

Monthly Tax Bulletin

June 2026



Grant Thornton Bharat is pleased to present the June 2026 edition of the Tax Bulletin at a time when legal certainty, regulatory consistency, and institutional accountability have become central to the evolution of the tax and trade landscape. As governments globally seek to balance revenue considerations with economic growth and investment competitiveness, judicial developments and policy reforms are increasingly shaping tax administration, cross-border commerce, and regulatory governance. India is no exception, with recent developments across tax and regulatory regimes reflecting a continued emphasis on transparency, ease of doing business, and dispute resolution aligned with evolving global standards.

Judicial pronouncements across tax disciplines have reinforced the importance of procedural integrity, jurisdictional clarity, and substance-based interpretation. At the same time, policymakers continue to refine frameworks governing investment, international taxation and cross-border transactions. At the same time, global initiatives to advance tax transparency and coordinate international tax standards continue to gather momentum, reflecting the increasing interconnectedness of tax systems.

The regulatory architecture in India remains responsive to these evolving dynamics. Developments across direct taxes, transfer pricing, FEMA, GST, Customs and trade regulations collectively signal a maturing ecosystem that seeks to balance revenue considerations with ease of doing business, investment facilitation, and dispute reduction. As digital administration deepens and jurisprudence continues to shape the contours of compliance, taxpayers are increasingly required to navigate a framework in which governance, documentation, and commercial substance assume heightened significance.

We trust this edition provides valuable insights into these important developments and their implications for businesses and stakeholders.

Happy reading!



Riaz Thingna

Partner, Tax

Grant Thornton Bharat



Key developments under direct tax laws:

International development:

The Organization of Economic Co-operation and Development (OECD) has released the Global Minimum Tax Implementation Toolkit

The OECD has released the Toolkit¹, which serves as a practical guide for jurisdictions that have implemented or have decided to implement the Pillar Two/Global Anti-Base Erosion (GloBE) rules. The toolkit is designed to support tax administrations in moving from policy design to operational implementation, with a structured focus on legal framework, administration, compliance procedures, information technology (IT) systems, and the exchange of information.

Key areas covered:

- Assessing in-scope multinational enterprise (MNE) groups and revenue remains foundational: The Toolkit¹ notes that jurisdictions are primarily using Country-by-Country (CbC) reports to estimate the in-scope population, supported by commercial databases, tax administration data, financial statements and registration systems. The toolkit also recognises the practical limits of the CbC data, such as threshold issues, excluded entities, ownership complexities and data gaps. It further highlights that estimating potential top-up tax revenue is a data-intensive exercise that requires a structured approach based on GloBE income, covered taxes, and the substance-based income exclusion, ideally using multi-year entity-level data.
- Legal implementation: The toolkit identifies that the jurisdictions are following three principal approaches to implement the rules: cross-reference, repetition, and rewrite. Cross-referencing seeks to align domestic law directly with the GloBE rules, which may be done on a static (referring to the law as it stood on a fixed date) or an ambulatory (referring to the rules as amended from time to time) basis. Under the Repetition approach, the Model Rules are reproduced in domestic legislation, and under the Rewrite approach, the rules are adapted into the drafting style of the domestic legal system. According to the toolkit, a jurisdiction's approach will depend on its constitutional framework, language requirements, and legislative drafting constraints.
- Organising and planning for the implementation of the Global Minimum Tax (GMT): The toolkit indicates that the GMT needs a clear and structured plan covering objectives, governance, timelines, roles, budget, staffing, risk management, and monitoring. It also identifies the main tax administration functions that may be affected, including registration, filing, payment, risk management, audit, dispute resolution, IT, and data analytics. The toolkit further highlights IT readiness as a key area, focusing on the user portal, information processing, information exchange, and top-up tax collection.
- Framework on compliance procedures: The toolkit recommends that the GMT compliance processes should be designed to be efficient and, where possible, be fully digital. The compliance framework is generally structured around the following: the GloBE Information Return (GIR) and related notification; the GMT return; the top-up tax payment; penalties; and enforcement tools. In some jurisdictions, a separate registration requirement may also be introduced. Where registration is required, the toolkit recommends that the process be a simple, one-time requirement limited to essential information required to identify the MNE group and the relevant filer. It further supports the central filing of the GIR in the extensible markup language format, with one-time notification and alignment of the GIR filing deadline with the notification deadline.
- Exchange of information: The final module deals with the international exchange of the GIR. The toolkit explains that the GIR Multilateral Competent Authority Agreement provides the legal framework for countries to automatically exchange the GIR. The document also explains the dissemination approach, under which only the relevant parts of the GIR are shared with each jurisdiction, depending on its taxing rights. It also emphasises the need for jurisdictions to activate exchange relationships promptly.
- Overall, the OECD Toolkit is a significant operational document for the next phase of the Pillar Two implementation. Its principal message is that successful GMT implementation will depend not only on substantive legislation but also on administrative readiness, digital infrastructure, coordinated compliance design, and the timely exchange of information.

1. Approved and declassified by the OECD Committee on Fiscal Affairs on 22 April 2026

Judicial developments:

Supreme Court (SC) sets aside High Court's (HC's) reassessment rulings on the Jurisdictional Assessing Officer (JAO) vs Faceless Assessing Officer issue; remits matters to jurisdictional HCs

The SC, in a case², while hearing a batch of thousands of appeals concerning reassessment proceedings, has passed a common order. The SC has set aside the judgements of various HCs, which had quashed reassessment proceedings on the ground that the JAO lacked jurisdiction. However, the set aside is on the limited ground that the legislative basis of those judgements now stands altered by subsequent amendment. Accordingly, the matters have now been remitted to the respective HCs for fresh consideration.

