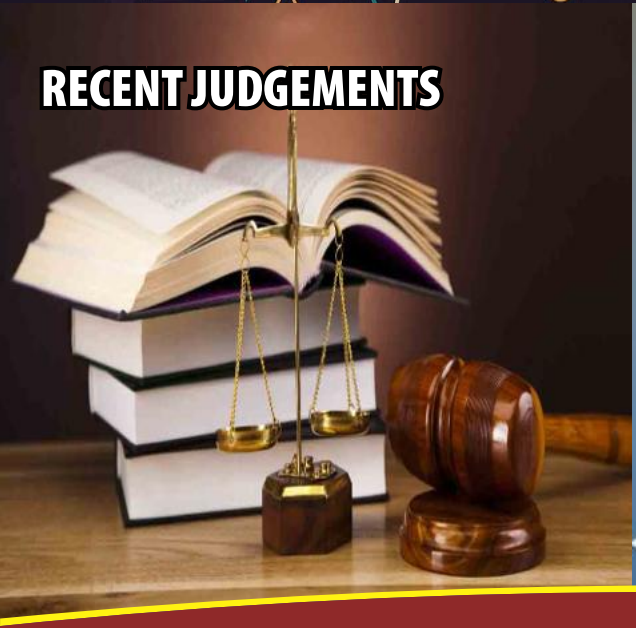
THE MONTHLY MAGAZINE FROM CASC



VOLUME-5 ISSUE-4 APRIL 2026

CASC BULLETIN

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Date	Topic	Speaker
30.04.2026 (Thursday)	GST - Recent Case Laws - Impact and Guardrails	CA. Vijay Anand

Shri G.Narayanaswamy CA Study Circle Meetings will be at 6.30 p.m. and will be preceded by fellowship over High Tea at 6.00 p.m

CASC Annual Members are requested to renew their subscription for 2026 - 2027

EDITORIAL

Finance Bill 2026: Less Litigation, More Compliance – A Taxpayer-Friendly Reset !!!

The Lok Sabha's passage of the Finance Bill 2026 marks a significant shift towards easing tax administration in India. A major highlight is the substantial increase in income-tax appeal thresholds across all judicial forums. The threshold for appeals now goes up to Rs.5 crores at the Supreme Court level, signalling a clear intent to reduce unnecessary litigation. This move is expected to unclog courts and allow focus on high-value, substantive disputes. Another key reform is the extension of the updated return filing window to 48 months.

This provides taxpayers a wider opportunity to voluntarily correct omissions and errors. The expanded framework even allows updated returns in certain reassessment scenarios, enhancing flexibility. Overall, the reforms aim to promote voluntary compliance rather than aggressive enforcement. The government's approach clearly reflects a shift towards trust-based tax administration. For professionals and taxpayers alike, this is a progressive step towards a more efficient and less adversarial tax ecosystem.

Professionals may face interpretational challenges in reassessment-linked updated return provisions. Overall, while the intent is taxpayer-friendly, its success will depend on balanced implementation and clarity in execution.

April Rush: The Chartered Accountant's Season of Precision and Pressure

The month of April marks one of the busiest and most demanding periods for Chartered Accountants. With bank audits in full swing, professionals are deeply engaged in verifying financial health and compliance. Simultaneously, year-end compliances demand meticulous attention to detail and strict adherence to timelines. Finalisation of accounts, tax computations, and statutory filings create an intense work environment. Accuracy becomes critical, as even minor errors can have significant financial and regulatory implications.

Long working hours and tight deadlines test both technical expertise and professional endurance. Coordination with clients, bankers, and teams adds to the operational complexity during this period. Despite the pressure, this season showcases the true value and responsibility of the CA profession.

It is also a time where learning, practical exposure, and decision-making skills are sharpened. April, though hectic, stands as a testament to the commitment and resilience of Chartered Accountants.

Building a Trust-Based Tax Ecosystem

Budget 2026 marks a clear shift towards a trust-based compliance framework in India's tax system. The government's approach signals reduced adversarial proceedings and greater reliance on voluntary disclosures. Measures like extended timelines for updated returns empower taxpayers to correct errors proactively. Higher appeal thresholds reflect an intent to minimize unnecessary litigation and administrative burden.

This transition encourages a cooperative relationship between taxpayers and tax authorities. However, trust-based systems also require strong self-discipline and ethical compliance from taxpayers. There is a risk that leniency may be misused by non-compliant entities if monitoring is not robust. Effective data analytics and backend verification will be crucial to support this model. For professionals, the focus shifts from defensive compliance to advisory and value-added services.

Direct Tax Home Refresher Course from 25th April,2026

In the ever-evolving landscape of direct taxation, continuous learning is not merely an option but a professional necessity. In this context, the Direct Tax Home Refresher Course, being organised by Bombay Chartered Accountants' Society in collaboration with various professional forums including the Chartered Accountants Study Circle, stands as a commendable initiative aimed at strengthening the knowledge base of tax professionals.

Members are encouraged to actively participate and derive maximum benefit from the sessions. Beyond technical knowledge, such programmes foster professional networking, sharpen analytical skills, and reinforce the ethos of continuous professional development.

Appeal

We, at Chartered Accountants Study Circle, request members to contribute articles for the bulletin and you may contact the editorial board regarding the same. We have been regularly conducting technical programmes every month. Members are requested to attend the programmes conducted by CASC and are also requested

to send their suggestions and/or value additions to the services provided by CASC including this Bulletin. The same can be sent as hard copy to the office of the CASC or emailed to admin@casconline.org or any of the members of the Management Committee of the CASC. Any member interested in using the CASC platform for addressing our members on technical topics may kindly feel free to contact us by way of email at admin@casconline.org

For and on behalf of the Editorial Board

Bhuvaneswari.R.V.

CA. BHUVANESWARI R.V

DIRECT TAXES HOME REFRESHER COURSE 2026

DATE	TIME	SESSION	SUGGESTED TOPIC
SATURDAY, APRIL 25, 2026	4.00 TO 5.30 PM	1	Income-tax Act, 2025 – Structural Overview and Key Conceptual Changes vis-à-vis the Income-tax Act, 1961
SATURDAY APRIL 25, 2026	5.30 TO 7.00 PM	2	Technology, AI and Data Analytics in Tax Practice
TUESDAY APRIL 28, 2026	4.00 TO 5.30 PM	3	Practical issues related to TDS / TCS - Outreach program - I. T. Dept Authorities
TUESDAY APRIL 28, 2026	5.30 TO 7.00 PM	4	TDS & TCS Regime under the Income-tax Act, 2025
THURSDAY APRIL 30, 2026	4.00 TO 5.30 PM	5	Salary Income under the New Income-tax Act, 2025 – Computation framework, deductions and Rules
THURSDAY APRIL 30, 2026	5.30 TO 7.00 PM	6	Business Income under the New Income-tax Act, 2025 – Computation framework, deductions and emerging controversies
SATURDAY MAY 02, 2026	4.00 TO 5.30 PM	7	Issues under Corporate Taxation (MAT, Business Re-organisation, Buy-back, Tax schemes for corporates -115BAB, etc)
SATURDAY MAY 02, 2026	5.30 TO 7.00 PM	8	Presumptive Taxation and practical issues, case studies
TUESDAY MAY 05, 2026	4.00 TO 5.30 PM	9	Foreign Assets of Small Taxpayers – Disclosure Scheme (FAST-DS 2026)
TUESDAY MAY 05, 2026	5.30 TO 7.00 PM	10	Charitable Trusts Taxation – recent amendments in law and compliance including registration
THURSDAY MAY 07, 2026	4.00 TO 5.30 PM	11	Capital Gains pertaining to Real Estate Transaction, Re-development issues
THURSDAY MAY 07, 2026	5.30 TO 7.00 PM	12	Transfer Pricing – Documentation and Safe Harbour updates
SATURDAY MAY 09, 2026	4.00 TO 5.30 PM	13	Penalty Provisions, immunity provisions along with Decriminalisation under income tax
SATURDAY MAY 09, 2026	5.30 TO 7.00 PM	14	Recent important judicial decisions covering various provisions

