

# Monthly tax bulletin

February 2025



I am delighted to bring you the February 2025 edition of the Tax Bulletin covering the latest and significant tax developments shaping India's regulatory framework spanning direct taxes, FEMA, GST, and customs.

Lets begin with the Finance Minister's 8th consecutive Budget which reaffirms the Government's commitment to fostering economic growth, strengthening financial resilience, and creating an inclusive development ecosystem. On the direct tax front the limit of non-taxable income for individuals has been proposed to be raised to INR 12 Lakh, while under indirect tax the bill has proposed significant legislative amendments to give effect to the 55th GST Council Meeting's recommendations. Please refer our detailed analysis on the budget proposals [here](#).

In the realm of direct taxation, the Finance Bill has introduced the New Income Tax Bill 2025, set to take effect from April 1, 2026, with the aim of simplifying tax laws, removing outdated provisions, and enhancing compliance. Finance Minister Nirmala Sitharaman presented the bill in Parliament, marking a significant step toward tax reform. Additionally, the CBDT has provided further clarifications under the Vivad se Vishwas Scheme, 2024, to facilitate smoother dispute resolution. On the judicial front, the Supreme Court's stay on the Delhi High Court's ruling concerning India-Mauritius treaty benefits has garnered considerable industry attention.

The RBI has introduced new provisions allowing Indian exporters to hold Foreign Currency accounts abroad. At the same time, foreign businesses interested in India can now open SNRR accounts through authorized dealer bank branches overseas—steps aimed at facilitating global trade in local currencies.

Under GST, in a landmark ruling, the Delhi High Court clarified that regulatory fees charged by electricity commissions do not qualify as 'supply' under GST, reinforcing the distinction between statutory duties and commercial activities. Additionally, the CBIC has rolled out various notifications and circulars to implement the recommendations of the 55th GST Council meeting.

Lastly, on the Customs front, the Madras High Court has reaffirmed the right to amend Bills of Entry under the Customs Act, 1962, based on contemporaneous import documents. In another significant ruling, the Kolkata Tribunal has held that duty demands become void once export obligations are fulfilled and certified by the DGFT.

We hope this edition equips you with the insights needed to navigate the complexities of India's tax ecosystem confidently. Happy reading!



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# A

## Key developments under direct tax laws

### Legislative/other developments

- **Income-tax Bill, 2025 tabled before Lok Sabha:**

On 13 February 2025, Income-tax Bill, 2025 (2025 Bill) was introduced before the Lok Sabha. The Government also released two documents providing responses to certain Frequently Asked Questions in relation to the 2025 Bill. Further, it also issued a document which provided section mapping of Income-tax Act, 1961 (1961 Act) vis-a-vis 2025 Bill, for ease of navigation.

The 2025 Bill has been drafted after considering 20,976 suggestions received from various stakeholders and is based on international best practices (using simplification models from Australia and United Kingdom). Following are key aspects regarding the overall construct of the 2025 Bill:

- Once enacted, it will be applicable from 1 April 2026 unless otherwise provided.
- Concept of “Tax year” has been introduced replacing “previous year” and concept of term “assessment year” has been removed.
- It comprises of 536 sections, 23 chapters and 16 schedules.
- Obsolete and Redundant sections have been omitted e.g. Fringe Benefit tax provisions.
- It does not contain any explanations / provisos which were there in the 1961 Act.
- The language has been simplified (e.g. word ‘notwithstanding’ has been replaced with the word ‘irrespective’) Further, shorter sentences have been used to make it reader friendly.
- Around 57 tables (earlier: 18 tables) and 46 formulas (earlier: 6 formulas) have been incorporated (e.g. tables have been provided for TDS provisions, presumptive taxation, for salaries, for deduction for bad debt and provision for bad and doubtful debt).
- The amendments proposed vide the Finance Bill, 2025 have also been incorporated. Further, fragmentation of sections has been reduced (eg. all TDS provisions are forming part of section 393 of the 2025 Bill).
- Income not to be included as part of total income has been moved to schedules.

