MOHINDER PURI & CO.
CHARTERED ACCOUNTANTS

Corporate Update

September & October | 2025

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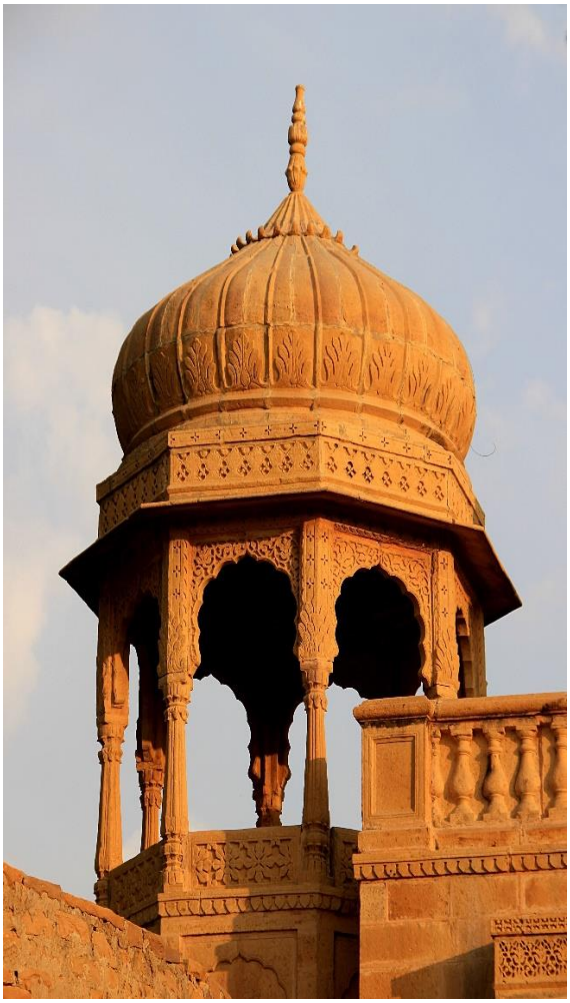

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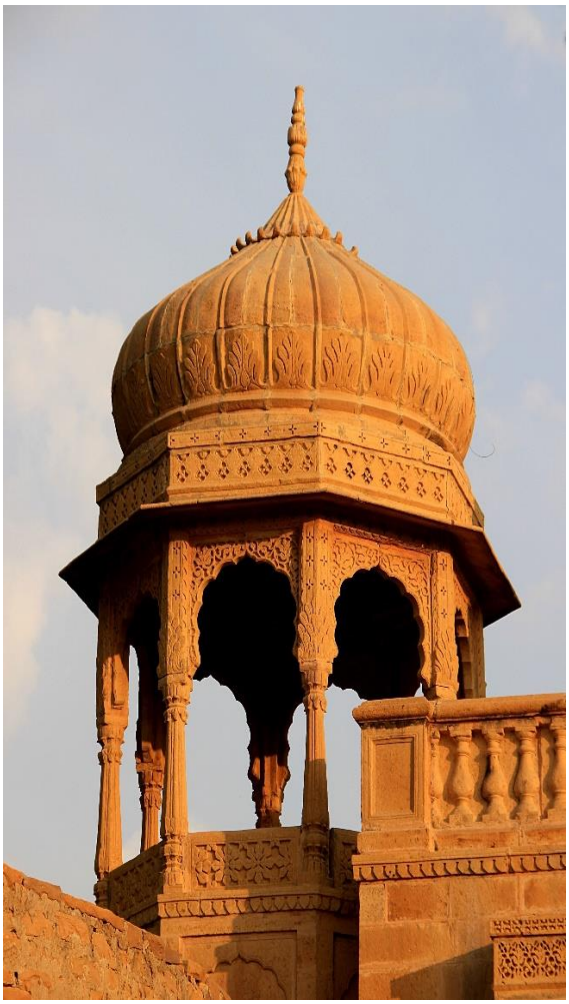

FOREWORD

Dear Reader,

The Indian economy is doing well. GDP growth of around 6.7% is expected during the Financial Year ending March 31, 2026. Major reliefs announced by the Government in GST regulations few months back have given a boost to consumption and are expected to contribute to economic growth in the coming months.

