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#GTBharat SHAPING VIBRANT INDIA

Monthly tax bulletin

December 2025

The December 2025 edition of our Monthly Tax Bulletin captures key legislative, regulatory, and judicial developments across India's tax and trade landscape. As India deepens its global economic engagement through revised tax treaties, digital customs reforms, progressive GST jurisprudence, and targeted trade and industrial policies, this edition highlights the continuing shift towards transparency, certainty, and closer alignment with global standards.

On the direct tax front, the month saw significant treaty developments, with notifications of the revised India-Qatar DTAA and the amending protocol to the India-Belgium DTAA, both strengthening PE, exchange of information, and assistance-in-collection frameworks, alongside the OECD's 2025 update to the Model Tax Convention. The Supreme Court also clarified the principles governing limitations under Section 153(2A). It addressed a key matter regarding the taxability of bonus shares, signaling a continued focus on treaty administration, source-based taxation, and procedural discipline.

In transfer pricing, recent rulings reinforced the availability of Section 10AA benefit on APA-driven voluntary TP adjustments, endorsed TNMM over PSM in the absence of demonstrable unique intangibles, favoured interest-saving approaches for corporate guarantee pricing, rejected TP adjustments on "excess profits" of unrelated foreign entities, and disapproved blanket NIL ALP for management services where evidence of benefit exists—all pointing to a more nuanced, documentation-led and OECD-consistent TP regime.

Under FEMA, the RBI has extended the export realisation timelines to 15 months and the shipment window for advance receipts to 3 years, and has streamlined accounts for compounding-related payments. These relaxations, in turn, have significant GST implications for export of services conditions, LUT compliance, and refund recovery under Rules 96A and 96B.

Under indirect taxes, new bills are reshaping the excise and cess framework on tobacco and specified products. On the GST front, the GSTN advisory mandating the timely furnishing of bank account details under Rule 10A reiterates the risk of registration suspension for non-compliance. Judicially, the courts have delivered significant rulings: the J&K HC held that cross-LoC trade is intra-state, the Gujarat HC reaffirmed the refund eligibility for the SEZ units on the ISD-distributed ITC, and notices were issued challenging the constitutional validity of the 180-day ITC reversal rule, while the Chhattisgarh HC clarified that central proceedings are valid when state proceedings do not culminate in adjudication.

On the customs and trade policy side, the CBIC's digital ICEGATE 2.0 module for MOOWR/MOOSWR signals a strong move towards end-to-end online processing and enhanced governance. Policy momentum continues through the Export Promotion Mission and Credit Guarantee Scheme, PLI 1.2 for Specialty Steel, and new state IT/GCC policies in Maharashtra and Karnataka, aimed at building scale in manufacturing, technology, and services. Courts have also weighed in on jurisdiction over IGST refund recovery, the export character of trademark transfers, and the inclusion of royalty in customs valuation. Meanwhile, globally, the US Supreme Court's hearings on Trump-era tariff powers under the IEEPA may have longer-term implications for Indian exporters.

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
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A

A. Key developments under direct tax laws:

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

- **Ministry of Finance (MoF) notifies revised Double Taxation Avoidance Agreement (DTAA) and protocol between India and Qatar**

  The MoF has notified[1] revised **DTAA and protocol between the Republic of India and the State of Qatar** under Section 90(1) of the Income-tax Act, 1961 (IT Act).

The revised agreement and protocol were signed on **18 February 2025** and entered into force on **10 September 2025,** replacing the earlier DTAA, which came into force on 15 January 2000 as amended[2] on 17 July 2018.

The revised India-Qatar DTAA and protocol will apply in India to income arising on or after the first day of the fiscal year immediately following the calendar year in which the DTAA entered into force, i.e., on **1 April 2026.**

Key changes in the aforesaid are as follows:

Article	Earlier DTAA	Revised DTAA
Article 1- Persons covered	• Applied to persons who are residents of one or both contracting states.	• It now includes income derived by or through an entity or arrangement treated as **wholly fiscally transparent** under the tax laws of either country, which will be taxable in the resident state only to the extent that such income is treated as the income of a resident under the resident state's tax laws.
Article 5- Permanent Establishment (PE)	• PE previously covered were fixed place, construction PE, insurance PE, and agent PE.	• Enhanced scope now includes a **service PE clause** (90 days within any 12-month period), anti-fragmentation rules, and the rules for closely related enterprises.
Article 10- Dividends	• Withholding is limited to 5% if the beneficial owner is a company owning more than 10% of shares. • 10% of the gross amount of the dividends in all other cases.	• Revised rates are: – **5%** of the gross amount if the beneficial owner is a company holding at least **25%** of the shares of the paying company. – **10%** of the gross amount in all other cases. • A new provision has been added stating that dividends paid to the government, a political subdivision, or a local authority of the other contracting state will be taxable in the recipient state, subject to the verification of ownership
Article 11- Interest	• Previously allowed exemption for the interest paid to mutually agreed financial institutions vide the exchange of letters to the following: – In the case of India, the Export Import Bank of India and the Life Insurance Corporation of India; and – In the case of Qatar, the Qatar Investment Authority and Qatar Holding LLC.	• Formalised protocol clarifies that for interest exemptions under Article 11, the term "State" will include the following: – In the case of India, the Reserve Bank of India and the Export Import Bank of India. The Life Insurance Corporation of India has been removed; and – In the case of Qatar, the Qatar Investment Authority and Qatar Holding LLC are retained.

