate effect.

- 1.14** RBI issues new directions on forward contracts in government securities effective May 02, 2025 - **CIRCULAR NO. FMRD.DIRD.16/14.03.042/2024-25, DATED 21-02-2025**

**Editorial Note :** The RBI, under sections 45W and 45U of the RBI Act, 1934, has issued the Reserve Bank of India (Forward Contracts in Government Securities) Directions, 2025. These apply to forward contracts in government securities (bond forwards) in the Over-the-Counter (OTC) market in India. The directions are effective from May 2, 2025. Eligible persons for bond forward transactions include residents and non-residents permitted to invest in G-Securities under the FEM (Debt Instruments) Regulations, 2019.

- 1.15** RBI proposes removal of prepayment penalties on floating-rate loans for retail, MSME sectors - **PRESS RELEASE NO. 2024-25/2231, DATED 21-02-2025**

**Editorial Note :** The RBI has released draft norms for prepayment penalties on loans on Friday, February 21, whereby it has proposed scrapping foreclosure charges on floating-rate loans for retail and MSME borrowers, including loans granted to individual borrowers for business purposes. The draft norms provides that no minimum lock-in period can be stipulated by REs for foreclosure or pre-payment. Once approved, these changes will apply to all floating-rate loans.

- 1.16** RBI revises prudential norms for UCB, raises small loan and housing loan limits - **CIRCULAR NO. DOR.CRE.REC.62/07.10.002/2024-25, DATED 24-02-2025**

**Editorial Note :** RBI has revised prudential norms for Urban Co-operative Banks (UCBs), raising small loan limits to Rs. 25Lac or 0.4% of Tier I capital, whichever is higher and subject to a max of 3 Cr. per borrower. Further, Housing loans exposure limits stands revised, with individual caps of Rs. 60L - Rs. 3Cr based on UCB tier. Aggregate exposure to residential mortgages (non-priority) is capped at 25% and real estate at 5% of total advances. The changes are applicable with immediate effect.

- 1.17** IRDAI set norms for Indian Re-insurers by notifying Obligatory Cession for the financial year 2025-26 - **NOTIFICATION NO. F. NO. IRDAI/RI/6/213/2025, DATED 24-02-2025**

**Editorial Note :** The IRDAI has notified Obligatory Cession for the financial year 2025-26. This notification applies to Indian Re-insurers & other applicable insurers as per provisions of Section 101A of Insurance Act, 1938. The percentage cession of the sum insured on each General Insurance Policy to be reinsured with Indian Re-insurers must be 4% for insurance attaching during FY beginning from April 1, 2025 to March 31, 2026, except for terrorism premium & premium ceded to nuclear pool, which shall be 'NIL'.

- 1.18** RBI lowers risk weight on microfinance consumer credit to 100% from 125% - **CIRCULAR NO. DOR.CRE.REC.63/21.06.001/2024-25, DATED 25-02-2025**

**Editorial Note :** The RBI has reviewed risk weights on microfinance loans. Microfinance loans classified as consumer credit will attract a 100% risk weight instead of the 125% applied to other consumer credit. All microfinance loans extended by RRBs and LABs shall attract a risk weight of 100 %. The above instructions shall be applicable from the 25.02.2025, in respect of outstanding as well as new microfinance loans.

- 1.19** RBI restores risk weights on SCB exposures to NBFCs as per external ratings, effective April 1, 2025 - **CIRCULAR NO. DOR.STR.REC.61/21.06.001/2024-25, DATED 25-02-2025**

**Editorial Note :** RBI has decided to restore risk weights on Scheduled Commercial Banks' (SCBs) exposures to NBFCs based on external ratings, reversing the 25-percentage point increase imposed in November 2023 for risk weights below 100%. The revised framework aligns with Paragraph 5.8.1 of the Basel III Capital Regulations Master Circular. The above instructions shall come into effect from April 01, 2025, while all other regulatory instructions remain unchanged.

- 1.20** IFSCA mandates registration on FIU-IND Portal to ensure compliance with Anti-Money Laundering and KYC Guidelines - **CIRCULAR F. NO. IFSCA/2/2025-AMLCFT/1, DATED 25-02-2025**

**Editorial Note :** IFSCA has mandated Regulated Entities (REs) to ensure that the registration of the FIU-IND portal is completed prior to the commencement of business. In case of urgency to commence business, the registration must be completed within 30 days from the date of commencement of business. Further, REs must ensure that any additions or modifications to their Line of Business are updated on the FIU-IND portal within a period of 30 days from the date of commencement of additional line of business.

- 1.21** IFSCA amends Aircraft Lease framework; restricts IFSC Lessors from leasing solely to Indian residents - **CIRCULAR NO. F. NO. 172/IFSCA/FINANCE COMPANY REGULATIONS/2024-25/02, DATED 26-02-2025**

**Editorial Note :** IFSCA amends the Aircraft Lease framework, restricting IFSC Lessors from acquiring assets that will be solely used by Indian residents. However, exceptions apply where assets are acquired from non-group entities, through sale-leaseback arrangements for first-time imports, or directly from Indian manufacturers. These amendments will take effect immediately.

- 1.22** IFSCA clarifies on interest calculation on late fee payments for entities undertaking permissible activities in IFSC - **CIRCULAR NO. IFSCA-DTFA/1/2025-DTFA, DATED 26-02-2025**

**Editorial Note :** Presently, in the event of failure to pay outstanding dues/fees to the Authority, 20% of outstanding fee or outstanding dues payable, plus 15% interest per month till the time the fee/dues remain outstanding after due date is required to be paid in addition to the originally applicable fee. Now, IFSCA has clarified that the 15% simple interest per month is required to be paid on the late fee only, i.e. on the 20% of outstanding fee or outstanding dues payable.

## 2. SUPREME COURT

### SECTION 7 OF THE ARBITRATION AND CONCILIATION ACT, 1996 - ARBITRATION AGREEMENT

- 2.1** Where respondents, husband and wife, opened trading accounts with appellant-stockbroker, and appellant as per oral instruction of husband, transferred credit balance from his account to wife's account to offset losses, thereafter appellant initiated arbitration seeking debit balance in wife's account and impleaded both respondents, since an oral contract undertaking joint and several liability would fall within scope of arbitration clause in BSE Bye-law 248(a), arbitral tribunal could exercise jurisdiction over husband to recover losses in wife's account - **AC Chokshi Share Broker (P.) Ltd. v. Jatin Pratap Desai - [2025] 171 taxmann.com 327 (SC)**

**SECTION 35A OF THE BANKING REGULATION ACT, 1949 - POWER OF THE RESERVE BANK TO GIVE DIRECTIONS**

- 2.2 A private company carrying on banking business as a Scheduled bank cannot be termed as a company carrying on any public function or public duty and, therefore, Muthoot Finance, a private company, was not 'State' within meaning of article 12 of Constitution and was not amenable to writ jurisdiction of High Court under article 226. - **S. Shobha v. Muthoot Finance Ltd.** - [2025] 170 taxmann.com 869 (SC)

**SECTION 45 OF THE PREVENTION OF MONEY LAUNDERING ACT, 2002 - OFFENCES TO BE COGNIZABLE AND NON-BAILABLE**

- 2.3 Consideration of two conditions mentioned in Section 45 of PMLA is mandatory, and while considering bail application, said rigours of Section 45 have to be reckoned by Court to uphold objectives of PMLA; any casual or cursory approach by Courts while considering bail application of offender involved in offence of money laundering and granting him bail by passing cryptic orders without considering seriousness of crime and without considering rigours of Section 45, cannot be vindicated - **Union of India v. Kanhaiya Prasad** - [2025] 171 taxmann.com 445 (SC)
- 2.4 Where appellant was arrested for offence under section 3 of PMLA and had undergone incarceration for a period of 1 year and 2 months and trial was not likely to be concluded within few years, appellant was to be enlarged on bail, pending trial - **Udhaw Singh v. Enforcement Directorate** - [2025] 171 taxmann.com 642 (SC)

**SECTION 138 OF THE NEGOTIABLE INSTRUMENTS ACT, 1881 - DISHONOUR OF CHEQUE FOR INSUFFICIENCY, ETC., OF FUNDS IN THE ACCOUNT**