- Taxpayers charter, which gives rights and obligations of the taxpayers is now part of the 2025 Bill.

- No new taxes have been introduced.

- **Vivad se Vishwas Scheme, 2024 (VsV Scheme, 2024):**  
**CBDT provides clarification on certain aspects<sup>1</sup>:**

Union Budget (No.2) 2024 announced the VsV Scheme, 2024, to settle the disputes pending as on 22 July 2024. Taxpayers opting for the said scheme would get immunity from the imposition of penalty, interest on the tax in arrears, and initiation of proceedings under the Income Tax Act, 1961 (IT Act) in respect of any offence. In this regard, the following clarification has been issued by the CBDT in order to remove difficulties in giving effect to the said scheme:

#### Issues

- An order in case of a person was passed on or before the specified date, i.e., 22 July 2024; and
- Time for filing an appeal against such an order was available as of 22 July 2024; and
- An appeal against such an order was filed after 22 July 2024, within the stipulated time for filing an appeal, and
- The aforesaid appeal is filed without any application for condonation of delay.

#### Clarification

Such an appeal will be considered as pending as of 22 July 2024, and such a person will be regarded as an appellant. Further, the disputed tax would be calculated on the basis of such appeal and provisions of the VsV Scheme, 2024, and the rules made thereunder will apply accordingly.

1. Notification no. 8 of 2025 dated 20 January 2025



- **Ministry of Finance (MoF) excludes International Financial Services Centre (IFSC) units from the levy of tax collected at source (TCS) on the sale of goods exceeding INR 50 lakh<sup>2</sup>:** Section 206C(1H) of the IT Act requires the seller to collect tax at the source at the rate of 0.1% on the sale consideration exceeding INR 50 lakh in case where the value of goods sold in an FY exceeds INR 50 lakh.

In this regard, the MoF<sup>3</sup> has notified that a unit of an IFSC will not be considered as “buyer” for the purpose of Section 206C(1H) of the IT Act, subject to the following conditions:

Condition related to	Condition required to be fulfilled
Buyer (i.e., an IFSC unit as defined in explanation to Section 80LA of the IT Act)	<p>Furnish a statement-cum-declaration to the seller in Form No. 1A, providing details of FYs relevant to the 10 consecutive AYs for which the buyer opts to claim deduction under Sections 80LA(1A) and 80LA(2) of the IT Act; and</p> <p>Such statement-cum-declaration is required to be verified in the prescribed manner (specified in the said form) for each of the aforesaid AYs for which the deduction under Section 80LA(1A) and 80LA(2) of the IT Act is claimed.</p>
Seller	<p>After the date of receipt of Form No. 1A, the seller will not collect tax on payment received from the buyer; and</p> <p>Furnish the particulars of all the payments received from such buyer in the statement of tax collection [referred in Section 206C(3) of the IT Act read with Rule 31AA of the IT Rules].</p>

Further, the relaxation described above will be available to the IFSC unit only for FYs declared by it in Form No. 1A (i.e., years for which the deduction under Section 80LA of the IT Act has been claimed). However, the seller will be liable to collect tax on payments received for any other year.

### Our comment

As per Budget 2025, it is proposed to delete the TCS on the sale of specified goods w.e.f. 1 April 2025.

- **CBDT inserts new rule for NRs operators of cruise ships opting for presumptive taxation<sup>4</sup>:** The Finance (No. 2) Act, 2024, had introduced Section 44BBC in the IT Act, wherein 20% of profits/gains from the business for NRs operating cruise ships would be deemed to be the income in rest of the amount received/deemed to be received for the carriage of passengers, subject to certain prescribed conditions.

In this regard, the CBDT has inserted Rule 6B of the IT<sup>5</sup> Rules and specified that NRs engaged in cruise ship operations must:

- Operate a passenger ship with a carrying capacity of more than 200 passengers/length of 75 meters or more for leisure and recreational purposes and need to have appropriate dining and cabin facilities for passengers;
- Operate such ship on scheduled voyages or shore excursions, touching at least two seaports of India or the same seaports of India twice;
- Operate such ship primarily for carrying passengers (not for carrying cargo);
- Operate such ship as per procedure and guidelines (if any) issued by the Ministry of Tourism or Ministry of Shipping.