[1] Notification No. 154 of 2025 dated 24 October 2025

[2] No. S.O. 3468(E)

Article	Earlier DTAA	Revised DTAA
Article 13- Capital Gains	• Allowed the source country to tax gains from the shares of companies whose property consisted "principally" of immovable property in that state.	• **Introduces a quantified rule:** The source country may tax gains from the shares deriving more than **50% of their value** (directly or indirectly) from immovable property situated therein.
Article 26- Exchange of Information	• Previously required exchange of information necessary for treaty enforcement. • Allowed refusal if information is not obtainable or held by financial institutions or fiduciaries.	• The extended scope now requires the state to obtain and share requested tax information, even if it is not needed for its own purposes. • Prohibits the refusal of data merely because financial institutions or fiduciaries hold it.
Article 28- Entitlement to Benefits	• Not included	• The comprehensive Principal Purpose Test now denies treaty benefits if it is reasonable to conclude that obtaining such benefits was one of the principal purposes of any arrangement or transaction, unless granting the benefit aligns with the object and purpose of the agreement.

MoF notifies enforcement of amending protocol to DTAA between India and Belgium[3]

The MoF has notified the amending protocol to the DTAA and the protocol between the governments of the Republic of India and the Kingdom of Belgium for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income.

The DTAA and the protocol between India and Belgium were signed at Brussels on 26 April 1993 and entered into force on 1 October 1997.

The amending protocol was signed at New Delhi on 9 March 2017 and entered into force on 26 June 2025. It enters into force on the date of the later notification by the governments. From that date, it applies right away to criminal tax matters. For all the other issues covered in Articles 1, 2, and 3, the provisions apply only to tax periods that start on or after that date, or to any tax charges that arise on or after that date if there is no specific tax period.

The central government has also directed that all provisions of the amending protocol shall be given effect in the Union of India in exercise of the powers conferred by Section 90(1) of the IT Act.

The key changes are as follows:

Article	Earlier DTAA	Revised DTAA
Article 3- General definitions	• **In Article 3 (d), the term "competent authority" included:** – In the case of India, the central government in the Ministry of Finance (Department of Revenue), or their authorised representative. – In the case of Belgium, the Minister of Finance, or his authorised representative. • No criminal tax matter definition	• Expanded the definition of "competent authority" to include the Minister of Finance of the federal Government and/or of the government of a region and/or of a community, or his authorised representative **in the case of Belgium.** • The definition of the term "criminal tax matters" has been inserted as sub-paragraph (k) in Paragraph 1. (k)"tax matters involving intentional conduct, whether before or after the entry into force of this agreement, which is liable to prosecution under the criminal laws and/or the tax laws of the applicant party."

[3] Notification No. 160 of 2025 dated 10 November 2025

Article	Earlier DTAA	Revised DTAA
Article 26 - Exchange of information	• **Para 1 -** The competent authorities of the contracting states shall exchange such information as is necessary for carrying out the provisions of this agreement or of the domestic laws of the contracting states concerning taxes covered by the agreement, insofar as the taxation thereunder is not contrary to the agreement, in particular for the prevention of fraud or evasion of such taxes. • **Para 2 -** No such provision for other purposes.	• The following changes has been made in **Para 1**: – **"Necessary"** has been **replaced with"foreseeably relevant".** – The scope is expanded to include **taxes of every kind and description imposed on behalf of the contracting states**, or of their political subdivisions or local authorities, insofar as the taxation thereunder **is not contrary to the agreement.** – The exchange of information is not restricted by Articles 1 and 2. – The ambit for the exchange of information has been expanded to include such information **(including documents or certified copies of the documents).** • **Paragraph 2** has been added with a provision for allowing use for **other purposes** if permitted under the laws of both states and authorised by the supplying state. • **Paragraph 4** has been inserted, **introducing an obligation** for the requested state to use its information-gathering measures to obtain the requested information, even if it does not need such information for its own tax purposes. • **Paragraph 5** has been **inserted, providing that a contracting state cannot decline to supply information** solely because it is held by a bank, other financial institution, nominee, fiduciary, or relates to ownership interests in a person.
Article 27- Assistance in the Collection of Taxes	• Earlier heading was **"Aid and assistance in recovery"** • **Para 1** - States shall lend aid and assistance to notify and recover taxes mentioned in Article 2. • **Para** 2 - Interest due for delay or default in the payment of taxes shall be treated as tax. • **Para 3** - Recovery of taxes on request, subject to domestic law. • **Para 4** - Question regarding any period of limitation of a tax claim shall, notwithstanding the provisions of Paragraph 3, be governed solely by the laws of the applicant state.	• The heading has been changed to **"Assistance in the collection of taxes"** • **Para 1** - Assistance now **applies to the collection of revenue claims** and is not restricted by Articles 1 and 2. • **Para 2** - Defines **"revenue claim" broadly** to include taxes of every kind, interest, administrative penalties, and costs of collection or conservancy. • **Para 3** - **Adds obligation** that if a revenue claim is enforceable and cannot be prevented under the laws of the requesting state, the requested state must accept and collect it as if it were its own tax claim. • **Para 4** - **Introduces conservancy measures,** requesting that states must take steps to secure collection even if the claim is not yet enforceable or the debtor can still prevent collection.

Article	Earlier DTAA	Revised DTAA
Article 27- Assistance in the Collection of Taxes	• **Para** 5 - Requests referred to in Para 3 shall be supported by an official copy of the instrument permitting execution, accompanied where appropriate by an official copy of any final administrative or judicial decision. • **Para 6** - Regarding taxes that are open to appeal, the requested state may take protective measures. • **Para 7** - **The amount recovered must be remitted to the** requesting state. • **Para 8** - Confidentiality applies to shared information.	• **Para 5** - Clarifies that a revenue claim accepted under Paras 3 or 4 does not get priority or time limit benefits under the laws of the requested state. • **Para 6** - **Bars any legal or administrative challenge** in the requested state on the existence, validity, or amount of the foreign claim. • **Para 7 - Adds obligation** that after a request for collection or conservancy has been made (under Para 3 or 4), if the revenue claim stops being enforceable or eligible for conservancy in the requesting state, the requesting state must promptly notify the other state. Further, the requested state then has the option to suspend or withdraw the request. • **Para 8 - Lists conditions for assistance** - No obligation if contrary to laws/public policy, disproportionate burden, or if the requesting state has not exhausted its own collection measures.