Recently, the Government has operationalized law relating to Digital Personal Data Protection Act, which was enacted in 2023. A Note on the same is part of this Update.

The Government of India has also recently made major announcements for making effective Four Labour and Industrial Codes, which were passed a few years back. It is expected that these Codes would modernise the outdated labour regulations which had been in force and reduce compliances for Indian companies.

Negotiations for trade deal with USA and Free Trade Agreement with EU are stated to be making good progress and the government is hopeful of reaching Agreements soon.

In this Update, we cover a few changes on regulations covering Company Law, FEMA and the Goods and Services Tax.

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DIRECT TAX

INTERNATIONAL TAXATION

India-Oman tax treaty amended to align with MLI standards

The Ministry of Finance has notified the Protocol amending the Double Taxation Avoidance Agreement between India and Oman (DTAA), originally signed on 2 April 1997. Key amendments made by the Protocol include changes to the Preamble, Dual Residence, Mutual Agreement Procedures, Principal Purpose test etc.

The aforesaid aspects were originally conceived under the Base Erosion and Profit Shifting (BEPS) project of the OECD and later culminated in the Multilateral Convention framework (MLI), to which various countries (including India and Oman) are signatories.

However, as the DTAA between India and Oman is not covered under the MLI, the aforesaid amendments have been brought about at a bilateral level.

The Protocol entered into force on May 28, 2025 and shall be effective in India from April 01, 2026 (FY 2026-27). The key amendments made by the Protocol are briefly summarized as under:

a. The preamble of the existing tax treaty stated that the objective of entering of the tax treaty was for avoidance of double taxation and prevention of fiscal evasion. The scope of the Preamble has now been expanded to emphasize that the purpose of entering into the treaty is to avoid creation of opportunities for 'non-taxation' or 'reduced taxation'.

b. The erstwhile DTAA applied only to two Omani tax legislations, namely, Company Income Tax and the Profit Tax on Commercial and Industrial Establishments (Article 2 of the DTAA). The said Article has been amended to define 'Omani tax' as 'income tax'. The objective of this amendment appears to ensure that the DTAA also applies to Omani personal income tax. It may be mentioned that Oman is slated to introduce personal income tax in 2028 for the first time.

c. Under the erstwhile Article 4(3) of the DTAA, dual residency of taxpayers (other than an individual) was resolved by ascertaining the state where place of effective management ('POEM') is situated. In terms of the amending Protocol, resolution of such dual residency problems will be the exclusive domain of Competent Authorities through Mutual Agreement. Moreover, the competent authorities may also consider other factors such as place of incorporation / constitution etc, in addition to POEM.

   In the absence of such mutual agreement determining the tax residency, the taxpayer shall not be entitled to any treaty relief or tax exemption, except to the extent and in the manner as agreed by both the Competent Authorities.

d. A mechanism of corresponding adjustments has been introduced in Article 10 dealing with 'Associated Enterprises'. This mechanism aims to mitigate economic double taxation on account of transfer pricing adjustments.

e. The tax rate on fee for technical services and royalties in the source country has been reduced from 15% to 10%.

f. Under the existing Article 25 dealing with 'Avoidance of Double Taxation', tax-sparing credit was also available to enterprises. Tax sparing credit refers to availability of foreign hypothetical tax, i.e. tax which was payable in the other state, but not actually paid owing to any incentive scheme in such other state.

