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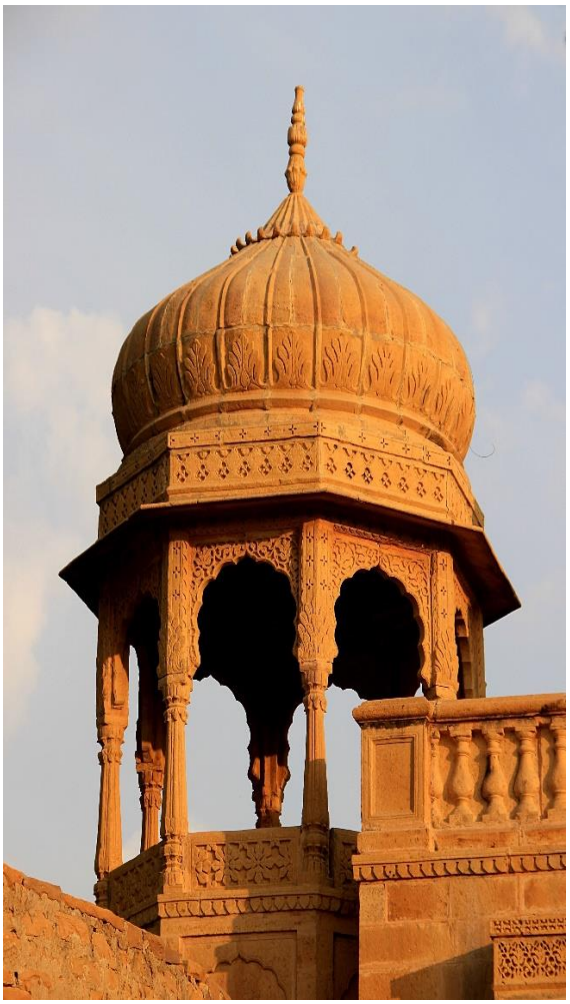
CHARTERED ACCOUNTANTS

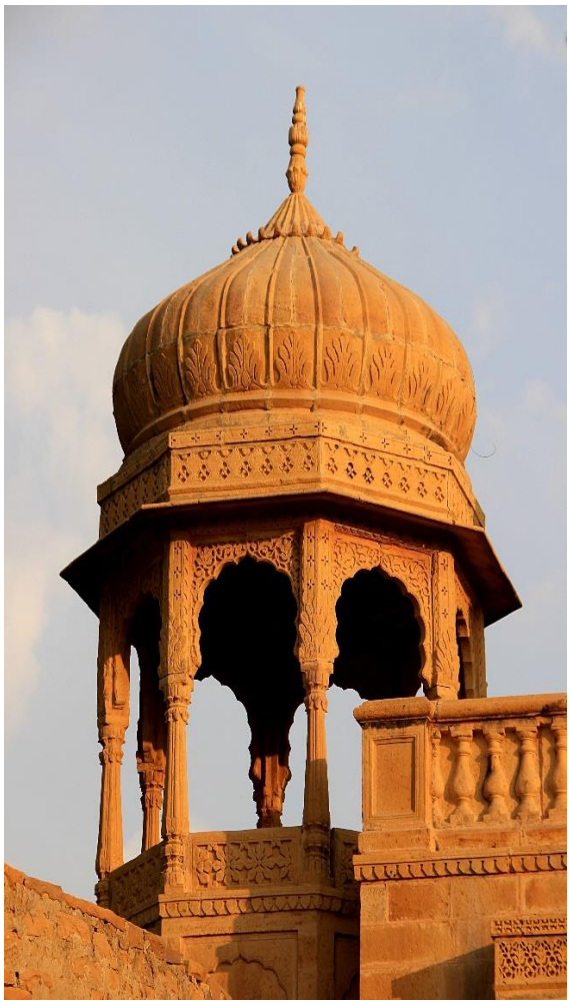
Corporate Update

July & August | 2025

CONTENTS



NEWLY ENACTED LAW



FOREWORD

Dear Reader,

A new Indian Income-tax Act has been enacted which will now become applicable from April 1, 2026. As earlier reported, the new Income-tax Act primarily aims to make tax provisions simpler and easy to read for the taxpayer. Keeping this objective in view, redundant provisions have been removed, language and provisions made simpler to understand. No substantive changes however been made either in tax rates or in the current provisions. A small report on the same is a part of this Update.

Last week, major announcements were made by the Finance Minister in respect of Goods and Services Tax (GST) Regulations. With a view to providing relief to public at large, boosting consumption and economic growth, major rationalization of tax rates structure has been proposed. The GST rates will now stand reduced from 4 to 2 slabs. Changes in certain statutory provisions have also been proposed with a view to simplifying compliance, promoting ease of doing business, facilitating grant of tax refunds etc. A note on major important changes as announced by the Finance Minister on September 3, 2025, is part of this Update.

In addition, we also cover summary of important judgements of Courts, Tribunals in areas of International and Domestic Taxation, in this Update and brief preliminary note on recently enacted Immigration and Foreigners Act, 2025.

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INTERNATIONAL TAXATION

Supreme Court adopts Substance Driven approach to determine incidence of Fixed Place PE

Hyatt International Southwest Asia Ltd v ADIT [2025] 176 Taxmann.com 783

In a significant development, the Supreme Court has ruled on the issue of Fixed Place PE in the context of a multinational group engaged in the hospitality business. While deciding in favour of the revenue, the Hon'ble Court adopted a more substance focussed and fact driven exercise for ascertaining existence of a Fixed Place PE.