- **Organisation for Economic Co-operation and Development (OECD) publishes 2025 update to the OECD Model Tax Convention on Income and on Capital** [4]

  The OECD has published the **2025 Update to the OECD Model Tax Convention on Income and on Capital,** as approved by the Committee on Fiscal Affairs on **13 October 2025** and by the OECD Council on **18 November 2025.**

  This update reflects the latest developments in international taxation and introduces significant changes aimed at enhancing tax certainty and improving the interpretation of tax treaties.

  Key highlights include:

  - **Remote work guidance:** Clear rules on how cross-border "home office" arrangements are treated under tax treaties, addressing the growing prevalence of remote work.
  - **Natural resource taxation:** A new optional provision ensuring income from natural resource extraction is taxed where the activity occurs, reinforcing source-country rights.
  - **PE commentary:** Clarifications on when an individual's home may constitute a fixed place of business, including thresholds and tests for continuity.
  - **Mutual agreement procedure:** Updates to Article 25 and its commentary, including provisions related to dispute resolution and interaction with the General Agreement on Trade in Service (GATS) obligations, as well as language supporting OECD Pillar One's Amount B.
  - **Other refinements:** Additional changes to commentaries on Articles 5, 9, and 26 to strengthen consistency and tax certainty.

  India's position: India has entered reservations on certain aspects to preserve its source-based taxation approach and maintain flexibility in interpreting the PE rules under domestic law.

  The revised, condensed, and complete editions of the OECD model, incorporating these changes, will be published in 2026.

[3] Released on 19 November 2025

Judicial developments:

- **Supreme Court (SC) dismisses Revenue's special leave petition (SLP) on the interpretation of the word 'received' under Section 153(2A) of the IT Act as 'having knowledge'[5]**

  Brief facts of the case

  - The taxpayer's case was selected for scrutiny for the Assessment Year (AY) 2005-06. The assessing officer (AO) completed the scrutiny, determining the total taxable income to be INR 138,83,40,893. It also taxed royalty income from the sale of CDMA handsets and revenue from BREW operator agreements.
  - On an appeal before the Commissioner of Income Tax (Appeals) (CIT(A)), it upheld the AO's order. However, the CIT(A) ordered the re-computation of the assessee's income in relation to the number of CDMA handsets.
  - On appeal before the Income Tax Appellate Tribunal (ITAT), the ITAT, vide an order dated 20 February 2015, deleted the additions and partially remanded the matter back to the AO for certain issues. Subsequently, the AO passed an appeal effect order on 12 March 2015, acknowledging the ITAT's decision. However, the AO issued a draft assessment order on 27 December 2016.
  - Against the aforementioned assessment order, the taxpayer filed its objection before the Dispute Resolution Panel (DRP) on the grounds that it was time-barred under Section 153(2A) of the IT Act. The objections mentioned above were addressed by the DRP, resulting in a final assessment order issued by the AO on 31 October 2017.
  - On further appeal, the ITAT quashed the assessment orders as time-barred. It interpreted the term "received" in the provision to "having knowledge" of the order and not merely formal receipt by the commissioner.
  - Since the AO had full knowledge of the ITAT's order dated 20 February 2015 while passing the appeal effect order on 12 March 2015, the limitation period expired on 31 March 2016. Consequently, both the draft order and the final order were beyond the prescribed time limit.
  - The Revenue, before the High Court (HC), contended that the word "received" cannot possibly be construed as intending limitation to be computed from the date when the commissioner may have derived knowledge of the order passed by the ITAT. The acceptance of such a view would clearly amount to reconstructing Section 153(2A) of the IT Act and substituting the word "received" with aspects of the knowledge derived.
  - To arrive at a conclusion, the ITAT relied on the principles laid down in the Delhi HC's decisions[6], which emphasised that limitation begins when the department becomes aware of the order.
  - Against the ITAT's order, the Revenue filed an appeal before the Delhi HC.

  Before the Delhi HC

  - The court observed that the Tribunal had concluded based on the principles established in the decisions mentioned above. The court emphasised that once an officer becomes aware of the order, the limitation period begins, regardless of when the jurisdictional commissioner physically receives it.
  - The court further observed that the AO had full knowledge of the Tribunal's order dated 20 February 2015, as evidenced by the appeal effect order dated 12 March 2015. Therefore, the limitation period under Section 153(2A) expired on 31 March, 2016.
  - Since the draft order was passed on 27 December 2016 and the final order on 31 October 2017, both were held to be barred by limitation. Accordingly, the Delhi HC dismissed the appeal filed by the Revenue.
  - The Revenue then filed an SLP before the SC.

  Before the SC

  - The court declined to entertain the SLP and dismissed it, thereby affirming the Delhi HC's decision on the matter.

- **SC grants leave in Revenue's SLP on applicability of Section 2(22)(b) & 56(2)(viia) of the IT Act to bonus shares[7]**

  Brief facts of the case

  - The taxpayer was engaged in the business of facility management and making investments, and was assessed under Section 143(3) of the IT Act. Subsequently, the case was reopened under Section 148 for **AY 2017-18** on the belief of income escapement.
  - The taxpayer had acquired 41,31,989 shares of Updater Services Pvt. Ltd. (USPL) in AY 2015-16 at INR 273.48 per share. During AY 2017-18, USPL bought back 20,75,000 shares at INR 275 per share.