In terms of the amending protocol, tax sparing credit has now been done away with.

g. A new Article 25A 'Non-Discrimination' has been inserted to ensure equitable taxation. This Article prohibits discriminatory taxation based on nationality, the status of a permanent establishment or foreign ownership/ control. It also ensures the deductibility of cross-border payments, such as interest, royalties, and technical fees, under the same conditions as if they had been paid to a resident.

h. Article 27 'Exchange of Information' has been substituted. It mandates the exchange of all foreseeable relevant information by the Contracting State, even if such State does not require it for its own tax purposes. It prohibits the Contracting States from declining to supply banking, financial, nominee, agency and ownership information.

i. A new Article 27A 'Assistance in the Collection of Taxes' has been inserted, allowing the Contracting States to assist each other in the recovery of taxes covered under the DTAA, including interest, administrative penalties, and costs of collection.

j. Principal Purpose test ('PPT') rules have been introduced through new Article 27B, in terms of which, tax administrations can deny benefits of the tax treaty if one of the principal purposes of the arrangement / transaction was to obtain benefit under the treaty.

However, treaty benefits shall not be denied where it is established that granting benefit would be in accordance with the object and purpose of the DTAA. PPT rules will ensure that treaty benefits are granted only to transactions entered into with a *bonafide* purpose.

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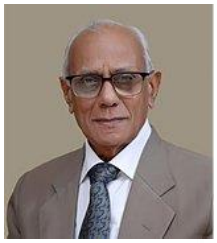
Brief Note on Bilateral Investment Agreement (BIA) between India and Israel

The above BIA was signed in New Delhi on September 8, 2025.

The BIA is expected to boost investments, provide certainty and also protection for investors besides facilitating the growth of trade and mutual investments by providing a specified minimum standard of treatment and arbitration.

The BIA also includes provisions to protect investments against expropriation, besides ensuring transparency and smooth transfers and compensation for losses. It balances investor protection with State's regulatory rights and preserving space for sovereign governance.



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INDIRECT TAX

GOODS AND SERVICES TAX

Bunching of Show Cause Notice for more than one financial year is impermissible in law

An issue arose for adjudication before the Madras High Court [in 2025 (7) TMI 1402] whether show cause notice can be bunched up and issued for more than one financial year.

The HC found that the expression `any period' occurring in Section 73/74 of Central Goods and Services Tax Act could only mean `tax period' as defined under the Act.

Section 2(106) of the Act defines the `tax period' as the period for which the Return is required to be furnished.

Further, `return' as defined in Section 2(97) would mean any return prescribed or otherwise required to be furnished by or under this Act or the rules made thereunder.

It is seen that under the Act/Rules, a return is prescribed to be filed `monthly' as well as annually.

In the light of the above, the issue whether show cause notice can be issued for more than one financial year, was considered by the Hon'ble High Court and the court passed the following orders considering the provisions as contained in Section 73 and 74 of the Act.

The Court passed the following orders:

a. ***The GST Act permits only issuance of show cause notice based on the tax period. Therefore, if the annual return is filed, the entire year would be considered as a tax period and accordingly, the show cause notice shall be issued based on the said annual return.***

b. ***If show cause notice is issued before the filing of annual returns, the same can be issued based on the filing of monthly returns;***

c. ***If show cause notice is issued after the filing of annual returns or after the commencement of limitation, the said notice shall be issued based on the annual returns with regard to the relevant financial year.***

d. ***No show cause notice can be clubbed and issued for more than one financial year since the same is impermissible in law.***

e. ***In these cases, without any jurisdiction, the impugned show cause notices/orders came to be issued/passed for more than one financial year, which is impermissible in law and hence, the same is liable to be quashed. Accordingly, the impugned show cause notices/orders stand quashed based on the aspect of clubbing of show cause notices for more than one financial year.***

[Smt. R Ashaarajaa, J. Rajendran, R, Deepak Vigneshvar Vs The Senior

Intelligence officer, The superintendent of Central Excise Tax CGST, 2025(7) TMI 1402, dated July 21, 2025]

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Input Tax Credit (ITC) cannot be denied if registration of Selling Dealer is cancelled after the transaction and if the Selling Dealer does not deposit the tax collected

Dispute arose under the then Delhi Value Added Tax whether ITC would be allowed to a registered dealer in respect of turnover of purchases occurring during the tax period wherein the selling dealer who was registered when the transaction took place but the selling dealer did not deposit the VAT collected from the purchasing dealer.