- 2.5 Where appellant was independent non-executive director of company and he neither signed nor authorised issuance of cheques which were dishonoured nor he was actively involved in financial decision-making of company, he could not be held vicariously liable under section 141 - **Kamalkishor Shrigopal Taparia v. India Ener-Gen (P.) Ltd.** - [2025] 171 taxmann.com 715 (SC)

**3. HIGH COURT****SECTION 3 OF THE PREVENTION OF MONEY LAUNDERING ACT, 2002 - OFFENCE OF MONEY-LAUNDERING**

- 3.1 Where applicant was arrested in PMLA case on ground that he facilitated sale of counterfeit drugs in open market and proceeds of same were funneled through various channels, including formal banking and hawala transactions, since there was potential risk of applicant tampering with evidence and

influencing witnesses, thereby affecting integrity of ongoing investigation and applicant had failed to demonstrate that his release would not pose a risk to investigative process, applicant's bail application was to be dismissed - **Rajesh Kumar v. Directorate of Enforcement** - [2025] 171 taxmann.com 492 (Delhi)

- 3.2 Where applicant was arrested by ED for Money Laundering in connection with an FIR registered under Section 4A of Public Gambling (C.G. Amendment) Act, 1976 alleging that he was in layering of betting proceeds, in view of fact that it was an organized crime having various facets of its complexion, therefore, there was reasonable ground for believing that applicant was involved in offence and he was likely to commit any other offence while on bail, and therefore, applicant could not be released on bail - **Amit Agrawal v. Director of Enforcement** - [2025] 171 taxmann.com 712 (Chhattisgarh)
- 3.3 Where petitioner filed a complaint of money laundering and misappropriation of public funds against Promoter and Director of company 'JCL' along with its subsidiary companies and both EOW as well as CBI were reluctant to inquire/investigate into complaints made by petitioner, a Special Investigation Team (SIT) was to be constituted to ensure efficient investigation into offences of such magnitude - **Shoaib Richie Sequeira v. State of Maharashtra** - [2025] 171 taxmann.com 752 (Bombay)
- 3.4 Where applicants were arrested by ED in connection with ECIR and had been in custody for almost 4 years and 9 months, which was beyond one-half of maximum period of imprisonment which could be imposed upon conviction, and trial had not commenced and there was no possibility of trial commencing in near future, applicants were entitled to bail - **Dheeraj Wadhawan v. Directorate of Enforcement** - [2025] 171 taxmann.com 641 (Bombay)

**SECTION 5 OF THE PREVENTION OF MONEY LAUNDERING ACT, 2002 - ATTACHMENT OF PROPERTY INVOLVED IN MONEY LAUNDERING**

- 3.5 Where properties were purchased by petitioner from one 'K' and said properties were attached by respondent on ground that 'K' involved in a case under NDPS Act, however, 'K' was acquitted in said offence, thus, attachment made by respondent in respect of subject properties was to be raised - **R.Kumaravel v. Inspector General of Registration** - [2025] 171 taxmann.com 751 (Madras)

**SECTION 6 OF THE FOREIGN EXCHANGE MANAGEMENT ACT, 1999 - CAPITAL ACCOUNT TRANSACTIONS**

- 3.6 Omission of section 6(3) of FEMA by Finance Act 20 of 2015 would not make show cause notice issued for contravention of FEMA as one without sanctity of law - **Sachin Bansal v. Directorate of Enforcement** - [2025] 171 taxmann.com 412 (Madras)



**SECTION 13 OF THE SECURITISATION AND RECONSTRUCTION OF FINANCIAL ASSETS AND ENFORCEMENT OF SECURITY INTEREST ACT, 2002 - ENFORCEMENT OF SECURITY INTEREST**

- 3.7 Where despite a claim having been made by creditor-bank from petitioner to make good default incurred by principal debtor, petitioner refused to comply same, leading to measures being taken u/s. 13(4), petitioner, even as a guarantor, was brought within fold of Master Circular for Declaration of Wilful Defaulters of RBI. - **MKN Investment (P.) Ltd. v. State Bank of India** - [2025] 171 taxmann.com 202 (Calcutta)

**SECTION 18 OF THE SECURITISATION AND RECONSTRUCTION OF FINANCIAL ASSETS AND ENFORCEMENT OF SECURITY INTEREST ACT, 2002 - APPEAL TO APPELLATE TRIBUNAL**

- 3.8 In case of multiple appeals against same debt, requirement of pre-deposit u/s. 18 would be complied with if pre-deposit is made in one of them - **G. Corp Lotus Mall (P.) Ltd. v. Axis Bank Ltd.** - [2025] 171 taxmann.com 598 (Karnataka)

**SECTION 24 OF THE PREVENTION OF MONEY LAUNDERING ACT, 2002 - BURDEN OF PROOF**

- 3.9 Where applicant, arrested in connection with procurement and sale of counterfeit anti-cancer medicines, sought bail and questioned application of statutory presumption of guilt u/s. 24, however, applicant failed to rebut presumption that proceeds of crime were linked to money laundering, therefore, bail application filed by applicant was to be dismissed - **Aditya Krishna v. Directorate of Enforcement** - [2025] 171 taxmann.com 672 (Delhi)

**SECTION 45 OF THE PREVENTION OF MONEY LAUNDERING ACT, 2002 - OFFENCES TO BE COGNIZABLE AND NON-BAILABLE**

- 3.10 Where in case of money laundering, applicant had already completed more than half of maximum punishment which could be awarded and trial was unlikely to conclude in reasonable time, applicant was to be released on bail - **Anil Shivajirao Bhosale v. Directorate of Enforcement** - [2025] 171 taxmann.com 39 (Bombay)
- 3.11 Proceedings under PMLA and predicate offence registered under IPC are distinct in nature, grant of bail in predicate offence does not automatically entitle accused to bail under PMLA proceedings - **Aditya Krishna v. Directorate of Enforcement** - [2025] 171 taxmann.com 672 (Delhi)
- 3.12 Where entire scheme of laundering illicit funds, as uncovered by investigation, extended far beyond threshold of one crore rupees, applicant could not claim benefit of monetary threshold exemption under proviso to section 45 - **Aditya Krishna v. Directorate of Enforcement** - [2025] 171 taxmann.com 672 (Delhi)

- 3.13 Where applicant was involved in procurement, manufacturing and sale of spurious anti-cancer medicines and had admitted to transferring certain amounts to accounts of co-accused for purchase of spurious anti-cancer medicines, bail application filed by applicant under section 45 of PMLA was to be dismissed - **Lovee Narula v. Directorate of Enforcement** - [2025] 171 taxmann.com 567 (Delhi)

- 3.14 Where applicant was arrested in connection with alleged offence under section 3 of PMLA and was incarcerated for more than one year and there was no likelihood of trial being completed in foreseeable future, applicant was to be released on bail subject to certain conditions - **Suraj Satish Chavan v. Directorate of Enforcement** - [2025] 171 taxmann.com 369 (Bombay)

**SECTION 138 OF THE NEGOTIABLE INSTRUMENTS ACT, 1881 - DISHONOUR OF CHEQUE FOR INSUFFICIENCY, ETC., OF FUNDS IN THE ACCOUNT**

- 3.15 Where petitioner, managing director of company i.e., KL handed over a cheque issued by another company for discharging liability of KL and said cheque was dishonoured on presentation, since petitioner was not director of accused company who was drawer of subject cheque, petitioner could not be made liable for offence under section 138 - **Sanjay Dhingra v. Woori Bank, Gurgaon Branch** - [2025] 171 taxmann.com 525 (Delhi)
- 3.16 Where appellant entered into an agreement with accused/respondent firm 'K' and completed work, however, cheque issued by accused for payment was dishonoured but in complaint filed under section 138 of Negotiable Instruments Act partnership firm 'K' had not been made an accused and respondent/partner only had been made as an accused, in terms of section 141, when accused company/ firm had not been arraigned as a party, no proceeding could be initiated against respondent partner - **Amzad Hossain v. Kishan Bouri** - [2025] 171 taxmann.com 673 (Calcutta)

