Grant Thornton | 90 in Bharat and beyond

#GTBharat SHAPING VIBRANT INDIA

Monthly Tax Bulletin

May 2026

Grant Thornton Bharat is pleased to present the May 2026 edition of the Tax Bulletin, at a time when the global economic and geopolitical environment continues to undergo significant transformation. The deepening West Asia crisis, persistent volatility in crude oil prices, disruptions in global supply chains, and renewed pressure on the Indian rupee are collectively reshaping fiscal and regulatory priorities across jurisdictions. These developments are increasingly influencing the direction of tax policy, cross-border investments, trade flows, and the global compliance framework.

Against this evolving backdrop, India's tax and regulatory ecosystem continues to exhibit resilience, adaptability, and strategic progression. The ongoing developments reflect a decisive transition towards a more technology-enabled, transparent, and globally harmonised framework, where digitisation, data-led administration, and substance-based oversight are becoming integral to governance. Across direct tax and transfer pricing regimes, there is a clear emphasis on improving certainty, streamlining compliance, strengthening dispute-resolution mechanisms, and aligning domestic practices with emerging international standards. Simultaneously, reforms under FEMA continue to support India's broader objective of facilitating cross-border business and capital flows while maintaining regulatory stability amid global uncertainty. In the indirect tax and customs landscape, continued refinements are reinforcing trade facilitation, seamless credit flow, procedural efficiency, and supply chain competitiveness in an increasingly interconnected economy.

Collectively, these trends reaffirm India's emergence as a pathbreaking jurisdiction in modern tax administration, one that is progressively leveraging technology, institutional coherence, and regulatory agility to respond to a rapidly evolving global economic order.

Happy reading!

Riaz Thingna
Partner, Tax
Grant Thornton Bharat

A Key developments under direct tax laws:

Legislative updates:

Ministry of Finance/Central Board of Direct Taxes (CBDT) Circular/Notification:

- **CBDT specifies forms and procedure for Permanent Account Number (PAN) correction[1]:**

  The CBDT has specified forms and procedures for furnishing an application for PAN correction.

  In exercise of the powers conferred by Rule 158(12) of the Income-tax Rules 2026 (IT Rules 2026), read with Section 262(4) of the Income-tax Act 2025 (IT Act 2025), the Director General of Income-tax (DGIT) (Systems) has specified the following application forms in respect of the correction of PAN, along with related procedure and guidelines:

  a. PAN holders are required to fill out the following forms for changes or corrections in PAN data:
     - **PAN CR-01:** Request for changes or corrections in PAN data [For an individual]
     - **PAN CR-02:** Request for changes or corrections in PAN data [For non-individual]

  b. The PDF version of the forms for changes or corrections to PAN data, along with the related guidelines, has also been released.

  c. The forms can be submitted physically at the PAN centers of M/S UTIITSL/M/s Protean eGov, or online through their websites.

  This order is applicable w.e.f. 1 April 2026.

- **CBDT issues detailed FAQs on interplay and transition to IT Act 2025[2]:**

  The CBDT has released a separate compilation of FAQs on the interplay and transition from the Income-tax Act, 1961 (IT Act, 1961) to the IT Act, 2025.

The key points covered in the FAQs are as follows:

S.No.	Topic	Key points
1.	**General philosophy of transition**	• The CBDT, in its FAQs, has explained the objective behind the enactment of the IT Act 2025. It includes the aim to simplify the law, improve structural clarity, and reduce interpretational disputes. • The FAQs also clarify that the IT Act 2025 neither introduces any new taxes nor increases the tax burden. It provides a streamlined, simplified, and modern tax code with reduced compliance burden, consolidated provisions, and clear definitions. • The IT Act 2025 contains 536 sections and 16 schedules, as against 819 sections and 14 schedules in the IT Act 1961. The IT Rules have also been streamlined from 511 rules with 399 forms to 333 rules with 190 forms. • The CBDT has further clarified the repeal and savings framework under the new IT Act 2025. While the IT Act 1961 stands repealed with effect from 1 April 2026, the FAQs clarify that it will continue to apply to tax years beginning before that date. • The FAQs also explain key conceptual changes introduced under the new framework. The concepts of "previous year" and "assessment year" (AY) have been replaced with a single "tax year", aligned with the financial year (FY). • The CBDT, vide the FAQs, confirmed that rights, benefits, obligations, and liabilities arising under the IT Act 1961 do not lapse merely due to repeal and continue to be enforceable under the IT Act 2025.

1. F. No. ADG(S)-1/PAN/M/3699/2026-AD dated 1 April 2026
2. Released on 21 March 2026

S.No.	Topic	Key points
2.	**Tax payments, collection, and refunds**	• The CBDT, in its FAQs, has clarified that the fundamental obligation to pay income-tax remains unchanged under the IT Act 2025. • The FAQs confirm that tax payments through tax deducted at source (TDS), tax collected at source (TCS), advance tax, self-assessment tax, and regular assessment remain the same in substance. The IT Act 2025 does not alter the policy framework for tax payments and collections, and the existing modes of payment through authorised banking channels continue to apply. • The FAQs clarify that the governing principle differs depending on the nature of the tax payment. In the case of TDS and TCS, the applicable law is determined with reference to the relevant trigger event, such as the earlier of credit or payment in the case of TDS. In the case of advance tax and self-assessment tax, the applicable law is determined with reference to the period to which the income relates and not merely the date of payment. • Accordingly, payments, deductions, or collections relating to the periods up to 31 March 2026 continue to be governed by the IT Act 1961. Those relating to the periods from 1 April 2026 onwards are governed by the IT Act 2025. This principle applies consistently to TDS, TCS, advance tax, and self-assessment tax. • Hence, advance tax installments relating to the income of FY 2025-26, including the installment due on 15 March 2026, continue to be governed by the IT Act, 1961. • Any interest on short payment or default will also be levied under the IT Act, 1961. Advance tax liability for income earned from 1 April 2026 onwards shall arise and be discharged under the IT Act 2025, with the existing thresholds, installment dates, and payment structure remaining unchanged. • The FAQs confirm that refund entitlements arising under the IT Act 1961 remain valid and enforceable even after the commencement of the IT Act 2025. Refund claims relating to excess tax deducted or paid for periods governed by the IT Act 1961 may continue to be filed and processed under the old law, subject to the prescribed time limits and procedural requirements. • The FAQs clarify that any unutilised Minimum Alternate Tax or Alternate Minimum Tax credit carried forward under the IT Act 1961 will continue to be available under the IT Act 2025, subject to the prescribed conditions and overall carry-forward period. • The FAQs also clarify that outstanding tax liabilities, recovery certificates, and attachment orders under the IT Act 1961 remain enforceable even after the commencement of the IT Act 2025.

S.No.	Topic	Key points
3.	**Furnishing of Income-tax Return (ITR)**	• The FAQs explain that the obligation to file a return, categories of persons required to file, and due dates remain largely unchanged, with the provisions relating to original, belated, revised, and updated returns consolidated into a single section under the IT Act 2025 for the ease of reference. • The FAQs provide clarity on return filing during the transition year. Returns relating to the income of FY 2025-26 are required to be filed for AY 2026-27 and shall continue to be governed by the IT Act 1961 even if filed after 1 April 2026. • The ITR for income earned from 1 April 2026 onwards shall be filed for the tax year 2026-27 and shall be governed by the IT Act 2025. • The CBDT has also clarified that the income-tax portal will support return filing and related compliances under both the IT Act 1961 and the IT Act 2025 simultaneously during the transition period. • The FAQs confirm that notices, such as defective return notices or scrutiny notices issued for AY 2026-27, shall continue to be governed by the IT Act, 1961, even if issued after 1 April 2026. • The FAQs confirm that the manner of verifying returns and the persons authorised to verify remain unchanged under the IT Act 2025. • The audit reports relating to the income of FY 2025-26 (AY 2026-27) shall continue to be filed under the IT Act 1961, even if filed after 1 April 2026, while the audit reports for tax years beginning on or after 1 April 2026 shall be governed by the IT Act 2025. • The FAQs also clarify that fees, penalties, and compliance consequences apply in accordance with the law governing the relevant AY or tax year.
4.	**Other forms and compliance statements**	• The CBDT, through its FAQs, has clarified that existing registrations, approvals, recognitions, and certificates issued under the IT Act 1961 shall continue to remain valid under the IT Act 2025 • The applicable form or reporting framework depends on the nature of the compliance. In some cases, filings relating to the periods governed by the IT Act 1961 continue to be processed under the old framework even if furnished after 1 April 2026. • In other cases, fresh applications or remittance-based compliances made on or after 1 April 2026 must be filed using the new forms prescribed under the IT Act 2025 and the Rules 2026. • The FAQs clarify that nil or lower withholding certificates issued under the IT Act 1961 remain valid even after the transition to the IT Act 2025. Such certificates may be relied upon for the payments or credits made on or after 1 April 2026, provided they relate to projected receipts of the relevant period and are not inconsistent with the provisions of the IT Act 2025. No fresh application is required solely due to the transition, unless otherwise specifically prescribe.