It is noted that under the relevant VAT Act, 2004 (the Act), every dealer registered or required to be registered under the Act was liable to pay tax.

Further, according to Section 9(1) of the Act, the ITC would be available to the purchasing dealer in case the selling dealer deposited the tax with the Govt. Subsequent amendment in Clause (g) of Section 9(2) of the Act was not in existence during the period when the dispute arose.

Clause (g) of Section 9(2) of the Act provided when ITC cannot be allowed. It provided, inter alia, that ITC would not be available unless the tax paid by the purchasing dealer has actually been deposited with the Govt., by the selling dealer.

When the matter reached the Delhi High Court, the High Court decided as under:

"There was no mechanism in the VAT Act enabling a purchasing dealer to verify if the selling dealer had actually deposited the tax and, therefore, the benefit of ITC cannot be denied to the purchasing dealer"

The High Court decided accordingly.

The SC disposed of the SLP against the said HC decision stating that they could not find a good reason to interfere with the above HC judgment in the matter.

[SLP citation in the matter was: M/s Shanti Kiran India (P) Ltd. Vs the Commissioner Trade and Tax Delhi 2025(10) TMI 607, dated October 9, 2025]

MPCo's Critical Notes:

1. Even though the matter related to now extinct VAT Act, the denial of ITC could be used as a persuasive argument as opinioned by an analyst, in ongoing litigations regarding ITC under GST laws, under Section 16 (2)(c) of the Central Goods and Services Tax Act, 2017.

2. In our view, whether the persuasive value as said above will be available under the GST Regime, is **doubtful** in view of the following:

   Under Section 16(2)(c) of the Central Goods and Services Tax, 2017, the following provision is made:

   "Notwithstanding anything contained in this section, no registered person

shall be entitled to the credit of any input tax credit in respect of supply of goods or services or both to him unless:

x x x x x x

(c) subject to Section 41, the tax charged in respect of such supply has been actually paid to Govt"

The relevant portion in Section 41(2), read as under:

"The credit of input tax availed by a registered person under sub-section (1) in respect of such supplies of goods or services or both, the tax payable whereon has not been paid by the supplier shall be reversed along with applicable interest, by the said person in such manner as may be prescribed.

Provided that where the said supplier makes payment of the tax payable in respect of the aforesaid supplies, the said registered person may re-avail the amount of credit reversed by him in such manner as may be prescribed"

Accordingly, in our view, in view of the specific provision made under Section 16(2)(c) read with Section 41(2) of the CGST 2017, it is doubtful whether the above VAT judgment will have even a persuasive value in the ongoing disputes with GST authorities for ITC.

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REGULATORY COMPLIANCE

FOREIGN EXCHANGE MANAGEMENT ACT

Time Period for outlay of foreign exchange for Merchanting Trade Transactions

In terms of the erstwhile provisions of the Foreign Exchange Management Act, 1999 **('FEMA')** pertaining to Merchanting Trade Transactions **('MTT')**, the entire MTT was required to be completed within an overall period of nine months and the outlay of foreign exchange was not permissible beyond four months. The commencement date of merchanting trade is the date of shipment/ export leg receipt or import leg payment, whichever is first. The completion date of merchanting trade is the date of shipment/ export leg receipt or import leg payment, whichever is the last.

On a review and in order to facilitate merchanting traders to manage their MTT efficiently, the Reserve Bank of India **('RBI')** has increased the time period for outlay of foreign exchange from four to six months, while retaining the overall completion period of nine months as per the erstwhile provisions of FEMA.

[Source: RBI/2025-26/88 A.P. (DIR Series) Circular No. 11 dated October 01, 2025 issued by RBI]

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Opening of Foreign Currency Account in IFSC and time limit for utilisation and/ or repatriation of funds held in Foreign Currency Account by an exporter

RBI has notified the Foreign Exchange Management (Foreign Currency Accounts by a person resident in India) (Seventh Amendment) Regulations, 2025 (Amended Regulations), whereunder the following amendments have been introduced:

- In terms of Regulation 5 of the Amended Regulations, the foreign currency accounts permitted to be opened 'outside India/ abroad' can also be opened in IFSC.