The matter relates to Hyatt International Southwest Asia Ltd, which is a UAE based company. The aforesaid taxpayer entered into a Strategic Oversight Services Agreement (SOSA) with Asian Hotels (North) Limited (AHNL). Under the agreement, the taxpayer agreed to provide strategic planning services and knowhow to AHNL, to ensure that the hotel was developed and operated in an efficient manner, while adhering to Hyatt standards.

The taxpayer contended that it was acting in an advisory role rather than engaged in a full fledged operation of a hotel. It also argued that in the course of rendition of services, the hotel was not at the disposal of the taxpayer's employees, which is a prerequisite for incidence of a Fixed Place PE. The taxpayer accordingly contended that a Fixed Place PE is not constituted in the facts of the instant case.

The taxpayer also argued that incidence of a service PE in terms of Article 5(2)(i) of the tax treaty doesn't arise, as the stay of the employees did not breach the nine-month threshold stipulated therein.

However, the Court, looking beyond the legal form of the arrangement, held that the taxpayer was actively participating in the core activities of hotel operation, which demonstrates satisfaction of the 'disposal test'. As such, the Supreme Court upheld the findings of the High Court that the taxpayer had a Fixed Place PE under Article 5(1) of the India-UAE tax treaty.

The assessee also argued that in the absence of global profits, nothing can be attributed to the alleged PE. A full bench of the High Court of Delhi had earlier negated this argument. While holding so, the High Court held that profits attributable to a PE ought to be independently determined, irrespective of global losses.

Key Facts

The taxpayer contested *inter alia*, the issue of Fixed Place PE before the tax tribunal and High Court of Delhi. However, the taxpayer was unsuccessful at all forums. Thereafter, the matter travelled to the Supreme Court.

While examining the issue of Fixed Place PE, the Supreme Court examined the decisions of the Tax Tribunal as well as the High Court of Delhi. The relevant facts as culled out from the decisions of the Courts are as under:

- The SOSA shall remain in force for a period of 20 years with an option for extension for 10 years.

- In terms of the SOSA, the taxpayer shall provide strategic plans, policies, procedures and guidelines to ensure adherence with Hyatt standards.

Furthermore, the taxpayer was vested with absolution discretion in formulating all aspects of the strategic plan such as branding, marketing, product development etc. The taxpayer is also responsible for formulating other policies such as operation of bank accounts, human resources, guest admittance, pricing, sales etc.

- The fee under the SOSA was based on the room revenue as well as gross profits earned by AHNL.

- The taxpayer had a high degree of influence / control over the human resources of the hotel. In terms of the SOSA, the taxpayer was authorised to recruit key managerial personal.

- Even though the activities were to be performed from Dubai, yet, the taxpayer, at its sole discretion, could send its employees to India, without any prior approval from AHNL. The contract did not stipulate any condition for reservation of any designated space for the taxpayer's employees.

- During the relevant year, employees were present In India for a period less than nine months. During such visits, the employees stayed at the hotel premises.

- For refinancing or collateral purposes, AHNL was required to obtain a non-disturbance and attornment agreement which would be acceptable to the taxpayer.

- The customer, i.e. AHNL, entered into a separate 'Hotel Operating Service Agreement (HOSA)' with Hyatt India Private Limited. This agreement related to day-to-day operations of the Hotel.

Observations of the Court

In the instant judgment, the Court gave credence to economic substance rather than the contractual form. The Court did not find favour with the taxpayer's narrative that the arrangement ought to be perceived as a consultancy service contract. The Court opined that the facts rather indicate that the taxpayer's role transcends from a mere consultancy role to an active participant in the core function of the hotel, i.e. operation of the hotel. The Court went on to hold that the fact pattern has all the ingredients of the basic PE rule under Article 5(1).

The key findings of the Court are summarized hereunder:

- To determine the existence of a Fixed Place PE, facts such as disposal test, degree of control/ supervision, presence of authority etc. are required to be ascertained.

- Relying on its earlier judgment of *Formula One*, the Court observed that for the disposal test to be satisfied, a formal right to use is not necessary. Instead, it is to be examined whether in substance, the premise was at the disposal of the foreign taxpayer for undertaking core business activities.

- The taxpayer's role in formulating various policies, discretion in appointment of staff demonstrates operational, strategic and financial control.

- Facts relating to the travel and functional profile of the employees establish a continuous and coordinated engagement.

- The 20 year long tenure of the contract along with continued functional presence satisfies the test of stability, productivity

and dependence, which are the cornerstones of the basic PE rule.

- Moreover, the revenue sharing model employed in a long tenure contract demonstrates that the hotel satisfies the criteria of Fixed Place PE.

Thus, the extent of influence, control and strategic decision-making in the core business activities proved decisive to the ultimate conclusions drawn by the Supreme Court. The argument that the operations were being handled by Hyatt India Private Limited, a separate legal entity, was rejected by the Supreme Court, citing the substance theory.

Apropos the issue of employees' presence, the Court emphasised the importance of continued business presence rather than the duration of stay of individual employees. Although this observation seemingly was made in the context of the Service PE clause, yet it may be construed to have general application.