Brief facts of the case

- The controversy arose from the reassessment proceedings initiated under Sections 147 to 151 of the Income-tax Act 1961 (IT Act 1961) as amended by the Finance Act, 2021. Under this statutory scheme, reassessment under Section 147 of the IT Act, 1961, was to be initiated by the assessing officer (AO), namely, the JAO. This was preceded by a pre-notice inquiry under Section 148A, following which a notice under Section 148 was issued.
- Subsequently, the Central Board of Direct Taxes (CBDT) introduced the 'e-Assessment of Income Escaping Assessment Scheme, 2022' under Section 151A of the IT Act 1961, vide Notification No. 18/2022 dated 29 March 2022. Under this scheme, assessments, reassessments, or recomputations under Section 147, and the issuance of a notice under Section 148, were to be carried out through automated allocation and a faceless mechanism.
- This gave rise to a friction between the statutory provisions and the scheme. The issue was whether, following the introduction of the faceless scheme vesting such functions in faceless assessing units, the JAO retained the authority to issue notices and pass orders under Section 148A(d) of the IT Act 1961 or whether such authority vested exclusively with the National Faceless Assessment Centre (NFAC).
- Consequently, a large number of petitions came to be filed before various jurisdictional HCs, resulting in divergent views on the issue. While some upheld the concurrent jurisdiction of the JAO and NFAC, others held that the notices issued by the JAO, not being through the faceless mechanism, were invalid and liable to be set aside.
- During the pendency of the appeals, the parliament enacted the Finance Act, 2026, and inserted Section 147A with retrospective effect from 1 April 2021. The insertion clarified that, for the purposes of Sections 148 and 148A, the AO shall mean an officer other than the NFAC or a faceless assessment unit. Correspondingly, an amendment was made to the Income-tax Act 2025 (IT Act 2025) (section 279) to align with the above position, providing that the AO, for the purposes of Sections 280 and 281 of the IT Act 2025, shall also exclude the NFAC or any faceless assessment unit.

Before the SC

- The SC noted that several contentions were raised by both sides. However, the court was of the view that it was not necessary to examine the merits of the rival submissions or advert to these contentions, and that all such issues could be urged before the HCs.
- The HCs had quashed the reassessment proceedings on the ground that the JAO lacked jurisdiction. However, the legal position now stands altered by the subsequent amendment. Accordingly, the court held that the impugned judgements were liable to be set aside on this limited ground, and the matters were remitted to the HCs for fresh consideration.
- Furthermore, the SC granted liberty to the taxpayers to amend their writ petitions within 4 weeks from the date of uploading of this order, so as to enable them to challenge Section 147A of the IT Act 1961 as introduced by the Finance Act, 2026, or any other connected or consequential provision. The Revenue was also granted the liberty to file written submissions and affidavits within three weeks thereafter, and no further time would be granted.
- The SC clarified that it has not expressed any opinion on the validity, scope, effect, retrospectivity or applicability of the amended provisions, and all issues are kept open for adjudication before the HCs.
- The court further directed that during the pendency of proceedings before the HCs, there shall be an interim stay on the further assessment/reassessment proceedings pursuant to the impugned notices, subject to conditions imposed by the HCs. The court further requested the HCs to decide the matters preferably by 30 September 2026. The appeals, along with all pending applications, were accordingly disposed of.

2. ITO vs Tej Partap Singh, Diary No. 2196 of 2026

Bombay HC: Reference to larger bench to decide whether Dividend Distribution Tax (DDT) is a tax on company or shareholder:

The Bombay HC, in a case³, has referred the issue on whether the DDT rate under Section 115-O of the IT Act, 1961, can be restricted to the dividend tax rate as per the Double Taxation Avoidance Agreement (DTAA) to a Larger Bench for consideration. The HC has framed questions on whether the earlier Bombay HC ruling in the Colorcon Asia Pvt. Ltd [TS-1623-HC-2025(BOM)] case lays down the correct legal position and whether the same is per incuriam in light of the SC's ruling in the Godrej & Boyce Manufacturing Company Limited case [TS-176-SC-2017].

Brief facts of the case

- The taxpayer is engaged in the business of manufacture, marketing and trading of foundry chemicals and foundry fluxes.
- During the relevant year, the taxpayer distributed dividend to *inter alia*, its United Kingdom (UK) shareholders and paid DDT under Section 115-O of the IT Act 1961. It claimed that such dividend should be subject to the beneficial rate under Article 11 of the India-UK DTAA and that the excess DDT paid is required to be refunded.
- The tax authorities issued a letter to the taxpayer under Section 154 of the IT Act 1961, stating that an option to modify the DDT payment was not available in the system. To this, the taxpayer responded that technical difficulty ought not to stand in the way of granting a refund to which the taxpayer is entitled.
- Furthermore, the taxpayer filed an application under Section 237 of the IT Act 1961, seeking a refund of the excess DDT allegedly paid over and above the rate specified under the India-UK DTAA.
- The refund claim was rejected on the ground that DDT is an 'additional income tax' on the domestic company and that the beneficial tax treaty rate was not applicable.
- Aggrieved, the taxpayer filed an appeal before the Commissioner of Income Tax (Appeal) [CIT(A)], contending that the DDT paid on dividends distributed to the UK shareholders should not exceed the dividend tax rate provided under the DTAA.
- The CIT(A) rejected the taxpayer's contentions. Thereafter, the taxpayer approached the Income Tax Appellate Tribunal (ITAT), which also dismissed the appeals, following the Mumbai Tribunal Special Bench's ruling in the case of Total Oil India Pvt. Ltd. (ITA 6997/Mum/2019).
- Aggrieved by the orders of the lower authorities, the taxpayer filed an appeal before the Bombay HC.