S.No.	Topic	Key points
5.	**Reassessment of income escaping assessment**	• The FAQs explain the complete reassessment machinery under the IT Act 2025 (Sections 279-286), map it to the corresponding provisions of the IT Act 1961 (Sections 147-153), and clarify that, while the law is reorganised and streamlined, there is no substantive change in reassessment powers. • The document consolidates FAQs explaining the mandatory, step-by-step process for reopening an assessment, as well as the time limits for reopening and completing it. • The FAQs clarify that all reassessment proceedings relating to the tax years beginning before 1 April 2026 continue under the IT Act 1961, even if action or orders are passed after the IT Act 2025 comes into force. This applies across scenarios: whether reassessment proceedings were already pending, show cause notices were issued, but reassessment notices were not yet issued; reassessment notices were issued, but orders were passed later; or a fresh reopening is initiated after 1 April 2026 for earlier AYs. All of these must follow the IT Act 1961 procedures, approvals, timelines, and forms. Fresh reassessment for earlier AYs can still be initiated post 1 April 2026, but strictly under the IT Act 1961, subject to its limitation periods.
6.	**TDS compliance**	• The FAQs clarify that TDS applies only when the event is a credit or a payment. The IT Act 1961 applies where the earlier of credit or payment occurs up to 31 March 2026, and the IT Act 2025 will apply where the event occurs on or after 1 April 2026, regardless of the contract period or the invoice date. • There is no change in TDS rates or monetary thresholds, but deductors must quote the new section numbers and table references under the IT Act 2025, as quoting old sections for transactions post 1 April 2026 may lead to system or filing errors. • During the transition year, deductors may be required to file returns under both Acts, with old formats continuing for periods up to March 2026 and new return and certificate forms applying from April 2026 onwards, while corrections for old periods must still follow the IT Act 1961 formats. • The FAQs clarify that the TDS credit follows the year of income assessment; even if deposited later, the interest and penalty provisions remain broadly unchanged, and that the defaults relating to periods before 1 April 2026 will continue to be dealt with under the IT Act 1961, while post-transition defaults fall under the IT Act 2025.
7.	**Appeals, revision, and alternate dispute resolution**	• The FAQs clarify that the IT Act 2025 largely retains the same appellate, revision, Dispute Resolution Committee and advance-ruling framework as the IT Act 1961, with no change in hierarchy or powers, only reorganisation and renumbering. • All appeals, revisions, rectifications, and remand proceedings relating to the tax years before 1 April 2026 continue under the IT Act 1961, even if filed, heard, or disposed of after the IT Act 2025 comes into force. • Limitation periods remain unchanged, and rights already time-barred under the IT Act 1961 cannot be reopened merely by the enactment of the IT Act 2025. • The FAQs confirm that the Dispute Committee, revision, and advance ruling provisions continue without substantive change, and that proceedings will follow the Act applicable to the relevant tax year, with older years remaining under the IT Act 1961.

S.No.	Topic	Key points
8.	**Set-off/Carry forward of losses and deductions**	• The FAQs confirm that the basic rules for set off and carry forward of losses remain unchanged under the IT Act 2025, including intra-head and inter-head set off, the nature of losses, and carry forward periods. • Losses properly determined under the IT Act 1961 continue to be carried forward and set off under the IT Act 2025, retaining their original character (business, capital, speculation, etc.) and original carry-forward limits, subject to the conditions being fulfilled. • The FAQs clarify that the timely filing of loss returns under the IT Act 1961 remains mandatory, and losses that were not eligible for carry forward under the IT Act 1961 cannot be revived or cured by the IT Act 2025. • Deductions allowed under the IT Act 1961 for specified periods or multiple years (such as profit-linked or amortised deductions) continue for the remaining eligible period under the IT Act 2025, but only as a continuation, not as a fresh grant. • Where conditions attached to losses, deductions, or exemptions allowed under the IT Act 1961 are violated after 1 April 2026, the FAQs clarify that the consequences will apply in the year of violation under the IT Act 2025, while the trigger and quantum continue to be tested under the IT Act 1961 provisions.
9.	**Issues concerning non-resident Indians**	• The FAQs clarify that the tests for residential status, deemed resident, and not ordinarily resident remain unchanged under the IT Act 2025 and continue to mirror the IT Act 1961, with the applicable Act determined strictly by the tax year involved. • Elections or declarations made under the IT Act, 1961, continue to be valid and are not affected by the repeal, with their treatment governed by the Act applicable to the relevant year. • The residential status for tax years beginning before 1 April 2026 continues to be determined under the IT Act 1961, even if an assessment or reassessment occurs later, while the IT Act 2025 applies prospectively for tax years beginning on or after 1 April 2026. • The FAQs clarify that the core non-resident regime continues under the new Act, including provisions on foreign exchange assets, concessional tax treatment, the reinvestment-based exemption, the currency conversion mechanism for capital gains, and lock-in conditions. • The FAQs also indicate that the linked conditions under the Foreign Exchange Management Act 1999 remain relevant in specified contexts, such as the exemption for interest on non-resident external accounts.
10.	**Miscellaneous**	• Choices, such as opting for the new tax regime, presumptive taxation, method of accounting, or depreciation under the IT Act 1961, do not need to be re-exercised merely because of the enactment of the IT Act 2025. • Proceedings relating to the searches conducted under the IT Act 1961, advance pricing agreements, or matters pending before courts continue to be governed by the IT Act 1961 for the relevant years, and the outcomes will be implemented accordingly. • The FAQs confirm that the General Anti-Avoidance Rules (GAAR) provisions, accounting periods, and FY alignment remain unchanged, ensuring that the IT Act 2025 does not disturb the existing anti-avoidance framework or accounting practices.

- **CBDT amends Rule 10U of Income-tax Rules 1962 (IT Rules 1962) and Rule 128 of the IT Rules 2026[3]:**

  The CBDT has notified rules amending the IT Rules 1962 and the IT Rules 2026. These rules are called the Income-tax (Tenth Amendment) Rules, 2026, and the Income-tax (Amendment) Rules, 2026, respectively.

  The following amendments have been made to Rule 10U of the IT Rules 1962 and Rule 128 of the IT Rules 2026:

	Notification No. 54 of 2026		Notification No. 55 of 2026	
Rule	**IT Rules 1962**	**Income-tax (Tenth Amendment) Rules, 2026**	**IT Rules 2026**	**Income-tax (Amendment) Rules, 2026**
Applicable from	These rules shall come into force on the date of their publication in the Official Gazette (which is 31 March 2026).		These rules shall come into force on 1 April 2026.	
10U(1)(d) / 128(1)(d)	**Original text** "(d) any income accruing or arising to, or deemed to accrue or arise to, or received or deemed to be received by, any person from the transfer of **investments made before the 1st day of April, 2017,** by such person."	Clause (d) has been substituted to clarify that the exclusion applies to income from the transfer of such investments that were made before 1 April 2017 by such person. **Updated text** "(d) any income accruing or arising to, or deemed to accrue or arise to, or received or deemed to be received by, any person from the transfer of **such investments, which were made before the 1st day of April, 2017,** by such person."	**Original text** "(d) any income accruing or arising to, or deemed to accrue or arise to, or received or deemed to be received by, any person from the transfer of **investments made before the 1st April, 2017** by such person."	Clause (d) has been substituted to clarify that the exclusion applies to income from the transfer of such investments that were made before 1 April 2017 by such a person. **Updated text** "(d) any income accruing or arising to, or deemed to accrue or arise to, or received or deemed to be received by, any person from the transfer of **such investments which were made before the 1st April, 2017,** by such person."
10U(2) / 128(2)	**Original text** **"Without prejudice to the provisions of Clause (d) of sub-rule (1),** the provisions of Chapter X-A shall apply to any arrangement, irrespective of the date on which it has been entered into, in respect of the tax benefit obtained from the arrangement on or after the 1st day of April, 2017."	Sub-rule (2) has been substituted to expressly carve out the income from the transfer of such investments made before 1 April 2017 from the operation of Chapter X-A, even where the tax benefit arises on or after 1 April 2017. **Updated text** "(2) The provisions of Chapter X-A shall apply to any arrangement, irrespective of the date on which it has been entered into, in respect of the tax benefit obtained from the arrangement on or after the 1st day of April, 2017, **except for that income which accrues or arises to, or deemed to accrue or arise to, or is received or deemed to be received, by any person from the transfer of such investments, which were made before the 1st day of April, 2017, by such person."**	**Original text** "(2) **Without prejudice to the provisions of Sub-rule (1)(d),** the provisions of Chapter XI shall apply to any arrangement, irrespective of the date on which it has been entered into, in respect of the tax benefit obtained from the arrangement on or after 1 April, 2017."	Sub-rule (2) has been substituted to expressly carve out income from the transfer of such investments made before 1 April 2017 from the operation of Chapter XI, even where the tax benefit arises on or after 1 April 2017. **Updated text** "(2) The provisions of Chapter XI shall apply to any arrangement, irrespective of the date on which it has been entered into, in respect of the tax benefit obtained from the arrangement on or after 1 April, 2017, **except for that income which accrues or arises to, or deemed to accrue or arise to, or is received or deemed to be received by, any person from the transfer of such investments, which were made before 1 April, 2017, by such person."**