FEES : Rs.2950 (Inclusive of GST)

Virtual Mode - Zoom platform

Detailed Announcements and Registration procedures will be rolled out shortly

GLIMPSES FROM SHRI.G.NARAYANASWAMY CA STUDY CIRCLE MEETING HELD ON 12.03.2026

SPEAKER - CS.KRISHNA SHARAN MISHRA **TOPIC - MCA MATTERS**

GLIMPSES FROM SHRI.G.NARAYANASWAMY CA STUDY CIRCLE MEETING HELD ON 26.03.2026

SPEAKER - CA.P.JAINENDAR TOPIC - UNLEARN AND RELEARN - TDS COMPLIANCES UNDER INCOME TAX

GLIMPSES FROM THE JOINT PROGRAM ON BANK BRANCH AUDIT FOR STUDENTS & STAFF HELD ON 26.03.2026 @ MAHARASHTRA BUILDING TRUST

GLIMPSES FROM LATE SHRI.CA.J.MURALI 60TH BIRTHDAY CELEBRATIONS HELD ON 28.03.2026 @ HOTEL PALM GROVE.

PRESENT MEMBERS OF THE MANAGEMENT COMMITTEE OF THE CHARTERED ACCOUNTANTS STUDY CIRCLE IN ALPHABETICAL ORDER

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1. The copies of the material used by the speakers and provided to CASC for distribution, for the regular meetings held twice in a month is available on the website and is freely downloadable.
2. Earlier issues of the bulletin are also available on the website in the "News" column.

The soft copy of this bulletin will be hosted on the website shortly.

READER'S ATTENTION

You may please send your Feedback / Contributions / Queries on Direct Taxes, Indirect Taxes, Company Law, FEMA, Accounting and Auditing Standards, Allied Laws or any other subject of professional interest to ***admin@casconline.org***

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RECENT JUDGEMENTS IN VAT / CST / GST

CA. V.V. SAMPATHKUMAR

GST Registration: The Petitioner's challenge against the cancellation of their GST registration centered on the argument that the failure to file returns was not a deliberate act of tax evasion but rather the unfortunate result of severe financial hardship coupled with a misplaced reliance on a third-party accountant. In its deliberation, the Court underscored that the power to cancel a GST registration should not be exercised mechanically or as a primary punitive measure when bona fide reasons for the lapse are present, as the underlying objective of the GST framework is to foster business continuity and economic growth rather than to dismantle active enterprises. While the Court favoured the restoration of the registration to allow the business to survive, it imposed rigorous safeguards to protect the revenue, mandating that the Petitioner must file all overdue returns within a strictly defined timeline and clear all outstanding tax liabilities, interest, and penalties in full. Furthermore, the Court established a critical procedural boundary by clarifying that past liabilities cannot be offset using unutilised input tax credit until the tax authorities have completed a thorough scrutiny of the claims, thereby ensuring that the restoration of

registration serves the dual purpose of procedural compliance and fiscal integrity.**Tvl. Premium Tyres Pvt Ltd vs AC(ST) W.P.(MD) No. 36605 of 2025Dated 02 January 2026**

Modes of Service: The Petitioner successfully challenged a GST assessment order on the groundsthat the **Department's reliance on mere portal uploads** violated the principles of natural justice and failed to meet the statutory requirements of Section 169 of the CGST/ TNGST Act. The Court emphasized that while electronic service is a recognized mode, it is not an absolute substitute for effective communication; specifically, when a taxpayer remains unresponsive to portal-based notifications, tax authorities are obligated to employ alternative methods such as **Registered Post with Acknowledgement Due (RPAD)** or personal delivery to ensure the assessee is genuinely informed. Furthermore, the ruling highlighted a critical jurisdictional error where the assessment was found to be grounded in an **inapplicable legal provision**, rendering the entire order legally unsustainable and defective at its core. By setting aside the original order and remanding the case for fresh adjudication, the Court reaffirmed that **procedural safeguards** and the right to a fair hearing cannot be bypassed through ritualistic digital compliance, ultimately mandating that a new, reasoned order be passed only after providing the Petitioner with a meaningful

opportunity to present their case **M. Gnanarajvs AC (ST) W.P.(MD) No. 99 of 2026 Dated 06 January 2026**

Penalty Provisions: General vs Specific: In a significant judicial clarification, the Madras High Court recently addressed the overlap between specific compliance charges and residual penal provisions, ruling that a general penalty under Section 125 of the CGST/TNGST Act cannot be validly imposed when the statute already prescribes a specific late-fee mechanism under Section 47 for the delayed filing of returns. The Court emphasized that Section 125 is a residuary provision intended only for contraventions where no other penalty is expressly provided; therefore, once a taxpayer has been subjected to a late fee for a procedural delay, invoking a general penalty for the same act amounts to an impermissible double punishment. By quashing such overlapping penalty orders, the judgment reinforces the principle that penal statutes must be strictly interpreted according to the legislature's intent, ensuring that specific statutory mechanisms always prevail over general provisions to protect taxpayers from arbitrary or excessive administrative actions. This ruling provides a vital safeguard for businesses, clarifying that mere procedural delays without fraudulent intent should only attract the specific compensatory late fees mandated by law rather than additional, discretionary penalties. **PalaniIlanthirayanvs DCTO W.P. No. 395 of 2026 Dated 09 January 2026**

Principles of Natural Justice: In a significant intervention regarding the taxability of intra-group financial arrangements, the **Madras High Court** set aside a GST demand on a corporate guarantee after finding that the assessing authority had completely ignored binding **CBIC Circulars** (Nos. 199/11/2023-GST and 210/4/2024-GST) which clarify that such transactions between related entities can be valued at **nil or zero** if the recipient is eligible for **full Input Tax Credit (ITC)**. The Court emphasized that for a quasi-judicial order to be legally sustainable, it must demonstrate a meaningful consideration of all specific defences raised by the taxpayer, noting that a "mechanical" application of the 1% deeming valuation under **Rule 28(2)** without evaluating the applicability of clarificatory departmental guidance constitutes a fundamental violation of the **principles of natural justice**. By remanding the matter for fresh adjudication, the judgment reaffirms that the executive's own circulars are binding on the department and that authorities are duty-bound to evaluate a taxpayer's substantive contentions regarding **valuation and credit eligibility** before finalising any tax liability, thereby ensuring that the assessment process remains fair, reasoned, and compliant with the settled principles of administrative law. **Tvl. Amman Try Trading Company Pvt Ltd vs STO W.P.(MD) No. 104 of 2026Dated :10 January 2026**

