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#GTBharat SHAPING VIBRANT INDIA

Monthly tax bulletin

November 2025

In an ever-evolving tax and regulatory environment, each month brings a series of policy updates, administrative reforms, and judicial pronouncements that collectively shape India's business landscape. Staying informed of these developments is crucial for both compliance and strategic decision-making. The November 2025 edition of our Monthly Tax Bulletin captures key developments across direct tax, transfer pricing, FEMA, GST, and Customs/trade laws, reflecting the government's continued focus on transparency, digitalisation, and trust-based compliance.

Let's begin with direct taxes, where the Central Board of Direct Taxes (CBDT) has extended the due dates for filing Form 10B and Form 10BB, offering relief to charitable and religious institutions. The NITI Aayog released a discussion paper on "Permanent Establishment and Profit Attribution," revisiting India's profit nexus approach in the context of the digital economy and evolving global tax architecture. Judicially, courts examined issues related to the deductibility of business expenses, the distinction between capital and revenue expenditures, and procedural aspects of reassessment, providing greater clarity on interpretive matters.

In the transfer pricing space, recent tribunal rulings have shed light on critical issues, including the treatment of management fees, comparability adjustments, and benchmarking of captive service providers. The emphasis continues to be on robust, contemporaneous documentation and risk-based analysis to substantiate arm's length outcomes. On the global front, discussions intensified over India's stance on the OECD's Pillar Two framework and its interaction with domestic law provisions, underscoring the need to align global tax norms with India's transfer pricing regime.

Under the Foreign Exchange Management Act (FEMA), the Reserve Bank of India (RBI) has issued operational guidelines for the new trade facilitation platform, designed to expedite cross-border trade documentation and approvals. Clarifications were also issued regarding foreign investment in limited liability partnerships (LLPs) and the reporting requirements for downstream investments. Coordination between the RBI and SEBI continued to enhance regulatory efficiency, particularly in the context of foreign portfolio investments and external commercial borrowings.

On the GST front, the Central Board of Indirect Taxes and Customs (CBIC) rolled out a system-driven refund module, marking a significant step toward automation and transparency in refund processing. Further, in line with the recommendations of the 56th GST Council Meeting, the CBIC notified the CGST (Fourth Amendment) Rules, 2025, introducing several procedural reforms to simplify and digitise the GST registration and compliance framework, particularly benefiting small taxpayers.

During the month, several judicial pronouncements also addressed critical interpretive issues, ranging from the eligibility and timing of the input tax credit to the rectification of returns and procedural fairness in audits and adjudication, offering essential guidance and precedents for taxpayers.

Lastly, under the Customs and Trade domain, the CBIC operationalised a comprehensive framework that allows importers and exporters to voluntarily amend post-clearance, facilitating self-correction of genuine mistakes and reducing litigation.

As India's tax and trade ecosystem continues to evolve amid global shifts, our objective remains to distill complexity into actionable insights and provide a holistic view of the changing regulatory landscape.

Happy Reading!

Riaz Thingna
Partner, Tax
Grant Thornton Bharat

A

Key developments under direct tax laws:

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

- **CBDT extends due date of income-tax return (ITR) and audit report for assessment year (AY) 2025-26:** The CBDT[1] had earlier extended the 'specified date' under Section 44AB read with Explanation 2(a) of Section 139(1) of the Income-tax Act,1961 (IT Act) for furnishing the audit report for AY 2025-26 to 31 October 2025. Now, the CBDT[2] has further extended the aforesaid 'specified date' to **10 November** 2025 in the case of assessees referred in Explanation 2(a) to Section 139(1) of the IT Act. Furthermore, the CBDT has extended the due date for furnishing the ITR under Section 139(1) of the IT Act for AY 2025-26 from 31 October 2025 to 10 December 2025 for assessees covered under Explanation 2(a) to Section 139(1) of the IT Act.
- **NITI Aayog releases report on enhancing certainty and transparency on permanent establishment (PE) and profit attribution[3] :** As part of the NITI tax policy working paper series, NITI Aayog has published its first paper, titled, **"Enhancing Certainty, Transparency, and Uniformity in PE and Profit Attribution for Foreign Investors in India".** The key highlights are as follows:

  1. **The critical nexus of PE, profit attribution, and India's investment climate:**

     - The paper emphasises that foreign direct investment (FDI) and foreign portfolio investment (FPI) are critical to India's economic growth, and that investor confidence depends on tax certainty, transparency, and predictability.
     - The rules governing PE and profit attribution are central to this framework, as they determine India's taxing rights over foreign enterprises. When these rules are ambiguous, they increase the risk for investors, create additional compliance burdens, and lead to prolonged litigation, all of which can discourage investment.
     - India's domestic concept of business connection, as outlined in Section 9 of the IT Act, the treaty-based Article 5 PE definitions from the United Nations (UN) Model, and the Significant Economic Presence (SEP) provisions for digital activity, together form a complex system. It has sometimes resulted in uncertainty, especially when retrospective amendments have been introduced.