[6] Released on 19 November 2025
[7] CIT vs. M/S Tangi Facility Solutions Pvt. Ltd [SLP (Civil) Diary No. 57035/2025]

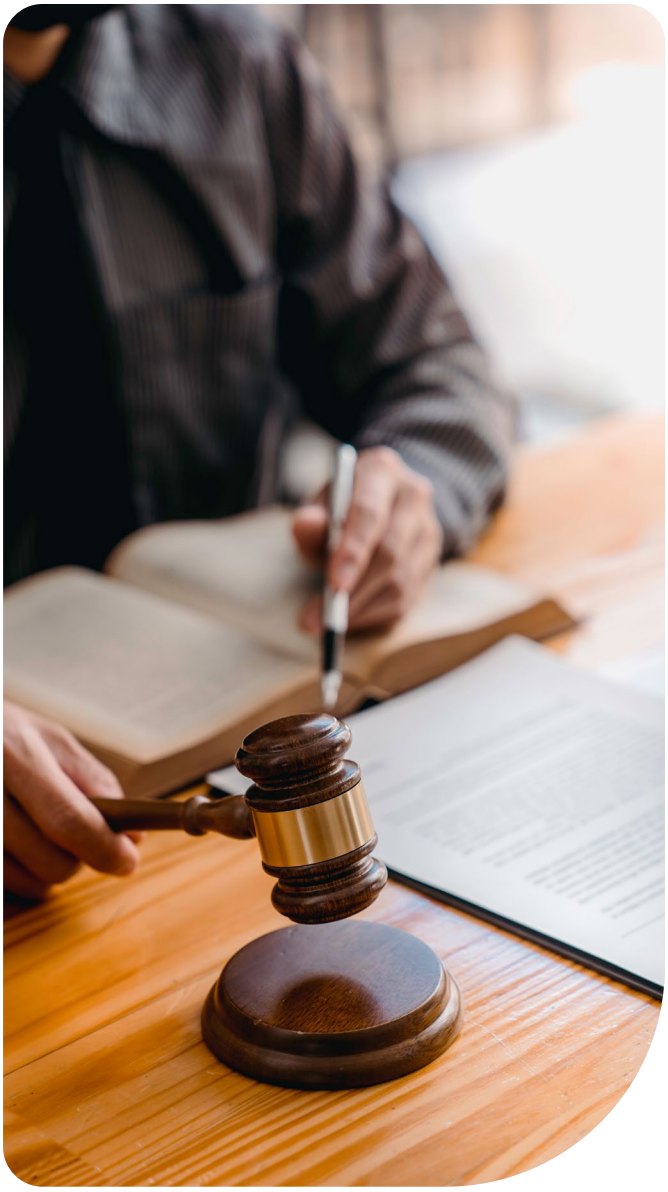
- Later, the taxpayer received 92,56,451 bonus shares in the ratio of 45 shares for every 10 shares held, without any consideration.
- The AO treated these bonus shares as dividends under Section 2(22)(b) of the IT Act and further invoked Section 56(2)(viia) to tax INR 254.55 crore, adopting a Fair Market Value (FMV) of INR 275 per share. The AO relied upon the prior buyback transactions for the purpose of determining the FMV.
- On an appeal, the CIT(A) deleted the addition and held as follows:
  - Section 2(22)(b) of the IT Act applies only to bonus shares issued to preference shareholders, not equity shareholders.
  - It was further noted that, as per the provisions of Section 55(2)(aa) of the IT Act, the cost of acquisition of such shares was to be taken as 'nil'.
- The CIT(A) relied upon a decision of the SC[8], wherein the court held that the issue of bonus shares to equity shareholders does not amount to a dividend, as it is a conversion of reserves into capital without releasing profits.
- Similarly, in another case[9] , it was held that bonus shares do not constitute the distribution of accumulated profits. Furthermore, the Karnataka HC[10] , in a case, held that Section 56(2)(vii) of the IT Act does not apply to bonus shares, as no property is transferred and the funds remain with the company.
- On further appeal, the ITAT upheld the order of the CIT(A) and observed that the bonus to equity shareholders is not covered within the ambit of Section 2(22)(b), and the same could not be brought to tax under Section 56(2) of the IT Act.
- The ITAT agreed with the CIT(A) that bonus shares reduce the original share value, keeping the overall value unchanged, and no property transfer or real gain arises to shareholders.

Before the Madras HC

- The Revenue challenged the ITAT's order before the HC under Section 260A of the IT Act on the applicability of Sections 2(22)(b), 56(2)(viia) and the interpretation of CBDT Circular No.3/2019 pertaining to the applicability of Section 56(2)(viia) or similar provisions under Section 56(2) for the issue of shares by a company.
- The Madras HC observed that binding precedents had already settled the core issue[11]. The court noted that the Tribunal had correctly relied on these authorities and found no substantial question of law to be considered. Accordingly, the appeal was dismissed.

Before the SC

- The Revenue filed an SLP before the SC arising out of the Madras HC's judgement. The court, after hearing the parties, has now granted leave and admitted the matter for further consideration.