**SECTION 143A OF THE NEGOTIABLE INSTRUMENTS ACT, 1881 - POWER TO DIRECT INTERIM COMPENSATION**

- 3.17 Where Metropolitan Magistrate (MM) passed order directing petitioner to pay interim compensation under section 143A to respondent without considering petitioner's claim that although cheque was signed by her, she had no liability to respondent, as loan agreement was between respondent and petitioner's husband, since order was passed without prima facie considering merits of case as well as defence of petitioner/accused, matter was to be remanded back to MM for deciding application of complainant under section 143A afresh - **Vandana Kapoor v. Rajesh Kumar Agarwal** - [2025] 171 taxmann.com 330 (Delhi)

#### **4. SAFEMA**

**SECTION 5 OF THE PREVENTION OF MONEY LAUNDERING ACT, 2002 - ATTACHMENT OF PROPERTY INVOLVED IN MONEY LAUNDERING**

- 4.1** Adjudicating Authority is not required under section 8(1) to record reasons and on basis of complaint filed by initial authority under section 5(5) can proceed with process on basis of subjective satisfaction - ***Charanjit Singh Gandhi v. Joint Director Directorate of Enforcement - [2025] 171 taxmann.com 288 (SAFEMA - New Delhi)***
- 4.2** Where criminal prosecution in PMLA case against appellants was still pending, attachment of properties could not be held to be invalid and properties could have been attached so long as there was evidence to indicate that alleged proceeds of crime travelled from one or more persons who were accused - ***Charanjit Singh Gandhi v. Joint Director Directorate of Enforcement - [2025] 171 taxmann.com 288 (SAFEMA - New Delhi)***

## SECTION 7 OF THE FOREIGN EXCHANGE MANAGEMENT ACT, 1999 - EXPORT OF GOODS AND SERVICES

- 4.3** Where appellant-exporter was alleged to have contravened provisions of FEMA Act by fraudulently availing rebate of Central Excise Duty by producing fake shipping bills and falsely claiming that exports were made, since appellant had already applied for settlement of said issue at Settlement Commission and subsequently paid liabilities as directed by Commission, furthermore appellant was not in active collusion with agents in forging documents and falsely claiming that exports had been made, penalty imposed was to be reduced - ***Kamal Singh v. Assistant Director, Directorate of Enforcement - [2025] 171 taxmann.com 119 (SAFEMA - New Delhi)***

## SECTION 8 OF THE FOREIGN EXCHANGE REGULATION ACT, 1973 - RESTRICTIONS ON DEALING IN FOREIGN EXCHANGE

- 4.4** Where aircraft was imported by appellant company, JV of TISCO and Korf, Germany, and claimed that Korf would bear cost of aircraft as well as payment of customs duty, however ED imposed penalty on appellant on ground that it was an import of aircraft in hands of appellant which was imported in violation of FERA, 1973 by acquiring and transferring foreign exchange without permission from Authorized Dealer or of Reserve Bank of India, in view of fact that case was old by more than 20 years and appellant had already deposited 25 per cent of penalty amount, penalty was to be reduced to 25 per cent of amount of penalty imposed by authority - ***Tata Korf Engineering Services Ltd. v. Special Director, Directorate of Enforcement, FERA - [2025] 171 taxmann.com 249 (SAFEMA - New Delhi)***
- 4.5** Where appellants filed appeal against interlocutory order passed by Special Director, Enforcement Directorate whereby request of appellants to seek cross-examination of departmental officers was denied, since appellants had failed to prove how cross-examination of Departmental Officials would have changed outcome of case, or by being denied opportunity to cross-examine, they were adversely impacted during Adjudication proceedings, thus, appeal against impugned interlocutory order was to be dismissed - ***Manoj K. Jain v. Special Director, Directorate of Enforcement - [2025] 171 taxmann.com 830 (SAFEMA - New Delhi)***

# INSOLVENCY AND BANKRUPTCY CODE

## 1. STATUTORY UPDATES

- 1.1 Central Government appoints Shri L.V. Prabhakar as a part-time member of IBBI - **NOTIFICATION NO. 30-36/2022-INSOLVENCY, DATED 31-01-2025**

**Editorial Note :** The Central Government has appointed Shri L.V. Prabhakar, former Managing Director & Chief Executive Officer as a Part-time member of the IBBI with effect from January 27, 2025. The appointment is being made for a period of 5 years or till he attains the age of 65 years or until further orders, whichever is earlier.

- 1.2 IBBI amends Insolvency Resolution Process for Corporate Persons Regulations; insert norms w.r.t 'appointment of facilitators' - **NOTIFICATION F.NO. IBBI/2024-25/GN/REG122, DATED 03-02-2025**

**Editorial Note :** IBBI has notified the IBBI (Insolvency Resolution Process for Corporate Persons) (Amendment) Regulations, 2025. A new regulation 16C relating to 'appointment of facilitators' has been inserted. It states that where the number of creditors in a class exceeds Rs 1000, the committee may direct the IRP/RP to appoint an insolvency professional, resolution professional and authorised representative or any other person as facilitator subject to certain conditions.

- 1.3 IBBI mandates Insolvency Professionals to update assignments on the portal for various roles under IBC processes - **CIRCULAR NO. IBBI/LIQ/82/2025, DATED 11-02-2025**

**Editorial Note :** Presently, Insolvency Professionals (IPs) add their assignments on the IBBI portal for appointments as Interim Resolution Professionals (IRPs) or Resolution Professionals (RPs) under the CIRP, as well as for liquidators in liquidation and voluntary liquidation processes. Now, IBBI has mandated IPs to update assignments on its portal for roles such as IRP, RP, and liquidators across CIRP, personal guarantor insolvency, and administrator under financial service provider cases.

- 1.4 IBBI releases discussion paper on streamlining various processes under IBC for enhanced efficiency and transparency

**Editorial Note :** IBBI has released a discussion paper on streamlining various processes under the IBC to enhance their efficiency, transparency, and effectiveness. The IBBI has proposed amending CIRP regulations to strengthen the CoC decision-making process by mandating a regular review of operational expenses during the CIRP, especially w.r.t leased property. Also, IBBI has proposed to mandate the submission of a Statement of Affairs by the corporate debtor. Comments may be submitted by February 25, 2025.

## 2. SUPREME COURT

### SECTION 31 OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 - CORPORATE INSOLVENCY RESOLUTION PROCESS - RESOLUTION PLAN- APPROVAL OF

- 2.1 A resolution plan involving a combination requires prior approval from Competition Commission of India (CCI) before Committee of Creditors (CoC) can consider and approve it, as mandated u/s. 31(4) of IBC - **Independent Sugar Corporation Ltd. v. Girish Sriram Juneja - [2025] 170 taxmann.com 868 (SC)**

### SECTION 62 OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 - CORPORATE PERSON'S ADJUDICATING AUTHORITIES - SUPREME COURT, APPEAL TO

- 2.2 Where in insolvency proceedings initiated by SBI against respondent NCLT condoned delay in filing rejoinder affidavit but ruled that factual assertions in rejoinder affidavit would not be considered while deciding section 7 application and said order was upheld by NCLAT, order of NCLAT was to be set aside and matter was to be remitted to NCLT for fresh adjudication of section 7 application. - **State Bank of India Assistant Manager v. India Power Corporation Ltd. - [2025] 171 taxmann.com 600 (SC)**

### SECTION 95 OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 - INDIVIDUAL/FIRM'S INSOLVENCY RESOLUTION PROCESS - APPLICATION BY CREDITOR

- 2.3 Where personal insolvency proceedings were initiated against respondent/personal guarantor to corporate debtor and respondent challenged proceedings by filing writ petition before HC on ground that his liability as a personal guarantor had been waived and discharged, HC incorrectly exercised its writ jurisdiction as it precluded statutory mechanism and procedure under IBC from taking its course, and to do so, HC arrived at a finding regarding existence of debt, which was a mixed question of law and fact that was within domain of Adjudicating Authority u/s. 100 - **Bank of Baroda v. Farooq Ali Khan - [2025] 171 taxmann.com 643 (SC)**