- Under the erstwhile Foreign Exchange Management (Foreign currency accounts by a person resident in India) Regulations, 2015, A person resident in India, being an exporter, could open, hold and maintain a Foreign Currency Account with a bank outside India, for realisation of full export value and advance remittance received by the exporter towards export of goods or services. Funds in this account could be utilised by the exporter for paying for its imports into India or repatriated into India within a period not exceeding the end of the next month from the date of receipt of the funds after adjusting for forward commitments, provided that the realisation and repatriation requirements as specified in Regulation 9 of Foreign Exchange Management (Export of Goods and Services) Regulations, 2015 were also met.

  Under the Amended Regulations, a person resident in India, being an exporter, may open, hold and maintain a Foreign Currency Account with a bank outside India, for realisation of full export value and advance remittance received by the exporter towards export of goods or services. Funds in this account may be utilised by the exporter for paying for its imports into India or repatriated into India within a period not exceeding the end of (a) three months in case of accounts maintained with banks in an International Financial Services Centre or (b) next month for all other jurisdictions, from the date of receipt of the funds after adjusting for forward commitments, provided that the realisation and repatriation requirements as specified in the Foreign Exchange Management (Export of Goods and Services) Regulations, 2015, as amended from time to time, are also met.

[Source: Notification No. FEMA 10(R)(7)/2025-RB dated October 06, 2025 issued by RBI]

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CORPORATE LAW

COMPANIES ACT, 2013

Companies allowed to hold General Meetings through Video Conferencing (VC) or other Audio Visual Means (OAVM)

The Ministry of Corporate Affairs (MCA), in its earlier Circular issued in September, 2024, had extended the time till September

30, 2025 with respect to allowing the companies to hold their Annual General Meetings (AGMs) / Extraordinary General Meetings (EGMs) through Video Conference (VC) or other Audio-Visual Means (OAVM)
In the above context, the MCA, vide its recent Circular dated September 22, 2025, has again allowed the companies to conduct their AGM / EGM through VC or OAVM. It is pertinent to note that unlike previous years, the relaxation to hold general meetings through VC / OAVM has not been extended for further 1 year, rather, this year the relaxation has been allowed till further orders, and no specific timeline has been mentioned. Therefore, until this relaxation is withdrawn by MCA, the companies can conduct their AGM / EGM through VC or OAVM.

Further, it has been clarified that the above relaxation shall not be construed as conferring any extension of time for holding of AGMs by the companies under the Companies Act, 2013 (the Act).

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Amendment in Companies (Compromises, Arrangements and Amalgamations) Rules, 2016

The Ministry of Corporate Affairs (MCA), through notification dated September 4, 2025, has notified Companies (Compromises, Arrangements and Amalgamations) Amendment Rules, 2025 [amendment rules], for amending Companies (Compromises, Arrangements and Amalgamations) Rules, 2016. Currently, the notice of the proposed scheme in Form CAA.9 needs to be given by the transferor and transferee company to the Registrar of Companies [ROC], Official Liquidator or persons affected by the scheme, in order to invite their objections or suggestions. Now, as per the amendment rules, in addition to above, the notice of the proposed scheme also needs to be given to respective stock exchange in case of listed companies, and respective sectoral regulator, in case of a company which is regulated by a sectoral regulator like RBI, SEBI, IRDA etc.

Further, as per the amendment rules, there shall be attached with the scheme, a statement indicating the manner in which the objections or suggestions, if any of sectoral regulator or stock exchanges, have been addressed in the scheme.