3. Notification Nos. 54 & 55 of 2026 dated 31 March 2026

- **CBDT issues revised framework for referencing income-tax communications by Document Identification Number (DIN)[4]:**

  The CBDT has issued a circular in exercise of the powers conferred by Section 119 of the IT Act, 1961, regarding DIN referencing. This has been issued in view of Section 292B and the amendments made in the IT Act, 1961 (insertion of Section 292BA), and also Section 522 of the IT Act, 2025, as amended by the Finance Act, 2026.

  The CBDT has specified that any income-tax authority referred to in Clause (aa) to Clause (h) of Section 116 of the IT Act, 1961, shall reference communications by DIN in the manner laid down in the circular. By way of background, Circular No. 19 of 2019 was issued, which laid down the framework for the generation, allotment, and quoting of DINs for communications issued by the Income-tax department, with effect from 1 October 2019, along with limited exceptions and related safeguards.

  The circular now prescribes the revised framework for referencing by a DIN. Accordingly, Circular No. 19 of 2019 shall cease to have effect from the date of issue of the present circular.

  - The CBDT has now specified that the referencing of income tax communications through DIN by any income tax authority shall be carried out in accordance with the following:
    - Any correspondence, such as notice, letter, order, or draft order, summons, etc., issued by an income-tax authority referred to above to any person, not being any officer or authority under the Income-tax Act or any other law, shall be required to be referenced by a DIN. This is subject to Para 2(d) and Para 3 of the circular, which provide for certain exclusions and exceptions (stated below).
    - Referencing by a DIN in such communication shall also mean and include:
      - Attaching a separate document mentioning a DIN with such communication; or
      - Mentioning a DIN in the email correspondence, or otherwise, along with such communication.
      - Where DIN references such communication in any manner, it shall not be required that a DIN also reference every page comprising that communication.
  - Cases where a DIN need not reference communication:
    - A public communication shall not be required to be referenced by a DIN in any manner (Para 2(d))
    - In situations of technical difficulties in referencing of a DIN, or where the issuance of communication electronically is technically not possible (Para 3(a)).
    - Where communication regarding enquiry, verification, etc. is required to be issued by an income-tax authority for discharging official duties, in a situation where access to electronic means for referencing a DIN is not possible, for example, where such authority is outside the office (Para 3(b)).
    - Where, due to a delay in PAN migration, the PAN is lying with a non-jurisdictional assessing officer (Para 3(c)).
    - Where the PAN of the assessee is not available (Para 3(d)).
    - Where the functionality to issue communication is not available in the system (Para 3(e)).
  - Further, the CBDT specifies that all such communications referred to in Paragraph 3 above shall clearly state that they are being issued without a DIN due to the prescribed exceptional circumstances. All such communications shall also require post-facto approval by the competent authority within a period of 15 days from the date of issue, based on the reasons to be recorded in writing by the issuing income-tax authority.
  - For the above-mentioned approval, the CBDT has specified the competent authority for granting post-facto approval for communications issued without a DIN.
  - The circular further provides that communications issued in the situations specified in Para 3(a), 3(b), and 3(c) shall, within 15 working days of their issuance, be uploaded on the system, along with appropriate referencing by the issuing income-tax authority, using a DIN.

4. Circular No. 4 of 2026 dated 31 March 2026

- **CBDT specifies procedure for generation and allotment of Unique Identification Number (UIN) in respect of Form 121 (erstwhile Form 15G and 15H)[5]:**

  Section 393 of the IT Act 2025 provides for the deduction of TDS in respect of specified incomes and sums. Further, Section 393(6) of the IT Act 2025 (corresponding to Section 197A of the IT Act 1961) provides cases where no tax shall be deducted at source upon the furnishing of a declaration in Part A of Form No. 121 (erstwhile Forms 15G and 15H of the old Act) by the payee to the payer.

  As per Rule 211 of the IT Rules 2026 (corresponding to Rule 29C of the IT Rules 1962), the payer is required to facilitate the furnishing of such a declaration by the payee either in paper form or through electronic mode, after due verification. The declarant is mandatorily required to quote the PAN in Part A of Form No. 121.

  Further, Rule 211(4), read with Rule 219 of the new rules, requires the payer to furnish a statement of deduction of tax containing the particulars of declarations received during each quarter, along with the allotted UIN. This is irrespective of whether any tax has been deducted during the quarter.

  Now, the CBDT has specified the procedure, formats, and standards for the generation and allotment of a UIN in respect of Form No. 121, and for the quarterly furnishing of Part B thereof by the payer.

  In exercise of the powers conferred under Rule 211(3), read with Rule 332(2) of Rules 2026, the DGIT (Systems) has laid down the following compliance requirements:

- **Generation and allotment of UIN**
  - The payer receiving a declaration in Part A of Form No. 121 is required to allot a 26-character UIN to each declaration. The UIN shall consist of the following three fields:
    - Sequence number: 10 alphanumeric characters beginning with the letter 'D', followed by 9 digits.
    - Relevant tax year: Six digits representing the tax year for which the declaration is furnished.
    - Tax deduction and collection account number of payer: 10 alphanumeric characters.
  - If the declaration in Form 121 is received in paper form, the payer shall digitise it and allot a UIN. Such declarations shall bear sequence numbers in continuation of the running sequence number series used for electronically furnished declarations.
  - The running sequence number series above shall be reset to '1' for each TAN of the payer at the beginning of every tax year.

- **Furnishing of Part B of Form No. 121 to Income-tax authorities**
  - The payer shall furnish Part B of Form No. 121, containing details of declarations received under Part A, within the timelines prescribed under Section 393(7) on the Income Tax e-filing portal (www.incometax.gov.in).
  - As per Section 393(7) of the IT Act 2025, read with the notification and the CBDT's guidance material, the payer is required to furnish Part B details by the 7th day of the month, following the month in which the declaration is furnished.

This notification shall be applicable w.e.f. 1 April 2026.

5. Notification No. 01/CPC(TDS)/2026 dated 28 March 2026

- **Ministry of Finance (MoF) notifies amending protocol between India and Brazil[6]:**

  The MoF has notified **the protocol amending the convention and protocol between the Republic of India** and the **government of the Federative Republic of Brazil** under Section 90(1) of the IT Act 1961.

  The amending protocol was signed on **24 August 2022** and entered into force on **18 October 2025**. It amends the earlier India-Brazil Double Taxation Avoidance Agreement (DTAA), which was notified on 31 March 1992 and subsequently amended by the protocol signed on 15 October 2013.

  The amending protocol shall have effect in India in respect of the income arising in any previous year beginning on or after 1 April immediately, following the calendar year in which the protocol entered into force, i.e., 1 April 2026. The key changes in the aforesaid are as follows:

Article	Old DTAA	Revised DTAA
Preamble	• Desiring to conclude a convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income.	• Intending to conclude a convention for the elimination of double taxation with respect to taxes on income without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in this convention for the indirect benefit of residents of third states).
Article 1 - Personal Scope	• The convention applies to persons who are residents of one or both contracting states.	• A new Paragraph 2 has been inserted as follows: • *"This Convention shall not affect the taxation, by a Contracting State, of its residents except with respect to the benefits granted under Articles 19, 20, 21, 23, 24, 25 and 27."*
Article 2 - Taxes covered	• In Brazil, the convention covered federal income tax, excluding supplementary income tax and tax on activities of minor importance. • In India, it covered income tax, including surcharge and surtax.	• The article is substituted to cover taxes on the income imposed on behalf of a contracting state or its political subdivisions/local authorities, irrespective of the manner of levy. • The taxes to which convention would apply are: • In the case of India: the income tax, including any surcharge thereon. In the case of Brazil: the federal income tax. • The similar tax clause is retained in an updated form.