2. Notification No. 6 of 2025 dated 6 January 2025

3. w.e.f. 1 January 2025

4. Notification No. 9 of 2025 dated 21 January 2025

5. w.e.f. 21 January 2025

- **CBDT issues guidance regarding the Principal Purpose Test for India's tax treaties<sup>6</sup>:**

On 1 October 2019, the Multilateral Convention (MLI) modifying India's tax treaties introducing the Principal Purpose Test (PPT) clause to prevent treaty abuse came into effect. The PPT denies treaty benefits if one of the principal purposes of an arrangement or transaction is to obtain a benefit, directly or indirectly, under a double taxation avoidance agreement (DTAA).

In this regard, the CBDT has clarified that based on an objective assessment of the relevant facts and circumstances, the PPT test must be checked to determine whether or not the test is being fulfilled. Further, the CBDT also clarified the application of the PPT as under:

- **Period of application for PPT**

For DTAA's amended bilaterally (such as India's DTAA with Chile, Iran, Hong Kong, China): The date of entry into force of the DTAA or the amending protocol incorporating the PPT, whichever is relevant.

For DTAA's amended through the MLI:

- **Taxes withheld at source:** On or after the first day of the previous year after the MLI enters into force for contracting jurisdictions.
- **Other taxes levied by India:** Taxable period (beginning on or after the expiration of six calendar months from the latest of the dates on which the MLI enters into force for the contracting jurisdictions).

- **Interaction with treaty-specific bilateral commitments**

Currently, India has made treaty-specific bilateral commitments in the form of grandfathering provisions under the following DTAA's:

- India-Cyprus DTAA;
- India-Mauritius DTAA;

- India-Singapore DTAA.

It is clarified that the grandfathering provisions will remain outside the purview of PPT provisions and be governed by the specific provisions in this regard of the respective DTAA.

- **Supplementary guidance**

Tax authorities can refer to BEPS Action Plan 6 final report and commentary to Articles 1 and 29 of the UN Model Tax Convention (updated in 2021) as supplementary sources of guidance, subject to India's reservations, if any.



6. Circular No. 1 of 2025 dated 21 January 2025

## Judicial developments

- **Most Favoured Nation (MFN) issue: Supreme Court (SC) follows its decision in the case of Nestle SA case and allows the Revenue's SLP<sup>7</sup>:** The SC, in its recent decision, allowed the Revenue's SLP against the Delhi High Court's (HC's) decision. The HC had allowed the taxpayer's writ petition and directed the Revenue to issue a certificate for withholding tax at a lower rate of 5% on the taxpayer's dividend income in place of the MFN clause contained in the India-Netherlands tax treaty.

The SC observed that the HC had allowed the taxpayer's appeal by relying on the ratio laid down in the case of *Concentrix Services Netherlands B.V.*<sup>8</sup> and *Nestle SA*<sup>9</sup>, and the SC has now set aside these cases in *Nestle SA*<sup>10</sup>.

Accordingly, the SC has allowed the department's appeal against the HC's decision.

- **SC stays Delhi High Court's ruling in the case of Tiger Global International II Holdings:** The Delhi HC, in the case of *Tiger Global International III Holdings*<sup>11</sup>, overturned the ruling of the Authority for Advance Ruling (AAR), wherein the AAR had denied the benefit of grandfathering provisions under the India-Mauritius Double Taxation Avoidance Agreement.

In this regard, the Revenue had filed a special leave petition before the SC against the aforesaid order of the HC.

The SC<sup>12</sup> observed that this issue requires thorough consideration, and hence, it has stayed the HC's verdict from implementation and execution.

- **SC quashes prosecution proceedings as penalty proceedings had been dropped<sup>13</sup>:**

### Background

- During the search proceedings, it was found that income relating to transactions, including purchasing immovable property, was not disclosed in the belated return filed for AY 2012-2013.