Adherence to Natural Justice (Ex-parte Assessment): In a series of landmark rulings, various High Courts, including the Madras High Court and Allahabad High Court, have set aside ex-parte GST assessment orders where the Revenue Department relied exclusively on portal-based communication. The Courts have consistently held that while Section 169 of the CGST/TNGST Act recognizes electronic service as a valid mode, the mere act of uploading a notice to a digital dashboard does not satisfy the requirements of natural justice if the taxpayer remains unaware and unresponsive. Highlighting a recurrent issue where notices are placed under less-visible tabs like "View Additional Notices/Orders", the judiciary has declared that tax authorities are duty-bound to explore alternative statutory methods, such as Registered Post with Acknowledgement Due (RPAD) or personal delivery, before concluding that service is effective. This legal perspective underscores that procedural fairness is non-negotiable, particularly when a taxpayer's failure to respond leads to adverse financial consequences without a personal hearing, which is a statutory right under Section 75(4) of the Act. Consequently, such flawed assessments have been quashed and remanded for fresh adjudication, often on the condition that the taxpayer pre-deposits a portion of the disputed tax, thereby ensuring that technological

convenience does not override the fundamental right to be heard and the core principles of fair administrative action. **Tvl. Enfive Systems Pvt Ltd vs Commr of CT W.P. No. 332 of 2026Dated:19 January 2026**

Order not served: In a significant intervention by the Madras High Court regarding ex-parte assessments, the Court recently addressed a writ petition challenging a DRC-07 assessment order dated 22.02.2025 that confirmed a tax demand for the 2020-21 period following the petitioner's failure to respond to a Show Cause Notice (DRC-01) dated 25.11.2024. The petitioner's primary contention was that the detailed order had not been effectively served—a common grievance when notices are only uploaded to the "Additional Notices" portal—and that the statutory period for filing a formal appeal had already expired, leaving them without an alternative remedy. Recognizing that a mechanical confirmation of tax demands without a substantive reply violates the principles of natural justice, the Court followed established precedents and quashed the impugned order, remanding the matter for fresh adjudication de novo on the condition that the petitioner demonstrates their bona fides by depositing 25% of the disputed tax amount within 30 days. This conditional remand serves as a middle ground, ensuring that

the revenue is partially secured while the taxpayer is granted a final opportunity to file a comprehensive reply and present supporting documentation for a reasoned hearing. Upon verification of this deposit, the respondent is mandated to pass a fresh order within three months; however, the Court explicitly clarified that any failure to meet these strict timelines or deposit conditions would automatically allow the department to treat the writ petition as dismissed and resume recovery proceedings as per the original demand. **Lalitha Ragunathan Vs. CTO, Mandaveli South-1, W.P.No.2601 of 2026 DATED: 30.01.2026**

Delay: In a significant move to prioritize substantive justice over procedural technicalities, the Madras High Court intervened in a case where a statutory appeal against an assessment order dated 20.02.2025 was summarily dismissed by the Appellate Authority on 22.07.2025 due to a minor delay in filing. The petitioner highlighted that the appeal was submitted just four days beyond the maximum condonable period permitted under Section 107 of the GST enactments, an interval so negligible that a strict application of the limitation law would result in an irreparable loss of the right to be heard. Recognizing that the Appellate Authority's powers to condone delay are strictly capped by statute, the Court invoked

its extraordinary jurisdiction under Article 226 to transcend these rigid time limits, noting that consistent judicial practice favours deciding tax disputes on their actual merits rather than dismissing them on account of marginal, non-habitual delays. Consequently, the Court set aside the rejection order and remitted the matter back to the Appellate Authority with a clear mandate to adjudicate the appeal on its factual and legal substance, effectively treating the delay as condoned to ensure that the principles of natural justice are not defeated by a mere calendar technicality. **Tvl.Padmam Furniture Industries Vs AC(ST), Royapuram Assessment Circle W.P.No.2621 of 2026 Dated: 30.01.2026**

Burden of proof: In a critical ruling concerning the substantiation of tax credits, the Madras High Court addressed a series of writ petitions challenging appellate orders dated 29.08.2025 which had confirmed substantial penalties under Section 122(1)(ii) for the tax periods spanning 2017–18 to 2020–21. The core of the dispute lay in the Department's allegation of wrongful Input Tax Credit (ITC) availment, premised on the contention that the petitioner failed to provide definitive proof of the physical movement of goods, thereby rendering the transactions mere paper entries. While the petitioner maintained that all requisite documents had been furnished but

overlooked, the Court reinforced the stringent legal principle that ITC is inherently provisional and that the onus of proof rests entirely upon the assessee to demonstrate the genuineness of the supply through cogent evidence such as e-way bills, lorry receipts, and weighment slips. Observing that the existing records suffered from incomplete tabulation and a lack of granular verification, the Court opted to remit the matters back to the Appellate Authority for a comprehensive de novo review on merits. This remand was, however, made strictly conditional upon the petitioner making a substantial pre-deposit of ₹ 75 lakh, ensuring full cooperation with the authorities, and submitting an exhaustive set of documents to bridge the evidentiary gap, failing which the original penalty orders would remain enforceable to protect the interests of the revenue. **M/s.Greenwood Training Company vs 1. Appellate DC (ST), GST-Appeal, Chennai – II, 2.STO, Group – II, Inspection – II, Chennai. 3.AC (ST), Sriperumbudur Assessment Circle W.P.Nos.2968, 2971, 2991, 2995 and 160 of 2026 Dated: 30.01.2026**

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CASE LAWS - GST

CA. VIJAY ANAND

1. GST – SOCIETY UNDER KARNATAKA SOCIETIES REGISTRATION ACT 1960 – PURSUANT TO STATE ORDER UNDER BUILDING CENTRES SCHEME – GOVERNING BODY HAD DEPUTY COMMISSIONER AS CHAIRMAN AND IS SUBJECT TO COMPLETE GOVERNMENT CONTROL – EXEMPT UNDER NOTIFICATION NO.12/2017-C.T.(R) DT.28.06.2017

In BagalkotNirmithi Kendra v. UOI 2026(105) GSTL 35/(2025) 37 Centax 103 (Kar.) the petitioner is a Society registered under the Karnataka Societies Registration Act, 1960, which came into existence in terms of a government order dated 05.09.1990 and is engaged in the civil construction works for the State and Central Governments.

On 13.10.2017, a notification was issued by the State, Finance Department, amending the definition of 'Government Entity' by including Clause (zfa). Pursuant to the audit for the period from July, 2017 to March, 2018, an SCN was issued on the assesse denying the claim of exemption as a government entity since other NirmithiKendras in the State of Karnataka are also

complying with the GST liabilities accrued to them. On a writ petition, the high court observed as under:

1. In Pio& the Project Director Nirmiti Kendra v. State Information Commissioner – 2025 SCC Online Kar 17662, it was held that NimirtiKendras are public authorities and cannot escape the diligence of information.