Before the HC

- Section 115-O begins with a non-obstante clause that confers an overriding effect of the said provision in regard to any other provisions of the IT Act 1961. Furthermore, it imposes an additional income tax on the domestic company, in addition to the normal income tax chargeable on its total income.
- Section 115-O(4) further states that the DDT paid by the company shall be treated as final payment of tax and no further credit shall be claimed by the company or any other person in respect of the tax so paid.
- DDT is a tax on the company and not on the shareholder. It is not a tax paid by the company on behalf of the shareholder, nor does the company act as an agent of the shareholder in paying such tax.
- Nothing in Section 115-O indicates that its operation is controlled by the DTAA. Furthermore, Article 11 of the India-UK DTAA deals with the tax on dividend income and not with the tax on the distribution of profits by way of dividend by a company. Once DDT is paid by the company, the dividend becomes exempt in the hands of the shareholder under Section 10(34).
- In the Godrej & Boyce Mfg. Co. Ltd vs Deputy Commissioner of Income Tax and Anr (2010) 328 ITR 81 (Bom), the Bombay HC held that tax under Section 115-O is on the company's profits and not on the dividend income in the hands of the shareholder. The court noted that this position was not disturbed by the SC in the Godrej & Boyce (supra) case. However, please note that the aforesaid case is with respect to Section 14A, and the issue under consideration was whether the expenditure related to earning dividend income (which is not included in the total income of the shareholder) will be disallowed or not. A similar view was also taken in the case of Small Industries Development Bank of India (2021 SCC OnLine Bom 14048), which determined the applicability of Section 115-O on the dividend paid under Section 2(22) of the IT Act 1961.
- The view taken in the Colorcon Asia Pvt. Ltd. (supra) case that DDT is a tax on dividend income of the shareholder was found to be contrary to the SC's decision in the Godrej & Boyce (supra) case. The case of Godrej & Boyce (supra) was discussed and negated in the aforesaid decision, as this judgement was on Section 14A. Hence, the HC held that there is a cleavage of opinion on the issue.

3. Foseco India Ltd. Company v. ACIT, TS-601-HC-2026(BOM)

- Accordingly, the following questions were referred to the Larger Bench:
 - Whether Colorcon Asia Pvt. Ltd. lays down the correct position in law when it holds that DDT is a tax paid by the company on dividend income of the shareholder, entitling the shareholder of the benefit of the provisions of the India -UK DTAA?
 - Whether Colorcon Asia Pvt. Ltd. is per *incuriam* in light of the SC's decision in the case of Godrej & Boyce (supra)?
- The matter has been directed to be placed before the Chief Justice for the constitution of a Larger Bench.
- Consequent to this, the SC admitted the Revenue's special leave petition (SLP) against the judgement in the Colorcon Asia Pvt. Ltd. case (supra) passed by the Bombay HC.

Before the SC

- The SC has recorded the substantial questions of law:
 - Whether tax under Section 115-O on any amount declared, distributed or paid by a company by way of dividend chargeable to additional income tax is in the nature of tax on distributed profits or tax on dividend?
 - Whether the DDT paid by the respondent company on amounts declared, distributed and paid as dividend [as defined under the India-UK DTAA and the IT Act] to a resident of the UK can be levied at a rate higher than permitted under the treaty; and
 - Whether the DDT, being an income tax or an identical and/or substantially similar tax, is governed by the UK DTAA.
 - The SC has also recorded that the correctness of the impugned Bombay HC's judgement has been doubted by a coordinate bench of the Bombay HC in the case of Foseco India Ltd. Company v. Assistant Commissioner of Income Tax (ACIT) (supra), where similar questions have been referred to a Larger Bench.
 - Having regard to the ramifications of the issue, the SC has allowed the intervention applications filed in the matter. It has also directed that its Registry circulate the order to all HCs and that each HC's Registry publish the order in the cause list, informing the parties of the matter being considered by the SC.
- The SC has further directed as under:
 - If any intervention application is required to be made before it, the same may be made by 15 July 2026.
 - The matter is listed on **12 August 2026**.
 - In the meantime, the HCs may consider staying further proceedings in the matters involving similar issues.

SC holds 35% share from Association of Persons (AOP) taxable as business income (not profit share); reopening for Assessment Year (AY) 2007-08 and AY 2008-09 upheld, the HC ruling set aside:

- The SC, in a recent case⁴, set aside the judgement(s) of the Bombay HC to the extent under challenge in the respective appeals. On the question of reopening, the SC held that the reassessment proceedings initiated for AY 2007-08 were not based on a mere change of opinion. On merits, the SC held that the 35% share received by the taxpayer from the AOP constitutes a business receipt and not a share of profit. Accordingly, such a receipt is chargeable to tax in the hands of the taxpayer.
- The reassessment was initiated for AY 2007-08 and AY 2008-09 on the basis of the material gathered during a survey under Section 133A of the IT Act 1961. The survey indicated that the taxpayer was receiving 35% of the gross sale proceeds from the AOP and not a share of the profit of the AOP. The SC examined the scope of 'reason to believe' under Sections 147 and 148 of the IT Act 1961 and interpreted the AOP agreement to determine the true nature of the receipts, including the application of the principle of diversion of income by overriding title.

Brief facts of the case

- The taxpayer, Sanand Properties Private Limited (SPPL), entered into an agreement dated 29 April 2003 with M/s Raviraj Kothari & Co. (RKC) to constitute an AOP named 'Fortaleza Developers' for the development and sale of residential units. SPPL contributed the development rights in land, while the AOP undertook the construction and sale of flats. As per Clause 7 of the AOP Agreement, SPPL was entitled to receive 35% of the gross sale proceeds of the units, while the remaining 65% was to be utilised for project expenses, with the balance thereafter accruing to RKC.
- For AY 2007-08 and AY 2008-09, SPPL filed its returns, declaring income from the AOP as share of profit.

⁴. Sanand Properties Pvt Ltd vs. JCIT, Civil Appeal Nos. 9107 of 2012, 744 of 2013 and 19487 of 2017