## 3. HIGH COURT

### SECTION 10A OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 - SUSPENSION OF INITIATION OF CORPORATE INSOLVENCY RESOLUTION PROCESS

- 3.1 Section 10A provides a temporary moratorium that suspends initiation of CIRP for any default arising on or after 25-3-2020 for a period of six months; where default commenced after period specified in section 10A, but continued even after moratorium period, proviso to section 10A cannot be extended to cases where default is continued beyond moratorium period - **Dharamshi K. Patel v. Indian Bank - [2025] 171 taxmann.com 640 (Madras)**



## 4. NCLAT

### SECTION 5(6) OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 - CORPORATE INSOLVENCY RESOLUTION PROCESS - DISPUTE

**4.1** Where various WhatsApp messages (chat between parties) showed that there was a Pre-Existing Dispute between parties, NCLT had rightly come to conclusion that there was a Pre-Existing Dispute between parties and process under Code was being used for recovery for which it was not appropriate forum and, therefore, application under section 9 was not maintainable - ***Straw Commodities LLP v. Anram Agro Trading (P.) Ltd.*** - [2025] 171 *taxmann.com* 674 (NCLAT- New Delhi)

**4.2** Where there were many complex transactions not only between Corporate Debtor and Operational Creditor but also between their Promoters, veil of Corporate Debtor had to be pierced in such a situation and in case of pre-existing dispute between Operational Creditor, Promoters of Operational Creditor, Corporate Debtor and Promoters of Corporate Debtor, section 9 proceedings against corporate debtor could not be initiated - ***Jagdish Prasad Sharma v. Silverline Graphics (P.) Ltd.*** - [2025] 171 *taxmann.com* 368 (NCLAT- New Delhi)

### SECTION 5(8) OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 - CORPORATE INSOLVENCY RESOLUTION PROCESS - FINANCIAL DEBT

**4.3** Where appellant bank had directly disbursed amount to corporate debtor/builder, albeit, on behalf of borrowers/homebuyers and in terms of tripartite agreements amongst homebuyers, builder and appellant bank, corporate debtor/builder had undertaken to refund entire amount advanced by appellant bank in case of event of default of repayment of loan, thus, appellant bank was to be treated as financial creditor - ***Canara Bank v. Vivek Kumar*** - [2025] 171 *taxmann.com* 493 (NCLAT- New Delhi)

**4.4** Where NCLT disposed of section 7 petition filed by homebuyers against corporate debtor on 4-6-2024 on ground that they did not comply with amended law setting up requisite percentage/number of allottees to make them eligible to continue with Company Petition, since order dated 4-6-2024 was not on merits and was passed without hearing respondent allottees, NCLT had rightly recalled said order and restore section 7 petition for examination on merits - ***Marvel Landmarks (P.) Ltd. v. Jay Nihalani*** - [2025] 171 *taxmann.com* 328 (NCLAT- New Delhi)

### SECTION 5(21) OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 - CORPORATE INSOLVENCY RESOLUTION PROCESS - OPERATIONAL DEBT

**4.5** No interest can be charged against supply of goods and services for delayed payments until and unless there is an express agreement between parties and in absence of such agreement, interest component could not be considered part of operational debt and, therefore, application filed under section 9 was not maintainable as default amount was below statutory threshold of rupees one crore if interest was not included in it - ***Comet Performance Chemicals (P.) Ltd. v. Aarvee Denims and Exports Ltd.*** - [2025] 171 *taxmann.com* 74 (NCLAT- New Delhi)

### SECTION 5(24A) OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 - CORPORATE INSOLVENCY RESOLUTION PROCESS - RELATED PARTY, IN RELATION TO AN INDIVIDUAL

**4.6** Where there was incidence of infringement of Code of Conduct of Insolvency Professionals by IRP of corporate debtor for not having disclosed their relationships or potential conflicts of interest in appointment of consultants, thus, to prevent further abuse of process and to meet ends of justice, IRP and consultants appointed by him were to be removed - ***Anoop Kumar Srivastava v. Neerav Bhatnagar*** - [2025] 171 *taxmann.com* 286 (NCLAT- New Delhi)

### SECTION 7 OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 - CORPORATE INSOLVENCY RESOLUTION PROCESS - INITIATION BY FINANCIAL CREDITOR

**4.7** Where applicant was appointed as IRP/ RP with respect to a project, applicant could not seek any unpaid fee/ costs from Members of CoC of another Project of corporate debtor - ***Ashok Kriplani v. T. Krishna Valli*** - [2025] 171 *taxmann.com* 638 (NCLAT- New Delhi)

**4.8** Fact that financial creditor has initiated proceedings before DRT does not preclude them to take remedy under section 7, which is a special remedy provided under IBC - ***Pawan Kumar v. Central Bank of India*** - [2025] 171 *taxmann.com* 203 (NCLAT- New Delhi)

**4.9** Where corporate debtor challenged initiation of CIRP on ground that financial creditor had already initiated proceedings before Debt Recovery Tribunal (DRT) and recovered money through auction of its assets, an interim order was issued preventing further alienation of assets, in view of fact that auction initiated by DRT had been cancelled by High Court and refund of auction money had been affirmed, no money had been recovered, thus, NCLT's order was to be affirmed - ***Pawan Kumar v. Central Bank of India*** - [2025] 171 *taxmann.com* 203 (NCLAT- New Delhi)

### SECTION 12 OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 - CORPORATE INSOLVENCY RESOLUTION PROCESS - TIME-LIMIT FOR COMPLETION OF

**4.10** Where approval of resolution plan submitted by SRA was challenged in appeal and an interim order was passed by Tribunal and issues remained sub-judice and pending

consideration, order of Adjudicating Authority, excluding period during which an interim order was operating against SRA from implementation period of resolution plan was to be upheld - **Gemco Technologies (P.) Ltd. v. Crown Abacus IT Park Association** - [2025] 171 taxmann.com 410 (NCLAT- New Delhi)

#### SECTION 12A OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 - CORPORATE INSOLVENCY RESOLUTION PROCESS - WITHDRAWAL OF APPLICATION

- 4.11 It is IRP/RP who is person in control of insolvency proceedings including proceedings initiated by Resolution Professional for withdrawal under Section 12A. - **Mehul Patel v. Nandish S. Vin** - [2025] 171 taxmann.com 489 (NCLAT- New Delhi)

#### SECTION 14 OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 - CORPORATE INSOLVENCY RESOLUTION PROCESS - MORATORIUM- GENERAL

- 4.12 Where appellant/EPFO filed claim with respect to PF dues payable on basis of assessment under section 7A of EPF & MP Act, 1952, which was made subsequent to initiation of moratorium, said claim was hit by section 14, sub-section (1) and no such claim could be admitted in CIRP - **Employees' Provident Fund v. Jaykumar Pesumal Arlani** - [2025] 171 taxmann.com 522 (NCLAT- New Delhi)

#### SECTION 25A OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 - RIGHTS AND DUTIES OF AUTHORISED REPRESENTATIVE OF FINANCIAL CREDITORS

- 4.13 A lone Homebuyer couldnot be allowed to question voting by Authorised Representatives on behalf of majority of Financial Creditor in a class - **Ashmeet Singh Bhatia v. Rakesh Verma** - [2025] 171 taxmann.com 675 (NCLAT- New Delhi)
- 4.14 Filing of application by homebuyer for replacement of authorized representative of homebuyers (financial creditors) after more than 3-1/2 years when resolution plan was approved could not be entertained - **Ashmeet Singh Bhatia v. Rakesh Verma** - [2025] 171 taxmann.com 675 (NCLAT- New Delhi)

#### SECTION 45 OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 - CORPORATE LIQUIDATION PROCESS - UNDERVALUED TRANSACTIONS- AVOIDANCE OF

- 4.15 Where appellant bank sold shares of US-based company, 'TLI' pledged by subsidiary company of corporate debtor to bank and said transaction was done in transparent manner and with prior consent of liquidator of subsidiary company, there was no undervalued transaction under Code - **State Bank of India, Singapore Branch v. Shantanu Prakash** - [2025] 171 taxmann.com 526 (NCLAT- New Delhi)