2. Furthermore, the Supreme Court in the case of G. Krishnegowda v. State of Karnataka 2021SCC OnLineKar 15332, held that any exemption would also apply to the entities completely controlled by the government.

Hence, the high court allowed the appeal and quashed the impugned communication overlooking the exemption.

2. GST - ZERO RATED SUPPLY –US ENTITY CARRYING ON BUSINESS OF INFORMATION AND CONSULTANCY IN SOFTWARE DEVELOPMENT AND CONNECTED SERVICES AND INVOICE AT COST PLUS 8% MARKED UP - ELIGIBLE TO BE TREATED AS ZERO RATED SUPPLY

In Infodesk India Pvt. Ltd. v. UOI 2026(105) GSTL 87/(2025) 37 Centax240 (Guj.), the petitioner is a wholly owned subsidiary of Info Desk. Inc. situated at USA and is established exclusively

for the purpose of servicing its parent organizations' technical requirements and for that purpose, the petitioner has developed products and services for InfoDesk. Inc.

Vide, services agreement dated 21st February 2011, the petitioner provides information services and consultancy in the business of software development, editorial services and IT services wherein the parent company raises their requirements and queries which are assigned to the petitioner in form of "JIRA tickets' which is a software application and a service desk platform. The JIRA tickets have a detailed description of the kind of service required by InfoDesk. Inc. from the petitioner. The petitioner has hired employees for providing these Software Consultancy Services to their parent company which provides remuneration to these employees in exchange of these services. The employees of the petitioner are assigned with the task of methodically engaging with the raised queries of parent company on the common platform of JIRA tickets.

The petitioner filed refund application prescribed in Circular No.17/17/2017-GST dated 15th November 2017 and Circular No.24/24/2017-GST dated 21st December 2017 for services rendered to their parent company which was denied by the adjudicating authority on the ground that on the date of filing

of refund claim as per acknowledgment, the petitioner was not entitled to the benefit of supply of service of export under Section 2(6) of IGST Act as the software consultancy services provided by the petitioner was more in nature of intermediary services to its parent company and sustained by the first appellate authority. On a writ petition, the high court observed as under:-

1. The short question which is required to be answered is as to whether the service provided by the petitioner should be considered as export of service or intermediary service under IGST Act.

2. As per Section 2(13) of the IGST Act, intermediary means a broker, an agent or any other person, who arranges or facilitates the supply of goods or services or both, or securities, between two or more persons, but does not include a person who supplies such goods or services or both or securities on his own account.

3. On a perusal of the terms of the service agreement, it is apparent that the petitioner is required to assist the US entity in carrying on the business of providing information and consultancy in business of software development and for that purpose, the petitioner is required to set up consultations and meetings between globally based experts and globally based clients and

to participate in any business of consultants, agents, sub-agents, liaison agents/liaison sub-agents for its parent company and foreign clients for such activities. The petitioner is also to provide advisory services for expansion of business, marketing, advertisement, publicity, personnel accounting to its parent company.

4. Therefore, it cannot be said that the petitioner is only to work as an agent or a broker between parent company and their customers without supplying any goods or services on its own account.

5. Moreover, payment is to be received by the petitioner from its parent company on monthly basis and fee equal to cost incurred by the petitioner plus 8% mark up on costs which indicates that the petitioner is also earning the profit of 8% on the cost incurred by it in providing services to its parent company.

6. The agreement further stipulates that the petitioner is not entitled to receive any other amount for providing services and it has to bearall its expenses including taxes, etc. as also for the settlement of disputes between the petitioner and its parent company arising out of the agreement through friendly negotiation and in case there is no settlement of the dispute, then the same should be resolved through India International

Economic and Trade Arbitration Commission, South India Sub-Commission for arbitration in accordance with the Rules of Arbitration of India International Economic and Trade Arbitration Commission in effect at the time of applying for arbitration.

7. In view of the above, it cannot be said that the petitioner was not exporting services but was working as an intermediary for its parent company.

8. The petitioner is an independent company incorporated in India having distinct entity and the service provided by the petitioner to their parent company was in independent capacity and not in the capacity of either agent or broker or any other person.

9. On similar issues under the service tax regimes, revenues classification as "intermediary services" were negated by the high courts in Genpact India (P.) Ltd. v. Union of India (2023) 5 Centax 483 (P & H.) and Ernst & Young Ltd. v. Additional Commissioner, Central GST Appeals 2023 (73) G.S.T.L. 161 (Del.) = (2023) 4 Centax 440(Del.)

10. A perusal of the definition of "intermediary" under the service tax regime vis-a-vis the GST regime would show that the definition has remained similar. Even para 2.2 of Circular dated

20.09.2021 issued by CBIC clarified that the concept of "intermediary" was borrowed in GST from the Service Tax Regime. The Circular clearly states that there is broadly no change in the scope of "intermediary" services in the GST regime vis-a-vis the service tax regime except addition of supply of securities in the definition of "intermediary" in the GST law.

Hence, the impugned order, holding that the petitioner was providing intermediary service to their parent company, was set aside and the respondent was directed to process the refund claim in accordance with the law considering the services provided by the petitioner as export of service to its parent company.

3. GST – ASSESSEE ENGAGED IN SUPPLY OF AGRICULTURAL GOODS AND ARECANUTS –DEMAND CONFIRMED U/S 74 BY THE SAID AUTHORITY OVERLOOKING EVIDENCE OF THE ASSESSEE – NOT SUSTAINABLE

In Raghuvansh Agro Farms Ltd. v. State of UP 2026(105) GSTL 100/(2026) 38 Centax 53 (All.), the petitioner is engaged in the business of supply of agricultural goods and areca nuts. A survey was conducted on 22.1.2019, on the basis of which notice u/s 74 was issued to which reply was submitted on 7.5.2021

and on the basis of said reply another notice dated 13.5.2022 along with reminder no. 3 has been issued to which the petitioner has filed detailed reply along with relevant documents on 17.6.2021. However, without providing any opportunity of personal hearing, the adjudicating authority confirmed the demand which was also sustained by the first appellate authority. On a writ petition, the high court observed as under:

1. The proceedings have been initiated against the petitioner u/s 74 and for initiation of such proceedings, the authorities are duty bound to show the reason of fraud, willful misstatement, suppression of fact for availment of input tax credit wrongly or excessive claim of input tax credit. In other words, the adjudicating authority must have express the reason in the show cause notice that the assessee has wrongly availed or utilized input tax credit due to some fraud or willful misstatement or suppression of fact.

2. Once the aforesaid basic ingredient in the show cause notice u/s 74 is missing, the proceeding becomes without jurisdiction as the assessing authority derives jurisdiction to proceed u/s 74 only when basic ingredients to such proceeding u/s 74 are present.

3. The adjudicating authority has, neither in the show cause notice nor in the assessment order, recorded any such finding supported by due evidence, thereof. In the absence of specific categorical finding supported by the evidence, the entire proceeding against the petitioner is vitiated.

4. On similar grounds in HCL Infotech Ltd. v. Commissioner, Commercial Tax [2024 (90) G.S.T.L. 233 (All.) = (2024) 23Centax 71 (All.),AnjaraRealtech Ltd v. State of Uttar Pradesh (2025) 28 Centax 373 (All.) andVadilal Enterprises Limited v. State of UP [(2025) 32 Centax 90 (All.), the high courts set aside the demand as the SCN lacks the basic ingredients to the proceedings.