- SPPL claimed that no tax was payable on this share, as tax on the income of the AOP was payable by the AOP itself under Section 167B(2) of the IT Act 1961. The returns, selected for scrutiny and assessment, were completed under Section 143(3). The AO accepted the taxpayer's declaration of income from the AOP as a share of profit without forming any opinion on its true nature or examining the relevant terms of the AOP Agreement, including Clause 7.
- A survey under Section 133A of the IT Act 1961 was conducted at the premises of SPPL, during which the AOP Agreement, financial statements, books of account and related documents were impounded, and the director's statement was recorded under Section 131. Based on the material gathered, the Revenue formed a *prima facie* view that the 35% receipt was not a share of profit but a share of revenue, i.e., consideration received against the development rights over the land surrendered by it to the other member of the AOP and ultimately to the purchasers.
- Accordingly, the AO recorded reasons under Section 147 that income had escaped assessment within the meaning of Explanation 2(c)(iv) and issued notices under Section 148 dated 11 January 2011 for both AYs.
- The taxpayer objected to the reopening on the ground that all material facts were already disclosed during the original assessment and that reopening amounted to a mere change of opinion. The objections were rejected by the AO, holding that the survey revealed fresh tangible material regarding the true nature of the receipts.
- The taxpayer then challenged the reopening notices by filing writ petitions before the HC for both AYs. Pursuant to reopening, the reassessment proceedings for AY 2008-09 resulted in an addition of INR 14.18 crore, treating the receipt as taxable revenue in the hands of the taxpayer, and penalty proceedings were also initiated.
- The ITAT, while allowing the taxpayer's appeal, held that the 35% share received by the taxpayer was not in the nature of an overriding title to Revenue, but constituted only a share of the AOP's profit. Further, as the AOP is a distinct assessable entity, the entire income formed part of its eligible profits under Section 80IB(10) of the IT Act 1961, and the manner of distribution did not alter its character. Thus, the ITAT concluded that the receipt in the hands of the taxpayer was a share of profit and could not be brought to tax again in its hands.
- The Bombay HC, in writ proceedings, quashed the reopening for AY 2007-08 as being based on mere change of opinion, while upholding the reopening for AY 2008-09 on the ground that there existed tangible material.
- On merits, the HC upheld the findings of the ITAT and held that the amount received by the taxpayer from the AOP represented its share of profit and not the revenue. Therefore, it could not be brought to tax again in the taxpayer's hands.
- Aggrieved by the respective orders of the Bombay HC, the Revenue filed appeals challenging (i) the quashing of reopening for AY 2007-08 and (ii) the order on merits, while the taxpayer filed an appeal challenging the upholding of reopening for AY 2008-09, and all three appeals were heard together in view of the common factual background.

Before the SC

- On the scope of reopening under Sections 147/148, the SC placed reliance on the cases of CIT vs. Kelvinator of India Ltd. [(2010) 320 ITR 561 (SC)] and ACIT vs. Rajesh Jhaveri Stock Brokers Pvt Ltd. [(2008) 14 SCC 208]. The court examined whether the AO had 'reason to believe' based on tangible material and reiterated that such power cannot be exercised on a mere change of opinion but must be founded on tangible material having a live link with the formation of the belief.
- Applying the above principles to the facts of the case, the court examined the original assessment records and noted that the AO had not undertaken any enquiry or applied his mind to the fundamental issue regarding the nature of receipts from the AOP. The AO accepted the taxpayer's claim for a profit share without discussion, thereby indicating that no opinion was formed on this aspect.
- The court then examined the material gathered during the survey under Section 133A of the IT Act 1961. It was noted that the AOP agreement and the statement of the director clearly indicated that the taxpayer was entitled to 35% of the gross sale proceeds, which brought into question the correctness of the original claim of 'profit share', thereby constituting new tangible material.
- On the basis of the above, the court held that the jurisdictional condition of 'reason to believe' stood satisfied. Since no prior opinion existed on the issue, the reopening for AY 2007-08 and AY 2008-09 could not be struck down as a case of change of opinion.
- On the characterisation of receipts, the court undertook an independent interpretation of Clause 7 of the AOP agreement and closely examined the structure of entitlement. It was noted that the taxpayer was entitled to withdraw 35% of the gross sale proceeds immediately, i.e., before any expenses were deducted.

- The court further observed that since all required and relevant expenditure for the purposes of the business of the AOP was to be met entirely out of the remaining 65% share, the taxpayer's entitlement was insulated from the expenses of the AOP. This was inconsistent with the concept of 'profit', as profit is the surplus that remains after all the expenses have been deducted from the gross receipts.
- The court then applied the principle of diversion of income by overriding title, as laid down in the case of CIT vs. Sitaldas Tirathdas [(1961) 41 ITR 367 (SC)], and held that where a portion of the income is diverted at source by virtue of a pre-existing obligation, such income never accrues to the person who collects it but directly accrues to the beneficiary.
- Applying this principle, the court held that the 35% share of gross receipts stood diverted in favour of the taxpayer at source under the terms of the agreement itself, before it could form part of the income of the AOP. Therefore, such an amount could not be regarded as a share of profit of the AOP.
- Consequently, the court concluded that the said receipts are of the character of a business receipt arising from the surrender of development rights or a share of gross revenue in the hands of the taxpayer and not a share of profit of the AOP. Thereby, the SC rejected the contrary view taken by the ITAT and the HC.
- Accordingly, the SC upheld the validity of the reopening for AY 2007-08 and AY 2008-09 and set aside the HC's decision quashing the reopening for AY 2007-08. Further, on merits for AY 2008-09 and AY 2009-10, the SC held that the 35% share received by the taxpayer from the AOP constitutes a business receipt chargeable to tax in the taxpayer's hands. Thereby, the SC set aside the orders of the HC and ITAT on merits, allowed the Revenue's appeals and dismissed the taxpayer's appeal.

Delhi HC strikes down limitation circular of excess tax deducted at source (TDS) refund; SC grants leave in SLP filed by Revenue:

The SC, in a case⁵, has condoned the delay and granted leave in the SLP filed by the Revenue against the judgement of the Delhi HC⁶. The HC examined: (i) the refund of excess tax deposited under Section 195, and (ii) whether interest on Foreign Currency Convertible Bonds (FCCBs) and External Commercial Borrowings (ECBs) fell within the exception in Section 9(1)(v)(b), applying the test of "commercial expediency".

Brief of the HC's order

- On the first issue, the HC held that neither Section 237 nor Section 239 of the IT Act 1961 prescribes any limitation period for filing a refund claim. Therefore, the rejection on this ground was unsustainable. The HC noted that Section 239(2), which earlier prescribed limitation periods for refund claims, was omitted by the Finance (No. 2) Act, 2019. This was treated as reflective of a clear legislative intent not to impose strict timelines for such claims.
- The HC observed that where no income has accrued to the non-resident, or no tax is due, or tax is due at a lesser rate, the amount deposited under Section 195 cannot be said to be 'tax' to that extent, and such excess must be refunded. Thus, the HC held that a circular cannot override or curtail statutory provisions; accordingly, the prescription of limitation under Circular No. 07/2007 is *ultra vires* the IT Act, 1961.
- On the second issue, the HC examined whether the interest on the FCCBs and ECBs fell within the exception in Section 9(1)(v)(b). The court applied the principle of commercial expediency laid down in the case of S.A. Builders Ltd. vs CIT [(2007) 288 ITR 1 (SC)] and held that the expression 'for the purposes of business' must be viewed from the standpoint of a prudent businessman.
- The HC observed that a holding company has a deep interest in its subsidiary, and the use of borrowed funds for a subsidiary's business qualifies as commercial expediency. It is immaterial if a third party also benefits from such expenditure. It held that the borrowings fell within the ambit of money borrowed and used for the purposes of making or earning income from a source outside India, and therefore within the exception in Section 9(1)(v)(b).
- In conclusion, the HC held that the rejection of the refund by the AO was unsustainable both on limitation and on merits. The impugned order was quashed, and the petitioner was declared eligible for the refund of excess tax deposited under Section 195 for the Financial Years (FYs) 2010-11 to 2012-13, along with statutory interest.