- Subsequently, a notice under Section 153A of the IT Act was issued with a direction to furnish ITR within 30 days from receipt of the notice. However, the taxpayer failed to file the same within the stipulated time.
- Thereafter, a show cause notice for the initiation of prosecution under Section 276CC of the IT Act was issued. In response, the taxpayer contended that the delay in filing the ITR was due to the seizure of books of accounts and other materials by the department, difficulty in collecting details regarding 18 assesses in the group, and on account of health issues faced by the person in charge.

### HC's decision

- The HC dismissed the taxpayer's petition for quashing the prosecution proceedings under Section 276CC of the IT Act on the premise that the taxpayer offered additional income only after the concealment was determined. Hence, the onus is on the taxpayer to rebut the presumption of culpable mental state (i.e., mens rea) under Section 278E of the IT Act.

### SC's order

- The SC quashed the criminal proceedings initiated against the taxpayer and observed that continuing the criminal proceedings would be unnecessary since the taxpayer had already filed the revised ITR, even if it was filed belatedly.
- Further, the SC observed that the penalty proceedings initiated against the taxpayer were dropped, and a refund was also ordered. In this regard, the SC relied on the reasoning provided in its earlier judgement in the case of *Guru Nanak Enterprises and Ors Vs. ITO* [(2005) 10 SCC 451], and quashed the criminal proceedings initiated under Section 276CC of the IT Act.

7. *Deccan Holdings B V* (TS-11-SC-2025)

8. [(2021) 127 taxmann.com 43] (Delhi HC)]

9. *Nestle SA vs. Assessing Officer, Circle (International Taxation)*, W.P. (C) No.3243 of 2021

10. *Nestle SA and others* [Civil Appeal No(s). 1420 of 2023].

11. *Tiger Global International III Holdings vs. Authority for Advance Rulings* [W.P.(C) 6764 to 6766/2022]

12. *The Authority for Advance Rulings vs. Tiger Global International II Holdings* (Special Leave Petition (Civil) Diary No.1251/2025)

13. *R. P. Darrmalingam vs ACIT* (TS-966-SC-2024)

# B

## Key developments under FEMA

### Legislative/other developments

- **RBI updates FEMA regulations to boost cross-border rupee transactions:** In order to promote cross-border transactions in rupees and other local or national currencies, the Foreign Exchange department of the Reserve Bank of India (RBI) has amended certain regulations<sup>14</sup> to support foreign investment and to offer flexibility for exporters.

The key changes introduced vide the updated regulations are as under:

- Indian exporters are now allowed to maintain foreign currency accounts with banks outside India.
  - A person resident outside India (PROI) with business interests in India is now permitted to open SNRR accounts through a branch of an authorised dealer bank abroad.
  - The mode of payment for the acquisition of equity shares by PROIs now includes inward remittance via repatriable foreign currency or rupee account.
- **RBI updates Master Directions on Foreign Investment in India:** The Master Direction on Foreign Investments in India, earlier issued in January 2018, updated as of August 2024, has been updated to incorporate the amendments made by the RBI in the Foreign Exchange Management (Non-debt Instruments) Rules, 2019, dated 17 October 2019, from time to time.<sup>15</sup>

The key changes/clarifications introduced vide the amended directions are as under:

- Employee stock options, sweat equity shares, and share-based employee benefits, etc., are to be considered fully diluted at the time of issuance/grant to derive the percentage of foreign investment to comply with NDI rules.
- The transfer of equity instruments under deferred payment/indemnification/escrow arrangement, etc., will be allowed, provided the underlying share purchase agreement contains a suitable clause in this regard.
- A change in the tenor of convertible debentures or preference shares is now allowed under FEMA, provided it complies with the Companies Act, 2013, and the applicable rules thereunder.
- It has been clarified that arrangements, such as the swap of shares and deferred payment consideration, which are available for direct investment, are also available for downstream investments.