The Supreme Court also touched upon the vexed issue of global losses even though it was not assailed before it. While the Supreme Court appears to have endorsed the High Court's view, it is still a matter of doubt whether this would be regarded as a legal affirmation thereof.

Our Insights

At first blush, it does appear that the Supreme court has altered the dimensions of the Fixed Place PE concept, by transgressing from a strict 'right to use' test to a broader operational and strategic control test. The importance given to facts such as the long tenure of the contract, revenue sharing model, control on key operational matters etc. are likely to be disquieting to businesses operating in a similar fashion.

However, one must not lose sight of the fact that the Court looked behind the smoke screen to reveal the true substance of the transaction. Facts such as the long tenure and revenue sharing model played a key role in shaping the judicial mindset. Resultantly, the Court recharacterized what was ostensibly a service transaction, as participation and control in the operation of the hotel. This essentially pivoted the tangent on which the issue was being examined.

A decision of the Supreme Court is the law of land and treated as a binding precedent. Yet, the findings of the Court cannot be divorced from the peculiar fact pattern of the case. Therefore, one must not hasten to declare this judgement as a pervasive binding force. Rather, a contextual approach must be followed to appreciate such findings.

However, judgement seems to have opened doors for this the tax administrations and Courts to adopt a more substance driven approach as in the Supreme Court decision, while scrutinizing PE issues.

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Arbitral award inextricably linked to business qualify as business income, not chargeable to tax in India in absence of PE

CIT vs. Fujitsu Ltd. [2025] 176 taxmann.com 516 (Delhi)

Recently, the High Court of Delhi held that amount received by the Japanese company towards arbitral award from its Indian associate enterprise ('AE') was inextricably linked to its business and thus, not taxable in India in absence of permanent establishment ('PE') in India.

On facts, the taxpayer is a tax resident of Japan and is engaged in providing information technology support, maintenance support and software licensing services to various group entities including its Indian AEs. The issue in dispute was in respect of receipt of arbitral award by the taxpayer which was classified by it as business income and claimed non-taxable in India by virtue of Article 7 of the India-Japan Double Taxation Avoidance Agreement ('the DTAA'). The claim of the taxpayer was rejected by the tax officer on the premise that the taxpayer did not qualify the attributes of "regularity, continuity, frequency, and volume", which were essential for business activities. The tax officer held that the taxpayer's case was one of "business with India" and not "business in India". Accordingly, the tax officer concluded that arbitral award did not fall under the purview of business income and the same was chargeable to tax under the head 'income from other sources', taxable in India.

The objections filed by the taxpayer before the Dispute Resolution Panel were rejected. On appeal, the Tax Tribunal had observed that the Arbitral tribunal had rendered the arbitral award in favour of the taxpayer regarding its claim in respect of non-payment of dues for offshore supplies and as such, had held that the same was liable to be considered as business income. Regarding taxability of interest received on the compensation arising out of the arbitral award (though the same was voluntarily offered to tax by the taxpayer under the head 'income from other sources'), the Tax Tribunal had held that such interest is an accretion to the original receipt and partakes the same character as the arbitral award and thus qualify as business income. It was concluded that in the absence of PE in India, the arbitral award and interest as received would not be chargeable to tax in India as per Article 7 of the DTAA, being business income.

On appeal by the Revenue, the High Court observed that the amount awarded to the taxpayer was against its claim for payment of supplies, which was accepted by the Arbitral Tribunal. The High Court held that the arbitral award was undoubtedly inextricably linked to the business of the taxpayer and were on account of its business activities. The High Court noted that the taxpayer had raised a claim for nonpayment of amounts due for supplies and the same was accepted. In view of the same, the High Court concurred with the finding of the Tax Tribunal that the receipts in the hands of the taxpayer were in the nature of business income and the same had to be dealt with in terms of Article 7 of the DTAA.

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Transfer of rights entitlement to shares is not akin to transfer of shares and therefore gains therefrom arising to a non-resident are taxable only in the resident state under India- Saudi Arabia DTAA

General Organization for Social Insurance v. ACIT [TS-636-ITAT-2025(Mum)]

The Mumbai Bench of the ITAT recently held that capital gains arising from the transfer of rights entitlements to shares are distinct from gains on the transfer of shares per se. Accordingly, capital gain arising in the hands of a resident of Saudi Arabia on transfer of Rights Entitlement would be subject to taxation in accordance with Article 13(6) of the India–Saudi Arabia DTAA, and would thus be taxable only in the state of residence of the taxpayer.

In the instant case, the taxpayer, a resident of Saudi Arabia, claimed that the short-term capital gains arising from the sale of rights entitlements in respect of shares of Bharti Airtel Ltd. are not taxable in India in terms of Article 13(6) of the DTAA. However, the tax officer rejected this position, holding that the value of rights emanates from the underlying shares and, therefore, the transfer of such rights should be regarded as a transfer of shares, taxable in India under Article 13(4) of the DTAA. Consequently, the short-term capital gains were added to the taxpayer's taxable income, which action was confirmed by the Dispute Resolution Panel (DRP).

On an appeal before the ITAT, the taxpayer submitted that rights entitlement is the right issued to the existing shareholders to buy additional shares in a company. Such entitlement is allowed to be renounced to a third party for a consideration. Therefore, the rights entitlement is considered as separate from that of shares. Hence, the provisions of Article 13(6) of the DTAA shall apply on the sale of rights entitlement. The department relied on the observations of the lower authorities and urged that the value of rights is carved out of existing shares held by an entity and hence should be treated as shares.