[8] CIT vs. Dalmia Investment Co. Ltd. [52 ITR 567]
[9] Hansur Plywood Works Ltd. vs. CIT [229 ITR 112]
[10] PCIT vs. Dr. Ranjan Pai [ITA No.501/2016]
[11] Dalmia Investment Co. Ltd. (Supra), Hansur Plywood Works Ltd (Supra) and Dr. Ranjan Pai (Supra)

B

B. Key developments under transfer pricing law:

Judicial developments:

- **HC upholds ITAT's decision confirming Section 10AA deduction on assessee's voluntary TP-adjustment pursuant to APA[12] :** The assessee is engaged in providing back-office support and data processing services and made voluntary ALP adjustment in accordance with an APA claiming deduction under Section 10AA. The AO denied the exemption, contending that the deduction is not available where the AO determines the ALP, even if no income is enhanced. The CIT(A) allowed the claim, relying on the Tribunal's earlier ruling in the assessee's own case. The HC held that a modified return is permitted in line with the APA, which is binding on both parties, except in limited circumstances. It observed that voluntary ALP computation under the APA does not translate to ALP computation by the AO or no deduction under 10AA, as it applies only when the AO enhances the income. The CBDT Circular No.14/2006 clarifies that no deduction applies where the AO computes the total income higher than the income declared by the assessee, which is not applicable in the current case. The income computed under the APA represents real profits, and deductions cannot be denied. Relying on the decision in CIT vs. iGate Global Solutions, finding no infirmity in the CIT(A) and the Tribunal's orders, the HC dismissed the Revenue's appeal.
- **ITAT upholds TNMM over PSM, noting the absence of unique intangibles[13] :** The assessee is engaged in providing tourism-related software services to its AE in the U.S. and bills transactions at 5% mark-up under the service agreement, adopting PSM for benchmarking. The TPO rejected the PSM, applied TNMM, and proposed an adjustment, noting the absence of the evidence of unique intangibles or multiple interrelated transactions. The ITAT observed that the assessee failed to justify the adoption of the PSM, while the TPO's reasons for the TNMM were cogent, and remitted the matter back to the AO/TPO for fresh examination. Regarding bad debts written off, the ITAT noted that the receivables pertained to a period with negligible COVID-19 impact, and the contractual terms required earlier remittance. Referring to the SC's ruling in the case of McDowell and Co. Ltd., the matter was remanded back to the AO/TPO for reconsideration in light of statutory provisions and contractual obligations, especially when receivables pertain to a period with no or negligible impact of COVID-19.
- **ITAT adopts 'interest saving method' to arrive at fair corporate guarantee estimation; rejects CIT(A)'s adoption of 1%[14]:** The assessee entered into corporate guarantee transactions with its AE, which the TPO initially benchmarked at 3%. CIT(A), relying on a coordinate bench ruling in the assessee's own case, affirmed the computation at 1%. The ITAT reiterated that corporate guarantees constitute international transactions subject to TP adjustments and referred to the Graphite India Ltd case for support. Accepting the assessee's contention that the interest savings method provides a fair estimation of corporate guarantee, the Tribunal noted that Citibank and Standard Chartered Bank charge 1.25 – 1.5% extra interest in the absence of guarantees, extra interest apportioned equally between the assessee and its AE at 0.625% and 0.75% respectively. Consequently, the 1% rate adopted in the impugned order was reduced in line with these findings.
- **ITAT deletes TP-adjustment w.r.t 'excess profit' earned by entity having no arrangement/transaction with assessee, upheld deduction under Section 10AA[15] :** The assessee is engaged in rendering software development services, operating under back-to-back inter-company arrangements with subsidiaries (including Polaris UK) and retaining only arm's length mark-up as per service agreements. Polaris UK had a subsidiary in the Netherlands with which the assessee had no inter-company agreement or international transaction. The CIT(A) held that the profits earned in the Netherlands constituted "excess profit" outside India and should be added to the assessee's books for TP purposes. The ITAT observed that Polaris UK was merely a holding company, with no nexus between the assessee and Polaris Netherlands, and deleted the TP adjustment. The AO further denied a partial deduction under Section 10AA by applying overall net profit ratios, stating that the SEZ unit had disproportionately high profits compared to a non-SEZ unit. The ITAT upheld the CIT(A)'s decision of deduction under Section 10AA, holding the arbitrary margin comparison untenable in the absence of specified arrangements. The Revenue's appeal was dismissed, and the assessee's appeal allowed.
- **Rejects partial disallowance qua management support services, notes pricing fully aligned with OECD framework[16]:** The assessee is engaged in manufacturing special welding electrodes and related products, and paid its AE

[12] EYGBS India Pvt Ltd [ITA No. 107 of 2025]
[13] Erevmax Technologies Pvt. Ltd [I.T.A. No. 2551/Kol/2024]
[14] National Engineering Industries Ltd [I.T.A. No. 982/Kol/2025]
[15] Virtusa Consulting Services Private Limited [ITA No.2262/Chny/2024]
[16] EWAC Alloys Limited [ITA No. 6677/Mum/2024]

for management support services. The TPO accepted part of the payment but disallowed charges relating to HR, IT, legal, and finance, determining the ALP to be NIL for these services. The Tribunal observed that while the scrutiny of evidence was justified, a blanket NIL ALP contradicts the OECD TP Guidelines (2020) when documentation indicates that services were rendered and costs were allocated consistently. It noted that the inclusion of management fees within the cost base supports their integral role in operations, and that partial acceptance by the TPO confirms the benefit. The AE applied a 5% markup on indirect costs, consistent with the OECD's simplified approach, and benchmarking showed the markup to be within the comparable range. Concluding that the pricing was aligned with the OECD framework, the Tribunal deleted the TP adjustment and allowed the assessee's appeal.

C

C. Key developments under FEMA

Legislative developments

- **RBI extends export realisation and shipment timelines [19]:** The Reserve Bank of India (RBI) has issued the Foreign Exchange Management (Export of Goods and Services) (Second Amendment) Regulations, 2025. This amendment substitutes the existing provision under Regulation 9 and Regulation 15 of the Foreign Exchange Management (Export of Goods & Services) Regulations, 2015. As per the said notification, the RBI has extended the time period for realisation and repatriation of the full export value of goods/ software/services exported from India from 9 months to 15 months from the date of export from India. Additionally, the RBI has extended the time period for shipping goods from one year to three years from the date of receipt of advance payment or as per the agreement, whichever is later. This amendment will be effective from the date of its publication in the Official Gazette, i.e., 13 November 2025.