14. Foreign Exchange Management (Deposit) Regulations, 2016, Foreign Exchange Management (Mode of Payment and Reporting of Non-Debt Instruments) Regulations, 2019 and Foreign Exchange Management (Foreign Currency Accounts by a person resident in India) Regulations, 2015

15. Foreign Exchange Management (Non-debt Instruments) Amendment Rules, 2022 vide Notification S.O. 1802(E) dated 12 April 2022; Foreign Exchange Management (Non-debt Instruments) Amendment Rules, 2024 vide Notification S.O. 332(E) dated 24 January 2024; Foreign Exchange Management (Non-debt Instruments) (Fourth Amendment) Rules, 2024 vide Notification S.O. 3492(E) dated 16 August 2024

# C

## Key developments under transfer pricing law

### Judicial developments

- **High Court upholds Tribunal's decision on income already attributed to the PE, despite the presence of two types of PEs<sup>16</sup>:** The Delhi HC upheld the Tribunal's decision that the entity constituted both a Fixed Place PE and a Dependent Agent PE. The Tribunal had noted that the income attributable to the PE had already been taxed, and no further attribution was necessary. The High Court found that the Revenue's assumptions about the entity's functions and risks were not supported by evidence. The court also noted that the Double Irish model, which exploits a loophole in Irish law to avoid taxation, was irrelevant to the income in question. Consequently, the High Court dismissed the appeal filed by the Revenue.
- **High Court dismisses revenue's appeal on DRP directions receipt date<sup>17</sup>:** The Madras High Court dismissed the Revenue's appeal against the ITAT's order regarding the date of receipt of the DRP's directions by the AO. The court held that the date of upload of DRP directions should be considered for the commencement of the limitation period for passing the final assessment order. The court held that internal processes and user functionalities should not affect the statutory limitation period. Consequently, the High Court upheld the ITAT's decision and dismissed the Revenue's appeal.
- **ITAT deletes adjustment, cites negative services and impact of non-renewal of service agreement<sup>18</sup>:** The Delhi ITAT deleted the TP adjustment related to the provision of services by the assessee to its AE, who had established a data center and provided software services under a service agreement. Operations stopped due to the non-renewal of the agreement, and the TPO observed increased expenditure without corresponding income, rejecting the assessee's TP study. The ITAT noted the financial statements were not on a going-concern basis due to the closure decision and concluded that no tax could be levied on notional income from transactions not considered international transactions. As per the agreement, the assessee could charge a mark-up only on the services provided, not on the expenses incurred to shut down the business, thus deleting the TP adjustment.

# D

## Key developments under GST law

### Legislative/other developments

- **CBIC issues notifications to give effect to 55th GST Council Meeting recommendations:** The CBIC has notified various amendments through the issuance of different notifications, including:
  - **Changes in GST rate, exemptions, and others:** Notable changes include revised GST rates on the sale of old and used vehicles, fortified rice kernels, a levy of 0.1% compensation cess on supplies made by merchant exporters, and exemption on various goods and services. Additionally, sponsorship services provided by body corporates will now be subject to the forward charge mechanism. The definition of 'specified premises' for hotel accommodation services has also been amended, delinking it from the declared tariff concept, effective **1 April 2025**.  
(Please [click here](#) for the detailed alert)
  - **Amendment in the CGST Rules to introduce Temporary Identification Number and procedural changes<sup>19</sup>:** The CBIC has amended the CGST Rules 2017 (CGST Rules), providing the following -
    - Rule 16A was introduced to allow unregistered persons to obtain a Temporary Identification Number (TIN) for GST payments.
    - Rule 19(1) now permits composition taxpayers to amend their GST registration, while Rule 87(4) enables TIN holders to make payments through the GST portal.
    - FORM GST REG-12 has been updated to streamline temporary registrations and TIN issuance.  
(Please [click here](#) to refer to the notification)
  - **Waiver of late fees for delayed filing of GSTR-9C for FY 2017-18 to 2022-23<sup>20</sup>:** Late fees for delayed GSTR-9 and GSTR-9C filings for the said period are waived if the returns are filed by **31 March 2025**. However, no late fee refund will be granted if already paid.  
(Please [click here](#) to refer to the notification)