  2. **Evolution of PE jurisprudence:**

     - Indian PE law has evolved from a broad "business connection" to nuanced, treaty-led tests.
     - This paper provides an in-depth discussion of the judicial precedents on PE in India as follows:
       - In 1999, the Income Tax Appellate Tribunal (ITAT), in the case of **Motorola Inc**[4], Ericsson Radio Systems, and Nokia, the foreign suppliers of network equipment were held to have a PE in India because their Indian subsidiaries played a vital role in the sales and installation. Accordingly, if a subsidiary substantially assists the foreign parent's business, India can claim taxing rights.
       - In 2007, the Supreme Court (SC), in the case of **Morgan Stanley**[5], held that a subsidiary performing back-office work on an arm's-length basis would not create additional taxable income for the foreign company.
       - However, in the case of **Rolls Royce Plc**[6], the SC ruled that the Indian subsidiary acted like a full-fledged sales office, triggering a PE despite arm's-length payments.
         The contrasting outcomes made the law unpredictable.
       - In 2008, the Bombay High Court (HC), in the case of **Set Satellite (Singapore) Pte. Ltd.**[7], held that profit attribution be limited to 10-15% of ad revenues, bringing reasonableness into play. In 2017, the SC, in the case of **Formula One World Championship Ltd.**[8], further emphasised "control over a place of business" rather than mere duration of presence. Whereas, in the case of **E-Funds**[9], the court clarified that using a subsidiary's premises doesn't automatically mean the foreign parent has a PE.

1. Circular No. 14 of 2025 dated 25 September 2025.
2. Circular No.15 of 2025 dated 29 October 2025, Press Release dated 29 October 2025.
3. Released on 3 October 2025
4. Motorola Inc vs. DCIT [(2005) 95 ITD 269 (Delhi ITAT)]
5. DIT vs. Morgan Stanley [(2007) 162 Taxman 165 (SC)]
6. Rolls Royce Plc vs. DDIT [(2008) 19 SOT 42 (Delhi ITAT)]
7. Set Satellite (Singapore) Pte. Ltd. vs. DDIT [(2008) 173 Taxman 475 (Bombay HC)]
8. Formula One World Championship Ltd. vs. CIT [(2017) 80 taxmann.com 347 (SC)]
9. DIT vs. E-Funds IT Solution Inc. [(2016 70 taxmann.com 297 (SC)]
10. Hyatt International Southwest Asia Ltd. vs. ADIT [(2025) 176 taxmann.com 783 (SC)]

- Now, the SC, in a recent landmark decision in the case of **Hyatt International Southwest Asia Ltd.**[10], upheld that even without a physical office, consistent managerial and operational control over Indian hotels amounted to a PE. More importantly, it ruled that the Indian PE could be taxed independently of the group's global profitability.

- Accordingly, the paper outlines the progressive evolution of India's PE jurisprudence towards recognising economic substance over mere physical presence. Through landmark rulings, such as those in the cases of Morgan Stanley (Supra), E-Funds (Supra), Formula One (Supra), and Hyatt (Supra), courts have clarified the tests for the existence of a PE and strengthened the principle of substance over form. The SC's decision in the case of Hyatt (Supra) marks a shift towards attributing profits based on economic value creation in India.

- Based on the above, it has been discussed that while PE tests are clearer, they strengthen the need for robust profit attribution rules to determine arm's length profits for Indian PEs, independent of global outcomes.

3. Evolution of profit attribution law in India: Addressing historical inconsistencies

- After a PE is established, the next challenge is determining the profits attributable to that PE and their taxability in India. This area has historically been highly litigated and marked by inconsistency.

- In the late 1990s and early 2000s, some assessments attributed as much as 50 to 80% of global profits to the Indian PE. Courts gradually corrected these excesses, moving toward more objective methods.

- The special bench, in the cases of Motorola (Supra) and later Nokia (Supra), applied the company's global profit ratio to its Indian sales. If the global business had a loss, the Indian PE was considered to have no taxable income, and courts accepted this outcome at the time.

- In the Hyatt International (Supra) case, the SC rejected the idea that global losses could shield Indian operations. The court held that the PE must be treated as a separate enterprise capable of earning profits even when the group as a whole makes a loss.

- In Morgan Stanley (Supra), the SC accepted that if Indian affiliates are compensated at arm's length, no extra profit should be attributed to the PE. However, other cases, such as Rolls Royce (Supra), took a different view, emphasising the need to protect Indian tax revenue in specific fact patterns.

- Over time, judicial outcomes have settled into a moderate range, with profit attribution typically between 10% and 25% percent of Indian revenues, depending on the industry.

- The paper notes that the CBDT Committee report of 2019 opposed complete reliance on the Organisation for Economic Co-operation and Development's (OECD's) Arm's Length Principle. It emphasised the inclusion of market-based factors in profit attribution and proposed a semi-formulaic amendment to Rule 10 to ensure fair taxation where value is created.

4. Impact of PE and profit attribution uncertainty on foreign investment in India:

- The paper explains that uncertainty in India's rules for PE and profit attribution directly affects the flow of foreign investment by increasing tax risk and deterring capital.

- An unexpected PE finding can lead to prolonged disputes, interest liabilities, and lingering effects from past retrospective taxation, while also adding compliance obligations, such as maintaining books of accounts, undergoing audits, and preparing transfer pricing documentation.