6. Notification no. 39 of 2026 dated 30 March 2026

Article	Old DTAA	Revised DTAA
Article 3 - General definitions	• The earlier article contained basic definitions, such as 'person', 'company', 'enterprise', 'international traffic', 'nationals', and 'competent authority', but did not define 'India/Brazil' geographically, 'enterprise', or 'fiscal year'.	• The article has been substituted and now expressly defines India and Brazil geographically, including their maritime zones. • The term 'person' now expressly includes a body of persons. • The term 'enterprise' now applies to the carrying on of any business. • The definition of 'international traffic' is recast. • The competent authority has been updated to the Finance Minister/authorised representative for India, the Minister of Economy, the Special Secretary of Federal Revenue, or the authorised representative for Brazil. • A definition of 'fiscal year' is inserted for both India and Brazil.
Article 4 - Resident	• A resident meant a person liable to tax by reason of domicile, residence, the place of management, or similar criterion. • For dual-resident non-individuals, the residence was determined by the place of effective management.	• The article header has been changed from 'Fiscal domicile' to 'Residence'. • The residence now also refers to the legal head office and place of incorporation and expressly includes the state and its political subdivisions/local authorities. • The persons taxable only on source income are expressly excluded from the residence. • For dual-resident non-individuals, the person shall be deemed to be a resident only of the state in which its place of effective management is situated. If that cannot be determined, the competent authorities shall endeavour to settle the question by mutual agreement. • In the absence of such agreement, the person is not entitled to treaty relief/exemption except to the extent and in the manner agreed by the competent authorities of the contracting states.

Article	Old DTAA	Revised DTAA
Article 5 – Permanent establishment (PE)	• PE-covered fixed place PE, construction/assembly PE exceeding six months, a specific PE for installation/drilling rig/a ship used for exploration or exploitation of natural resources for more than six months, and a dependent-agent PE based on authority to conclude contracts. • Specific activity exemptions applied to storage/display, processing, purchasing/ collecting information, and other preparatory or auxiliary activities.	• The Article is substituted comprehensively. • A service PE is introduced, under which services, including consultancy services, are furnished by employees/other personnel for more than 183 days in any 12 months. • A project aggregation rule is introduced for building sites and construction or assembly projects, under which the periods spent by closely related enterprises on connected activities at the same site or project may be aggregated for testing the six-month threshold. • The specific activity exemptions are recast so that each exemption and combinations of them apply only if the activity is preparatory or auxiliary in character. • A new Paragraph 5.1 provides that the specific activity exemptions in Paragraph 5 shall not apply where the same enterprise, or a closely related enterprise, carries on business activities at the same place or another place in the same state. The combined activities are not preparatory or auxiliary, provided they constitute complementary functions forming the part of a cohesive business operation. • The dependent agent PE now also covers a person who habitually plays the principal role in routinely concluding contracts that the enterprise does not materially modify. • The independent agent protection is denied where the person acts exclusively or almost exclusively for closely related enterprises. • A detailed definition of 'closely related' is inserted. • The earlier specific natural-resources PE for an installation, drilling rig, or ship used for exploration/exploitation for more than six months is not retained in the substituted text.

Article	Old DTAA	Revised DTAA
Article 8 - Shipping and air transport	• Profits from the operation of ships or aircraft in international traffic were taxable only in the state where the place of effective management of the enterprise was situated. • The old article also had a special rule for shipping enterprises managed aboard a ship and an express definition of 'operation of ships or aircraft'.	• Profits derived by an enterprise of a contracting state from the operation of ships or aircraft in international traffic are taxable only in that state. • A new paragraph has been inserted to cover profits from the use, maintenance, or rental of containers incidental to international traffic income, taxable only in that contracting state unless the containers are used solely within the other contracting state. • The earlier special home-harbour deeming rule and the express definition of the operation of ships/aircraft have been omitted from the substituted article
Article 10 - Dividends	• Paragraph (2): Where the beneficial owner was a company, tax could not exceed 15% of the gross amount of dividends. • Article 10(4) referred only to the PE connection. • Article 10(6) referred only to holdings effectively connected with a PE in the source state.	• Paragraph (2) is replaced. Source-country tax has been bifurcated: - Where the beneficial owner is a company (other than a partnership) that directly holds at least 20% of the capital of the payer for 365 days, including the day of payment, tax cannot exceed 10% of the gross amount of dividends. - In other cases, tax could not exceed 15% of the dividend's gross amount. • Article 10(4) is amended so that the exception applies where the holding is effectively connected with a PE or a fixed base through which independent personal services are performed. In such a case, Article 7 or Article 14, as the case may be, applies. • Article 10(6) is amended correspondingly to refer to a PE or fixed base.

Article	Old DTAA	Revised DTAA
Article 11 - Interest	• Article 11(2): Interest was generally taxable in the source state at a rate not exceeding 15% of the gross amount if the beneficial owner was a resident of the other state. • Article 11(3)(a): The interest paid to the government, political subdivision or a wholly owned agency/financial institution of the other state was exempt, subject to the securities/bonds/debentures rule. • The PE exception applied only to PE; the third-state PE rule was broader; and the source rules applied only to PE.	• Article 11(2) is substituted. A reduced 10% cap now applies where the beneficial owner is a bank and the loan is granted for at least 5 years to finance the purchase of equipment or investment projects; in all other cases, the cap remains 15%. • Article 11(3)(a) is amended to include the local authority and the central bank, in addition to the government/political subdivision and any agency, including a financial institution, wholly owned by that government or political subdivision. • Article 11(5) is amended so that the business connection exception applies where the debt claim is effectively connected with a PE or a fixed base, and Article 7 or 14 applies accordingly. • Article 11(6) now denies the rate cap on the interest paid to a third-state PE only where such interest is effectively taxed at a lower rate in the residence state than it would be if paid directly to the enterprise. • Article 11(7) is amended to extend the source rule to cover a fixed base.
Article 12 - Royalties	• Article 12(2): The source-country cap was 25% for royalties for the use/right to use trademarks and 15% in all other cases. • The business connection and source rules referred only to PE.	• Article 12(2) is substituted. The source-country cap is reduced to 15% for the right to use trademarks and to 10% in all other cases. • Article 12(4) is amended to extend the exception to a fixed base for independent personal services, and Article 7 or 14 applies accordingly. • Article 12(5) is amended so that royalties borne by a PE or fixed base are sourced to that state.
Article 12A – Fees for technical services (FTS)	• No separate FTS article existed in the earlier convention.	• A new Article 12A has been inserted dealing with the FTS. Under this article, the FTS arising in a contracting state and paid to a resident of the other contracting state may be taxed in that other state. However, such FTS may also be taxed in the source state and, if the beneficial owner is a resident of the other contracting state, the tax so charged shall not exceed 10% of the gross amount of the fees. • The term FTS is defined as payments for managerial, technical, or consultancy services, subject to specified exclusions. • The article also contains PE/fixed base carve-outs, source rules, an exception allowing a PE or fixed base to bear fees in the other state, and a special relationship clause.

Article	Old DTAA	Revised DTAA
Article 13 - Capital gains	• The gains from immovable property in the other state could be taxed there. • The Gains from movable property of a PE in the other state, including alienation of the PE, could be taxed there. • Ships/aircraft in international traffic were taxable only where the place of effective management was situated. • Residual gains could be taxed in both states.	• Paragraph 2 now also covers movable property pertaining to a fixed base for independent personal services, as well as the alienation of such a fixed base. • Paragraph 3 provides that the gains derived by an enterprise of a contracting state operating ships or aircraft in international traffic from the alienation of such ships/aircraft or movable property pertaining thereto are taxable only in that state. • A new Paragraph 4 expressly allows gains from the alienation of shares in a company resident in a contracting state to be taxed in that state. • Residual gains remain taxable in both states.
Article 14 - Independent personal services	• Income was taxable only in the residence state unless remuneration was paid by a resident of the other state or borne by a PE situated there.	• Such income may also be taxed in the other state only if the individual has a fixed base regularly available there, or if the stay in that state is 183 days or more in any 12 months commencing or ending in the fiscal year concerned. In both cases, only income attributable to the fixed base or to activities performed in that other state may be taxed there.
Article 15 - Dependent personal services	• The short-stay exemption applied where presence in the other state did not exceed 183 days in the fiscal year concerned and remuneration was not borne by a PE in that other state. • Employment exercised aboard ships or aircraft in international traffic could be taxed in the place where the enterprise's place of effective management was situated.	• Article 15(2) is substituted. The 183-day test is now measured over any 12 months commencing or ending in the fiscal year concerned, and the non-deduction condition is extended to remuneration not borne by a PE or fixed base in the other state. • Now, remuneration of a resident employed as a member of the regular complement of a ship or aircraft operated in international traffic (other than solely within the other state) is taxable only in the first-mentioned state.