#### SECTION 95 OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 - INDIVIDUAL/FIRM'S INSOLVENCY RESOLUTION PROCESS - APPLICATION BY CREDITOR

- 4.16 Section 95 application can be filed by a creditor in his individual capacity or jointly with other creditors or through a RP and it nowhere lays down any prescription that if credit facility had been extended by more than one financial creditor, Section 95 application was required to be filed collectively - **Amit Dineshchandra Patel v. State Bank of India** - [2025] 171 taxmann.com 289 (NCLAT- New Delhi)

- 4.17 Where assistant general manager (AGM) of financial creditor was SMGS-V grade officer and was statutorily competent to sign any petition by virtue of Gazette of India Notification dated 02.05.1987, section 95 petition signed by said AGM was rightly admitted by NCLT - **Amit Dineshchandra Patel v. State Bank of India** - [2025] 171 taxmann.com 289 (NCLAT- New Delhi)

- 4.18 Even if no insolvency resolution process or liquidation proceedings is pending against Corporate Debtor, application under Section 95 filed by financial creditor against personal guarantor is maintainable before NCLT - **Anita Goyal v. Vistra ITCL (India) Ltd.** - [2025] 171 taxmann.com 443 (NCLAT- New Delhi)

#### SECTION 101 OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 - INDIVIDUAL/FIRM'S INSOLVENCY RESOLUTION PROCESS - MORATORIUM

- 4.19 Where 90 days extension was granted for Personal Insolvency Resolution Process (PIRP), in view of express provisions of section 101(1) limiting Moratorium period to 180 days, no extension of Moratorium could be allowed by Adjudicating Authority or Appellate Tribunal - **Anil Kumar v. Mukund Choudhary** - [2025] 171 taxmann.com 490 (NCLAT- New Delhi)

## 5. IBBI

#### SECTION 208 OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 - INSOLVENCY PROFESSIONALS - FUNCTIONS AND OBLIGATIONS OF

- 5.1 Where IRP appointed in case of corporate debtor misled NCLT by stating that no claim had been received from any claimant and no claim was outstanding, however, fact was that IP had received claims from Financial Creditor,said omission reflected a serious lapse in professional conduct and, therefore, AFA of IRP was to be suspended for a period of three months - **Ramkripal Sharma, In re v.** - [2025] 171 taxmann.com 161 (IBBI)

## 6. NCLT

### SECTION 3(6) OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 - CLAIM

6.1 Where applicant/EPFO filed claim for unpaid provident fund dues before resolution professional(RP) of corporate debtor at belated stage after approval of resolution plan, same was rightly rejected by RP - **Assistant Provident Fund Commissioner (EPFO) v. Jaykumar Pesumal Arlani RP of Decent Laminates (P.) Ltd.** - [2025] 171 taxmann.com 366 (NCLT - Allahabad)

6.2 Where applicant filed claim before Claim Management Advisor (CMA) on account of gross delay in handing over possession of apartment and several defaults under Agreement for Sale by IL&FS, however, claim of applicant was in nature of unliquidated damages for deficiency in service on part of M and no claim could lie against IL&FS, who was inducted as strategic investor only, claim of applicant was not maintainable and CMA had rightly rejected same - **Prakasrao V.S. Yadavilli v. Grant Thornton Bharat LLP** - [2025] 171 taxmann.com 750 (NCLT - Mum.)

### SECTION 3(30) OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 - SECURED CREDITOR

6.3 Where security of four flats, given under loan agreement to applicant was not registered with Registrar of Companies in terms of section 77 of Companies Act, 2013, Resolution Professional (RP) had not committed any error in classifying applicant as unsecured financial creditor - **Home Craft Avenues v. Jayesh Sangrajaka** - [2025] 171 taxmann.com 785 (NCLT - Mum.)

### SECTION 5(6) OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 - CORPORATE INSOLVENCY RESOLUTION PROCESS - DISPUTE

6.4 Where operational creditor and corporate debtor entered into an agreement for execution of piling work and corporate debtor raised a dispute that due to inferior quality and defective work done by operational creditor, subsequent activities/ work at Project site was delayed which adversely affected completion of Project and resulted in huge financial losses, since there was a pre-existing dispute between parties, petition to initiate CIRP against corporate debtor was not maintainable - **Drilltech Engineers (P.) Ltd. v. DLF Ltd.** - [2025] 171 taxmann.com 40 (NCLT-Chd.)

6.5 Where corporate debtor failed to pay outstanding amount with respect to printing and allied products purchased from operational creditor and claimed that there existed a pre-existing dispute, since said dispute was not with regard to defect in goods supplied, rather with regard to specific performance,

possession or in alternate recovery of amount along with permanent injunction with regard to an immovable property, same could not be considered as a dispute between operational creditor and corporate debtor and application under section 9(5) was to be admitted - **Silverline Graphics (P.) Ltd. v. India Offset Printers (P.) Ltd.** - [2025] 171 taxmann.com 204 (NCLT - New Delhi)

6.6 Where various Whats App messages (chat between parties) showed that there was a Pre-Existing Dispute between parties, there was a Pre-Existing Dispute between parties and process under Code was being used for recovery for which it was not appropriate forum and, therefore, application under section 9 was not maintainable - **Straw Commodities LLP v. Anram Agro Trading (P.) Ltd.** - [2025] 171 taxmann.com 409 (NCLT - Mum.)

### SECTION 5(8) OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 - CORPORATE INSOLVENCY RESOLUTION PROCESS - FINANCIAL DEBT

6.7 Where applicant-financial creditor filed a petition to initiate Corporate Insolvency Resolution Process (CIRP) against corporate debtor for defaulting on a debt however, there were several discrepancies in transactions between parties, which could only be clarified through cross examination in pending Civil suits, thus, petition filed by applicant under section 7 was to be dismissed - **Mrs. Munagala Roja Harsha Vardhini v. Vardhansmart (P.) Ltd.** - [2025] 171 taxmann.com 120 (NCLT - Amaravati)

6.8 Where financial creditor and corporate debtor were related parties and there was no cogent evidence available for disbursement of debt amount to corporate debtor by financial creditor which did not fall under definition of financial debt as envisaged under section 5(8), petition was collusive and malicious in nature and, therefore, same was to be dismissed. - **J & k Integrated Textiles Park Ltd. v. Chenab Industries (P.) Ltd.** - [2025] 171 taxmann.com 41 (NCLT-Chd.)

6.9 Where applicant bank had advanced various amounts to individual home buyers, who then paid said amounts to corporate debtor for booking their units, since bank had not directly financed corporate debtor, claim of applicant bank to be financial creditor was rightly rejected by RP - **Vishal Fabrics v. AVJ Developers (India) (P.) Ltd.** - [2025] 171 taxmann.com 331 (NCLT - New Delhi)

6.10 Where NCLT dismissed CIRP application for non-prosecution on ground that requisite percentage/number of allottees had not been met, said order was not on merits and was passed without hearing financial creditor and, therefore, said order was to be recalled and CIRP application was to be restored. - **Jay Nihalani v. Marvel Landmarks (P.) Ltd.** - [2025] 171 taxmann.com 201 (NCLT - Mum.)



# SECTION 5(13) OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 - CORPORATE INSOLVENCY RESOLUTION PROCESS - INSOLVENCY RESOLUTION PROCESS COSTS

- 6.11 Where RP was appointed by CoC and fees of RP was agreed by CoC, RP was entitled to be paid his fees till liquidation order was passed by Tribunal - **Kailash T. Shah v. Suyash Chhajer** - [2025] 171 taxmann.com 565 (NCLT - Ahd.)