Before the SC

The Revenue filed an SLP before the SC. The SC condoned the delay in filing the SLP, granted leave, and expedited the hearing in the matter.

5. ITO vs. Sun Pharmaceutical Industries Ltd, SLP (C) Diary No. 12122/2026

6. Sun Pharmaceutical Industries vs. Income Tax Officer W.P.(C) 8444/2018

SC dismissed Revenue's engineering analysis review petition on software taxation

- The SC, in a recent case⁷, has dismissed the review petitions filed by the Revenue against its earlier judgement dated 2 March 2021. The matter pertains to a batch of review petitions filed by the Revenue seeking reconsideration of the SC's ruling in the software royalty controversy.
- It is noted that in a connected batch of matters, the SC had already dismissed similar review petitions vide an order dated 23 April 2024. The dismissal was based on both delay and the merits. The court found no justifiable reason to entertain them. The present review petitions involved similarly situated parties. The court observed that the judgement dated 2 March 2021 is presently in operation as regards the parties to the order dated 23 April 2024. The court further observed that it would not be proper to consider the present review petitions on merits again in light of the earlier order.
- The SC observed that the judgement dated 2 March 2021 is sought to be reviewed. The court noted that it had already been the subject of earlier review petitions. Those review petitions were dismissed by another 3 Judge Bench vide an order dated 23 April 2024. Thus, it would not be proper for this Bench to reopen the issue. The present review petitions cannot be considered on merits again since another 3-Judge Bench had already dismissed the earlier review petitions.
- Accordingly, following the earlier order dated 23 April 2024, the SC dismissed the present review petitions. All pending applications shall also stand dismissed.



7. CIT vs. Engineering Analysis Centre of Excellence Pvt. Ltd. & Ors, Review Petition (C) Nos. 1422-1497/2021

B

Key developments under transfer pricing law:

Judicial developments:

- **Mere existence of transactions/higher profitability of eligible unit no basis to invoke Section 80IA(10)⁸:**

The assessee is engaged in the manufacturing and export of studded jewellery. It claimed deduction under Section 10AA in respect of its eligible SEZ unit, which entered into specified domestic transactions (SDTs) with H.K. Design Inc. and Pure Brilliance LLC. The TPO proposed an adjustment on the basis of the eligible unit's higher profitability, without establishing, through reliable benchmarking analysis or comparable industry material, the existence of "ordinary profits" or any price manipulation/artificial arrangement. The ITAT held that mere higher profitability or the existence of transactions, in the absence of a foundational exercise demonstrating excess profits, does not, in itself, satisfy the conditions of Section 80-IA (10). The ITAT noted that factors such as operational efficiency, economies of scale, and business expertise may legitimately result in higher margins. Furthermore, the stability of margins even after the expiry of the tax holiday and the absence of adjustments in prior years weakened the allegation of profit shifting. Accordingly, the ITAT deleted the TP adjustment, allowed the assessee's appeal, and directed the AO to recompute the deduction under Section 10AA, consistent with this finding.

- **ITAT accepts assessee's characterisation as limited risk service provider for training and technical services⁹:**

The assessee is engaged in providing liaison and intermediary services to the Indian Air Force (IAF) and is a step-down subsidiary of the ultimate holding company, i.e., The Boeing Company. The assessee filed the return of income, reflecting the payment of technical and training fees to the AE, and the TPO rejected the assessee's characterisation as a limited-risk service provider and proposed a TP adjustment on such payment. However, the ITAT observed that the assessee was engaged for liaison and intermediary services, whereas the major services, including aircraft training simulators and technical services at the customer site, were directly controlled and handled by the AE. The assessee assisted only as a facilitator; it did not own or possess assets/know

how for providing such services and held only routine assets, while the entire business risk vested with the AE. The ITAT accepted the assessee's contention that it was a limited risk service provider, observed that the TNMM adopted by the assessee showed higher margins than comparables and the same benchmarking was accepted in the preceding year, held that the principles of consistency applied, and accordingly directed the AO/TPO to accept benchmarking conducted by the assessee and allowed the appeal.

- **AO cannot pass two draft orders u/s.144C, quashes second order¹⁰:**

The assessee provides software development services to its AEs. The TPO proposed the TP adjustment, pursuant to which the AO passed the draft assessment order, and subsequently, the assessee filed objections before the DRP. However, the AO thereafter issued a second draft assessment order proposing corporate tax additions and passed the final assessment order without waiting for the DRP directions. The Karnataka HC quashed the order, directing the DRP to consider objections. Subsequently, the DRP issued directions, and the final assessment order was passed, incorporating both the TP and corporate tax additions. The ITAT observed that the AO issued two draft assessment orders for the same proceedings, and that the language of the section requires all variations prejudicial to the assessee, including the TP and corporate tax issues, to be proposed in a single draft order. The ITAT held that the AO cannot initiate separate DRP processes by issuing multiple draft orders, relying on the Gujarat HC's ruling in the Woco Motherson Advanced Rubber Technologies case and the Karnataka HC's ruling in the Cisco Systems Services B.V. case. Accordingly, the ITAT quashed the second draft assessment order and held that corporate tax additions in the final assessment order, in the absence of the DRP directions, are illegal and bad in law, and directed the deletion of such additions, thereby allowing the assessee's appeal.