- Major PE disputes often take 6 to 12 years or more to reach closure, tying up resources, increasing costs, and weakening the ease of doing business.

- Despite these frictions, India has experienced a remarkable increase in the FDI over the last two decades, and the paper emphasises that greater tax certainty can unlock higher-quality and more sustainable inflows.

5. Examining the case for presumptive taxation and international best practices

- The paper recommends a presumptive taxation model to address recurring issues in PE and profit attribution, where profits are determined by fixed rates or formulas instead of complex analyses.

- Such systems are already in use in countries like the United States and Brazil, and India applies similar rules to shipping, oil, and airline businesses under Sections 44B, 44BB, and 44BBA of the IT Act.

- Key benefits include reduced litigation and discretion, better alignment with global standards, administrative simplicity, and protection of revenue through minimum profit thresholds.

- Global tax reforms, especially after the Base Erosion and Profit Shifting (BEPS) initiative, have shown that relying solely on the arm's length principle is insufficient. The trend is toward hybrid approaches that combine traditional principles with formula-based models for greater certainty and efficiency.

6. **Strategic recommendations for enhancing tax certainty and predictability**

   - **Legislative clarity:** Codify PE and profit attribution principles in domestic law, harmonised with OECD and UN standards, and avoid retrospective amendments to strengthen investor confidence.
   - **Stakeholder consultation:** Institutionalise public consultations with industry and foreign chambers before major tax changes and adopt a binding taxpayer charter outlining mutual rights and obligations.
   - **Efficient dispute resolution:** Strengthen advance pricing agreements and mutual agreement procedures for faster settlements, and consider mandatory arbitration for unresolved cases.
   - **Capacity building:** Train assessing officers in modern international tax principles and the substance over form doctrine to ensure consistent interpretation nationwide.
   - **Optional presumptive taxation scheme:** Introduce an opt-in regime for foreign companies with industry-specific profit rates.

Judicial developments:

- **The SC dismissed a curative petition filed by Nestlé SA[11]:** In October 2023, the SC, in the batch of appeals[12], settled the controversy regarding the applicability of the Most Favoured Nation (MFN) clause in the Indian tax treaties. The SC had held that the MFN clause will not be triggered automatically, and a separate notification is required to operationalise the same. Furthermore, it was held that for importing the benefit of a lower rate/restricted scope from a third-country treaty, the country must be an OECD member at the time of entering into the treaty with India. Subsequently, Nestlé SA filed a curative petition before the SC.

  Now, the SC, while hearing the petition, relied upon its earlier decision in the case of **Rupa Ashok Hurra vs. Ashok Hurra & Anr[13]**. In the said case, the SC clarified that curative petitions should be treated as a rarity rather than a regular course, and any appreciation by the court must be undertaken with due circumspection.

  The SC also laid down specific parameters for entertaining a curative petition. These include situations where the impugned order contravenes the doctrine of natural justice. It also applies where the order has been passed without jurisdiction. Furthermore, it addresses cases where there is even a likelihood of public confidence being shaken due to apprehension of bias or the judge's closeness to the subject matter in dispute.

  Since no such grounds were established in the present case, the SC has dismissed the curative petition filed by Nestlé SA.

- **SC stays recovery in special leave petition (SLP) filed by WGF Financial Services against the disallowance of bad debts[14]:**

  Brief facts

  - The taxpayer (WGF Financial Services Pvt. Ltd) is engaged in financing and investment activities and filed a revised return for AY 2015-16, declaring a loss of INR 27.43 cr.
  - The assessing officer (AO) passed an order under Section 143(3), assessing income at INR 28.08 cr, with three additions:
    - INR 27.38 cr as long-term capital gains
    - INR 27.76 cr disallowed as bad debts
    - INR 35.80 lakhs disallowed as legal charges
  - The taxpayer, along with three other entities, had guaranteed the repayment of INR 232.5 crore borrowed by seven entities [including Carissa Investment Pvt. Ltd (CIPL) from Indiabulls Financial Services Ltd (IBFSL)]. Upon default, IBFSL recovered a portion by liquidating the pledged shares, and the taxpayer, along with other guarantors, discharged the remaining liability.
  - Subsequently, under the settlement agreement, CIPL remitted INR 36.50 cr to the taxpayer against its total liability of INR 64.26 cr. The taxpayer wrote off the balance amount of INR 27.76 crore in its books and claimed it as a bad debt.
  - The AO disallowed the claim and did not accept that the guarantee was furnished in the ordinary course of business and that no legal proceedings were initiated for recovery despite CIPL having made INR 10 crore donation during the same year, and concluded that the transaction was a colourable device intended to reduce the taxable income by shifting losses within the group.
  - On appeal, the Commissioner of Income Tax Appeals (CIT(A)) upheld the disallowance of bad debts and capital gains, but partially allowed legal charges to the extent of INR 28.60 lakhs. Further, the ITAT reversed the disallowance of bad debts.
  - The Revenue, aggrieved by the ITAT's order, filed an appeal before the Delhi High Court.