# SECTION 5(21) OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 - CORPORATE INSOLVENCY RESOLUTION PROCESS - OPERATIONAL DEBT

- 6.12 Where corporate debtor acknowledged receipt of goods supplied by operational creditor and made part-payment against invoices raised by operational creditor, debt claimed by operational creditor for provision of goods came under purview of 'Operational Debt' within meaning of section 5(21) - **Silverline Graphics (P.) Ltd. v. India Offset Printers (P.) Ltd.** - [2025] 171 taxmann.com 204 (NCLT - New Delhi)

# SECTION 7 OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 - CORPORATE INSOLVENCY RESOLUTION PROCESS - INITIATION BY FINANCIAL CREDITOR

- 6.13 Company/ body corporate have distinct legal personality separate from individuals managing it and said body corporate continues to run and remain in existence even on death of its members or directors, thus, petition to initiate CIRP against corporate debtor-company did not become questionable merely because signing member who had signed all sanction letters and loan agreements had expired - **Punjab National Bank v. Kaur Sain Spinners Ltd.** - [2025] 170 taxmann.com 818 (NCLT-Chd.)

- 6.14 Where forensic auditor reported several irregular transactions, such as preferential, undervalued, fraudulent, and extortionate deals made on behalf of corporate debtor, in view of fact that audit was based on information provided by erstwhile IRP who could not be trusted to provide complete information to forensic auditor, Forensic Audit lacked credibility, and thus, Resolution Professional was directed to get another Forensic Audit done after giving full access to all relevant information to Auditor - **Shinoj Koshy v. Granite Gate Properties (P.) Ltd.** - [2025] 171 taxmann.com 444 (NCLT - New Delhi)

# SECTION 14 OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 - CORPORATE INSOLVENCY RESOLUTION PROCESS - MORATORIUM- GENERAL

- 6.15 Where corporate debtor provided a corporate guarantee in favour of SBI Singapore and its wholly owned subsidiary EAPPL pledged shares of TLI with SBI Singapore, there being no beneficial interest of corporate debtor qua shares of TLI owned by EAPPL,

by operation of section 14 moratorium in respect of shares could not apply with commencement of CIRP for corporate debtor - **Shantanu Prakash v. Mahendar Singh Khandelwal** - [2025] 171 taxmann.com 367 (NCLT - New Delhi)

- 6.16 Where prior to approval of resolution plan by CoC no claim towards provident fund dues was lodged by applicant/EPFO with RP, thus, at belated stage no direction could be issued to RP to entertain or pay claim towards provident fund dues - **Assistant Provident Fund Commissioner v. Sanjay Kumar Lalit** - [2025] 171 taxmann.com 118 (NCLT - Mum.)

# SECTION 18 OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 - CORPORATE INSOLVENCY RESOLUTION PROCESS - INTERIM RESOLUTION PROFESSIONAL- DUTIES OF

- 6.17 Assets of subsidiary cannot be treated as that of holding company and, therefore, it cannot be viewed that IRP or RP of CD is under obligation to preserve value of shares held by CD's subsidiary in terms of the provisions of Section 20(1) or Section 25(1) - **Shantanu Prakash v. Mahendar Singh Khandelwal** - [2025] 171 taxmann.com 367 (NCLT - New Delhi)

# SECTION 31 OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 - CORPORATE INSOLVENCY RESOLUTION PROCESS - RESOLUTION PLAN- APPROVAL OF

- 6.18 Where pursuant to initiation of CIRP of corporate debtor, real estate developer, plot buyers' association submitted a reverse CIRP proposal through completion of an unfinished project of corporate debtor, since revival plan proposed by them was approved by CoC with 74.71 per cent voting share, same was to be allowed - **Dipak Bhadra v. RCBS Realty (P.) Ltd.** - [2025] 171 taxmann.com 248 (NCLT - Kolkata)

- 6.19 An application by a single homebuyer to replace Authorized Representative of Financial Creditors in a class (homebuyers) was not maintainable - **Shinoj Koshy v. Granite Gate Properties (P.) Ltd.** - [2025] 171 taxmann.com 444 (NCLT - New Delhi)

- 6.20 Where in CIRP of corporate debtor, two valuers were appointed by IRP to discharge function of valuation qua corporate debtor, however valuers did not take into account total assets of CD, fresh valuation of assets was to be undertaken and Resolution Plan need to be reconsidered by CoC with reference to such fresh valuation - **Shinoj Koshy v. Granite Gate Properties (P.) Ltd.** - [2025] 171 taxmann.com 444 (NCLT - New Delhi)

- 6.21 Only limited judicial review is available for Adjudicating Authority under section 30(2) and section 31 and Adjudicating Authority cannot venture into commercial aspects of decisions taken by Committee of Creditors - **A. Arumugam v. Authum Investment and Infrastructure Ltd.** - [2025] 171 taxmann.com 285 (NCLT- Chennai)

**6.22** Where period of 446 days interim stay was granted by Appellate Tribunal in respect of implementation of resolution plan, said period was to be excluded from implementation period of resolution plan - **Mohan Agarwal v. Crown Realtech (P.) Ltd.** - [2025] 171 *taxmann.com* 247 (NCLT - New Delhi)

**6.23** Where CoC rejected resolution plan of applicant and refunded EMD, applicant had no right to seek direction on Resolution Professional(RP) to accept resolution plan of applicant and to forward same to CoC for consideration - **State Bank of India v. Aarya Industrial Products (P.) Ltd.** - [2025] 171 *taxmann.com* 711 (NCLT - Kolkata)

**SECTION 35 OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 - CORPORATE LIQUIDATION PROCESS - LIQUIDATOR- POWERS AND DUTIES OF**

**6.24** A liquidator is not bound by advice of Stakeholder Consultation Committee (SCC) and liquidator's independence in decision-making with respect to sale of assets of corporate debtor during liquidation is statutorily protected, provided that liquidator must give reasons in writing for acting against said advise of SCC - **Stressed Assets Stabilisation Fund v. Ms. Rekha Kantilal Shah, Liquidator of Adya Oils and Chemicals Ltd.** - [2025] 171 *taxmann.com* 117 (NCLT - Mum.)

**SECTION 45 OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 - CORPORATE LIQUIDATION PROCESS - UNDERVALUED TRANSACTIONS- AVOIDANCE OF**

**6.25** Where shares owned by subsidiary of corporate debtor were sold by lender/financial creditor of subsidiary, with whom same stood pledged as security for repayment of debt, same could not be treated as an under- valued transaction - **Shantanu Prakash v. Mahendar Singh Khandelwal** - [2025] 171 *taxmann.com* 367 (NCLT - New Delhi)

**6.26** Where applicant - successful bidder had taken over corporate debtor as a going concern and had paid entire sale consideration to liquidator, since as per deed of assignment liquidator was to enable substitute assignee i.e. applicant in place of liquidator in pending cases, applicant was entitled to be substituted in place of liquidator as an applicant in avoidance application and to pursue said application pending before NCLT - **Sherisha Technologies (P.) Ltd. v. S. Elangovan** - [2025] 171 *taxmann.com* 121 (NCLT- Chennai)

**SECTION 59 OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 - CORPORATE VOLUNTARY LIQUIDATION - VOLUNTARY LIQUIDATION**

**6.27** Where applicant, liquidator of company filed an application seeking directions to re-publish public announcement, since liquidator had not exercised his

role appropriately in terms of IBC Act and its regulations, role of company (its shareholders) who initiated voluntary liquidation and ex-liquidator for having distributed to shareholders without proper assessment of liabilities had to be examined by RoC and IBBI under their relevant provisions, application filed by applicant was to be rejected - **Chandra Prakash Jain Liquidator of Transmissions International India (P.) Ltd., In re v.** - [2025] 171 *taxmann.com* 601 (NCLT - Ahd.)

**SECTION 65 OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 - CORPORATE PERSON'S ADJUDICATING AUTHORITIES - FRAUDULENT OR MALICIOUS PROCEEDINGS**

**6.28** Where CIRP against corporate debtor had been initiated fraudulently by financial creditors by misrepresenting normal financial transactions as loan transaction, order passed by NCLT for initiation of CIRP was to be recalled - **Acute Daily Media (P.) Ltd. v. Sharp Eye Advertising (P.) Ltd.** - [2025] 171 *taxmann.com* 408 (NCLT - New Delhi)

**SECTION 94 OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 - INDIVIDUAL/FIRM'S INSOLVENCY RESOLUTION PROCESS - APPLICATION BY DEBTOR**

**6.29** Where personal guarantor had not made any attempt to repay his liabilities towards financial creditor for more than 4 years and filed application under section 94 to initiate insolvency resolution process against itself only after a recovery certificate was issued by DRT, thus application was a moon-shine defense taken by guarantor to thwart recovery proceedings initiated by financial creditor under SARFAESI Act and same was to be dismissed - **Naseema Bano, In re v.** - [2025] 171 *taxmann.com* 158 (NCLT-Chd.)