Article	Old DTAA	Revised DTAA
Article 17 - Artistes and sportspersons	• The Article dealt with artists and athletes.	• The Article is being substituted with updated terminology for artists and sportspersons.
Article 19 - Government payments	• As per article 19(2), pensions paid by, or out of funds created by, a contracting state/political subdivision/local authority in respect of government services could be taxed in that state. • Article 19(3) referred Articles 15, 16, and 18 for remuneration and pensions connected with business carried on by a state/subdivision/local authority.	• Article 19(2) is substituted. Pensions and other similar remuneration paid by, or out of funds created by, a contracting state or its political subdivision or local authority in respect of services rendered to that state, subdivision or authority are taxable only in the paying state. However, such pensions and other similar remuneration shall be taxable only in the other contracting state if the individual is both a resident of, and a national of, that other state. • Article 19(3) is replaced to extend the cross-reference to Articles 15, 16, 17, and 18.
Article 23 - Methods for elimination of double taxation	• The residence state allowed credit for tax paid in the other state. • A deemed-credit rule applied for interest under Article 11(2) and royalties under Article 12(2)(b) at 25% of gross amount. • Dividends under Article 10(2) were exempt in the residence state, and profits exempted in India were taxable in Brazil under Article 10(5).	• The credit rule is redrafted, so that credit is allowed for income tax paid in the other state, except to the extent the other state taxes solely because the income is also derived by its own resident. • A new exemption-progression rule is inserted: where income is exempt in a state under the convention, that state may still take the exempt income into account for computing tax on the remaining income. • The earlier deemed-credit rule, the dividend exemption rule, and the specific exemption for Article 10(5) branch profits are deleted.
Article 24 - Non-discrimination	• Article 24(2) stated that taxation of a PE should not be less favourably levied than taxation of enterprises of the source state carrying on the same activities, subject to personal allowances/reliefs carve-out.	• Article 24(2) additionally clarifies that it does not prevent a contracting state from taxing the profits of a PE of a company of the other state at a higher rate than the profits of a similar domestic company, nor does it conflict with Article 7(3).
Article 25 – Mutual Agreement Procedure (MAP)	• A person could present a case within five years from the date of the receipt of notice of the action giving rise to taxation not in accordance with the convention.	• Article 25(1) is replaced. A person may present the case, irrespective of domestic-law remedies, to the competent authority of the state of which that person is a resident within 3 years from the first notification of the action, resulting in taxation not in accordance with the convention.

Article	Old DTAA	Revised DTAA
Article 26-A - Entitlement to benefits	• No article existed.	• A new Article 26A on the entitlement to benefits has been inserted. • It restricts treaty benefits, other than specified benefits, to a resident who qualifies as a 'qualified person' under the article. • The article contains tests relating to listed entities, the government and specified public bodies, non-profit organisations, ownership by qualified residents, active conduct of business, equivalent beneficiaries, discretionary relief by the competent authority, denial of benefits for certain third-jurisdiction PE structures, and a principal purpose test-style anti-abuse rule.
Protocol	• The earlier protocol stood separately and did not contain the new interpretative clarifications that have now been agreed upon.	• The protocol to the convention has been substituted, and article-wise clarifications have been provided. • These clarifications, inter alia, state as follows: - The convention does not prevent a contracting state from applying its domestic laws and measures concerning tax avoidance or evasion. - In the case of Brazil, the social contribution on net profits is included within the taxes covered under Article 2. - The term 'tax' does not include any amount payable in respect of default or omission relating to such taxes, including penalties or fines. Accordingly, such amounts shall not be considered for the purpose of granting a tax credit. - The absence of an explicit obligation to make corresponding adjustments shall not prevent a contracting state from making such adjustments where agreed under the MAP. - 'Interest on the company's equity' under Brazilian law is treated as interest for Paragraph 4 of Article 11. - Payments of any kind received as consideration for the rendering of technical assistance are covered under Article 12A. - The term 'museum or other cultural institution' under Article 20 refers only to organisations approved by the competent authority of the relevant contracting state.

Judicial developments:

- **Supreme Court (SC) dismisses Revenue's special leave petition (SLP) in Coursera case, affirms online aggregation platform receipts not taxable[7]:**

Brief facts of the case

- The taxpayer, Coursera Inc., a company incorporated and tax resident of the U.S., was engaged in operating a global online learning platform. Through its platform, the taxpayer provided access to online courses and degree programmes offered by various universities and companies.
- The course content, examinations, and certifications were created and awarded by the respective partner institutions, while the taxpayer facilitated digital access to such content.
- For AY 2020 21, the taxpayer earned receipts of INR 75.66 crore from India. The taxpayer claimed that such receipts were not taxable because they were not royalties or fees for included services under Article 12.
- The taxpayer stated that it merely provided access to educational content and did not render any technical or consultancy services, nor did it make any technical knowledge or skill available within the meaning of Article 12 of the India-US DTAA.
- During scrutiny, the assessing officer (AO) examined the agreement entered into by the taxpayer with the Gandhi Institute of Technology and Management. The AO observed that the taxpayer provided both content services and user services.
- The user services were stated to include the creation of customised landing pages, the generation of user engagement reports, the integration of payment solutions, enterprise-level user support, and training for the use of the platform.
- According to the AO, these services involved a high degree of human intervention and contained a training element. Accordingly, the AO held that the taxpayer rendered technical services and sought to tax the receipts as FTS under Section 9(1)(vii) of the IT Act 1961 and as fees for included services under Article 12(4) of the India U.S. DTAA. Consequently, the AO passed the draft assessment order.
- Against the draft order, the taxpayer filed objections before the Dispute Resolution Panel (DRP). The DRP noted that the AO had not factually examined the agreement relied upon and directed the AO to verify whether the agreement's terms enabled the rendering of technical services.
- The DRP directed the AO to pass a reasoned and speaking order based on the existing material. However, while passing the final assessment order, the AO reiterated the findings of the draft order without undertaking the directed verification.
- On further appeal, the Income Tax Appellate Tribunal (ITAT) examined the nature of services rendered by the taxpayer. The ITAT noted that the taxpayer is not an educational institution but an aggregation service provider that brings educational content to one platform. It recorded that the course content, examinations, and certifications are created and conducted entirely by partner universities and companies.
- The ITAT held that services such as customised landing pages and user support were facilitative in nature and did not constitute technical services. The ITAT further held that, even assuming the services to be technical, the mandatory 'make available' condition under Article 12(4) was not satisfied, as no technical knowledge, skill, or know-how was transferred, enabling independent use by the recipient.
- The ITAT also held that the AO failed to comply with binding DRP directions. Accordingly, the additions were deleted in full.

Before the High Court (HC)

- On an appeal by the Revenue, the Delhi HC upheld the ITAT's order. The HC observed that the findings recorded by the ITAT were findings of fact and could not be regarded as perverse. Accordingly, the HC held that no substantial question of law arose for consideration and dismissed the Revenue's appeal.

Before the SC

- On further appeal by the Revenue before the SC, the delay in filing the SLP was condoned. However, the SC declined to interfere with the judgement and the order of the Delhi HC, and dismissed the SLP.