11. [M/S Nestle SA vs. AO (Curative Petition (C) No. 238 of 2024)]
12. [Nestle SA and others vide [Civil Appeal No(s). 1420 of 2023]
13. 2002 (4) SCC 388
14. WGF Financial Services Pvt. Ltd. vs. PCIT SLP (C) Diary No. 27866/2025]

Delhi HC's decision

- The Delhi HC allowed the Revenue's appeal, holding that the taxpayer's claim of INR 27.76 cr as a bad debt was not allowable either as a business loss or under Section 36(1)(vii), read with Section 36(2)(i) of the IT Act.
- The HC held that furnishing a guarantee for loans by the taxpayer, which was availed of by CIPL, a group company, was not in the ordinary course of its business.
- The guarantee was provided as a one-off transaction and not as part of a regular business activity. Therefore, the loss arising from the discharge of the guarantee obligation could not be treated as a business loss.
- Further, the HC discussed that as per Section 36(2)(i) of the IT Act, a bad debt is allowable only if the debt had been considered in computing income in the current or earlier years or the debt represents money lent in the ordinary course of the business of banking or money lending. Since neither condition was satisfied, the deduction was not allowable under Section 36(1)(vii), read with Section 36(2)(i) of the IT Act.
- The CIPL had made an INR 10 crore donation in the same year, indicating it had the financial capacity to repay, yet the taxpayer made no legal or tangible efforts to recover the dues from CIPL. Thus, the HC upheld the AO's view that the transaction was structured to reduce the taxpayer's taxable income by shifting losses within the group, as the taxpayer and CIPL were part of the same group.

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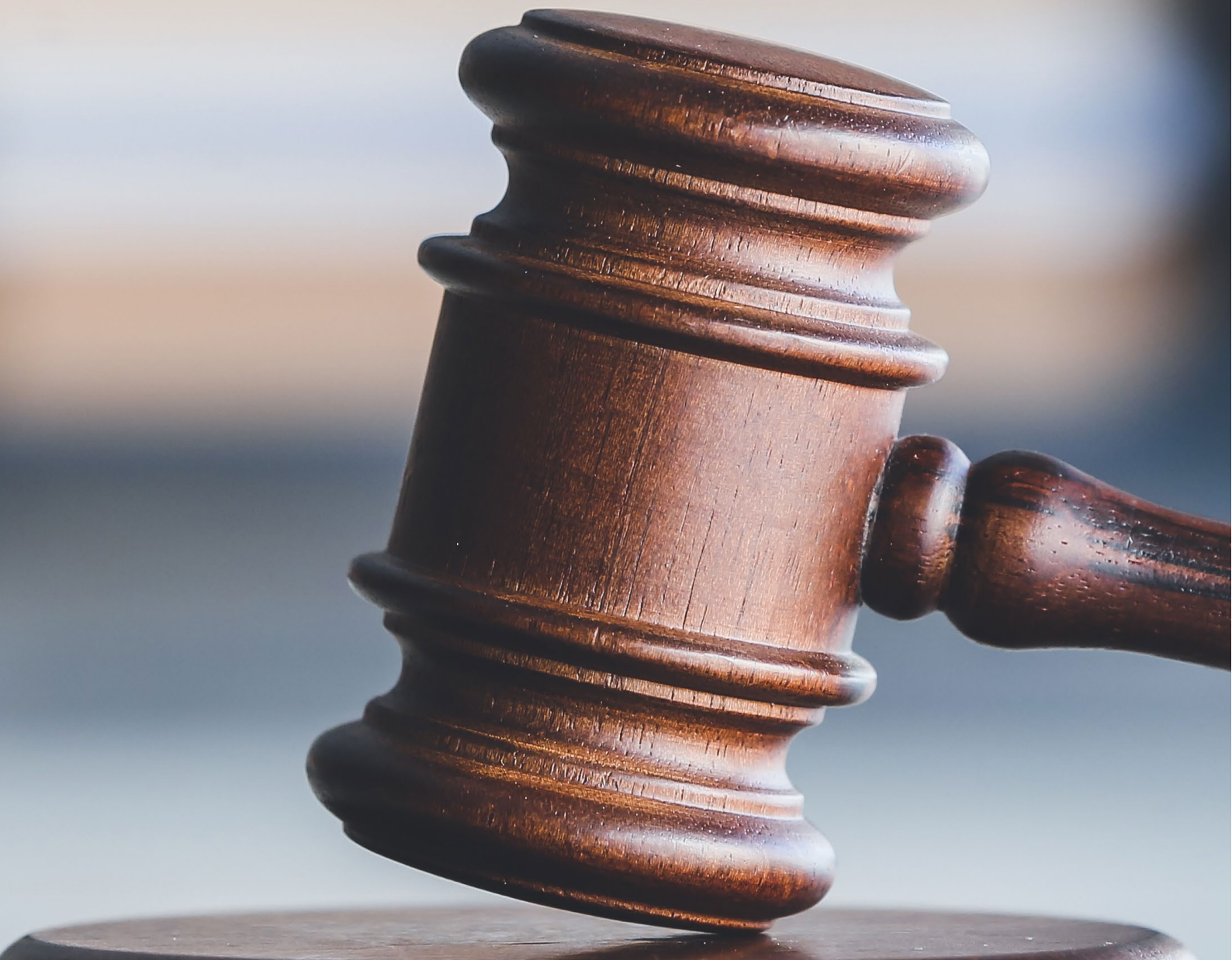
SC's conclusion

- The SC, vide its order dated 26 September 2025, has granted interim relief, declaring the stay on recovery proceedings.