**6.30** Where personal guarantor had not made any attempt to repay his liabilities towards financial creditor for more than 4 years and filed application under section 94 to initiate insolvency resolution process against itself only after a recovery certificate was issued by DRT, thus application was a moon-shine defense taken by guarantor to thwart recovery proceedings initiated by financial creditor under SARFAESI Act and same was to be dismissed - **Syed Mazahir Askari, In re v.** - [2025] 171 *taxmann.com* 329 (NCLT-Chd.)

**6.31** Where Resolution Professional (RP) sought a 90-day extension of Personal Insolvency Resolution Process (PIRP), citing a repayment plan had been received and same was under consideration of creditors, RP was to be granted extension of time for completion of PIRP - **Mukund Chaudhary, In re v.** - [2025] 171 *taxmann.com* 287 (NCLT - New Delhi)

**SECTION 95 OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 - INDIVIDUAL/FIRM'S INSOLVENCY RESOLUTION PROCESS - APPLICATION BY CREDITOR**

**6.32** In absence of a 'pending' or concluded CIRP against a principal borrower an application under section 95(1) to initiate Insolvency Resolution Process against a personal guarantor to a corporate debtor will not be maintainable before NCLT - **State Bank of India v. Nikunj Bothra** - [2025] 170 taxmann.com 774 (NCLT - Kolkata)

**6.33** Where corporate debtor failed to maintain financial discipline as per terms and conditions of loan agreement and consequently, loan account of corporate debtor was classified as NPA and respondent personal guarantor failed to pay amount due as per notice, application filed under section 95 for initiation of insolvency resolution process against personal guarantor was to be admitted - **State Bank of India v. Amit Dinesh Patel** - [2025] 171 taxmann.com 162 (NCLT - Ahd.)

#### SECTION 100 OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 - INDIVIDUAL/FIRM'S INSOLVENCY RESOLUTION PROCESS - APPLICATION, ADMISSION OR REJECTION OF

**6.34** Where RP suggested by petitioner and approved by Adjudicating Authority was a person duly approved by Board and he formed part of a compiled list as submitted by IBBI, Adjudicating Authority had rightly appointed RP and, thus, instant application filed under section 100 for commencing Insolvency Resolution Process of Personal Guarantor was to be admitted - **Vistra ITCL (India) Ltd. v. Mrs. Anita Goel** - [2025] 171 taxmann.com 246 (NCLT - New Delhi)

#### SECTION 238A OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 - LIMITATION PERIOD

**6.35** Where demand notice for invocation of guarantee of applicant-guarantor was issued by financial creditor on 28.05.2019 and due to Covid-19, period from 15.03.2020 to 28.02.2022 was to be excluded from limitation period, since limitation would expire on 11.07.2024, application filed under section 94 on 16.01.2024 was well within limitation period - **Naseema Bano, In re v.** - [2025] 171 taxmann.com 158 (NCLT-Chd.)

**6.36** Where demand notice for invocation of guarantee of applicant-guarantor was issued by financial creditor on 28.05.2019 and due to Covid-19, period from 15.03.2020 to 28.02.2022 was to be excluded from limitation period, since limitation would expire on 11.07.2024, application filed under section 94 on 16.01.2024 was well within limitation period - **Syed Mazahir Askari, In re v.** - [2025] 171 taxmann.com 329 (NCLT-Chd.)

**6.37** Where operational creditor supplied printing and other allied materials to corporate debtor on running account basis and last payment was made by corporate debtor on 02-03-2022, on corporate debtor's failure to pay outstanding amount, instant application filed by operational creditor on 21-09-2023 was well within period of limitation - **Silverline Graphics (P.) Ltd. v. India Offset Printers (P.) Ltd.** - [2025] 171 taxmann.com 204 (NCLT - New Delhi)



## ACCOUNT AND AUDIT UPDATES

### 1.1 ICAI introduces comprehensive guidelines on Merger & Demerger of CA Firms

**Editorial Note:** ICAI has introduced the "Merger & Demerger of CA Firms Guidelines, 2024" to regulate the consolidation and separation of CA firms. The guidelines ensure seniority retention, name-freezing, and require Form MDG 1 for mergers. Further, demergers need 75% of continuing partners and Form MDG 2, ensuring transparency, compliance, and identity protection.

### 1.2 CAG Embraces AI for Next-Gen Auditing in India's Digital Transformation

**Editorial Note :** The Comptroller and Auditor General (CAG) of India is developing infrastructure to integrate AI and ML in auditing, enhancing efficiency and aligning with India's USD30-trillion economy vision for 2047. The initiative underscores the importance of digital transformation in financial governance, as highlighted at the World Forum of Accountants.

### 1.3 ICAI seeks member participation in SAFA research on unified accounting framework for NPOs and Cooperatives

**Editorial Note :** ICAI, in collaboration with SAFA, is conducting a research study on developing a unified accounting and financial reporting framework for NPOs and Cooperatives in SAARC countries. This initiative, led by ICMA, aims to assess feasibility and standardization across the region. ICAI members are encouraged to participate by completing a questionnaire to contribute valuable insights to the study.

### 1.4 ICAI releases Exposure Draft of Accounting Standards for LLPs

**Editorial Note :** ICAI has released an Exposure Draft on Accounting Standards for LLPs, supporting the MCA's initiative for a dedicated LLP framework. It is based on the Companies (Accounting Standards) Rules, 2021, with necessary modifications while keeping the core principles unchanged. The draft also includes updated classification criteria for non-company entities, with public comments open until February 28, 2025.

### 1.5 FRRB of ICAI releases Study on Compliance with Ind AS Framework - Volume III

**Editorial Note :** FRRB of ICAI has released Volume III of its study on compliance with the Ind AS Framework, highlighting non-compliance issues in the preparation and presentation of financial statements. This volume provides a detailed analysis of deviations in areas like assets, liabilities, equity, and statements of profit and loss, offering valuable insights for aligning financial reporting with ICAI standards.

### 1.6 ICAI releases Revised Edition of FAQs on UDIN - 2025 update

**Editorial Note :** ICAI has released the fifth edition of the FAQs on UDIN to address the evolving needs of its members and stakeholders. The updated edition covers key aspects such as registration, stakeholder verification, certificate issuance, and its integration with GST, tax audits, and bank audits. It also includes annexures on important standards like SAE 3400, SA-700, and the latest announcements from the Central Board of Direct Taxes (CBDT).

### 1.7 ICAI releases the revised edition of FAQs on SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015

**Editorial Note :** ICAI has released the revised edition of FAQs on SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015. The volume provides clarity on the latest amendments, covering compliance requirements, corporate governance, and disclosure norms for listed entities. It also includes a Compliance Calendar to help professionals track key deadlines.

### 1.8 ICAI releases revised edition of technical guide on Accounting for CSR Expenditures

**Editorial Note :** ICAI has released the revised edition of the technical guide on Accounting for Expenditure on Corporate Social Responsibility (CSR) Activities, updated in January 2025. The guide provides a comprehensive overview of general accounting **principles** for CSR expenditures, focusing on the recognition, measurement, and disclosure of CSR activities in financial statements.

### 1.9 ICAI releases revised edition of FAQs on the Limited Liability Partnership (LLP) Act, 2008

**Editorial Note :** ICAI has released the revised edition of the FAQs on the Limited **Liability** Partnership (LLP) Act, 2008, updated in January 2025. This guide offers comprehensive insights into the latest amendments to the LLP Act, covering key areas such as LLP formation, governance, financial disclosures, and partner relations. It also addresses recent updates on LLP e-filing, migration to MCA V3 portal, and compliance with new provisions.