Further, currently, the fast-track merger / amalgamation [FTM] process as provided in Sec 233 of the Companies Act, 2013 [the Act] can only be availed by small company, start-up company and merger or amalgamation between holding company and its wholly owned subsidiary company. Now, the amendment rules have widened the classes of companies eligible to avail FTM, and now, it can also be availed in following classes of companies:

1. *Unlisted companies*:- in case of merger / amalgamation between unlisted companies. However, it may be noted that none of the unlisted company involved therein should be a company registered under section 8 of the Act i.e. company having charitable objects, and none of the company should:

    a. have aggregate outstanding loans, debentures or deposits exceeding Rs 200 crores; and

b. have any default in repayment of loans, debentures or deposits, as indicated in clause a) above

Both the above conditions have to met on a day, which should not be more than 30 days before the date of issue of notice by the transferor and transferee company to ROC, Official Liquidator or persons affected by the scheme [as mentioned in para 1 above], and the date of filing of final scheme [as approved by the members and creditors] in Form CAA.11 with the Regional Director [RD], ROC and official liquidator.

In above regard, a certificate needs to be issued by the auditor of each of the companies, involved in merger / amalgamation, in newly introduced Form CAA-10A, certifying that the conditions mentioned above have been met.

Such certificate needs to be filed along with copy of scheme final scheme, as approved by members and creditors.

2. *holding and subsidiary company*:- a holding and a subsidiary company, each of them may be listed or unlisted. However, fast track merger process, as provided in Sec 233 of the Act, cannot be availed where the transferor company or companies are listed

3. *fellow subsidiaries*:- i.e. subsidiary companies of the same holding company, provided that transferor company or companies are not listed

4. *cross border merger*: merger between foreign holding company with its Indian wholly owned subsidiary company provided that the foreign company being the transferor and Indian company being the transferee company.

Also, currently a time period of 7 days has been provided to the transferee company to file a copy of final scheme as approved by members and creditors with the RD, ROC and official liquidator. Now, the amendment rules have extended the said time period of 7 days to 15 days.

The amendment rules have also clarified that provisions of Rule 25, dealing with FTM, shall also apply in respect of a scheme of division or transfer of undertaking of a company.

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MISCELLANEOUS

CASE LAW: EPF SCHEME

EPF Scheme on Provident Fund applicable to International Workers w.e.f November 1, 2008, based on judgement of the Delhi High Court, dated November 4, 2025

A single judge of the Karnataka High Court struck down the provisions of the Scheme covering International Workers, in the year 2024.

A detailed Note on the above judgment was published in April 2024 issue of the Corporate Update.

Subsequently, the same provisions applicable to International Workers came to

be challenged before the Delhi High Court.

The Division Bench of the Delhi High Court in its judgment dated November 4, 2025 has upheld the said provisions, as being constitutional and not arbitrary. The Division Bench has specifically disagreed with the judgment of the Karnataka High Court in the following words:

We, however, are unable to agree with the reasoning given and conclusions arrived at by the learned Single Judge of the Karnataka High Court in the said judgment for the reason that the reasonability of the classification based on the economic duress faced by the Indian workers, which is absent in case of foreign workers, has not been considered; neither was it pleaded before the Karnataka High Court.

As already noticed above, any State action to meet the challenge based on Article 14 of the Constitution of India has to satisfy the test that classification under challenge is based on some intelligible differentia and it has a rational basis with the object sought to be achieved. We have already held above that the classification in the instant case has a reasonable basis, which is based on economic duress, and such consideration is absent in the judgment rendered by the Karnataka High Court. This persuades us to observe that the same cannot be treated to be a precedent to be followed by us. For this reason, we respectfully disagree with the reasoning given and W.P.(C) 2941/2012 & W.P.(C) 6330/2021 Page 45 of 47 the conclusions drawn by the Karnataka High Court in Stone Hill Education Foundation (supra).

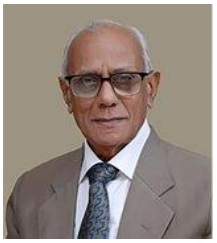
The effect of Delhi High Court Division Bench judgment dated November 4, 2025 and the Karnataka High Court judgment of 2024 is as under:

1. The Scheme as notified by the EPFO, vide the Notification dated October 1, 2008 and September 13, 2010 applicable to International Workers is valid and continues to be applicable, all-over India, except the State of Karnataka.