B

Key developments under transfer pricing law:

Judicial developments:

- **Recharacterisation of CCDs as equity not justified; directs proportionate disallowance of interest capitalised to WIP**[15]**:** The assessee, engaged in setting up renewable energy power plants, issued CCDs to its AE and capitalised the interest as part of WIP. The AO made a TP adjustment, questioning whether such capitalisation constitutes an international transaction. The Tribunal held that the capitalisation of interest does not eliminate its impact on financials and must be evaluated under the arm's length principles. It rejected the assessee's claim that no international transaction existed and confirmed that CCDs remain debt instruments until they are converted. Relying on the Pune ITAT's ruling in the City Corporation Limited case, it held that the recharacterisation of CCDs as equity was unjustified. Since the AO had not determined the ALP and the assessee's benchmarking remained unchallenged, the matter was remitted for fresh determination. Any excess interest capitalised should be disallowed proportionately when the WIP is reversed. The assessee's appeal was dismissed.
- **Having finalised the first order, the AO cannot pass the 'second' assessment order pursuant to DRP directions for the same AY**[16]: The assessee, a JV engaged in developing and operating port facilities at Hazira under the Gujarat Maritime Board Act, faced two assessment orders for the same AY. The first order was appealed before the CIT(A), while the second was passed following the directions of the DRP. The Revenue argued that the second order was valid because the AO was not adequately informed about the objections filed before the DRP. However, the assessee had already informed DRP that an appeal against the initial order was pending before the CIT(A). The Tribunal held that once a final assessment order is passed, no second order can be issued for the same year. It relied on the Bombay HC's ruling in the case of Undercarriage and Tractor Parts Pvt Ltd, stating that DRP cannot issue directions once the assessment has attained finality. The second order was invalidated, and the assessee was allowed to pursue an appeal against the first order.
- **HC quashes assessment order; AO ought to have waited for DRP's directions**[17]**:** The assessee, engaged in manufacturing automobile components, filed objections before the DRP but failed to inform the AO. As a result, the AO proceeded to pass a final assessment order without waiting for DRP's directions. The assessee filed a writ petition challenging this order. The court upheld the assessee's reliance on the jurisdictional High Court ruling in the case of **Zoomrx Healthcare Technology Solutions,** where a similar final order was quashed for not awaiting directions from the DRP. It rejected the Revenue's argument that the physical filing of objections requires separate physical intimation to the AO, noting that the lack of a system cannot justify procedural lapses. The court directed that if no system exists, the CCIT must implement one to ensure that the objections filed before the DRP are communicated to the AO. Accordingly, the final assessment order was quashed, and the matter was remitted to the AO to pass a fresh order after the DRP's decision. The assessee's petition stands allowed.
- **ITAT rejects recharacterisation of Netflix India as a full-fledged entrepreneur or content provider; deletes adjustment:** The assessee, a limited-risk distributor of access to the Netflix service, was recharacterised by the AO through the TPO/DRP as an entrepreneurial content-and-technology service provider bearing significant risks. The TPO rejected TNMM and applied 'other method' for benchmarking. The key issue was whether the assessee should be treated as a low-risk distributor or a full-fledged entrepreneur entitled to higher remuneration under the arm's length principle. The Tribunal found the TPO's conclusion contradictory, noting that Netflix India was said to lack access to content but was later claimed to have it. The assessee's FAR analysis was accepted, showing limited functions, no intangible assets, and minimal risks indemnified by AEs. TNMM was upheld as the MAM, and the TPO's hybrid royalty model was found unreliable. The Tribunal deleted the TP adjustment. The assessee's appeal stands allowed.

15. Alfanar Energy Private Limited [ITA No.4439/Del/2024]
16. Hazira Port Pvt. Ltd [I.T.A. No.265/Ahd/2022]
17. Kawasaki Manufacturing (India) Private Limited [WRIT PETITION NO. 12184 OF 2025]

C

Key developments under FEMA:

- **RBI extends MTT payment timeline to six months[18]:** In order to facilitate the merchanting traders to manage their Merchanting Trade Transactions (MTT) efficiently, the Reserve Bank of India (RBI) has decided to increase the time period for the outlay of foreign exchange from four to six months.
- **RBI simplified process for closure of shipping bills and bills of entry to ease compliance burden on exporters and importers19:** With a view to facilitate timely closure of entries in Export Data Processing and Monitoring System (EDPMS) and Import Data Processing and Monitoring System (IDPMS), the RBI has directed the AD bank to adopt the following procedure while closing entries (including outstanding entries) in the EDPMS and IDPMS of value equivalent to INR 10 lakh per entry/bill or less:

  a. Entries shall be reconciled and closed based on a declaration provided by the concerned exporter that the amount has been realised or by the importer that the amount has been paid.

  b. Any reduction in declared value or invoice value of the shipping bills/bills of entry shall also be accepted, based on the declaration by the concerned exporter or importer.

  c. The declarations referred to above may also be received quarterly from exporters and importers in a consolidated manner (by combining several bills in one declaration) for bulk reconciliation and the closing of EDPMS/IDPMS entries.