The ITAT observed that Article 13(4) and 13(5) of the DTAA provide for the taxation of gains in India arising from the transfer of 'shares' in an Indian company, whereas Article 13(6) serves as a residuary clause, providing for taxation in respect of the alienation of any property not covered in Articles 13(1) to 13(5) in the Resident State. In order to decide the issue whether the rights entitlement falls within the ambit of Article 13(4)/Article 13(5) or Article 13(6) of the DTAA, it is firstly pertinent to decide whether the rights entitlements is akin to shares.

The ITAT referred to the decision of the Hon'ble Supreme Court in Navin Jindal v. DCIT [2010] 320 ITR 708 (SC), wherein it was clearly held that rights entitlements, although originating from existing shareholding, constitute a separate and distinct asset that can be independently transferred, irrespective of the underlying shares

The ITAT also referred to the decision of the coordinate bench of the ITAT in the case of **Vanguard Emerging Markets Stock Index Fund v. ACIT [2025] 172 taxmann.com 515 (Mumbai Trib)** wherein while deciding on the similar matter the ITAT made following observations:

- Section 62 of the Companies Act, 2013 makes it clear that a shareholder obtains an exercisable right to subscribe to shares which is different from shares in the Indian Company.

- SEBI has issued a Circular on 'Introduction of Dematerialised Rights Entitlements', as per which a separate ISIN is given for rights entitlement and such rights entitlement is credited to the Demat account of the investor before the date of opening of the issue.

- The Act also make reference to Securities Contracts (Regulation) Act, 1956 for the definition of the term "option in securities" in terms of which rights entitlement has been considered as an option to purchase a security (which could be shares of an Indian company) in the future.

- Further, the prescribed rate of STT on purchase of equity shares is different, which clearly evidences that rights, entitlement is not same as shares.

- Section 2(42A) of the Act separately provides the holding period in respect of the asset being right to subscribe to any financial asset which is renounced in favour of any other person from the date of transfer. Also, section 55(2)(aa) provides that cost of acquisition for such rights shall be nil. Accordingly, the Act treats the rights entitlement and shares differently.

In view of the above, the ITAT held that the rights entitlement though embedded in the original shareholding is separate and distinct right capable of being transferred independently of the existing shareholding. Accordingly, the short-term capital gains from the sale of rights entitlement held as taxable only in the resident state of the taxpayer in terms of Article 13(6) of the DTAA.

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ITAT decides on segmental margins and exclusion of marketing costs and bank charges from segmental profits

Dotgo Private Limited [TS-458-ITAT-2025(Bang)-TP]

In a recent judgement, the Bangalore ITAT decided on segmental margins used by the assessee and exclusion of marketing costs and bank charges. The ITAT also decided on the adjustment of notional interest on outstanding receivable from Associated Enterprise (AE).

On the facts of the case, the assessee is a wholly owned subsidiary company of Dotgo Systems Inc., USA, engaged in providing captive software development services to its overseas AEs. For the relevant assessment year 2021-2022, the assessee applied transaction net margin method (TNMM) as the most appropriate method to justify services provided to its AEs. The assessee computed margins earned from each of the two AEs under separate segment by preparing AE-wise segmental results. Further, marketing costs and bank charges were excluded while calculating segmental margin.

The case was referred to the Transfer Pricing Officer (TPO), who rejected the segmental margins, on the ground that it operates in single segment. He also rejected the claim of exclusion of marketing costs & bank charges and also rejected certain comparable companies selected by

assessee, thereby, making an upward TP adjustment from the segment profits.

The TPO also treated outstanding receivables as a separate international transaction and computed notional interest, citing absence of reconciliation or proof of settlement.

The assessee raised objections before the Id. DRP, who upheld the adjustment made by the TPO. The assessee preferred the Hon'ble ITAT, who held as under:

On the issue of AE-wise segmentation, the Hon'ble ITAT noted that, the segments are created within the same geographical area with similar services which goes against the idea of meaningful segmentation. It was noted to be artificial setup, with no real differences in operations, costs, or marketing and that the segments were created to reduce the share of costs used in calculating PLI. Therefore, the assessee's ground on this matter was rejected.

Regarding exclusion of costs, it was held that marketing expenses incurred to generate revenue from within India cannot be classified as operating costs for services provided to AEs based in USA. Also, incurring advertising expenses to obtain work from one's own AE is unjustifiable. Therefore, the marketing cost was held not be treated as operating costs attributable to international transactions with AEs.

Regarding bank charges, the ITAT observed that specific charges such as Letter of Credit issuance fees, SWIFT or wire transfer charges for cross-border payments or receipts, and bank guarantee fees tied to contractual performance can be linked directly to international transactions and may be treated as operating expenses. However, general bank charges like account maintenance fees, annual ledger costs, or similar recurring expenses, which lack a specific nexus to any international transaction, should be excluded from operational cost computation.

Regarding selection of comparable, the Hon'ble ITAT held that if the comparable meets the required functional, asset, and risk criteria, the same cannot be dismissed solely because they do not appear in the results of a revised benchmarking search using specific filters. Accordingly, in the absence of any functional dissimilarity established by department, the comparables used by the assessee were directed to be included for determining the arm's length price of the international transaction.