- **RBI revises account number for making payment of compounding application fee and compounding amount [18]:** To streamline the receipt of compounding application fee and 'sum for which a contravention is compounded' ('compounding amount'), the RBI has decided to change the account details of an account where the compounding application fee and compounding amount will be received through the National Electronic Fund Transfer (NEFT) and Real Time Gross Settlement (RTGS). Accordingly, Annexure I of the Master Directions - Compounding of Contraventions under FEMA, 1999, has been modified to include the revised account details.

[17] vide Notification No. FEMA 23(R)/(7)/2025-RB dated 13 November 2025
[18] vide A.P. (DIR Series) Circular No.15/2025-26 dated 24 November 2025

D

D. Key developments under GST law:

Legislative developments

- **RBI extends export realisation and shipment timelines[19] :** The RBI has amended the Foreign Exchange Management (Export of Goods and Services) Regulations[20] , extending key timelines for exporters. The time limit for realisation and repatriation of export proceeds has been increased from 9 months to 15 months, and the period for shipment of goods against advance payments has been extended from one year to three years. The amendment takes effect on 13 November 2025. The said amendment would have consequential GST implications, which are given below:
  - **Export of services[21] :** One of the conditions for constituting the export of services mandates the receipt of consideration in convertible foreign exchange or permitted INR. Since there are no fixed timelines under the GST law, the FEMA timelines will be applicable, which now allow 15 months, providing exporters with greater flexibility to justify delayed receipt.
  - **Exports under LUT:** Rule 96A(1)(b) of the CGST Rules requires export proceeds to be received within one year or within the period permitted under FEMA. If such proceeds are not realised within the said period, the IGST with interest becomes payable. The extended FEMA timeline to 15 months strengthens the defence for delayed realisation without immediate tax exposure.
  - **Recovery of refund where export proceeds are not realised:** Rule 96B mandates the recovery of a sanctioned refund (ITC/IGST) with interest if export proceeds for goods are not realised within the timelines specified by FEMA. Since the rule directly depends on FEMA periods, exporters now get a longer safe window before the refund recovery is triggered.

(Please click here to refer to the circular)

- **Centre introduces twin bills to overhaul excise duty and compensation cess structure for tobacco and specified goods[22] :** The Central Excise (Amendment) Bill, 2025, seeks to overhaul the excise duty framework for tobacco and tobacco products, in light of the anticipated discontinuation of the GST compensation cess on such products. Further, the "Health Security se National Security Cess Bill, 2025" establishes a new cess framework applicable to specified goods, notably pan masala, gutkha, chewing tobacco, and other notified products, by linking the levy to machines installed or other processes undertaken for their manufacture.

  The key features of the two bills are summarised below:
  - Central Excise (Amendment) Bill, 2025: Revises the tariff table to increase the excise duty on tobacco, cigarettes, bidis, cigars, and nicotine products, and intends to maintain revenue neutrality once the compensation cess is discontinued.
  - Health Security-cum-National Security Cess Bill, 2025: Introduces a capacity-based cess on pan masala, gutkha, and other notified products and cess proceeds earmarked for national security and public health expenditure.

  (Please click here to refer to the bills)

Judicial developments:

- **J&K HC held that cross-LoC trade constitutes intra-state supply under GST[23] :**

  The J&K HC, while dismissing a batch of writ petitions, held that the cross-LoC trade, despite being under Pakistan's de facto control, PoK still legally remains part of the erstwhile state of Jammu and Kashmir. Therefore, the location of the supplier and the place of supply of goods remained within the same state/UT, and the supply would constitute an inter-state supply.

  The HC also upheld the validity of composite SCNs spanning multiple FYs, noting that the GST law imposes no prohibition where year-wise quantification, clarity of allegations, and independent compliance with limitation are ensured.

  Lastly, while reiterating that an alternative remedy does not bar writ jurisdiction in exceptional circumstances, the HC held that the present SCNs were jurisdictionally sound and raised factual matters requiring adjudication. Hence, the writ petitions were premature and not maintainable.

  (Please click here to refer to the alert)

[19] A.P. (DIR Series) Circular. No 15/2025-26
[20] Notification No. FEMA 23(R)/(7)/2025-RB
[21] Section 2(6) of the IGST Act
[22] The Health Security Se National Security Cess Bill, 2025(Bill No. 142 Of 2025), The Central Excise (Amendment) Bill, 2025(Bill No. 143 of 2025)
[23] New Gee Enn & Sons (WP (C) No. 1938/2024)

- **Gujarat HC affirms SEZ unit's eligibility for refund of unutilised ITC distributed by ISD[24] :** The Gujarat HC has held that a SEZ unit is eligible to claim a refund of the unutilised ITC of the IGST distributed by an ISD under Section 54(3) of the CGST Act. While reiterating its earlier ruling[25] , the court observed that since the ITC is allocated by the ISD and not by individual suppliers, it is impractical for suppliers to file refund claims; therefore, the SEZ unit is the rightful claimant.

  The court noted that the issue covered by Britannia Industries Ltd. remains binding and has not been stayed; therefore, it quashed the appellate order denying the refund. Accordingly, the department was directed to process the SEZ unit's refund application for unutilised IGST credit, reinforcing that ISD-distributed credits linked to zero-rated supplies are refundable to SEZ units.