### 1.10 AASB of ICAI has issued the 2025 edition of the Guidance Note on audit of banks

**Editorial Note :** AASB of ICAI has issued the 2025 edition of the Guidance Note on audit of banks, providing comprehensive instructions for auditors conducting Statutory Central Audit and Bank Branch Audit. The note includes audit report formats, engagement letters, procedures for verifying assets, NPAs, and compliance with RBI norms, along with relevant RBI master circulars, master directions, notifications, FAQs, and general circulars.

## **Consolidation of Investment Entities: Accounting, Qualification, and Consolidation Rules**



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### **Introduction**

Investment entities play a crucial role in the financial ecosystem by managing portfolios of investments for capital appreciation and/or investment income. The accounting treatment for investment entities is governed by standards such as IFRS 9, IFRS 10, IFRS 13, and IAS 28, which set out the criteria for qualification, measurement, and consolidation requirements. This article explores the key principles and implications of accounting for investment entities, including the overall approach, qualification criteria, and consolidation exceptions for parents of investment entities.

### **Overall Approach to Accounting for Investment Entities**

The fundamental principle for accounting for investment entities is that they are required to measure investments in controlled entities, as well as investments in associates and joint ventures, at fair value through profit or loss (FVTPL). This treatment aligns with the business model of investment entities, which primarily focus on managing investments rather than engaging in operational activities.

However, there is an important exception to this rule: if an investment entity has a subsidiary that provides investment-related services and does not itself qualify as an investment entity, the investment entity is required to consolidate that subsidiary. This ensures that services supporting the investment activities are appropriately reflected in the financial statements.

### **Qualifying as an Investment Entity**

For an entity to be classified as an investment entity, it must satisfy three essential criteria and is generally expected to exhibit one or more typical characteristics.

**Essential Tests**

An entity must meet the following three fundamental tests to qualify as an investment entity:

**1. Multiple investors providing funds**

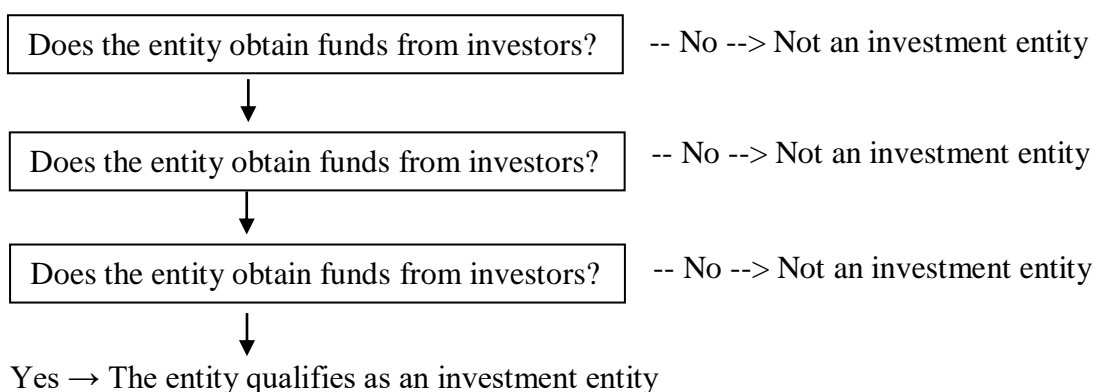
The entity must obtain funds from one or more investors with the primary purpose of providing those investors with investment management services. This criterion ensures that the entity is structured to serve external stakeholders rather than being a vehicle for a single investor's own investments.

**2. Investment for capital appreciation and/or investment income**

The entity's business model must be focused solely on earning returns through capital appreciation, investment income, or both. This means that the entity should not engage in activities such as producing goods or providing services unrelated to investment management.

**3. Fair value measurement of investments**

The entity must measure and evaluate the performance of substantially all of its investments on a fair value basis. This reflects the nature of investment entities, where the fair value of assets is a key determinant of financial performance.



**Figure 1:** Determination whether an entity meets the essential tests

**Typical Characteristics**

In addition to the essential tests, an entity is generally expected to have one or more of the following typical characteristics:



### 1. Multiple investments

Investment entities typically hold more than one investment, which aligns with the principle of portfolio diversification.

### 2. Multiple investors

The entity generally has multiple investors, distinguishing it from entities that serve a single investor's interests.

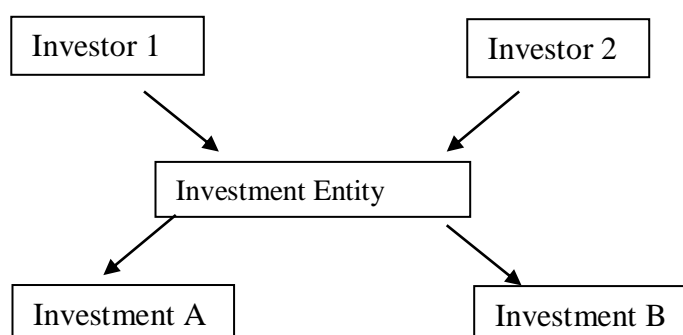
### 3. Investors are unrelated parties

The investors in the entity are usually unrelated to each other, further supporting the notion that the entity serves a broader investor base rather than a single controlling party.

### 4. Equity or similar ownership interests

The entity holds investments in the form of equity or similar ownership interests, reflecting the nature of financial investments in portfolio holdings.

While the presence of these characteristics is not mandatory, they strengthen the case for classifying an entity as an investment entity.



**Figure 2:** This shows an investment entity receiving funds from multiple investors and making investments.

### Consolidation Requirements for Parents of Investment Entities

The accounting treatment for a parent company of an investment entity depends on whether the parent itself qualifies as an investment entity. The consolidation requirements differ as follows:

**Parent is an Investment Entity**

If the parent itself qualifies as an investment entity, it must apply the mandatory consolidation exception. This means that it continues to measure its investments in subsidiaries at fair value through profit or loss, rather than consolidating them. This approach maintains consistency with the underlying investment entity's financial reporting, reflecting the fair value of investments rather than consolidating their financial results.

**Parent is Not an Investment Entity**

If the parent of an investment entity is not itself an investment entity, the consolidation exception does not apply. In this case, the parent must consolidate all of its subsidiaries, including those investment entities that it controls. This requirement ensures that the financial statements of the parent provide a full view of all its controlled operations and investments.

**Practical Implications and Challenges****1. Determining Investment Entity Status**

One of the key challenges in applying these standards is assessing whether an entity qualifies as an investment entity. While the essential tests provide a clear framework, judgment is often required, particularly when evaluating typical characteristics.

**2. Impact on Financial Statements**

The requirement to measure investments at fair value rather than consolidate them can significantly impact financial statements. Investment entities report fluctuations in asset values directly in profit or loss, leading to potentially higher volatility in financial results.

**3. Exceptions for Investment-related Service Subsidiaries**

Investment entities must consolidate subsidiaries that provide investment-related services. This means that entities with service arms must carefully assess which parts of their operations should be consolidated versus measured at fair value.

**4. Implications for Investors**

Investors in investment entities need to understand the financial reporting approach, particularly the fair value measurement principle. Unlike traditional businesses, investment entities do not consolidate operating entities but instead reflect investment gains and losses in profit or loss.

## 5. Consolidation Complexity for Parent Companies

When an investment entity is owned by a non-investment entity parent, the requirement for full consolidation at the parent level can introduce complexities in financial reporting. The parent must reconcile differences between its consolidated approach and the investment entity's fair value accounting.

### Conclusion

Investment entities play a distinct role in the financial industry, and their accounting treatment is designed to reflect their investment-driven nature. IFRS 9, IFRS 10, IFRS 13, and IAS 28 establish clear guidelines for measuring investments, qualifying as an investment entity, and applying consolidation rules.

While the fair value measurement approach aligns with the core business model of investment entities, complexities arise when determining qualification criteria and consolidation requirements for parent entities. Understanding these principles is essential for investors, regulators, and financial professionals to accurately interpret financial statements and assess the performance of investment entities. By adhering to the established standards, investment entities can provide transparent and reliable financial reporting that aligns with their purpose of generating investment returns.

### References

Insights into IFRS: An overview (2024) [kpmg.com/ifrs](https://www.kpmg.com/ifrs)



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