16. Adobe Systems Software Ireland Limited [TS-28-HC-2025(DEL)-TP]

17. Ramco Cements Ltd [TS-579-HC-2024(MAD)-TP]

18. Motricity India Private Limited [TS-07-ITAT-2025(DEL)-TP]

19. Notification No. 07/2025-Central Tax dated 23 January 2025

20. Notification No. 08/2025-CT dated 23 January 2025



- **CBIC issues clarifications pursuant to 55th GST Council recommendations:**
  - **Regularisation of GST on reinsurance:** Regularisation of GST on co-insurance premium apportionment and reinsurance commissions for 1 July 2017 – 31 October 2024 has been clarified, confirming that no GST is applicable if tax is paid on the full premium by the lead insurer or reinsurer.<sup>21</sup>  
  
(Please [click here](#) to refer to the circular)
  - **Clarifications on other transactions:**
    - GST exemption on penal charges by banks/NBFCs and payment aggregators for transactions up to INR 2,000.
    - Restoration of exemption for NSDC-approved skilling services.
    - Regularisation of GST on R&D services, electricity utility services, and RCM on commercial property renting for composition dealers.
    - The Delhi Development Authority is not classified as a local authority for GST purposes.
    - Facility management services to the Municipal Corporation Delhi Headquarters remain taxable.
    - Regularisation of past GST payments by Goethe Institute/Max Mueller Bhawan<sup>22</sup>.  
  
(Please [click here](#) to refer to the circular)
  - **Late fee applicability for delayed GSTR-9C filing:** Section 47(2) of CGST Act, 2017 [CGST Act], provides that a late fee applies for failure to file GSTR-9, along with GSTR-9C by the due date. If GSTR-9C is not filed on time, the annual return is deemed incomplete, and late fees will be charged as a single fee for both GSTR-9 and GSTR-9C, not separately.  
  
(Please [click here](#) to refer to the circular)
  - **CBIC amends guidelines on arrest procedures under GST<sup>23</sup>:** The CBIC has amended its guidelines on arrests and bail proceedings following the Delhi HC's ruling<sup>24</sup>, mandating that specific grounds of arrest must be communicated in writing to the arrested person, distinguishing them from the broader reasons for arrest.

## Goods and Services Tax Network (GSTN) advisory

- **Phase-III of mandatory HSN reporting:** The GSTN has announced Phase-III of HSN reporting in GSTR-1 and GSTR-1A, effective February 2025. The key updates include dropdown-based HSN selection, separate B2B and B2C HSN reporting, and auto-validation of reported values with supply details.  
  
A 'Download HSN Codes List' button has been introduced for easy access, and an enhanced search feature has been added to auto-populate relevant fields. Initially, validation mismatches will be flagged as warnings, allowing taxpayers to file returns without disruptions.  
  
(Please [click here](#) for the detailed advisory)
- **Hard-locking of auto-populated values in GSTR-3B deferred:** Earlier, the GSTN had announced that from the January 2025 tax period, the GST portal would restrict modifications to auto-populated values in GSTR-3B based on GSTR-1/1A/IFF. However, the implementation has been deferred due to industry representations seeking more time to adapt. While no new timeline has been provided, taxpayers are advised to prepare for the upcoming rollout.  
  
(Please [click here](#) for the detailed advisory)

## Judicial developments

- **Delhi HC held that regulatory functions performed by the electricity commissions are not taxable under GST<sup>25</sup>:** The Delhi HC held that the fees collected by the electricity commissions, including license and tariff fees, do not constitute 'supply' under the CGST Act, and are therefore not subject to GST. The HC observed that the commission's functions, such as issuing licenses and determining tariffs, are statutory obligations performed in the public interest under the Electricity Act, 2003, and are not in furtherance of business or trade.  
  
Furthermore, the HC emphasised that these activities are regulatory and intrinsically linked to their statutory mandate rather than commercial.  
  