The Hon'ble ITAT observed that since no receivable remained at the close of the year after settlement of intra group balances, the basis for charging notional interest did not arise. As such, the adjustment of notional interest was directed to be deleted.

In view of the aforesaid, the appeal filed by the assessee was partly allowed.

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DOMESTIC TAXATION

For the purpose of claiming exemption under section 54F of the Act, ownership of separate floors within a single residential building can be regarded as one residential house

Pr. CIT v. Lata Goel [TS-572-HC-2025(DEL)]

The Delhi High Court has recently held that ownership of different floors of a single house does not negate the fact that these portions constitute 'one residential house'. Therefore, the requirement of owning one residential property on the date of sale, as stipulated under section 54F of the Act, stands fulfilled.

In the present case, the taxpayer had sold shares of FITJEE Ltd, an unlisted company, which had resulted in Long Term Capital Gains (LTCG) and exemption under section 54F was claimed in respect of such LTCG based on the investment made by the taxpayer in a residential house property.

The tax officer restricted such deduction under section 54F to INR 300 million, as against INR 900 million claimed by the taxpayer on the basis that INR 600 million was not directly paid by the taxpayer for purchase of property. This disallowance of INR 600 million was however deleted by the CIT(A) as well as by ITAT on further appeals.

However, reassessment proceedings were initiated by the tax officer based on an additional information received from the South Delhi Municipal Corporation which indicated that on the date of transfer of the shares the taxpayer owned more than one floor of a single residential property. Treating the separate floors as distinct residential properties, the officer denied exemption under section 54F, where one of the conditions is the ownership of only one residential property at the time of sale of original asset.

The taxpayer challenged such disallowance before the CIT(A) and thereafter before Delhi Bench of the ITAT. The ITAT accepted the taxpayer's objection against the reassessment itself as there was no failure on the part of the taxpayer in truly and fairly disclosing all material facts. The ITAT also faulted the decision of the tax officer and CIT(A) in finding that the taxpayer had more than one residential unit, which would render the taxpayer ineligible for claiming deduction under section 54F of the Act.

On appeal against the order of the ITAT by the tax authorities, the Delhi High Court took note of the properties owned by the taxpayer. The High Court observed that separate floors of a single house were purchased by the family members of the taxpayer. The High Court held that the fact that different floors may be owned or partly owned by the taxpayer along with her family members would not detract from the fact that the portions owned were required to be considered 'one residential house'.

The Hon'ble High Court made reference to the decision of Karnataka High Court in the case of **Commissioner of Income-tax and Anr. v. D. Ananda Basappa (2009) 309 ITR 329** and the decision of this court in the case of **CIT v. Gita Duggal (2013) SCC Online Del 752** and ***Mrs. Kamla Ajmera v. Pr. Commissioner of Income Tax: Neutral Citation No.: 2024: DHC:9342-DB*** to conclude that in certain circumstances, multiple residential units may be considered as a single or one residential house for the purpose of exemption under section 54F.

In view of the above, the High Court held that the taxpayer could not be denied the deduction under section 54F of the Act on the ground that she held more than one residential unit. It was also affirmed by the Court that there was no failure on the part of the taxpayer to truly and fairly disclose all the material facts in her return.

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New Income Tax Bill 2025

During the Budget Speech on July 23, 2024, the Indian Finance Minister announced that a comprehensive review of the Income-tax Act, 1961 would be undertaken. She explained that the rationale behind such a move was to make the Act concise, clear and easier to read and understand. The aim and purpose were to reduce disputes and litigation. She also announced that the review would be completed in six months.

The Income-Tax Bill, 2025 was accordingly presented to the Parliament on February 13, 2025. A brief reference to the above Bill was made in the Foreword to the Special Edition of Corporate Update.

The first draft was referred for detailed examination and recommendations to a Parliament Select Committee ("Committee"). The Committee tabled its report in the Lok Sabha on July 21, 2025.

The Committee made recommendation that the first draft required corrections of drafting errors like cross-referencing errors, alignment of phrases and consequential changes which had critical tax impact to various classes of stakeholders and taxpayers. The Finance Minister accordingly withdrew the first draft on August 8, 2025.

On August 11, 2025, a new version, the Income-Tax (No.2) Bill, 2025 ("New Bill"), incorporating the recommendations of the Committee was introduced and passed by the Lok Sabha on August 11, 2025 and on August 12, 2025, by the Rajya Sabha.

The New Bill was given assent by the President on August 21, 2025 and thus has become law.

The New Income-tax Act will be effective from April 1, 2026.

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Key amendments to the Income-tax Act, 1961 and the Finance Act, 2025

The Taxation Laws (Amendment) Act, 2025

The Indian government has recently passed the Taxation Laws (Amendment) Bill, 2025 in both the houses of the Parliament in order to amend the Income-tax Act, 1961 ('the Act') and the Finance Act, 2025. The Bill has been enacted after receiving assent of the President on August 21, 2025.

The amendments made by the Taxation Laws (Amendment) Act, 2025 (hereinafter referred to as "the Amendment Act") mainly relate to the provisions for Standard Deduction on salaries, Unified Pension Scheme, block assessment search cases

and tax exemption to certain funds.