8. Imperial Jewels [I.T.A. No. 5477/Mum/2024]

9. Boeing India Defense Pvt Ltd [ITANo.6042/DEL/2024]

10. Marvell India Pvt Ltd [IT(TP)A No.115/Bang/2023]

- **ITAT quashes final assessment order passed, along with demand and penalty notice¹¹:**

The assessee is engaged in the business of providing software development services, including data processing, computer programming and information technology-enabled services to Ariba Inc. Pursuant to the TPO's order, a draft assessment order was passed incorporating adjustments proposed by the TPO, wherein the AO computed the taxable income, along with tax payable and issued a demand notice at the draft assessment stage, along with penalty notice, which the assessee challenged, and the CIT(A) held such assessment order invalid. However, the ITAT observed that the notice of demand and initiation of penalty proceedings could only be issued at the time of passing the final assessment order and the very fact that the taxable amount was determined shows that the draft assessment order was passed as the final assessment order, thereby attaining finality on the relevant date with simultaneous demand and penalty notice, precluding its characterisation as the pre-assessment order. The ITAT further held that the procedure prescribed under Section 144C is mandatory, and the failure to follow it constitutes a jurisdictional error not curable under Section 292B, relying on the rulings in the cases of Cisco Systems Services B.V., Vijay Television, and Hyundai Motor India Engineering. Accordingly, the ITAT quashed the impugned final assessment order, along with consequential demand and penalty notice, and dismissed the Revenue's appeal.

- **Chapter-X mandate provides AO no 'jurisdictional immunity' for lapse in computing tax-exempt profit u/s.80IA¹²:**

The assessee and Shyam Metalics and Energy Limited are industrial houses engaged in the manufacture of iron and steel, and the assessee established captive power plants qualifying as eligible businesses for deduction under Section 80-IA, with inter-unit power transfers constituting SDTs. Pursuant to this, the TPO requisitioned details regarding the allocation of costs and adopted the "Direct Nexus" theory while proposing a downward adjustment only to the price of power. The AO passed the assessment order, adopting the TPO findings without examining the allocation of

common head office expenses; though CIT(A) granted relief by recalculating the grid rate and the Tribunal remanded the matter for limited verification. The PCIT invoked revisionary proceedings on the ground that the allocation of common HO expenses was not examined. The HC observed that controversy centred on the allocation of common HO expenses, which was never highlighted or examined in the appellate proceedings, and held that the proceedings before the CIT(A) were confined only to valuation of receipts and not the allocation of expenses. Relying on the ruling in the CIT v. Shri Amitabh Bachchan case, the court held that the issues not considered in appeal do not merge, and it rejected the contention that the TPO's silence amounted to the approval of the cost-allocation methodology and held that the TPO's mandate is confined to valuation and does not extend to the computation of net profit. The court observed that the AO failed to examine the allocation of finance costs, employee benefit expenses and administrative overheads, thereby allowing an investigative vacuum to persist, rendering the assessment order erroneous and prejudicial. The court held that the specialised mandate of Chapter X does not provide jurisdictional immunity; the search status of the relevant AY did not confer immunity, but instead imposed a heightened duty to verify deductions under Section 80-IA. Accordingly, the court upheld the exercise of revisionary jurisdiction, directed the AO to carry out fresh assessment confined to the proportionate allocation of common HO expenses, and dismissed the assessee's appeal.

11. Ariba Technologies India Pvt Ltd [IT(TP)A No.890/Bang/2025]

12. Shyam Sel And Power Limited [ITA 24 OF 2026]



Key developments under FEMA

Legislative developments:

- **Ministry of Finance notifies FEMA (Non-Debt Instruments) (Amendment) Rules, 2026:**

The Ministry of Finance have notified the Foreign Exchange Management (Non-Debt Instruments) (Amendment) Rules, 2026 ('NDI Amendment Rules, 2026'). Through the NDI Amendment Rules, 2026, the government has formally incorporated the policy changes introduced under Press Note No. 2 (2026 Series) into the statutory framework under the Foreign Exchange Management (Non-debt Instruments) Rules, 2019. The said press note, *inter alia*, introduced a clarification-based framework for determining beneficial ownership in investments involving countries sharing land borders with India, and imposed a new reporting requirement for certain automatic route investments with direct or indirect land-border country ownership.

The NDI Amendment Rules, 2026, shall come into effect from the date of their publication in the Official Gazette, i.e., on 1 May 2026.

- **Ministry of Finance notifies NDI (Second Amendment) Rules, 2026, for FDI in the insurance sector:**

The government of India, through the Department for Promotion of Industry and Internal Trade (DPIIT), issued Press Note No. 1 (2026 Series) dated 9 February 2026, reviewing the extant Foreign Direct Investment ('FDI') policy applicable to the insurance sector and permitting up to 100% foreign investment in Indian insurance companies under the automatic route, subject to regulatory safeguards.

Pursuant thereto, the Ministry of Finance (Department of Economic Affairs) has now notified the Foreign Exchange Management (Non-Debt Instruments) (Second Amendment) Rules, 2026 ('NDI Second Amendment Rules, 2026'), thereby giving statutory effect to the policy changes under the Foreign Exchange Management (Non-Debt Instruments) Rules, 2019. The key highlights are set out below:

1. **Insurance companies:**

The sectoral cap limit of foreign investment has increased from 74% to 100% under the automatic route for the insurance sector, subject to approval and verification by the Insurance Regulatory and Development Authority of India (IRDAI).

2. **Insurance intermediaries:**

100% FDI under the automatic route continues to be allowed for insurance intermediaries (including brokers, insurance consultants, corporate agents, third-party administrators, surveyors, and loss assessors), subject to compliance with the applicable IRDAI regulations and the Indian Insurance Companies (Foreign Investment) Rules, 2015.

Furthermore, the managing general agents and insurance repositories have been specifically mentioned as insurance intermediaries.

3. **Life Insurance Corporation of India (LIC):**

The foreign investment in LIC remains capped at 20% under the automatic route, in accordance with the Life Insurance Corporation Act, 1956, and applicable insurance laws.

4. **Key conditions:**

- At least one among the Chairperson, Managing Director and Chief Executive Officer of an Indian insurance company with foreign investment must be a resident Indian citizen.
- Any incremental foreign investment remains subject to the FEMA pricing guidelines and applicable regulatory disclosures.