5. Neither the adjudicating authority nor the appellate authority justified the jurisdiction of the State GST authority despite specific questions over the same.

6. The purchases and sales are being duly reflected in the GST portal supported by tax invoices&e-way bill and all payments were made through banking channels. The supporting ledgers clearly shows that due purchases have been made as well as actual physical movement of the goods has been taken place and no case of circular trading is made out in favour of the petitioner.

7. Furthermore, proceedings initiated against the petitioner on the basis of purchases made from M/s Sibri traders has been set aside by the Deputy Commissioner, Anti Evasion CGST, Gurgaon and this order has neither been set aside nor modified by any competent court.

8. The justification for confirmation of demand was due to failure of the petitioner to submit the toll plaza receipts justifying the actual physical movement of the goodsis patently or apparently perverse and is without any basis in the absence of any provision or rule under the Act as well as Rules, which compel the assessee to file toll plaza receipts in support of actual physical movement of the goods. On the contrary, e-way bill and tax invoice was produced and payments made to the transporter through banking channel and due ledger of the transporter has also been brought on record but without pointing out any defect therein, the impugned order cannot be justified in the eyes of law.

9. Once all ingredients provided under the Act has been complied with, the authorities are not justified in drawing adverse inference against the petitioner.

Hence, the impugned orders were quashed and the writ petition was allowed.

4. GST – ITC – NON PAYMENT OF GST BY SUPPLIER – BONA FIDE TRANSACTIONS – RECEPIENT COULD NOT BE PENALISED BY WAY OF DENIAL OF ITC

In Sahil Enterprises v. UOI 2026(105) GSTL 177/(2026) 38 Centax116 (Tripura), the petitioner is a proprietary concern engaged in trading of rubber products, had purchased different products from M/s SentuDey ("supplier: for short) on due payment of GST. The CGST investigators blocked the whole ITC balance as on 8.2.2021 amounting to Rs.7,32,353/- from the Electronic Credit Ledger of the petitioner as the supplier had filed Form GSTR-01 return showing the sale of goods to the petitioner, but failed to deposit the tax collected from petitioner while filing GSTR-3B and had instead filed 'Nil' GSTR-3B returns.

Thereafter, the adjudicating authority confirmed the demand u/s 73 of Rs.1,11,60,830/- being wrongly availed by petitioner overlooking the petitioners contention that he could only verify the details of outward supplies reflected in GSTR-2A and there was no mechanism to verify the GSTR-3B filed by its supplier On a writ petition against such confirmation challenging the constitutional validity of Section 16(2) (*c*) of the Act as violative

of Art.14,19(1)(*g*) and 300-A of the Constitution of India and also challenging the order, the High Court observed as under:

1. There is a failure by the Parliament, while enacting Section 16 (2)(c) of the Act, to make a distinction between purchasing dealers who have bona fide transacted with the selling dealer by taking all precautions as required by the Act and those that have not. Therefore, there is need to restrict the denial of ITC only to the selling dealers who had failed to deposit the tax collected by them and not punish bona fide purchasing dealers.

2. The purchasing dealer cannot be asked to do the impossible, i.e., to identify a selling dealer who will not deposit with the Government, the tax collected by him from purchasing dealers, and avoid transacting with such selling dealers.

3. Alternatively, what section 16(2)(c) requires the purchasing dealer to do is that after transacting with the selling dealer, somehow ensure that the selling dealer does in fact deposit the tax collected from the purchasing dealer; and if the selling dealer fails to do so, undergo the risk of being denied the ITC. It would be extremely difficult for a purchasing dealer to ensure that the selling dealer deposits the GST collected from him with the Government.So section 16(2) (c) places an onerous burden on a bona fide purchasing dealer.

4. In these circumstances, if the law seeks to visit disproportionate consequences to a bona fide purchasing dealer, it will become vulnerable to invalidation on the touchstone of Article 14 of the Constitution.

5. Reading down a provision is undoubtedly an accepted method to save it from the vice of unconstitutionality. It would be appropriate in the instant case too to adopt the said principle.

6. In CST v. Radhakrishan (1979) 118 ITR 534 (SC) = (1979) 2 SCC 249, sanction for prosecution of a dealer under the M.P. General Sales tax Act was given by the Commissioner of Taxes under section 46 (1) (c) though there was a procedure for recovery of tax by imposing penalty u/s 22(4-A) of the said Act. The validity of the sanction was questioned on the ground that under the Sales Tax Act, the Commissioner is entitled to pursue two different procedures for enforcing and realizing the assessment made, but as there is no guidance as to the circumstances in which he should resort to either of the two procedures, the provision regarding grant of sanction is invalid. The Supreme Court held that the discretion is given to the Commissioner to resort to one of the two remedies as the facts of the case may

require. In graver cases he will be justified in taking the drastic remedy and resorting to prosecution in the criminal court if he is satisfied that such a course is necessary for the collection of the tax expeditiously. If the discretion is not properly exercised, the court may be justified in interfering in such cases but the law cannot be held to be invalid.

7. In On Quest Merchandising India (P.) Ltd. v. Government of NCT of Delhi 2018 (10) G.S.T.L. 182 (Del.) = (2017) SCC ONLINE DELHI 13037, it was observed that there was a singular failure by the Legislature to make a distinction between purchasing dealers who have bona fide transacted with the selling dealer by taking all precautions as required by the DVAT Act and those that have not consequent to which there wasneed to restrict the denial of ITC only to the selling dealers who had failed to deposit the tax collected by them and notpunish bona fide purchasing dealers. The latter cannot be expected to do the impossible.

8. The aforesaid decision was challenged before the Supreme Court in Commissioner of Trade and Tax Delhi v. Arise India Ltd. 2022 (60) G.S.T.L. 215 (S.C.) wherein the SLP was dismissed without interfering with the order of the High Court.

9. Similarly, in Shanti Kiran India (P) Ltd v. Commissioner Trade and Tax (2025) 35 Centax 222 (Del.), the Delhi High Court ruled in favour of the registered purchaser dealers who paid taxes to the registered seller dealer(s) in terms of invoice(s) raised by them even though those seller dealers did not deposit the collected tax with the Government and against the State. It ought not to be interpreted to deny ITC to purchasers in a bona fide transaction and should be read down and applied only where the transaction is found to be not bona fide or is a collusive transaction or fraudulent transaction to defraud the revenue.

10. Similar views were also held in National PlastoMoulding v. State of Assam 2024 (89) G.S.T.L. 82 (Gau.) = (2024) 21 Centax 182 (Gau.).

11. Some High Courts have upheld the constitutionality of Section 16(2) (c) of the Act without reading it down which are summarized as under:-

a) M. Trade Links v. Union of India 2024 (87) G.S.T.L. 4 (Ker.) = [2024] 163 taxmann.com 218 (Ker.) = (2024) 19 Centax 131 (Ker.)

b) Aastha Enterprises v. State of Bihar 2023 (77) G.S.T.L. 372 (Pat.) = (2023) 9 Centax 270 (Pat.)

c) Shree Krishna Chemicals v. Union of India 2025 (97) G.S.T.L. 199 (M.P.) = (2025) 28 Centax 105 (M.P.)

d) Baby Marine (Eastern) Exports v. Union of India 2025 102 G.S.T.L. 51 (Madras) = (2025) 33 Centax 389 (Mad.)

e) ThirumalakondaPlywoods v. Asstt. Commissioner 2023 (76) G.S.T.L. 172 (A.P.) = (2023) 8 Centax 276 (A.P.)