7. CIT (International Taxation) vs. Coursera Inc (SLP(C) Diary No. 10085 of 2026)

- **Delhi ITAT rejects "virtual service PE" claim against E&Y (EMEIA), cites physical presence sine qua non for service PE[8]:**

Brief facts of the case

- The taxpayer is a UK tax resident that provides various services to member firms of the EY global network, including Indian member firms, such as common area services, global services, and market development support services, with cost-to-cost recoveries under an area services and market development agreement.
- During AY 2022-23, the taxpayer earned gross receipts from the EY member firms in India and entire receipts were claimed as exempt by the taxpayer relying on the Authority of Advance Ruling (AAR) in the case of **Ernst and Young P Ltd [189 taxmann.com 409 (AAR)]**, wherein it was held that the services rendered did not fulfil the "make available" condition under Article 13 of the India-UK DTAA. And in the absence of PE in India, receipts were held not to be taxable in India, the nature of services provided under the above-mentioned agreement being pari materia to those examined by the AAR in the case of Ernst and Young P Ltd.
- The taxpayer delivered services through emails, conference calls, Microsoft Teams sessions, internal web links, etc., and none of the taxpayer's employees visited India during the relevant period.
- The AO taxed the receipts from India, holding that the taxpayer had service PE/Virtual Service Permanent Establishment (VSPE) in India under Article 5(2)(k) of the India-UK DTAA, contending that the technological innovation, physical presence of employees is no longer required for rendering services and is therefore an "antiquated concept". Since the services were rendered via online meetings and emails, the conditions of Article 5(2)(k) stand satisfied.
- The AO also contended that the conditions for establishing a dependent agent PE under Article 5(4)(c) of the India-UK DTAA were also satisfied by relying upon the SC's decision in the case of **Hyatt International Southwest Asia Ltd. vs. Addl. DIT [2025] 176 taxmann.com 783 (SC),** considering that where a foreign enterprise exercises substantive control and implementation (beyond high-level decision making) over Indian entities, it constitutes a PE in India.
- The AO estimated gross profit at 30% of gross receipts and attributed 50% of such gross profit to the alleged PE in India. The DRP upheld the AO's position.
- Aggrieved, the taxpayer filed an appeal before the ITAT.

ITAT's observation and decision

- A plain reading of Article 5(k) of the India-UK treaty requires the presence in India of employees or other personnel for a minimum threshold period for a VSPE to arise, and no such presence was established on the facts. The AO's finding that there is no requirement for physical presence is plainly contrary to the text of the treaty.
- It was not in dispute that during the relevant period, the assessee's employees never visited India. Accordingly, the necessary conditions for the constitution of the VSPE under Article 5(2)(k) are not fulfilled, and the AO failed to establish the existence of the VSPE.
- Reference was made to the apex court's decision in the case of **E Funds IT Solutions Inc 86 taxmann.com 240** to reaffirm that services must be furnished within India through employees or personnel for a VSPE to be constituted.
- Reliance on **Hyatt International Southwest Asia Ltd 176 taxmann.com 783** (SC) by the AO was misplaced, as the 'disposal test' being sine qua non for the constitution of fixed place PE was satisfied, in contrast to the facts of the present case.
- Furthermore, the Tribunal relied on **Clifford Chance Pte Ltd [181 taxmann.com 254 (Delhi HC)]** and held that the concept of virtual presence cannot be read into the DTAA where the treaty contains no such concept. The courts cannot read in concepts not provided for by the treaty, as language not explicitly included in treaty provisions cannot be artificially read into them by way of judicial fiction.
- As the concept of a VSPE does not find mention either in the DTAA or the domestic Act, the Revenue's contention of a VSPE being established cannot be accepted.
- In view of the rejection of both service PE and VSPE, the issue of profit attribution became academic. Consequently, the impugned assessment was set aside, and the taxpayer's appeal was allowed.

8. Ernst & Young (EMEIA) Services Ltd. vs ACIT (ITA No.1976/DEL/2025)

B Key developments under transfer pricing law:

Judicial developments:

- **TP adjustment on RSUs issued by the parent company without cost to the assessee is invalid[9]:**

  The ITAT held that no transfer pricing adjustment could be made to the value of restricted stock units (RSUs) issued by Facebook Inc. (the parent company) to employees of its Indian subsidiary, WhatsApp Application Services. Since the assessee did not incur any cost or record any expenditure in respect of these ESOPs, and only deducted and remitted the TDS, which was reimbursed without markup, the adjustment made by the AO was based on a hypothetical value and contrary to Rule 10B(1)(e)(i). The Tribunal emphasised that net profit margins must be computed on actual costs incurred, not notional values, and relied on precedents, such as *VMware Software India* and *Amazon Development Centre*. Consequently, the ITAT directed the deletion of the adjustment and allowed the assessee's appeal.

- **HC rejects the Revenue's submission that limitation consequences operate only qua issues remanded, not decided by Tribunal[10]:**

  The Tribunal had restricted the transfer pricing adjustment on corporate guarantee to 0.5% and remanded the issue of interest on loan to the AO for fresh adjudication, but no assessment order was passed until 31 March 2024, despite repeated representations by the assessee. The Revenue argued that the limitation consequences applied only to remanded issues, while the Tribunal's finding on the guarantee fee had attained finality. However, the court held that the AO's failure to pass an order within the statutory timelines time-barred any demand against the assessee and mandated acceptance of the return of income as filed. Relying on the precedents, including those in the cases of Shelly Products, Plasticotes Investments (P.) Ltd., and Aircom International India (P.) Ltd., the court emphasised that inaction in complying with the Tribunal's directions within the limitation period cannot disturb the returned income. Accordingly, the writ petition was allowed, and the assessee's return was directed to be accepted.

- **ITAT held that draft assessment orders after DRP directions are not required if the matter is restored by a higher forum[11]:**

  The assessee, engaged in software development services and IT-enabled services, faced TP adjustments leading to a draft assessment order. After filing objections, the DRP granted certain reliefs, and a final assessment order was passed. On appeal, the Tribunal remanded TP adjustments for selling and commission networking charges, and for interest on outstanding receivables, back to the DRP and TPO. Following remand, the TPO redetermined the TP adjustment, and the DRP issued further instructions, but no draft assessment order was issued thereafter. The key issue was the validity of the final assessment order without passing a draft assessment order. The Tribunal, relying on the Delhi HC's ruling in the Sumitomo Corporation India case, held that when matters are remanded to the AO/TPO, a draft assessment order must be issued to allow the assessee to approach the DRP. It emphasised that DRP serves only to issue binding directions to the AO and can be approached solely by the assessee, and that issuing further draft assessment orders after the DRP directions would be unnecessary. Since in this case certain issues were remanded to the AO/TPO and others to DRP, the AO was required to issue a draft assessment order initially. The AO's failure to follow this procedure rendered the assessment order unsustainable, and the assessee's appeal was allowed.

9. Whatsapp Application Services Private Limited [ITA No. 832/HYD/2024]
10. Laqshya Media Pvt Ltd [WP No. 477 OF 2026]
11. Mphasis Limited [ITA No. 1081/Bang/2024]

- **ITAT deletes TP-adjustment in respect of interest on ECB, considers RBI-approved ceiling more reliable benchmark than that adopted by TPO:[12]**

  The assessee, engaged in the business of providing cellular mobile telephone services, faced a TP adjustment regarding the payment of interest and upfront fee on external commercial borrowing (ECB), where the assessee submitted that the ECB agreement with AE was duly approved by the RBI and disbursements were made during the year, with contractual interest at LIBOR plus 460 basis points and, after the apportionment of upfront fee of 220 basis points over loan tenure, the effective all-in cost worked out to LIBOR plus 500 basis points within the RBI-approved ceiling, supported by external benchmarking search on Reuters LPC Loan-Connector database. However, the TPO rejected both RBI-based benchmarking and external search, conducted a fresh search, and treated the arm's length rate at LIBOR plus 385 basis points. The ITAT, referring to the Karnataka HC's ruling in the GE India Technology Centre (P.) Ltd case and coordinate bench rulings in Loan Exchange (I) Ltd and Firmenich Aromatics India Pvt. Ltd, observed that the RBI's approval is not an automatic substitute for the TP analysis but is a relevant and weighty factor in the case of ECBs, particularly where the TPO's benchmarking suffers from serious infirmities. The ITAT found force in the assessee's submission that the search carried out by the TPO did not satisfy the standard of comparability required under the Act and Rules, and noted that the TPO wrongly proceeded on the footing that the assessee's loan was secured, despite evidence that the ECB was unsecured. The ITAT found merit in the assessee's plea regarding the treatment of the purpose filter, disapproved the TPO's ad-hoc grant of only 50 basis points for the country/currency risk, and the rejection of subordination adjustment, observed that the upfront fee, being an inherent part of multi-year borrowing, must be evaluated over the tenor of the facility in line with the RBI's all-in-cost framework. It concluded that the effective all-in cost of LIBOR plus 500 basis points, within the RBI-approved ceiling, represented a more reliable arm's-length benchmark than that adopted by the TPO, thereby deleting the TP adjustment.