2. The above position will continue to apply, unless the EPFO authorities take appropriate action to nullify the Karnataka High Court judgment of 2024 or the matter is taken to Supreme Court for a decision.

Note:

The Delhi HC (DB) judgment referred to above may be viewed under the citation: WP (C) 2941/2012 dated 4.11.2025]



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NEW LEGISLATION

A brief Note on the Digital Personal Data Protection Act, 2023 and the Rules made thereunder

Digital Personal Data Protection Act was passed by the Parliament and received the President's assent in August, 2023. The Act has laid down the principles on consent, security arrangements, accountability and user rights etc.

However, the Rules thereunder were not published under the Act. The draft Rules were published by the Government in

January, 2025. However, it was published in the final form only on November 13, 2025. Taking into account the comments of various stakeholders, the Government have staggered the effectiveness of the Act and Rules.

The provision relating to commencement of definitions and the constitution of Data Protection Board have been notified to take effect from November 13, 2025. The Board will be located in Delhi and will consist of Four members.

The provision relating to registration and obligations of Consent Managers will become operative after one year after November 13, 2025 i.e. from November 13, 2026. The other provisions viz Notice to be given by the Data Fiduciary to the Data participant for obtaining consent, obligations of the Data Fiduciary etc., will come into force only after 18 months from November 13, 2025 i.e. from May 13, 2027.

Similarly, the effective dates of the Rules have also been staggered.

A Chart showing the effective dates of various sections and Rules is attached for information as ***ANNEXURE A***.

It may be noted that the major obligations of the corporates would arise only from May 13, 2027 i.e. after 18 months after November 13, 2025.

Some of the important definitions as contained in the Act are given below:

a. **`Data'** means a representation of information, facts, concepts, opinions or instructions in a manner suitable for communication, interpretation or processing by human being or by automated means.

b. **`Data Fiduciary'** means any person who alone or in conjunction with other persons determines the purpose and means of processing of personal data.

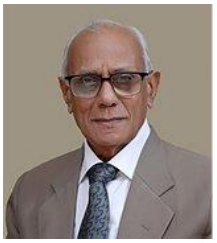
c. **`Data Principal'** means the individual to whom the personal data relates and includes a child or person with disability.

d. **`Data Processor'** means any person who processes personal data on behalf of Data Fiduciary.

e. **`Digital Personal Data'** means personal Data in digital form.

f. **`Processing'** in relation to personal data means "wholly or partly automated.

"**processing**" in relation to personal data, means a wholly or partly automated operation or set of operations performed on digital personal data, and includes operations such as collection, recording, organisation, structuring, storage, adaptation, retrieval, use, alignment or combination, indexing, sharing, disclosure by transmission, dissemination or otherwise making available, restriction, erasure or destruction".



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ANNEXURE A

A COMPARATIVE CHART

DIGITAL PERSONAL DATA PROTECTION ACT, 2023 &
DIGITAL PERSONAL DATA PROTECTION RULES, 2025

EFFECTIVE DATES OF VARIOUS SECTIONS AND RULES

		Sections/Rules to come into effect from 13 November, 2025	Sections/Rules to come into effect from one year from November 13, 2025 i.e. November 13, 2026	Sections/Rules to come into effect from 18 months from November 13, 2025 i.e. from May 13, 2027
1	**Sections**	1(2), 2, 18 to 26, 35, 38, 39, 40, 41, 42, 43, 44(1) & 44 (3).	6(9), 27(1)(d),	3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 27, 28, 29, 30, 31, 32, 33, 34, 36, 37, 44 (2), Schedule
2	**Rules**	1, 2, 17, 18, 19, 20, 21	Rule 4, Schedule	3, 5 to 16, 22, 23

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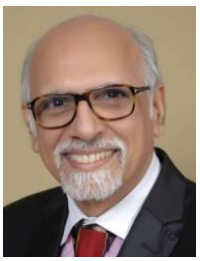

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