This measure is expected to reduce the compliance burden on small-value exporters and importers, thereby enhancing the ease of doing business. Consequential amendments have also been made to the Master Direction – Export of Goods & Services and the Master Direction – Import of Goods & Services.

- **RBI permits AD banks to lend in INR to residents of Bhutan, Nepal, and Sri Lanka for cross-border trade transactions[20] :** The RBI has issued the Foreign Exchange Management (Borrowing and Lending) (Amendment) Regulations, 2025. This amendment introduces a new provision under Regulation 7 (A) of the existing Foreign Exchange Management (Borrowing and Lending) Regulations, 2018. An AD bank in India is now permitted to lend in Indian rupees to a person residing in Bhutan, Nepal, or Sri Lanka, including a bank in these jurisdictions, for cross-border trade transactions. This amendment will be effective from the date of its publication in the Official Gazette, i.e., 6 October 2025.
- **RBI relaxes repatriation norms for exporters maintaining foreign currency accounts held in IFSCs[21]:** The RBI has issued the Foreign Exchange Management (Foreign Currency Accounts by a person resident in India) (Seventh Amendment) Regulations, 2025. This amendment introduces a new provision under Regulation 2 and substitutes the existing provision under Regulation 5 of the Foreign Exchange Management (Foreign Currency Accounts by a person resident in India) Regulations, 2015.

  The RBI has revised the repatriation timeline for funds held by exporters in foreign currency accounts maintained outside India. Exporters with foreign currency accounts at banks outside India are permitted to retain funds for up to one month from the date of receipt in such accounts. Now, exporters with foreign currency accounts maintained with banks in the International Financial Services Centre (IFSC) are permitted to retain funds for up to 3 months from the date of receipt of funds in such accounts. For the accounts in other jurisdictions, the existing 1-month limit remains unchanged. The amendment also clarifies that foreign currency accounts opened in an IFSC will now be treated as accounts 'outside India' for regulatory purposes. This amendment will be effective from the date of its publication in the Official Gazette, i.e., 6 October 2025.
- **RBI allows investment of surplus rupee balances in Vostro accounts in debentures/bonds and commercial papers[22]:** The RBI has permitted persons resident outside India holding Special Rupee Vostro Accounts (SRVAs) to invest their surplus rupee balances also in non-convertible debentures/bonds and commercial papers issued by an Indian company. Earlier, such balances could only be invested in central government securities (including treasury bills). A consequential amendment has been made to the Master Direction - Reserve Bank of India (Non-Resident Investment in Debt Instruments) Directions, 2025.

18. vide A.P. (DIR Series) Circular No.11 dated 01 October 2025
19. vide A.P. (DIR Series) Circular No.12 dated 01 October 2025
20. vide Notification No. FEMA 3(R)(4)/2025-RB dated 06 October 2025 and published on 13 October 2025
21. vide Notification No. FEMA 10(R)(7)/2025-RB dated 06 October 2025 and published on 13 October 2025
22. vide A.P. (DIR Series) Circular No.13 and 14 dated 03 October 2025

D

Key developments under GST law:

Legislative developments:

- **CBIC issues guidelines for system-driven provisional GST refunds from 1 October 2025[23]:** In line with the 56th GST Council recommendations, the CBIC has notified guidelines for system-driven, risk-based provisional sanction of GST refunds, effective 1 October 2025, following amendments to the CGST Rules[24]. Under the new risk-based mechanism, refund applications will be automatically risk-evaluated and classified as low-risk or otherwise.

Key features of the new mechanism:

- **Low-risk cases:** Around 90% of the claimed refund is to be provisionally sanctioned once FORM RFD-02 (acknowledgement) is issued, with no pre-scrutiny required unless the reasons are recorded in writing.
- **Non-low-risk cases:** No provisional refund will be granted. Refunds will be processed following a detailed review and final approval as per existing procedures.
- **Exclusions:** Provisional refund is not available for applicants without Aadhaar authentication, those involved in the sale of areca nuts, pan masala, tobacco, and essential oils, or those covered under prosecution or pending appeal/SCN cases.
- **Recovery of excess provisional refund:** Any excess amount will be recovered via FORM RFD-08 under Section 54, read with Sections 73/74/74A.

Additionally, a provisional refund of approximately 90% is now allowed for Inverted Duty Structure (IDS) refund claims filed on or after 1 October 2025, using the same system-driven, risk-based approach. GSTN has enabled this functionality for IDS cases.