- **Royalty on export sales restricted to 1%; assessee's reliance on regulatory approvals and inconsistent year-to-year positions rejected:[13]**

  The assessee, having paid royalty at 2.51% of export sales to its Mauritian AE, challenged the Tribunal's restriction of the allowance to 1%. The Tribunal held that reliance on the RBI and the government approvals was misplaced, as such approvals set only regulatory ceilings and do not determine the arm's length price under the transfer pricing provisions. It accepted the TPO's detailed analysis that 2.51% was not at arm's length and found no infirmity in the methodology. The Tribunal emphasised that its finding of 1% as the ALP was a factual determination based on evidence, reinforced by the assessee's own acceptance of 1% in other years, thereby undermining its claim of commercial necessity. The explanation that the acceptance was merely to avoid litigation was rejected, as inconsistent positions across years cannot be sustained. Pending SLPs before the SC were deemed irrelevant for admitting an appeal under Section 260A, and the writ petition was dismissed, noting the assessee's inconsistent and convenience-driven approach.

12. Vodafone Idea Ltd [ITA No. 443/Ahd/2016]
13. Gulf Oil Corporation Ltd [ITA Nos. 526 of 2015 & 101 of 2017]

C Key developments under FEMA

Legislative developments:

- **RBI prescribes reporting framework for guarantees:** The RBI has issued A.P. (DIR Series) Circular No. 01 dated 1 April 2026 ('Circular'), prescribing the reporting framework for guarantees under the Foreign Exchange Management (Guarantees) Regulations, 2026 ('New Guarantees regulations').

  Vide the said circular, the RBI has introduced :

  a. **Form GRN issue** – to be filed for the issuance of guarantee

  b. **Form GRN modification** - to be filed for the modification of guarantee

  c. **Form GRN invocation** - to be filed for the invocation of guarantees.

  The link to these forms is notified on the RBI's website under the 'List of Returns Submitted to RBI'

  On the introduction of the new guarantee regulations vide a notification dated 6 January 2026, Form GRN was introduced, which contained separate sections for each of these reports. Now, the same has been split into three separate forms as mentioned above. It may be noted that the timeline for companies' reporting guarantees to the AD bank remains unchanged, i.e., within 15 days from the end of the relevant quarter.

  Further, the authorised dealer bank is required to submit the said returns to the RBI within 30 calendar days from the end of the relevant quarter through the Centralised Information Management System (CIMS) portal. For each guarantee issuance reported through 'Form GRN Issue', the authorised dealer bank shall generate and allot a unique guarantee transaction number before submitting the return to the RBI, in accordance with the operational guidelines.

  The circular further clarifies that, for the computation of the Late Submission Fee (LSF), the amount involved in the delayed reporting of 'Form GRN Issue' and 'Form GRN Modification' shall be treated as nil, as these returns do not capture flows. In case of delayed reporting of 'Form GRN Invocation', the amount involved shall be the liability created upon the invocation of the guarantee.

  The above directions shall come into effect from 1 April 2026.

- **Clarification on late submission fee for ECB returns:** The RBI has issued A.P. (DIR Series) Circular No. 25 dated 30 March 2026 ('Circular'), clarifying certain aspects relating to the LSF payable in respect of returns pertaining to the ECB.

  Vide the said circular, the RBI has, inter alia, clarified the following:

  - Form ECB 1 and Revised Form ECB 1 are to be treated as returns that do not capture flows. Accordingly, the LSF for the delayed submission of these forms shall be computed, as set out below:

Type of reporting delays	LSF (Prior to 1 April 2026)	LSF (On or after 1 April 2026)
Form ECB 1 and revised Form ECB 1 (known as Form ECB and Revised Form ECB under the erstwhile ECB regulations)	INR [7,500 + (0.025% x amount involved x number of years of delay)]	INR 7,500

  - The LSF amount shall be levied per return. Consequently, each delayed submission of Form ECB 2 filed under a Loan Registration Number (LRN) shall be treated as a separate instance for the purpose of computing the fixed component of LSF.
  - The designated AD bank is required to submit the ECB return, duly completed and certified, to the RBI within 7 calendar days of receipt from the eligible borrower.
  - The LSF, wherever applicable, shall be payable at the concerned regional office of the RBI by NEFT/RTGS upon receipt of an acknowledgment email from the RBI confirming receipt of the return, as against the earlier mode of payment by way of a demand draft.
  - In cases of delayed submission, the designated AD bank shall monitor the payment of applicable LSF by its customers/constituents.
  - The above directions shall come into effect from 1 April 2026. A consequential amendment has been made to the Master Direction – Reporting under the Foreign Exchange Management Act, 1999.

- **Amendments to Master Direction on non-resident investment in debt instruments:**

  The RBI, vide A.P. (DIR Series) Circular No. 06 dated 10 April 2026 ('Circular'), has updated the Master Direction – RBI (Non-resident Investment in Debt Instruments) Directions, 2025 ('Master Direction'). The circular introduces clarificatory and enabling amendments regarding non-resident investments in debt instruments. The key changes are summarised below:

  1. Definition of non-resident Indian

     The term "Non Resident Indian" ('NRI') has been expressly defined as an individual resident outside India who is a citizen of India. This definition is aligned with the definition of 'NRI' under other FEMA regulations.

  2. Separate framework for NRI investments

     A new Part 5(B) has been introduced in the Master Direction, clarifying that:

     NRIs may invest in debt instruments specified under Schedule I of the FEMA (Debt Instruments) Regulations, 2019 (copy attached).

     Such investments by NRIs are not subject to any investment limits under the Master Direction.

     Please note that the Master Direction has merely introduced a specific reference for ease of clarity. NRIs' investments in debt instruments were already permitted under the FEMA (Debt Instruments) Regulations, 2019.

  3. Use of debt securities as collateral

     Foreign portfolio investors (FPIs) are now permitted to offer government securities and non-convertible debentures/bonds acquired under the Master Direction as collateral to recognised stock exchanges for exchange-traded derivative transactions.

  4. Clarification on payment and settlement

     The mode of payment for investments and the remittance or credit of sale/maturity proceeds shall continue to be governed by Schedule I of the FEMA (Debt Instruments) Regulations, 2019.

     The updated Master Direction is effective immediately, i.e., from 10 April 2026.

D Key developments under GST law

Legislative Developments

Goods and Services Tax Network Advisory

- **Editable pre-deposit field enabled in Form APL-01 for GST appeals:** The GSTN has issued an advisory introducing an enhancement in the appeal filing process under Section 107 of the CGST Act, 2017, by enabling the pre-deposit field in Form APL-01 to be editable on the GST portal. Earlier, the pre-deposit, generally computed at 10% of the disputed tax, was auto-populated and non-editable, creating practical challenges in cases where payments had already been made through alternate modes or where the demand amounts were not accurately reflected. With effect from 6 April 2026, taxpayers can now modify the pre-deposit amount at the time of filing the appeal, based on case-specific requirements.

  (Please click here to refer to the advisory)

- **Introduction of IMS offline tool for bulk invoice-level actions by recipients:** The GSTN issued an advisory introducing the Invoice Management System (IMS) offline tool, an Excel-based utility on the GST portal to facilitate bulk invoice-level actions by recipient taxpayers. Applicable from the October 2024 tax period, the IMS enables recipients to accept, reject, or keep invoices pending based on data uploaded by suppliers through GSTR-1, GSTR-1A, or IFF. Taxpayers can download invoice data in the JSON format, import it into the tool, take bulk actions with remarks, validate the data using the 'Validate Sheet' feature, and generate a JSON file for upload back to the portal. The tool follows the same business rules and validations as the online IMS system.

  (Please click here to refer to the advisory)

- **'Re-compute interest' functionality enabled in Table 5.1 of Form GSTR-3B:** Earlier, the GSTN had implemented system-based interest computation, auto-populated in the subsequent tax period based on declared liabilities. However, for certain taxpayers, interest pertaining to the February 2026 period (reflected in March 2026 GSTR-3B) was computed without considering the benefit of minimum balance in the electronic cash ledger, as provided under Rule 88B(1) of the CGST Rules. Accordingly, the GSTN has issued an advisory introducing a 'Re-compute interest' option in Table 5.1 of Form GSTR-3B to address such discrepancies. Upon selecting the 'Re-compute interest' option, the system recalculates interest using updated parameters, and the revised values are reflected in the updated system-generated GSTR-3B PDF.

  (Please click here to refer to the advisory)

Judicial developments

- **GST registration in one state can be denied due to compliance default in another state – Rajasthan HC[14]:** The Rajasthan High Court (HC) has upheld the denial of the GST registration in a state where the applicant had defaulted in filing returns in another state. The case involved an application for registration in Rajasthan, which was rejected due to the non-filing of GST returns in Tamil Nadu. The court emphasised the dual framework of GST as both state-centric and central-centric, holding that non-compliance in one jurisdiction renders the taxpayer a defaulter under the GST regime as a whole. Accordingly, where registration in one state is cancelled or placed in abeyance due to non-compliance, fresh registration in another state may be denied until such defaults are rectified.