Exemption to the withdrawals made from Unified Pension Scheme

The Indian Government introduced a Unified Pension Scheme ("UPS") under the aegis of National Pension System ("NPS"), notified vide Notification No.F.No.FX-1/3/2024 dated 24th January, 2025 for providing assured payouts/pension to the Central Government employees. In order to bring UPS at par with NPS in terms of tax implications, Section 10(12AA) and 10(12AB) have been introduced. Section 10(12AA) provides an exemption to the extent of 60% of the corpus withdrawn at the time of retirement or superannuation of the subscriber, whereas Section 10(12AB) exempts any lump sum payment on superannuation in the hands of the subscriber.

Further, sub-section (3A) has been inserted in Section 80CCD of the Act to provide similar treatment to the annuity income in respect of UPS as applicable to NPS, against the amount received on account of superannuation or retirement of the subscriber, whereby such amount received shall be deemed to be the income of the subscriber in the year of receipt. However, the above provision shall not apply if the amount received by the subscriber is transferred to a pool corpus.

The above changes shall be effective from April 1, 2025

Exemption to Public Investment Fund of the Government of Saudi Arabia

Section 10(23FE) of the Act provides certain benefits to specified persons in respect of income arising from an investment made in India. 'Specified persons' include Sovereign Wealth Fund and Pension Fund of foreign companies, Investment Authority of UAE.

The scope of exemption has now been extended to the Public Investment Fund of Government of Kingdom of Saudia Arabia and its wholly owned subsidiaries subject to fulfilment of certain conditions.

The above amendment shall be effective from April 1, 2025.

Rationalisation of Standard Deduction to Salaried persons

Section 16(ia) of the Act provides for a standard deduction of rupees fifty thousand while computing the income from salaries. As per Proviso to this section, the deduction shall increase to rupees seventy-five thousand in case the assessee opts for computing the income-tax under the new tax regime i.e. under the provisions of Section 115BAC of the Act. However, such proviso refers to the tax rates applicable till AY 2025-26 under section 115BAC, thereby leading to restriction of the enhanced standard deduction from AY 2026-27 onwards. In order to remove this anomaly, the Proviso to Section 16(ia) has been amended to allow enhanced standard deduction to the assessees opting for tax rates under section 115BAC for AY 2026-27 onwards.

The above amendment shall be effective from April 1, 2025.

Amendments to the Finance Act, 2025 to provide for changes in Block Assessment of search cases

Section 158BA of the Act deals with block assessment of total undisclosed income as a result of search proceedings. Section 49 of the Finance Act, 2025 amended the relevant provisions of Section 158BA of the

Act with effect from September 1, 2024.

Sub-section 2 of Section 158BA of the Act provided for abatement of proceedings of assessment, reassessment or recomputation proceedings for any assessment year falling within the block period which are pending on the date of initiation of search or requisition. However, the Act did not provide for abatement of similar proceedings which may commence after the date of initiation of search or requisition.

Therefore, the Finance Act, 2025 has been amended with effect from September, 2024, to provide for abatement of assessment, reassessment or recomputation proceedings (in respect of any assessment year falling within the block period) for which notice is issued after initiation of search or requisition. Such proceedings shall be deemed to be abated on the date of issue of notice for initiating such assessment, reassessment or recomputation proceedings.

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INDIRECT TAX

GOODS AND SERVICES TAX

Goods and Services Tax - Rationalised & Restructured

In its historic 56th meeting held on September 3, 2025, GST Council reaffirming the announcements made by the Prime Minister on Independence Day focusing on next generation tax reforms, rationalized the current multi-tiered tax rate structure with a standard rate of 18%, a merit rate of 5% and a special de-merit rate of 40% on certain specified goods, to be made effective from September 22, 2025.

The GST council recommended to abolish the tax slabs of 12% and 28% and rationalized GST rates on various goods, including essential consumer items and electronics. This rationalization is expected to have significant benefits for public at large and for key sectors such as the automobile, textile, Pharma, FMCG & agriculture. Some of the implications of the revised GST rates on goods and services are given in **ANNEXURE**.

In addition to the changes in GST rates, GST Council has also proposed several significant trade facilitation measures, some of which are as follows:

Simplified GST Registration scheme for Small Business: To streamline the registration process, the Council has proposed an optional simplified GST registration scheme under which registrations will be automatically granted within three working days. This facility will be available to applicants who, based on their self-assessment, expect their monthly output

tax liability on supplies to registered persons (B2B) to not exceed INR 2.5 lakhs. The scheme will allow taxpayers to voluntarily opt in or withdraw, and it will come into effect from November 1, 2025.

Amendment in place of supply provisions for intermediary services: The Council has recommended the omission of clause (b) of Section 13(8) of the IGST Act, 2017. Following this amendment, the place of supply for *intermediary services* will be determined in line with the general rule under Section 13(2) of the IGST Act, 2017, i.e., the location of the service recipient. This change will enable Indian exporters of such services to avail export benefits. This amendment would also end the long-drawn litigation on taxability of intermediaries engaged in service industries, such as marketing, advertisement, education, etc.

Taxability of Post-Sale Discounts: The Council has also recommended to streamline the procedure as well as simplify the law with respect to post-supply discounts, by omitting section 15(3)(b)(i) of CGST Act, 2017 thereby omitting the requirement of establishing the discount in terms of an agreement entered into before or at the time of such supply and specifically linking of the same with relevant invoices. Further, the Council has also recommended to amend Section 15(3)(b) & Section 34 of CGST Act, 2017 to ensure that such post sale discounts are provided by issuance of tax credit notes only. Taxability of Post Supply discounts also have been a matter of litigation across India.