(Please click here to refer to the ruling)

- **Gujarat HC issues notice on plea challenging constitutional validity of 180-day payment rule[26] :** The Gujarat HC has issued a notice on a writ petition questioning the constitutional validity of the 2nd and 3rd provisos to Section 16(2) of the CGST Act that mandate reversal of the ITC, along with interest, if payment to the supplier is not made within 180 days, with re-availment permitted once payment is made later.

  The petitioner argued that forcing the ITC reversal for commercial credit terms exceeding 180 days is arbitrary, imposes unreasonable restrictions on business autonomy, and violates Articles 14 and 19(1)(g). The challenge contends that GST law cannot indirectly regulate or prohibit legitimate credit cycles mutually agreed between parties.

(Please click here to refer to the ruling)

- **Karnataka HC strikes down MRP-based compensation cess and upholds that the levy must be based on transaction value[27] :** The Karnataka HC has struck down the 2023 amendments[28] to the extent that they mandated the levy of the compensation cess on the basis of MRP for specified tobacco products.

  The court held that the notification-based shift from the transaction value to MRP directly contradicted Section 8(2) of the Compensation to States Act, which expressly requires valuation to follow Section 15 of the CGST Act wherever the cess is levied on a value basis. The court observed that the MRP is only a notional and hypothetical figure and cannot substitute for the actual consideration that forms the transaction value.

- While relying on SC[29] and Karnataka HC[30] precedents that prohibit tax valuation on notional prices when the statute prescribes actual transaction value, the court concluded that the delegated legislation cannot override the parent act. Thereby, striking down the impugned notifications as ultra vires, the HC clarified that while the notifications are invalid, the legislature remains free to amend the statute if it intends to adopt MRP-based valuation.

(Please click here to refer to the ruling)

- **Chhattisgarh HC rules that central adjudication remains permissible under Section 6(2)(b) when state proceedings conclude without adjudication[31] :** The Chhattisgarh HC has upheld the Central GST authority's issuance of a DRC-01A and subsequent SCN under Section 73, rejecting the argument that earlier action by the state GST authorities barred parallel proceedings under Section 6(2)(b). The court noted that although the state authorities had issued two DRC-01s, they closed the matter without any adjudication, assessment, or demand, and therefore, no 'proceeding' ever commenced in the eyes of the law.

  Placing reliance on the Orissa HC's ruling[32] , the court held that only adjudicatory steps, such as assessment or penalty, qualify as 'proceedings' capable of triggering Section 6(2)(b). Since the state's notices never culminated in such proceedings, the central authority was not precluded from acting. The petitioner's reliance on the G.K. Trading Company[33] and Kuppan Gounder[34] cases was rejected, as those cases involved active adjudication, unlike the present case. Accordingly, the appeal was dismissed, and the central authority's SCN was held valid and maintainable.

(Please click here to refer to the ruling)

[24] Ajanta Pharma Limited (SCA No. 6833 of 2025)
[25] Britannia Industries Ltd. (R/Special Civil Application No. 15473 of 2019)
[26] Priya Blues Pvt. Ltd. (R/SCA 2342/2025)
[27] VKG Packers and others (Writ Petition No . 100239 OF 2024 (T - RES) C/W Writ Petition No. 106955 OF 2023 (T-RES) and Writ Petition No .
[28] 108091 OF 2023(T-RES))[31] ITC Ltd. (2012 SCC OnLine Kar 8765)
[29] Notification No. 1/2017–Compensation Cess (Rate)
[30] Rajasthan Chemists Association ((2006) 6 SCC 773)
[31] ITC Ltd. (2012 SCC OnLine Kar 8765)
[32] Sonam Berlia v. State of Odisha(021 (51) G.S.T.L. 25 (Ori.)
[33] 2020 SCC OnLine All 1907
[34] 2021 SCC OnLine Mad 17053

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

Legislative/other developments:

- **CBIC introduces streamlined digital platform for MOOWR and MOOSWR approvals:** The Central Board of Indirect Taxes and Customs (CBIC) has launched a new online module on ICEGATE 2.0 for processing applications pertaining to permissions under Section 65 of the Customs Act, 1962, covering both the Manufacture and Other Operations in Warehouse Regulations (MOOWR), 2019, and the Manufacture and Other Operations in Special Warehouse Regulations (MOOSWR), 2020.

  This digital interface replaces the earlier partially manual procedures and is designed to enhance efficiency, ensure documentation integrity, and promote transparency in warehousing operations.

  The online module is applicable to:

  - Warehouses licensed under Section 58 (Private warehouses) for MOOWR; and
  - Special warehouses licensed under Section 58A for MOOSWR.

  (Please click here for the detailed update)

- **Cabinet approves Export Promotion Mission and Credit Guarantee Scheme for Exporters to strengthen India's export competitiveness:** The Union Cabinet has approved the Export Promotion Mission (EPM), a central pillar of the Union Budget 2025–26, aimed at creating a unified, technology-driven, and outcome-based framework to boost India's exports, particularly for MSMEs and first-time exporters. With an outlay of INR 25,060 crore for FY 2025–26 to FY 2030–31, the mission consolidates existing schemes and introduces a more flexible, responsive approach to evolving global trade conditions.

  The key features of the EPM are two integrated sub-schemes-

  - **Niryat Protsahan:** Financial support measures, including interest subvention, export factoring, collateral guarantees, credit cards for e-commerce exporters, and credit enhancement for diversification into new markets.
  - **Niryat Disha:** Non-financial enablers, such as export quality and compliance support, branding and packaging assistance, participation in international fairs, export warehousing/logistics, inland transport reimbursement, and trade intelligence/capacity building

  (Please click here for the detailed update)

- **Government launches PLI 1.2 for specialty steel to boost high-value production:** The Indian government has launched the PLI Scheme 1.2 for specialty steel, reaffirming its focus on making India a global hub for high-grade and value-added steel production. The third round aims to further boost capacity by 14.3 million tonnes, with revised parameters aligned with current market trends.