12. However, none of the above High Courts have looked at the practical impossibility for a purchaser to ensure that the seller pays the GST to the Government particularly when he has no means of checking the said fact. None of them, referred to the decisions of the Delhi High Court in On Quest Merchandising India (P.) Ltd. v. Government of NCT of Delhi 2018 (10) G.S.T.L. 182 (Del.) = (2017) SCC ONLINE DELHI 13037 approved by the Supreme Court in Commissioner of Trade and Tax Delhi v. Arise India Ltd. 2022 (60) G.S.T.L. 215 (S.C.) and in Shanti Kiran India (P) Ltd v. Commissioner Trade and Tax (2025) 35 Centax 222 (S.C). Had those high courts been made aware of these decisions, may be they would have taken the same view as the Delhi High Court and the Supreme Court did.

13. While there can be no dispute about the principles mentioned in their judgments, their failure to appreciate the above important aspect does not persuade to follow their view.

14. Moreover, it is a fundamental rule of law of taxation that, unless otherwise expressly provided, income cannot be taxed twice (LaxmipatSinghania v. CIT AIR 1969 SC 501). There cannot be dispute that the concept of Input Tax credit is introduced to ensure that there is no burden of double taxation on a tax payer. There is nothing in the Act which expressly enables the respondents to tax a purchaser, who has already paid tax to the seller, a second time, by denying him ITC, in all situations. If that were to be so, there would be no concept of giving ITC at all in the Act.

15. The other High Courts have also overlooked this important principle that ITC is introduced to avoid double tax burden on a tax payer under the GST regime. The Parliament though intended it to be a benefit/concession, it had not intended to punish a tax payer by denying him ITC if the transaction entered into by him with a seller/supplier is bona fide.

16. The view taken by the Delhi High Court in the judgments rendered by it under the DVAT Act, which contain similar provision under section 9(2) (g), which have been accepted by the Supreme Court is commendable and that this is a better way to view the issue and Section 16(2)(c) has to be read down as the Delhi High Court had done.

17. The department has additionally submitted the following:-

a. Demands were confirmed against M/s SentuDeyof Rs.19,74,32,052.63/- on account of tax, interest and penalty under SGST and CGST Acts and an amount of Rs.53,93,605/- each of SGST and CGST was recovered for the period August 2017 to February 2018 and Rs.4,86,901/- towards CGST and Rs.5,86,126/- towards SGST was recovered for the period April, 2018 to August,2018 (till 6-7-2020).

b. GST registration of M/s SentuDeyhas been suspended/ cancelled since 21.1.2020 and criminal cases have also been filed against it.

c. SCN was issued only Section 73 and not u/s 74.

18. Thus the department is not disputing that the petitioner did pay the GST of Rs.1,11,60,830/- to M/s SentuDey, the supplier, though they contend that the latter has not passed over the same to the Government. There is no allegation that petitioner had failed to discharge its liability towards tax on the purchases made by it. It is their case that M/s SentuDeyhas fraudulently retained the GST paid by petitioner to it.

19. Consequently, it has to be held that the transaction between the petitioner and M/s SentuDey is a bona fide transaction and not a collusive transaction tainted by fraud etc., and that the conduct of M/s SentuDey is blameworthy. Petitioner therefore cannot be penalised by invoking Section 16(2) (c) and denied the ITC.

Hence, the high court held that Section 16(2) (c) is held not violative of Art.14, 19(1) (g) or 265 or 300-A but Section 16(2) (c) ought not to be interpreted to deny ITC to purchasers in a bona fide transaction like the petitioner and it should be read down and applied only where the transaction is found to be not bona fide or is a collusive transaction or fraudulent transaction to defraud the revenue. Furthermore, the order passed by the adjudicating authority was set aside and the department was directed to forthwith allow the petitioner ITC to the extent of Rs.1,11,60,830/- denied to it.

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EXCEL TIPS

LET Function

CA. DUNGAR CHAND U JAIN

Modern Excel modelling has evolved far beyond simple arithmetic calculations. Today's spreadsheets often contain deeply nested formulas, repeated expressions, multi-layer logic, and dynamic arrays. While powerful, such formulas can become difficult to read, audit, and maintain.

To address this, Microsoft introduced the LET function in Excel 365 – a major advancement in formula engineering. LET allows users to assign names to intermediate calculations within a formula and reuse them multiple times. In essence, LET introduces scoped variables into Excel formulas – a programming discipline now embedded within spreadsheet logic.

In audit models, GST workings, MIS dashboards, and financial projections, formula clarity is as important as numerical accuracy.

How LET Function helps

Before LET, complex formulas often repeated the same calculation multiple times.

For example, take an excel formula **=IF((A2*B2)>100000,(A2*B2)*0.10,(A2*B2)*0.05)**, wherein (A2*B2) is calculated three times.

Problems with this approach :

- Hard to read
- Hard to audit
- Slow in large datasets
- Prone to modification errors

LET solves this by allowing us to define (A2*B2) once and reuse it.

Syntax

=LET(name1, value1, [name2, value2], … , calculation)

- *name1* - First name to assign. Must begin with a letter.
- *value1* - The value or calculation to assign to name 1.
- *name2/value2* - [optional] Second name and value. Entered as a pair of arguments.
- *Calculation* - The final calculation using the defined names. This is mandatory and must be last.

Example 1: Basic

Without LET: **=IF(A2*B2>100000, A2*B2*0.10, A2*B2*0.05)**

With LET**:**

```
=LET(
Total, A2*B2,
IF(Total>100000, Total*0.10, Total*0.05)
)
```

Example 2: GST Calculation Example

=LET(

TaxableValue, A2,

GST_Rate, 0.18,

GST_Amount, TaxableValue*GST_Rate,

TaxableValue+GST_Amount

)

This improves clarity compared to embedding 0.18 multiple times.

Example 3: Conditional Bonus Calculation

=LET(

Sales, A2,

Target, 500000,

BonusRate, IF(Sales>Target,0.08,0.04),

Sales*BonusRate

)

Example 4: Performance Advantage of LET

In large spreadsheets (10,000+ rows), repeated calculations slow down processing.

For a formula, **=SUM((A1:A10000*B1:B10000)/C1:C10000)**

If parts of this formula repeat elsewhere, Excel recalculates repeatedly.

Using LET:

=LET(

BaseCalc, A1:A10000*B1:B10000,

SUM(BaseCalc/C1:C10000)

)

Excel evaluates BaseCalc once and reuses it within the formula, reducing redundant recalculation in large datasets.