  (Please click here to refer to the ruling)

- **ITC cannot be availed where supplier defaults in tax payment; Section 16(2)(c) upheld – Gujarat HC[15]:** The Gujarat HC has upheld the constitutional validity of Section 16(2)(c) of the CGST Act, affirming the denial of the ITC where the supplier fails to deposit tax with the government. The HC observed that the ITC is a statutory entitlement, subject to strict conditions, and not a vested or fundamental right. It emphasised that the GST framework establishes a direct nexus between the availment of credit and the actual payment of tax, and that allowing the ITC in the absence of such payment would result in revenue leakage. The court further distinguished VAT-era precedents, noting that the GST regime provides for reversal and subsequent re-availment of the ITC upon payment by the supplier. Accordingly, the HC rejected the challenge to the provision, declined to read down Section 16(2)(c), and held that practical hardship or supplier default cannot be a ground to invalidate a clear fiscal mandate.

  (Please click here to refer to the ruling)

- **Damages paid under an arbitral award not taxable as 'supply' under GST – Bombay HC[16] :** The Bombay HC has held that damages paid pursuant to an arbitral award do not constitute 'supply' under GST and are not liable to tax. The HC observed that damages arising from the breach of contract are compensatory in nature and crystallise only upon adjudication, and therefore cannot be treated as consideration for any supply. It emphasised that the payment was made to discharge a legal liability, not in exchange for any activity undertaken by the counterparty. Accordingly, the HC held that there was no agreement to tolerate breach or refrain from action, quashed the GST demand, and ruled that such damages fall outside the ambit of 'supply' under GST law.

  (Please click here to refer to the ruling)

- **Delay of one day beyond the condonable period cannot defeat substantive justice – Bombay HC[17]:** The Bombay HC has condoned a marginal delay of one day in filing a GST appeal and set aside the order of the appellate authority, which had rejected the appeal solely on limitation grounds. The HC held that a rigid and technical application of limitation provisions defeats the objective of substantial justice, particularly where significant civil and financial consequences are involved. It emphasised that statutory appellate remedies should not be denied for trivial delays and that authorities must adopt a pragmatic, justice-oriented approach. Accordingly, the HC quashed the order-in-appeal and restored the matter for fresh adjudication on merits, with directions to grant an opportunity of hearing and pass a reasoned order.

  (Please click here to refer to the ruling)

- **GST authorities cannot revive extinguished claims post approval of IBC resolution – Himachal Pradesh HC[18]:** The Himachal Pradesh HC has held that GST authorities cannot initiate proceedings or block ITC in respect of tax dues that were not claimed during the Corporate Insolvency Resolution Process (CIRP) and were extinguished upon approval of a resolution plan under Section 31 of the IBC. The HC observed that the approved resolution plan binds all stakeholders, including government authorities, and that any attempt to issue a show cause notice or block ITC post-approval amounts to an impermissible revival of extinguished claims. The court also noted that the state's failure to lodge its claim during the CIRP, coupled with the dismissal of its subsequent challenges before appellate forums, rendered the resolution plan final and binding. Accordingly, the HC quashed the impugned SCN and directed the unblocking of the admissible ITC, holding that such actions constituted a circumvention of the resolution framework under the IBC.

  (Please click here to refer to the ruling)

14. Leighton India Contractors Private Limited (D.B. Civil Writ Petition No. 4042/2026)
15. Maruti Enterprise (R/Special Civil Application No. 18080 of 2023)
16. Tata Sons Private Ltd (Writ Petition No. 4914 of 2022)
17. Saifee Hospital Trust (WP No. 4725 of 2023)
18. Radiant Castings Private Limited (CWP No. 484 of 2024)

E Key developments under erstwhile indirect tax laws, Customs, Foreign Trade Policy, SEZ laws, etc.:

Legislative/other developments

- **India and New Zealand sign comprehensive FTA with enhanced market access and investment commitments:** India and New Zealand have signed a landmark free trade agreement (FTA) on 27 April 2026, marking a significant step in strengthening bilateral economic ties and India's engagement with developed economies in the Indo-Pacific. The agreement, concluded in a record timeframe, provides 100% duty-free access for Indian exports to New Zealand. In comparison, India has adopted a calibrated approach, offering market access for around 70% of tariff lines, with safeguards for sensitive sectors, such as dairy and key agricultural products.

  The FTA extends beyond tariff liberalisation to cover trade in goods and services, investment, talent mobility, and regulatory cooperation, including structured mobility frameworks for professionals and students. It also includes a USD 20 billion investment commitment from New Zealand. It promotes collaboration across AYUSH, agri-technology, and digital innovation, while supporting the MSME participation and deeper integration into the global value chains.

  (Please click here to refer to the POV)

- **CBIC prescribes three-day timeline for disbursal of RoDTEP and RoSCTL scrolls[19]:** Pursuant to observations under the subject-specific compliance audit highlighting delays in the generation and disbursal of export incentive claims, the CBIC has issued instructions directing field formations to ensure the generation and disbursal of the RoDTEP and RoSCTL scrolls within 3 days, in line with the timelines prescribed under Instruction No. 21/2020-Customs for duty drawback processing.

  The field formations have been instructed to adhere strictly to the prescribed timelines, thereby aligning RoDTEP and RoSCTL processing with the established discipline under the drawback mechanism and ensuring the timely flow of export benefits to exporters.

  (Please click here to refer to the instruction)

- **US CBP operationalises CAPE tool for electronic filing of reciprocal tariff refund claims:** The U.S. Customs and Border Protection has launched Phase 1 of the Consolidated Administration and Processing of Entries (CAPE) within the ACE Portal on 20 April 2026, enabling importers and authorised customs brokers to electronically file the refund claims for reciprocal tariffs, including interest, as a part of its initiative to digitise and expedite processing of the IEEPA duty refunds.

  The CAPE introduces a consolidated, importer-level framework that replaces entry-wise refund processing, currently applicable to select unliquidated entries and entries within 80 days of liquidation, with a phased expansion planned. Refunds will be processed at the Importer of Record (IOR) level, with filing permitted through the CAPE declarations on the ACE portal, subject to the availability of an active account and updated bank (ACH) details. Further enhancements are expected in subsequent phases, with updates issued via the CSMS, supported by guidance materials and trade training resources.

  (Please click here to refer to the CBP portal)

Judicial developments:

- **Bombay HC holds foreign suppliers not responsible for importers' misdeclaration before 2018; extraterritorial jurisdiction applicable prospectively[20]:** The Bombay HC has held that the Indian customs authorities cannot exercise extraterritorial jurisdiction to issue show cause notices or impose penalties on a foreign exporter for the transactions undertaken before the 2018 amendment to Section 1(2) of the Customs Act, 1962. The court observed that the statutory framework did not extend to acts committed outside India before the amendment, and that it cannot be applied retrospectively, particularly in penal matters. Furthermore, the HC held that the importer is liable for the misdeclaration of imported goods. In the absence of evidence demonstrating active involvement or abetment by the foreign exporter, proceedings against such an exporter are unsustainable. Accordingly, the impugned show cause notices issued to the foreign entity were quashed.

  (Please click here to refer to the detailed alert)

19. Instruction No. 05/2026-Customs dated 23 April 2026
20. Karl Mayer STOLL (Writ Petition Nos. 7882 of 2023, 10561 of 2023, and 316 of 2024)

TIME INDIA'S BEST EMPLOYERS 2025

Great Place To Work® Certified NOV 2025–NOV 2026 INDIA ™

Best Workplaces™ in Professional Services Great Place To Work. INDIA 2025

We are

Shaping Vibrant Bharat

A member of Grant Thornton International Ltd., Grant Thornton Bharat is at the forefront of helping reshape the values in the profession. We are helping shape various industry ecosystems through our work across Assurance, Tax, Risk, Transactions, Technology and Consulting, and are going beyond to shape a more **#VibrantBharat.**

Our offices in India

Ahmedabad • Bengaluru • Bhubaneswar • Chandigarh • Chennai • Dehradun • Gandhinagar • Goa • Gurugram • Guwahati • Hyderabad • Indore • Kochi • Kolkata • Mumbai • New Delhi • Noida • Pune

Scan QR code to see our office addresses

www.grantthornton.in

Connect with us on

@Grant-Thornton-Bharat-LLP

@GrantThorntonBharat

@GrantThornton_Bharat

@GrantThorntonIN

@GrantThorntonBharatLLP

GTBharat@in.gt.com

17328 | AK | NP