Expediting the process of refund: To speed up refund claims, the Council also recommended amendment in Rule 91(2) of CGST Rules, 2017 to provide for sanction of provisional refund of 90% by the GST officer based on identification and evaluation of risk by the system.

However, in exceptional cases, the GST officer may, instead of granting refund on provisional basis scrutinize the refund claim in detail. This revised procedure shall be effective from November 1, 2025.

Operationalization of the Goods and Services Tax Appellate Tribunal (GSTAT): The Goods and Services Tax Appellate Tribunal (GSTAT) is proposed to be made operational for accepting appeals before the end of September 2025, and hearings are expected to commence before the end of December 2025. The Council has further recommended June 30, 2026 as the cut-off date for limitation of filing of backlog appeals.

MPCO's Observations:

Although GST Council's recommendations are expected to benefit the public at large, they may also pose certain challenges:

- For instance, GST rate on hotel accommodation services, where the per unit price is upto INR 7,500/-, has been reduced from 12% (with ITC) to 5% (without ITC). Consequently, businesses will be required to reverse proportionate ITC, which will be tax cost to the company.

- Post implementation, tax rate on Transportation of goods services (GTA) would be increased from current 12% (with ITC) to 18% (with ITC). Increase of tax on GTA services would impact almost all sectors, especially those with a tax of 5% on output supply.

- The wide gap between GST slab rates of 5% and 18% is likely to act as a deterrent against deliberate misclassification.

However, even genuine errors in classification could result in significant tax demands along with interest and penalty implications.

- The government has not made any official statement regarding the anti-profiteering provisions, which have been discontinued effective April 1, 2025. During a recent press conference, officials expressed confidence that the industry will transfer the benefits to end consumers. Simultaneously, they indicated that teams of officers will monitor market developments. In the absence of statutory enforcement, the effectiveness of such oversight by the officials remains to be seen.

- Although GST rate rationalisation is seen as a positive development, for industry, implementation of tax rate changes by September 22, 2025 will require updates to accounting and billing software, modifications to packaging and labelling, and adjustments in inventory. As a result, businesses will need to act swiftly to ensure compliance.

(Please note that the above include only key highlights of the GST Council meeting recommendations. For an exhaustive list of recommendations, please refer to the relevant Press Release by the Government.)

It may be noted that the above highlights are the recommendations of GST Council, and which would come into effect post issuance of appropriate Notifications and Circulars.

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REGULATORY COMPLIANCE

THE IMMIGRATION AND FOREIGNERS ACT, 2025

Highlights of the recently enacted legislation

1. Preamble:

1.1. Recently the Indian Parliament has passed The Immigration and Foreigners Act, 2025 (the Act). The Act has received the assent of the President of India on April 4, 2025 and, therefore, this has become the law of the land. Further, the Central Government has appointed the 1st day of September, 2025, as the date on which the provisions of the Act shall come into force [Vide Notification No. S.O 3981 (E) dated August 31, 2025]

1.2. In terms of the Act, a number of rules and notifications under various sections are to be framed and notified by the Central Government. These are yet to be notified.

2. Objective of the Act:

2.1. The Statement of Objectives and Reasons appended to the Bill of the

Act contains the following major provisions:

2.2. The matters relating to Foreigners and Immigration are presently administered through 4 Acts viz:

i. The Foreigners Act, 1946;
ii. The Registration of Foreigners Act, 1939;
iii. The Passport (Entry Into India) Act, 1920; and
iv. The Immigration (Carriers Liability) Act, 2000

2.3 The Act repeals all the above 4 Acts. The main reasons being (i) they were brought into pre-constitution period; and (ii) there are some overlapping provisions among the said Act.

2.4 The Act confers powers on the Central Government to provide for details of requirement of passport and other travel documents in respect of persons entering and exiting from India.

3. Important provisions of the Act:

3.1. Some of the most important provisions as contained in the Act are highlighted below. The requirements remain more or less the same under the repealed Act.

a. No person proceeding from any place outside India shall enter or attempt to enter India by air, water or land, unless he is in possession of a valid passport or other travel documents including a valid Visa.

b. It shall be the duty of the keeper of every accommodation such as hotels, guest houses etc to submit the information to Registration Officer concerned as may be prescribed. Every University, educational institutions or any other institutions admitting any foreigner shall furnish to the Registration Officer such information as may be prescribed.

c. The Bureau of Immigration performs immigration functions as may be prescribed shall be constituted.

d. No foreigner shall enter into any protected area or restricted area, as may be prescribed.

e. The Act also attaches responsibilities on the carriers. Section 17(1) prescribes that the carrier landing or embarking at a port or place in India shall furnish to the civil authority or immigration officer, the particulars of the passenger, including foreigners.

f. Any foreigner who enters any area in India without valid passport or any other travel documents in contravention of the provisions of this Act shall be punishable with imprisonment for a term which may extend to 5 years or with fine, which may extend to Five lakhs or with both.

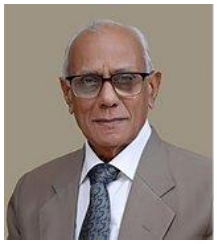
g. The Central Government is empowered to make rules on

various provisions of the Act as are required.