(Please click here to refer to the update)

- **CBIC withdraws Circular 212 and removes requirement of obtaining certificates for post-supply discount[25]:** The CBIC has withdrawn the earlier circular[26], which had mandated that where suppliers issued credit notes for post-supply discounts, they were required to obtain CA/CMA certificates confirming proportionate ITC reversal by the recipient under Section 15(3)(b)(ii) of the CGST Act, 2017, in cases where the tax involved in the discount given by the supplier to the recipient exceeded INR 5 lakhs in a financial year. For cases up to INR 5 lakhs, an undertaking/certificate from the recipient was considered sufficient. With the withdrawal of this circular, the above procedure is no longer applicable, and suppliers are not required to collect such certificates or undertakings.
- **CBIC assigns proper officers under Section 74A, 75(2), and 122 of the CGST Act[27]:** The CBIC has assigned proper officers and monetary limits for the issuance of SCNs and adjudication under the newly inserted Section 74A. The circular has aligned the financial limits for adjudication under Section 74A with those already prescribed under Sections 73 and 74 and clarified the jurisdiction of proper officers for adjudication under Sections 74A and 122, based on the tax amount involved.

The revised monetary limits are -

- **Superintendent:** Up to INR 10 lakh (CGST), INR 20 lakh (IGST), INR 20 lakh (combined tax)
- **Deputy/Assistant Commissioner:** INR 10 lakh – INR 1 crore (CGST), INR 20 lakh – INR 2 crore (IGST), INR 20 lakh – INR 2 crore (combined tax)
- **Additional/Joint Commissioner:** Above INR 1 crore (CGST), INR 2 crore (IGST), INR 2 crore (combined tax)

Key clarifications:

- The same limits apply to Section 122 (penalty provisions).
- Jurisdiction is based on the combined CGST and IGST involved.
- For multiple tax periods, cumulative demand determines the proper officer.
- If the demand later exceeds jurisdiction, a corrigendum is to be issued to transfer the case.
- Penalties are excluded while computing the monetary limit.
- Once assigned, the same officer will continue to adjudicate if limits remain unchanged.

23. Vide Instructions No. 06/2025-GST dated 03 October 2025
24 Rule 91(2) vide Notification No. 13/2025-CT dated 17 September 2025
25. Circular No. 253/10/2025-GST dated 1 October 2025
26. Circular No. 212/6/2024-GST dated 26 June 2024
27. Circular No. 254/11/2025-GST dated 27 October 2025

- **CBIC introduces automated registration and optional low-output tax liability scheme under GST[28] :** In line with the recommendations of the 56th GST Council Meeting, the CBIC has notified the CGST (Fourth Amendment) Rules 2025[29], introducing key procedural reforms to simplify and digitise the GST registration framework and compliance process, particularly for small taxpayers.

Highlights of the amendments -

- Rule 9A enables system-based approval of registration within three working days, using data analytics and risk profiling for faster and consistent registration processing.
- Rule 14A introduces an optional Aadhaar-based simplified registration scheme for small taxpayers with a monthly B2B output tax liability up to INR 2.5 lakh.
- Taxpayers can withdraw from simplified registration by filing Form GST REG-32, with approval issued in Form REG-33, provided the return filing status is met and there are no pending proceedings.
- Forms REG-01 to REG-05, along with REG-32 and REG-33, have been amended to align with the updated registration framework.

Goods and Services Tax Network Advisory:

- **GSTN introduces 'Import of Goods' functionality in IMS for BoE reconciliation:** To strengthen reconciliation and streamline compliance for import transactions, a new 'Import of Goods' section has been introduced within the IMS[30]. This functionality integrates BoE details, including imports from overseas suppliers and SEZ units, directly into the IMS interface for action by taxpayers.
- The new functionality will apply to the BoEs pertaining to the October 2025 tax period onwards and will also cover amended BoEs processed before 1 November 2025.

Key features -

- The BoE filed for imports, including those from overseas suppliers and SEZ units, will now be reflected in the IMS for the taxpayer's action.
- Recipients can 'Accept' or 'Keep Pending' individual BoE records.
- If no action is taken, the BoE will be deemed accepted at the time of the draft GSTR-2B generation (on the 14th of the following month).
- Actions can be modified till filing of the relevant GSTR-3B.

Judicial developments:

- **Bombay HC grants interim stay on 18% GST on restaurant services provided in specified premises[31]:** The Bombay HC had granted an interim stay on the 18% GST levied on restaurant services provided within "specified premises" hotels where any room had a tariff above INR 7,500/night in the previous financial year.

  The petitioner argued that the classification was arbitrary and unfair, particularly for restaurants that serve walk-in customers. The court granted ad-interim relief, subject to a INR 40 lakh bank guarantee, and the matter is scheduled for hearing on 19 November 2025.
- **Gujarat AAAR upholds denial of ITC on subscription and redemption of mutual fund units[32]:** The Gujarat AAAR has upheld the Gujarat AAR's ruling, denying the ITC on common inputs and input services used for subscription and redemption of mutual fund units. The authorities held that such financial investments are not supplies made 'in the course or furtherance of business' under Section 16(1) of the CGST Act, 2017, and directed proportionate ITC reversal under Section 17(2), read with Rule 42 of the CGST Rules, 2017.
- **Tamil Nadu AAAR rules that TR-6 challans are not valid for availing ITC[33]:** The Tamil Nadu AAAR has held that the TR-6 challans are not valid documents for availing the ITC of the IGST paid on imports. The company had paid differential IGST via TR-6 challans in accordance with the SVB[34] orders and sought the ITC on such payments for FY 2022–23 and 2023–24. The AAAR upheld the AAR's decision, stating that TR-6 challans are not prescribed assessment documents under customs law, and therefore, do not qualify under Rule 36(1)(d) of the CGST Rules. It clarified that the ITC on imports is restricted to electronically transmitted documents through the ICEGATE, typically a BoE. The authority further observed that aggregate payments through TR-6 broke the statutory chain required for seamless ITC flow, which could have been preserved through BoE-wise reassessment. The ruling aligns with the CBIC circular[35], which also clarified that the TR-6 challans are not valid for the ITC.