The NDI Second Amendment Rules, 2026, shall come into effect from the date of their publication in the Official Gazette, i.e., on 2 May 2026.

D

Key developments under GST law

Legislative/other developments:

Goods and Services Tax Appellate Tribunal (GSTAT) order

- **GSTAT issues operational directions on bench constitution and extends relaxed appeal scrutiny till 31 December 2026:** The GSTAT President has issued operational directions regarding the constitution of benches, allocation of members, categorisation of appeals and hearing procedures to facilitate uniform functioning of the Tribunal during its operationalisation phase. The order classifies disputes into broad categories for administrative allocation, provides that all appeals shall initially be listed before a Division Bench, and permits virtual or hybrid hearings across jurisdictions to improve administrative flexibility.
- Furthermore, the GSTAT has extended the relaxed scrutiny mechanism for appeal filings till 31 December 2026, under which registries will continue to adopt a lenient approach by raising only substantive defects and not procedural deficiencies. The directions also clarify the documentation requirements for taxpayers and departmental appeals, the acceptance of scanned certified copies, and procedural requirements relating to authorisation documents, with the objective of facilitating a smoother transition to the GSTAT filing framework.

(Please [click here](#) to refer to the office order)

Goods and Services Tax Network Advisory

- **Introduction of Annexure-B offline utility for refund claims involving accumulated ITC:** The GSTN has issued an advisory introducing a standardised Annexure-B offline utility for the refund claims relating to exports without the payment of tax, supplies to SEZ units/developers without the payment of tax, inverted duty structure refunds, and the export of electricity. The utility replaces the existing PDF-based Annexure-B filing and enables invoice-wise reporting, GSTR-2B validation, duplicate checks, and JSON-based submission to facilitate automation and system-based processing of refund claims. Taxpayers are required to upload the generated JSON file, along with Form GST RFD-01.

(Please [click here](#) to refer to the advisory)

- **Enhancements introduced in EWB portal, including voluntary EWB closure facility:** The E-Way Bill (EWB) portal has undergone further enhancements with the aim of improving transaction traceability and data integrity. The changes include mandatory reporting of 'Ship To GSTIN' in bill-to/ship-to transactions (with 'URP' to be reported for unregistered consignees) and the introduction of a voluntary EWB closure facility, enabling suppliers, recipients, transporters, or authorised persons to close EWBs upon delivery completion. The facility supports EWB-wise and date-wise closure and may also be accessed through a mobile number-based functionality. Furthermore, the necessary API enhancements have been released in the sandbox environment, with production deployment proposed from 15 June 2026.

(Please [click here](#) to refer to the advisory)



Judicial developments:

- SC upholds GST levy on online gaming, fantasy sports and casino transactions involving stakes, irrespective of skill or chance**¹³: The SC has upheld the levy of GST on online gaming, fantasy sports and casino transactions involving money or money's worth, holding that the distinction between the games of skill and games of chance is not relevant for GST purposes once stakes are placed on an uncertain outcome. The court observed that such transactions give rise to taxable actionable claims in the nature of betting and gambling, and rejected the contention that GST should be restricted to platform fees or commissions. Accordingly, the court upheld the constitutional validity of the relevant statutory provisions, valuation rules and the 2023 amendments governing the taxation of online money gaming and casino transactions.

(Please [click here](#) to refer to the tax alert)
- SC affirms Bombay HC's ruling that assignment of leasehold rights is not taxable under GST**¹⁴: The SC has dismissed the Revenue's SLP against the Bombay HC's judgement holding that the assignment of leasehold rights in an industrial plot does not constitute a taxable supply under GST. The HC had observed that the transfer of long-term leasehold rights, undertaken with the lessor's consent, amounts to a transfer of benefits arising from immovable property and cannot be classified as a supply of service under a residual entry. The court further held that the transaction was not undertaken in the course or furtherance of business as contemplated under Section 7 of the CGST Act and, therefore, fell outside the scope of GST. In doing so, the HC had also relied upon the Gujarat HC's ruling in the GCCl case, which recognised that the assignment of leasehold rights by an original lessee to a third-party assignee is not liable to GST.

(Please [click here](#) to refer to the tax alert)
- SC stays Allahabad HC's ruling that GST portal upload alone is insufficient to trigger appeal limitation**¹⁵: The SC has issued a notice and stayed the operation of the Allahabad HC's judgement in the Bambino Agro Industries Ltd. case, which had held that mere uploading of a show cause notice or adjudication order on the GST portal does not constitute effective communication for the purpose of triggering the limitation period for filing an appeal under Section 107 of the CGST Act. The HC had observed that the limitation would commence only upon actual or constructive communication in accordance with Section 169. The SC's interim order keeps the issue open for consideration and suspends the precedential effect of the HC's ruling pending final adjudication.

(Please [click here](#) to refer to the ruling)
- Right to collect toll under BOT concession constitutes consideration for taxable road construction services – Rajasthan HC**¹⁷: The Rajasthan HC has held that the right to collect toll granted under a BOT (Toll) concession agreement constitutes non-monetary consideration for road construction services rendered to the NHAI and is liable to GST. The HC observed that the arrangement is a barter transaction in which construction services are provided in exchange for toll collection rights, thereby qualifying as a taxable supply under Section 7 of the CGST Act. Rejecting the claim of exemption, the court distinguished the exempt service of granting access to a road on the payment of toll from the underlying construction activity and held that the services are classifiable under Heading 9954 as taxable construction services and not under Heading 9967 relating to toll access services. The HC further clarified that the execution of the project through a subcontractor does not dilute the concessionaire's independent GST liability under the concession agreement, and accordingly upheld the demand for tax, interest, and penalty.