  The key features of PLI 1.2 include a 30-day application window, eligibility for Indian-registered manufacturers, and coverage of 22 sub-categories across five major segments, such as CRGO steel, super alloys, and titanium alloys. The incentives range from 4% to 15% of incremental sales, with disbursals starting FY 2026-27. The base year has been revised to 2024–25, and the incentive period will run up to five years. The scheme is expected to enhance exports, promote R&D, and support MSMEs in advanced steel production.

  (Please click here for the press release)

- **Government of Maharashtra announces Maharashtra Global Capability Centre (GCC) Policy, 2025:** The government of Maharashtra has introduced the Maharashtra GCC Policy, 2025, in order to position the state as India's preferred hub for global capability centres (GCCs). The policy aims to attract global enterprises, promote high-value employment, and create an environment that enables research, innovation, and sustainable growth across various sectors. It aligns with the Maharashtra IT & ITeS Policy, 2023, and the state's broader vision to drive digital transformation and next-generation service delivery.

  The policy aims to catalyse investments, enable participation from Tier-II and Tier-III cities, and strengthen Maharashtra's presence in global value chains through both fiscal and non-fiscal measures.

  (Please click here for the detailed update)

- **Government of Karnataka announces Karnataka Information Technology (IT) Policy, 2025–2030:** The government of Karnataka has notified the Karnataka IT Policy 2025–2030 to reinforce the state's leadership in IT and emerging technologies, positioning Karnataka as a global deep-tech innovation hub, and driving balanced regional growth beyond Bengaluru.

  The policy aligns with national digital initiatives and Karnataka's broader technology vision, while enabling enterprises to invest, innovate, and scale through a robust incentive architecture and future-ready regulatory environment.

  The policy is anchored on the five foundational pillars called 'FRAME' (Frontier, future and emerging technology, Regional development, Alignment and acceleration with national and global strategies, Market creation and sectoral deepening, Enterprise facilitation and ecosystem orchestration). It aims to catalyse advanced research, enhance global competitiveness, and build a skilled talent ecosystem that supports the next-generation transformation across AI, quantum, cybersecurity, Web3, and green IT.

  (Please click here for the detailed update)

Judicial developments:

- **Delhi HC seeks clarity on whether customs officer can issue a SCN for recovery of IGST refund on exports[35]:** The Delhi HC declined to interfere with the classification dispute raised in the petitioner's writ and directed the exporter to pursue the statutory appeal, granting protection that any appeal filed within 30 days will not be rejected on limitation. However, the court took note of the larger issue concerning the jurisdiction of Customs officers to demand and recover the IGST refund on exports, given the overlap between the Customs Act, the IGST Act, and the CGST Act. Observing that this question requires a coordinated position of both departments, the court directed Customs and CGST authorities to file a joint affidavit clarifying who is the "proper officer" for such recovery. The case is now listed on 24 February 2026

  (Please click here to refer to the judgement)

- **Bombay HC affirms that trademark transfer to foreign entity qualifies as export; clarifies that situs shifts outside India irrespective of Indian registration or INR payment[36]:** The Bombay HC has held that the transfer of a trademark to an overseas entity qualifies as a sale in the course of export under Section 5(1) of the Central Sales Tax Act, 1956 (CST Act), and is therefore not liable to tax under the Bombay Sales Tax Act, 1959.
  The court affirmed that trademarks are intangible goods or incorporeal property capable of export and clarified that the export of intangible property is affected through the transfer of ownership, rather than physical movement. Applying the mobilia sequuntur personam principle, the court ruled that the situs of the trademark shifted to the United Kingdom (UK) upon the transfer of ownership, as the assignee was situated in the UK, irrespective of its registration in India or the payment being received in INR.
  As a result, the Tribunal's conclusion that the sale occurred within Maharashtra was set aside, and the transaction was recognised as an export exempt from state tax.

  (Please click here for the alert)

- **CESTAT holds that royalty shall be included in the assessable value of mobile phone components imported by contract manufacturers:** The CESTAT has held that Xiaomi India is the beneficial owner of mobile phone parts and components imported through its contract manufacturers. As a result, royalties and licence fees paid to foreign IPR holders must be included in the assessable value of these imports.

  The Tribunal found that the contract manufacturers did not have independent control over the imported goods and that Xiaomi India exercised effective control and economic ownership, consistent with the DRI findings. It also noted that Xiaomi India could not manufacture or sell devices in India without the licensed technology, making royalty a functional precondition for using and supplying the imported components.

  The Tribunal further observed that shifting royalty obligations from Xiaomi China to Xiaomi India, while maintaining royalty-free manufacturing at the contract-manufacturer level, was a deliberate structure to present royalty as a post-import charge. Accordingly, it held that the royalty payments were inextricably linked to the imported goods and must be included in the customs value.

  (Please click here for the alert)

- **US Supreme Court hears challenge to Trump's tariff powers under IEEPA:** The US Supreme Court has commenced hearings on the constitutional validity of US President Donald Trump's imposition of reciprocal tariffs under the International Emergency Economic Powers Act (IEEPA). The challenge concerns whether the IEEPA, initially designed for economic sanctions and asset freezes, authorises the President to unilaterally impose tariffs on imports, including the 25% duties imposed on Indian goods.

[35] M/s Talbros Sealing Material Private Limited (W.P.(C) 17723/2025)
[36] M/s. Duphar Interfran Ltd (Sales Tax Reference No. 9 of 2012)

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