(Please [click here](#) for the detailed alert)

21. Circular 244/01/2025-GST dated 28 January 2025

22. Circular 245/02/2025-GST dated 28 January 2025

23. Instruction No. 01/2025-GST dated 13 January 2025

24. Kshitij Ghildiyal (WP [CRL.] No. 370/2024).

25. Central Electricity Regulatory Commission (W.P.(C) 10680/2024 & CM APPL. 43919/2024(Stay)

- **Andhra Pradesh HC rules solar power generating systems as movable, not works contract<sup>26</sup>:** The Andhra Pradesh HC held that a solar power generating system (SPGS) is movable in nature and does not qualify as a works contract under GST. The HC observed that while solar modules are fixed to a civil foundation, they are not permanently embedded in the earth and can be dismantled, transported, and reassembled. Citing the SC's rulings<sup>27</sup>, the HC emphasised that the SPGS is designed for mobility, distinguishing it from immovable property. The HC ruled that the SPGS qualifies as a composite supply liable to 5% GST and set aside the department's demand.

(Please [click here](#) to refer to the judgement)



## E

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

#### Legislative/other developments

- **DGFT grants relief in average export obligation under EPCG scheme for certain sectors with decline in exports<sup>28</sup>:** The DGFT has granted relief in the average export obligation under the EPCG scheme to exporters in certain sectors/product groups that witnessed such a decline during 2023-24 as compared to 2022-23. This relief applies to sectors such as tractors, baby carriages, yachts, lasers, prefabricated buildings, musical instruments, watch cases, straps/bands, typewriters, plywood and wooden articles, silk yarn, garments, tableware/kitchenware, knives, cutting blades, brooms, and cigarette lighters, among others.

(Please [click here](#) to refer to the circular)

- **DGFT introduces online module for filing annual RoDTEP return<sup>29</sup>:** Earlier, the DGFT, vide a public notice<sup>30</sup>, had notified that exporters claiming RoDTEP benefits exceeding INR 1 crore in a financial year would be required to file the Annual RoDTEP Return (ARR) as prescribed in Appendix-4RR of the Handbook of Procedures, 2023 (HBP). The DGFT has now introduced an online module for filing the ARR on the **DGFT Portal** under 'Regulations > RoDTEP.' Additionally, user guidelines and dynamically updated FAQs have been made available at the same link to facilitate exporters.

(Please [click here](#) to refer to the trade notice)

- **Government of Himachal Pradesh notifies the Himachal Pradesh Sadhbhawana Legacy Cases Resolution Scheme, 2025<sup>31</sup>:** The Government of Himachal Pradesh has notified the Himachal Pradesh Sadhbhawana Legacy Cases Resolution Scheme, 2025, to resolve pending tax disputes under subsumed and non-subsumed enactments. The scheme is effective from 18 January 2025 for three months, allowing eligible taxpayers with pending assessments or liabilities to file declarations (FORM SLCRS-01) and settle dues by paying a settlement fee online.

(Please [click here](#) to refer to the notification)

26. Sterling And Wilson Private Limited (WP No. 20096/2020)

27. Sirpur Paper Mills (Civil Appeal No 527/1988) and Solid and Correct Engineering Works (Civil Appeal Nos.960-966/2003)

28. Policy Circular No. 11/2024-25 dated 21 January 2025

29. Trade Notice no. 27/2024-25 dated 29 January 2025

30. Public Notice No. 27/2024-25 dated 23 October 2024

31. Notification No. EXN-F-(10)-15/2024 dated 18 January 2025

## Judicial developments

- **SC issues notice to review CENVAT credit eligibility on construction of immovable property services<sup>32</sup>:** The SC has issued a notice in an SLP filed by the Revenue, challenging the Telangana HC's judgement that allowed the assessee to claim CENVAT credit on inputs and input services used for constructing immovable property. The credit pertained to periods before 2012 and was utilised to discharge service tax on renting immovable property services. The Telangana HC had dismissed the Revenue's appeal, relying on prior rulings that invalidated the board's circular<sup>33</sup> where it conflicted with statutory provisions.