(Please [click here](#) to refer to the tax alert)

13. Gameskraft Technologies Pvt Ltd (Civil Appeal No(s). 8241 – 8244 of 2026 (Arising out of SLP (C) Nos. 19366 – 19369 of 2023)

14. Aerocom Cushions Private Limited (SLP(C) 18772/2026)

15. Bambino Agro Industries Ltd (SLP(C) Diary No. 11683/2026)

16. Writ Tax No. - 2707 of 2025

17. CG Tollway Ltd. (D.B. Civil Writ Petition No. 15048/2025)

- Corporate guarantee without consideration not taxable under GST – Bombay HC¹⁸:** The Bombay HC has held that the issuance of a corporate guarantee by a holding or group company on behalf of its subsidiary, without any fee, commission or other consideration, does not constitute a taxable supply under the CGST Act. The HC observed that consideration is a foundational requirement for the GST levy, and in the absence of any consideration, no tax liability can arise merely because a corporate guarantee has been furnished. Relying on the SC's ruling in the Edelweiss Financial Services Ltd. case, the court further clarified that a corporate guarantee is a contingent contractual obligation and cannot be equated with a commercial banking service. While upholding the validity of Rule 28(2) of the CGST Rules, the HC emphasised that valuation provisions cannot create a taxable supply where the essential ingredients of levy are absent.

(Please [click here](#) to refer to the ruling)

classification; integrated fulfilment services taxable as logistics services – West Bengal AAAR¹⁹:

The West Bengal AAAR has set aside the AAR's ruling and held that the mere issuance of a consignment note does not, by itself, result in the classification of a service as a Goods Transport Agency (GTA) service. The AAAR observed that the arrangement under consideration was, in substance, an integrated courier, logistics, and fulfilment operation involving sorting, tracking, hub-based movement, and last-mile delivery, and therefore could not be regarded as an independent GTA service merely because transportation was undertaken by road or because transportation charges were separately recovered. Accordingly, the exemption available to the GTA services under Sl. No. 21A of Notification No. 12/2017-CT (Rate) was held to be inapplicable, and the activity was treated as a taxable courier/logistics/fulfilment service liable to GST.

(Please [click here](#) to refer to the tax alert)



18. D.P. Jain & Co. Infrastructure Pvt. Ltd.(WP No.2087/2025
19. Flipkart Private Limited (Appeal Case No. 06/WBAAAR/APPEAL/2026)

E Key developments under erstwhile indirect tax laws, Customs, FTAs, Foreign Trade Policy, SEZ laws, incentives and state amnesty schemes, etc

Legislative/other developments:

- **CBIC notifies Customs Tariff (Determination of Origin of Goods under the Comprehensive Economic Partnership Agreement between India and Oman) Rules, 2026 and related exemptions under Customs**²⁰: India and Oman CEPA came into force from 1 June 2026. In this regard, the Central Board of Indirect Taxes and Customs (CBIC) has notified the Customs Tariff (Determination of Origin of Goods under the Comprehensive Economic Partnership Agreement between India and Oman) Rules, 2026, effective from 1 June 2026. The rules prescribe the conditions under which goods qualify as “originating” in India or Oman, requiring that goods be wholly obtained or satisfy the applicable Product-Specific Rules (PSR), including value-addition and tariff-classification criteria. Detailed provisions have been prescribed for the issuance, retrospective issuance and acceptance of

and fully digitised certificates, the recognition of third-party invoicing arrangements, and a 12-month validity period for CoOs. In addition, to implement the agreed tariff concessions, the government has issued a customs notification granting preferential treatment to eligible imports from Oman, including exemptions or reduced incidence on the Basic Customs Duty (BCD) and applicable cess components, subject to compliance with origin requirements. Simultaneously, the DGFT has enabled the electronic filing of preferential CoOs on the Trade Connect ePlatform, permitting issuance through self-declaration using a Digital Signature Certificate (DSC) or authorised issuing agencies, with digital authentication and verification available via QR code and the online portal.

(Please [click here](#) to refer to the alert)



20. Notification No. 48/2026 -Customs (N.T.) dated 29 May 2026 Notification No. 48/2026 -Customs (N.T.) dated 29 May 2026

Judicial developments:

- U.S. Court of Appeals for the Federal Circuit grants stay against U.S. CIT order invalidating 10% temporary import surcharge:** The United States Court of International Trade (U.S. CIT), vide its order dated 7 May 2026, had invalidated the temporary 10% *ad valorem* import surcharge imposed by the US administration under Section 122 of the Trade Act of 1974, holding that the measure exceeded the statutory authority delegated to the US President. The court observed that Section 122 permits temporary import restrictions only in situations involving “fundamental international payments problems,” including large and serious balance-of-payments deficits.

It held that the proclamation incorrectly relied on trade deficits and current account deficits as substitutes for the “balance-of-payments deficits” contemplated under the statute. Accordingly, the court concluded that the statutory conditions required to invoke Section 122 had not been satisfied.

(Please [click here](#) to refer to the alert)

- Following the CIT’s decision, the U.S. government filed an appeal and requested a stay of the judgement and injunction. On 12 May 2026, the United States Court of Appeals for the Federal Circuit issued a non-precedential order, temporarily staying the CIT’s ruling and associated injunction. This administrative stay preserves the 10% temporary import surcharge while the appeal is heard.

(Please [click here](#) to refer to the update)

- U.S. CIT examines scope of IEEPA tariff refunds as CBP processes claims through CAPE:** Further developments have emerged in the ongoing litigation concerning the refunds of tariffs imposed under the IEEPA. In a filing dated 26 May 2026, US Customs and Border Protection (CBP) informed the U.S. Court of International Trade (CIT) that approximately USD 85 billion of potential and certified refund claims have been accepted for processing through the Consolidated Administration and Processing of Entries (CAPE) module. Subsequently, on 27 May 2026, the CIT questioned delays in the implementation of its refund order and sought an explanation from the CBP regarding the continued suspension of immediate compliance with directions to liquidate or reliquidate entries without regard to the IEEPA’s duties. On 29 May 2026, the Trump administration sought modification of the CIT’s order requiring the CBP Commissioner to appear before the court, and indicated its intention to appeal the refund directions insofar as they apply to finally liquidated entries and importers who have not filed proceedings before the CIT. While the CBP has stated that refunds for about USD 85 billion in unliquidated or non-final entries are already being processed, the administration has argued that refunds for finally liquidated entries require additional judicial directions and system enhancements. The CIT is scheduled to hear the matter on 9 June 2026, and the scope of refund eligibility, particularly for finally liquidated entries and non-litigating importers, remains subject to judicial determination.

(Please [click here](#) to refer to the order)





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