4. GENERAL COMMENTS:

4.1. Though it appears that the Act has consolidated the existing (repealed) laws, it has provided for certain improvements including enhancement of penalties on defaulting entities, foreigners.

4.2. The above is brought to the notice of all concerned, for information.



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ANNEXURE to Goods and Services Tax - Rationalised & Restructured

Sector	Goods/Services	Current Tax Rate	Proposed Tax Rate
Food & Beverages	Pizza Bread, Khakhra, Chapati, Roti, Paratha, Other Indian Breads	5% / 18%	NIL
	Preserved, Pre-packed or Prepared food items	12% / 18%	5%
	Chocolates, Ice creams, Bakery products	18%	5%
	Non-Alcoholic Beverages	18%	40%
Textile & Apparel Sector	Apparels, Textile articles and clothing accessories	Articles of sale value not exceeding INR 1000/- are taxed @5%.	Articles of sale value not exceeding INR 2500/- to be taxed @5%.
		Articles of sale value exceeding INR 1000/- are taxed @12%.	Articles of sale value exceeding INR 2500/- to be taxed @18%.
	Carpets, Floor Coverings etc.	12%	5%
	Footwear	Articles of sale value not exceeding INR 1000/- are taxed @12%.	Articles of sale value not exceeding INR 2500/- to be taxed @5%.
		Articles of sale value exceeding INR 1000/- are taxed @18%.	Articles of sale value exceeding INR 2500/- to be taxed @18%.
Household Items	Tableware, Kitchenware and other Household items of Wood, Porcelain or China, Copper, Iron, Steel, Aluminium etc.	12% / 18%	5%
Hospitality Sector	Room Accommodation Charges	In case unit price is less than or equal to INR 7,500/- GST @ 12% (with ITC).	In case unit price is less than or equal to INR 7,500/- GST @ 5% (without ITC)
		If unit price is more than INR 7,500/-, GST @ 18% (with ITC)	If unit price is more than INR 7,500/-, GST @ 18% (with ITC)
	Beauty and physical well-being services falling under group 99972	18% with ITC	GST @ 5% without ITC is applicable on Beauty & physical well being services falling under group

			99972 Further, as per FAQ, Beauty & physical well-being services would include services of health clubs, salons, barbers, fitness centres, yoga etc.
	Guest Transportation Services	12%	18%
Automobile Sector	Petrol, LPG, CNG driven vehicles Engine Capacity not exceeding 1200 cc Length not exceeding 4000 mm	GST @ 28%, Cess @ 1%	GST @ 18%, No Cess
	Diesel driven vehicles Engine Capacity not exceeding 1500 cc Length not exceeding 4000 mm.	GST @ 28%, Cess @ 3%	GST @ 18%, No Cess
	Vehicles with both spark-ignition internal combustion reciprocating piston engine and electric motor as motors for propulsion (Petrol Hybrid Vehicles) Engine Capacity not exceeding 1200 cc Length not exceeding 4000 mm	GST @ 28%, Cess @ 17%	GST @ 18%, No Cess
	Vehicles with both spark-ignition internal combustion reciprocating piston engine and electric motor as motors for propulsion (Petrol	GST @ 28%, Cess @ 22%	GST @ 40%, No Cess

	Hybrid Vehicles) Engine Capacity > 1200cc Length > 4000mm		
	Vehicles with compression-ignition internal combustion piston engine [diesel-or semi diesel] and electric motor as motors for propulsion (Diesel Hybrid Vehicles) Engine Capacity not exceeding 1500 cc Length not exceeding 4000 mm.	GST @ 28%, Cess @ 17%	GST @ 18%, No Cess
	Vehicles with compression-ignition internal combustion piston engine [diesel-or semi diesel] and electric motor as motors for propulsion (Diesel Hybrid Vehicles) Engine Capacity > 1500 cc Length > 4000 mm.	GST @ 28%, Cess @ 22%	GST @ 40%, No Cess
	Motor vehicles for the transport of goods	GST @ 28%, No Cess	GST @ 18%, No Cess
Consumer electronics	Air conditioners, Dishwashing machines, TV sets	28%	18%
Construction sector	Cement,	28%	18%
	Sheets for veneering	12%	5%
	Marble blocks, Granite blocks	12%	5%
Insurance Sector	All individual life and health insurance, along with	18% with ITC	Exempt

	reinsurance thereof		
	Third-party insurance of “goods carriage”	18%	5% with ITC
Healthcare Sector	Thermometer	18%	5%
	All Diagnostic Kits & reagents	12%	5%
	Corrective Spectacles	12%	5%
Miscellaneous	GTA service	5% with ITC (of input services in the same line of business)	5% with ITC (of input services in the same line of business)
		12% with ITC	18% with ITC
	Renting of motor vehicle with operator (Cab service)	5% with ITC (of input services in the same line of business)	5% with ITC (of input services in the same line of business)
		12% with ITC	18% with ITC
	Personal Care Products, such as talcum powder, toothpaste, hair oil, shampoo, powder, shaving cream	12% / 18%	5%

Note: In the above illustrative list, unless mentioned, the rates are always with `ITC'.

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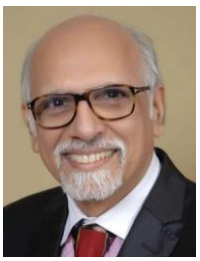

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