Citing earlier judicial precedents<sup>34</sup>, the HC noted that while circulars bind tax authorities, they do not override courts or contradict the law. It concluded there was no substantial question of law to consider, affirming the assessee's eligibility for credit. The Revenue's challenge now lies before the SC, which will review whether the Telangana HC erred in discarding the Circular and permitting such CENVAT credit.

- **SC upholds CESTAT's ruling allowing exclusion of reimbursable expenses of seconded employees from taxable value for levying service tax<sup>35</sup>:** The SC has dismissed the Revenue's review petition against a CESTAT ruling that quashed service tax demands on the secondment of employees and reimbursement of actual expenses. The Tribunal had held that these seconded employees were under the assessee's control and supervision, creating an employer-employee relationship excluded from the ambit of "service" under Section 65B(44) of the Finance Act, 1994 (FA). It also relied on the SC's decision<sup>36</sup>, confirming that only the gross amount charged for taxable services is subject to tax, thereby excluding reimbursements (e.g., hotel stays, tuition fees) from the taxable value.

The SC rejected the Revenue's petition on the grounds of delay and merits, reiterating the settled position on actual cost reimbursements and employer-employee exclusions.

- **SC affirms CESTAT's decision that the sale of food in cinema halls is pure transactions of sale and not subject to service tax<sup>37</sup>:** The SC has dismissed the Revenue's

appeal against the CESTAT ruling, which held that the sale of food and beverages in cinema complexes constitutes a transaction of sale rather than a taxable service. The Tribunal noted that food items mainly were served as pre-packaged or reheated goods, collected by customers at counters without personalised service. Adopting the "dominant nature test," the CESTAT concluded that any ancillary service elements did not convert the transaction into a taxable service under Section 66E(i) of the FA. Consequently, it quashed the service tax demand, emphasising that VAT was already paid on these sales, reinforcing their characterisation as "sale" transactions, not services.

- **Madras HC upholds the right to amend bills of entry under the Customs Act and quashes restrictive public notice<sup>38</sup>:**

The Madras HC has upheld the right to amend bills of entry under Section 149 of the Customs Act, 1962 (Customs Act), emphasising that contemporaneous documents existing at the time of import are sufficient grounds for amendment. It quashed the public notice<sup>39</sup>, ruling that departmental instructions cannot override statutory provisions such as Sections 149 and 154 of the Customs Act.

The court reiterated that self-assessment orders are appealable and amendments must precede any refund claims under Section 27 of the Customs Act. In directing Customs authorities to re-examine the petitioner's amendment requests within three months, the HC confirmed that procedural restrictions cannot contravene the law's mandate for correcting genuine errors.

- **CESTAT ruled the duty demand invalid once export obligations are met and EODC is issued by DGFT<sup>40</sup>:**

The CESTAT quashed the customs duty demand, along with interest and penalty, holding that once the DGFT issues an Export Obligation Discharge Certificate (EODC), Customs authorities lack the jurisdiction to reassess compliance.

It reaffirmed that duty-free imports need not be physically incorporated into exported goods as long as they are commercially recognised inputs for the finished product. The release of the bond by the Deputy Commissioner of Customs further confirmed compliance, invalidating any retrospective demand. The demand was also time-barred due to the absence of suppression or intent to evade duty, rendering the interest and penalty under Section 114A of the Customs Act, unsustainable.

32. Vanenberg IT Park Solutions (C.E.A No.4 OF 2023)

33. Board's Circular No. 98/1/2008-Service Tax dated 4 January 2008

34. Ratan Melting & Wire Industries (2008 220 CTR 98)

35. M/s Boeing India Defense Pvt. Ltd. (C.A No. 7793-7794/2023)

36. Intercontinental Consultants & Technocrats Pvt. Ltd. (CAI No. 2013 of 2014)

37. M/s PVR Limited (Service Tax Appeal No.51465 of 2017)

38. M/s. Bharti Airtel Limited (W. P. No. 15419 of 2022)

39. Public Notice No. 88/2019 dated 18 October 2019

40. M/s. Skipper Ltd (Customs Appeal No. 79219 of 2018)



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