Example 5: With SORT and UNIQUE

=LET(

CleanList, UNIQUE(A2:A100),

SORT(CleanList)

)

Example 6: Income tax calculation for the year ending 31-Mar-26

Assume, **Taxable Income in A2**

Formula without LET function :

=(MAX(0,MIN(A2,400000))*0 +

MAX(0,MIN(A2-400000,400000))*0.05 +

MAX(0,MIN(A2-800000,400000))*0.10 +

MAX(0,MIN(A2-1200000,400000))*0.15 +

MAX(0,MIN(A2-1600000,400000))*0.20 +

MAX(0,MIN(A2-2000000,400000))*0.25 +

MAX(0,A2-2400000)*0.30)

Formula with LET function :

=LET(

Income, A2,

Slab1, MAX(0,MIN(Income,400000))*0,

Slab2, MAX(0,MIN(Income-400000,400000))*0.05,

Slab3, MAX(0,MIN(Income-800000,400000))*0.10,

Slab4, MAX(0,MIN(Income-1200000,400000))*0.15,

Slab5, MAX(0,MIN(Income-1600000,400000))*0.20,

Slab6, MAX(0,MIN(Income-2000000,400000))*0.25,

Slab7, MAX(0,Income-2400000)*0.30,

TotalTax, Slab1+Slab2+Slab3+Slab4+Slab5+Slab6+Slab7,

TotalTax

)

Example 7: Multiple Variable Example

LET allows multiple assignments:

=LET(

Principal, A2,

Rate, B2,

Time, C2,

Interest, Principal*Rate*Time,

Principal+Interest

)

This resembles structured financial computation.

Rules and Best Practices :

Naming Conventions

- Use meaningful names (Revenue, Cost, GST)
- Avoid single letters
- Do not use cell references as variable names

Scope of Variables

Variables defined inside LET:

- Exist only within that formula
- Does not affect worksheet names

Order Matters

Variables must be defined before they are used.

Incorrect: **=LET(Result,Value*2, Value,10, Result)**

Correct: **=LET(Value,10, Result,Value*2, Result)**

Limitations

1. Available only in Excel 365
2. Does not replace Named Ranges globally
3. Cannot define variables outside formula scope
4. However, overuse can sometimes make simple formulas unnecessarily complex.

The LET function represents a significant advancement in Excel formula architecture. By introducing variables into formulas, Excel has bridged the gap between spreadsheet modelling and structured programming. Complex calculations become readable, performance improves, and auditability increases.

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INDIRECT TRANSFER - A TREATY CONUNDRUM

Prologue

CA K PRASANNA

The taxation of indirect transfers of Indian assets represents one of the most complex and controversial areas of India's international tax regime. Taxation triggers when foreign entities transfer shares or interests in foreign entities, but the value is derived substantially from Indian assets. Although the legal form of the transaction involves transfer of foreign shares/interest, the economic substance often involves the transfer of underlying Indian assets.

The controversy reached its peak with the Supreme Court's landmark Vodafone decision in 2012, which held that India lacked jurisdiction to tax an offshore transfer of shares of a foreign company that indirectly held Indian assets. The Government swiftly moved an amendment to introduce a levy (with retroactive effect) and clarified the threshold of indirect transfer by introducing explanations 4, 5 and 6 to Section 9(1)(i) of the Income-tax Act, 1961 ('the Act').

Subsequent litigation has revolved around the scope and interpretation of these provisions, interaction with tax treaties, and

whether treaty provisions, particularly Article 13(4)/13(5), commonly referred to as th e residuary sub-article on capital gains, extend protection to indirect transfers.

Sanofi Pasteur Holding[1]

In the Sanofi Pasteur case, a similar issue regarding indirect transfer was contested before the High Court under the India-France DTAA on capital gains. The High Court held that Article 14(5) of the India-France DTAA does not permit a 'see-through' approach and reiterated that the fact that the value of shares alienated comprises underlying assets in the other contracting state is irrelevant under Article 14(5). Further, the Court held that the transaction fell outside the contours of Articles 14(4) or 14(5), and therefore would fall under the residuary clause of 14(6), and be taxable only in France (State of Residence of Alienator). The Court also declined to invoke Article 3(2) to give an expansive meaning to the DTAA provision, as this would be contrary to the principles of good faith interpretation.

Sofina SA[2.]

The ITAT observed that Article 13(4) permits 'see through' only in relation to the value derived from immovable property. Article 13(5)

[1]Sanofi Pasteur Holding SAvs Department of Revenue, MOF - [2013] 30 taxmann.com 222 (Andhra Pradesh)
[2]Sofina SA vs ACIT (IT) - [2020] 116 taxmann.com 706 (Mumbai - Trib.)

will apply only when the shares of a company that is a resident of the contracting state are transferred (the contracting state must be Belgium or India), and in that situation the source state is granted taxing rights. In the instant case, the share of Singapore Company was transferred, which is not a resident of Belgium or India[3]; hence, it is not covered by Article 13(5), but rather by Article 13(6), where the taxing rights are conferred on the Resident State of the alienator[4].

Tiger Global International

The Authority for Advance Rulings ('AAR')[5] at the time of admission of the application held that the transaction is prima facie a case of tax avoidance, and rejected the application. While rejecting, the AAR also observed that Article 13(4) of the India-Mauritius DTAA does not envisage an exception to the transfer of a company that is a resident of a third state[6]. The Delhi High Court[7], in a further step, held that Article 13(3A), dealing with grandfathering provisions, squarely applies to the transaction and that the taxpayer is not subject to capital gains tax[8], hence, Article 13(4) was not dealt with in the concluding para, although the Petitioners made arguments.

[3]Para 16 of Sofina SA Order
[4]Para 18 of Sofina SA Order
[5]2020] 116 taxmann.com 878 (AAR - New Delhi)
[6]Para 48 of AAR order of Tiger Global
[7][2024] 165 taxmann.com 850 (Delhi)
[8]Sl no. W of Para 269 of High Court order

The question before the Hon'ble Supreme Court[9] was whether the AAR was right to reject the applications on a prima facie view of the arrangement of tax avoidance[10]. While there are many issues arising from the Apex Court order, the article focuses on Indirect Transfer under the Tax Treaty.

Article 13(4) - Hermeneutics by the Supreme Court

While the core issue was onAAR's prima facie view on the arrangement for tax avoidance, the Apex Court interpreted various facets of Capital Gains, namely Article 13 of the India-Mauritius Tax Treaty[11]. The Court examined the structure of Article 13 and concluded that only direct transfers are covered, while indirect transfers of shares are not protected[12]. While reaching this conclusion, the Court relied on other sub-paragraphs of Article 13, which address assets held by residents of one contracting state in another contracting state. Although the Court inferred that the Capital Gains article does not cover indirect transfer, it concluded that the taxpayer is not entitled to an exemption under Article 13(4) . At first blush, one would wonder: if Article 13 is not covering indirect transfer in the first place, where is the question of benefit under Article 13(4)[13,] Hence, a reconciliation to be made between the two paras of the Apex Court order.

[9][2026] 182 taxmann.com 375 (SC)
[10]Para 11.1 of Supreme Court Order (Justice R. Mahadevan Order)
[11]Para 13 to 18 of SC Order (Justice R. Mahadevan Order)
[12]Para 18 of SC Order (Justice R. Mahadevan Order)
[13]Refer Para 50 of SC Order (Justice R. Mahadevan Order)

It is equally interesting to observe that the revenue authorities have argued that the indirect transfer is covered under Article 13(4)[14]. However, the observation of the Hon'ble Court has created a stir amongst stakeholders regarding whether the indirect transfer falls within the ambit of the Capital Gains Article.