28. vide Notification No. 18/2025-CT dated 31 October 2025
29. effective 1 November 2025
30. effective from the October 2025 tax period
31. Shirdi Country Inns Pvt. Ltd. v. Union of India (WP No. 12579/2025)
32. Zydus Lifesciences Ltd. (GUJ/GAAAR/APPEAL/2025/18, Order dated 22 September 2025)
33. Becton Dickinson India Pvt. Ltd.(A.R.Appeal No.5/2025 AAAR)
34. Special Valuation Branch
35. Circular No. 16/2023-Cus dated 7 June 2023

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

Legislative developments:

- **CBIC notifies consolidated framework for exemptions and concessional duties under customs effective from 1 November 2025[36]:** The CBIC has superseded 31 existing customs exemption notifications, consolidating them into a unified framework to simplify the duty structure, remove redundancy, and enhance compliance predictability. This notification primarily supersedes the erstwhile exemption notifications[37], along with several other related notifications, which have now been consolidated into a single comprehensive framework. The merged notification aligns all conditional exemptions with the procedures and end-use conditions prescribed under the Customs (Import of Goods at Concessional Rate of Duty) Rules, 2022. It establishes a single, uniform reference point for importers, industry stakeholders, and customs authorities, thereby ensuring consistency and clarity in the application and administration of exemptions.

(Please click here for the detailed update)

- **CBIC notifies Customs (Voluntary Revision of Entries Post Clearance) Regulations, 2025; issues related guidelines and framework[38]:** Section 18A of the Customs Act, 1962, was inserted to enable importers and exporters to voluntarily correct errors or omissions in the bills of entry, shipping bills, or other customs documents after the clearance of goods. The intent, as announced in the Budget, was to provide a facilitative and non-punitive mechanism for trade to self-correct inadvertent mistakes, such as misclassification, short payment, or documentary errors, without resorting to departmental adjudication or litigation.This provision aims to enhance voluntary compliance, improve data accuracy, and reduce post-clearance disputes, aligning with the CBIC's broader policy focus on "trust-based compliance" and digital transparency. To operationalise the above provisions, the CBIC has notified a comprehensive framework, enabling importers and exporters to revise entries post-clearance voluntarily. Through a series of notifications and a circular , the CBIC has designated proper officers, prescribed a nominal fee for electronic applications, and issued detailed regulations and procedural guidelines. The move marks a significant step toward trust-based compliance and digital transparency, allowing for the self-correction of bonafide errors while reducing litigation and promoting the ease of doing business.

(Please click here for the detailed update)

Judicial developments:

- **SC upholds tax on ink and chemicals used in printing lottery tickets as works contract[41] :** The SC has upheld the levy of tax under the Uttar Pradesh Trade Tax Act, 1948, on the value of ink and processing chemicals used in printing lottery tickets. It held that printing lottery tickets constitutes a works contract, involving both labour and the use of goods that are transferred to the customer. The SC clarified that tax is levied on the goods involved in the execution of the works contract, and not on the final product (the lottery ticket), which may be an actionable claim. Relying on precedents, it observed that the transfer of property in goods persists even if the goods undergo chemical change or dilution, so long as they form part of the finished printed output.

(Please click here for the alert)

- **SC upholds ITC benefit despite seller's default in VAT payment[42]:** The SC upheld the Delhi HC's view that the ITC cannot be denied to bonafide purchasers merely because the selling dealer failed to deposit VAT with the government, provided the transactions and invoices are genuine. The SC noted that there was no dispute regarding seller registration or invoice authenticity, aligning with previous HC rulings and emphasising that businesses should not be penalised for post-transaction lapses by suppliers. The SC also reiterated that the department's remedy lies against the defaulting seller, not the compliant buyer. Observing that the sellers were registered and the transactions were genuine, the court dismissed the Revenue's appeals, confirming that the Delhi HC's interpretation represents the settled position of law under the Delhi VAT framework.

(Please click here for the alert)

36 Notification No. 45/2025 Customs dated 24 October 2025
37. Notification No. 50/2017-Customs dated 30 June 2017
38. Notification No. 68/2025 Customs (N.T.) to Notification No. 71/2025 Customs (N.T.), dated 30 October 2025
39. vide Section 93 of the Finance Act, 2025, dated 29 March 2025
39. vide Section 93 of the Finance Act, 2025, dated 29 March 2025
40. dated 30 October 2025
41. M/s Aristo Printers Pvt. Ltd. (Civil Appeal No. 703 of 2012 dated 7 October 2025)
42. Shanti Kiran India Pvt. Ltd. (Civil Appeal No(s).2042-2047/2015 dated 9 October 2025)

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