Is indirect transfer covered under Capital Gains Article?

The structure or construct of Article 13 of the India-Mauritius DTAA is used here as an example to appreciate the issue better.

Sub Article	Nature of Asset	Taxation State	Remarks
13(1)	Immovable Property	Source State	Situs of property is relevant
13(2)	Movable Property forming part of business of Permanent Establishment ('PE') or Fixed Base	Source State	Location of PE or Fixed Base
13(3)	Ship and Aircraft operating in international traffic and movable pertaining to it	Place of Effective Management ('POEM')	Location of POEM
13(3A)	Shares acquired on or after 01 April 2017	Source State	Situs of Company
13(3B)	Shares acquired on or after 01 April 2017 but sold on or before 31 March 2019	Source State	Situs of Company
13(4)	Alienation of Property other than 1,2,3,3A	Resident State	Situs of Alineator

[14]Para 7.14 and 7.15 of SC Order (Justice R. Mahadevan Order)

(i) View 1 – Indirect Transfer does not get covered by Article 13

One can infer from Sub Article (1) to (3A) that it refers to alienation of assets that are directly held in other contracting state. One way to argue is that this could be the treaty, being a bilateral agreement concerning taxing rights between two states in respect of source or assets located in those states. They would not be concerned with assets located outside the contracting states, i.e., third states. Given this structure, the Supreme Court, in Para 18, concluded that, even under sub-article (4), the assets must be directly held. Possibly, the AAR must have inferred the same proposition when denying the application at the admission stage.

This apprehension of indirect transfer vs DTAA was noted in the Expert Committee Report on Indirect Transfer[15] and the relevant extracts are reproduced below:

"…The language of the treaties, by and large, cover only a direct transfer. Whether indirect transfer of shares of an Indian company are covered under the treaty or not, remains a question."

If one were to consider the Delhi High Court's ruling in Tiger Global regarding grandfathering provisions under Article 13(3A), the indirect transfer was also grandfathered (i.e. holding company

[15]Draft Report on Retrospective Amendments Relating to Indirect Transfer (2012) - Page 61

being a resident of Singapore), although the language does not support this (Refer to thetable above)[16]. If the indirect transfer to be grandfathered under Article 13(3A) in respect of shares acquired before cut-off date, then shares acquired after such date would be taxable.

The Apex Court in Vodafone or Andhra Pradesh in Sanofi had mentioned that a see-through approach cannot be adopted in the absence of a specific provision. Therefore, one may make an inference that none of the sub-articles has a see-through provision to include indirect holding of assets in a contracting state[17]. Also, in certain circumstances, the treaty does cover indirect transfer of shares, if the value of such shares is represented by immovable property located in other contracting state[18].

If this were the view, the indirect transfer should be tested under the other income article of the relevant treaties, as it is a residuary in nature.

[16]Para 226, 253 of High Court Order. The Article does not discuss the grandfathering aspect of DTAA and its entitlement for indirect transfer.
[17]It is to be noted that Delhi HC in Tiger Global had interpreted that Grandfathering under Article 13(3A) is applicable for indirect transfer of Indian Share. Currently, the Article does not discuss the grandfathering aspect and its entitlement for indirect transfer.
[18]Article 13(4) of OECD Model Convention or UN Model Convention. Article 8 of Multilateral Instruments extended the provision to comparable interests with options

(ii) *View 2 – Indirect Transfer gets covered by Article 13*

At the time of negotiations, the treaty partners were concerned only with direct transfer; this may hold good only with regard to treaties entered before the introduction of indirect transfer under the Act. When the Mauritius DTAA was renegotiated in 2016, the indirect transfer under the Act was prevalent, and if the existing treaty did not cover it, it could have been included through explicit negotiations[19].

The **Andhra Pradesh High Court** in **Sanofi Pasteur (supra)** has held as follows:

"……..What double taxation treaties do is to establish an independent mechanism to avoid double taxation through restriction of tax claims in areas where overlapping tax claims are expected, or at least theoretically possible. Essentially therefore, through the mechanism of a treaty, the contracting States mutually bind themselves not to levy taxes, or to tax only to a limited extent, in cases where the treaty reserves taxation for the other contracting States, either wholly or in part. Contracting States thus and qua treaty provisions, waive tax claims or divide tax sources and/or the taxable object".

[19]Refer to DCIT Reliance JioInfocomm Ltd - ITA No 936/Mum/2017 - Para 8 - ITAT referred to India-Singapore DTAA amendment to state that Royalty definition was not amended

Given this framework, it is equally arguable that the taxing rights over different classes of property are specifically allocated between the Contracting States under the respective sub-articles of Article 13 of the India–Mauritius tax treaty, namely Articles 13(1), 13(2), and 13(3A). Properties that are not expressly covered by these provisions would consequently fall within the scope of the residuary clause under Article 13(4).

In this context, when the India–Mauritius treaty was renegotiated, the amendment introduced by Article 13(3A) ceded taxing rights to the source State only in respect of direct transfers of shares of a company that is resident in India and its shares wereacquired on or after the specified cut-off date. The treaty text does not extend the allocation of taxing rights over indirect transfers of shares to the source State; therefore, it may be contended that taxing rights over such indirect transfers were never intended to be allocated to the source State under the treaty framework.

The Finance Minister, in his speech in Parliament[6]at the time of the announcement of introducing retrospective amendments related to indirect transfer, mentioned that the provisions shall mainly affect transactions with non-treaty countries and do not override DTAA.

[20]10th May,2012-https://www.pib.gov.in/newsite/erelcontent.aspx? relid=83240&reg=3&lang=2

Wherever India wanted to tax the indirect transfer, the same were suitably negotiated under the DTAA[21]. Hence, the distribution of taxing rights for indirect transfers is treaty-specific and subject to the negotiating powers of each contracting state. Therefore, in my view, depending on the language of each treaty, one must decide whether the source state is granted any taxing rights. Hence, if the DTAA were entered into on the basis of the OECD MC, the indirect transfer may invariably fall within the residuary sub-article and confer distributive rights in favour of the resident state.

Comparative Analysis of Select Treaties

The structure or construct of Article 13 of the I

Country	Relevant Capital Article Extracts	Taxsing Rights
Australia	5. Income or gains derived from the alienation of shares or comparable interests in a company, other than those referred to in paragraph (4), **may be taxed in the Contracting State of which the company is a resident**.	Holding Co may be Australia or a third state. **Taxing Rights to Source State**
Belgium	6. Gains from the alienation of any property other than that mentioned in paragraphs 1, 2, 3, 4 and 5 **shall be taxable only in the Contracting State of which the alienator is a resident.**	Similar residuary clauses exist in Denmark, Cyprus, Mauritius, Netherlands, France, and Spain. **Taxing Rights to Resident Country**

[19]Refer to DCIT Reliance JioInfocomm Ltd - ITA No 936/Mum/2017 - Para 8 - ITAT referred to India-Singapore DTAA amendment to state that Royalty definition was not amended

Country	Relevant Capital Article Extracts	Taxsing Rights
Brazil	3. Gains from the alienation of any property other than that referred to in paragraphs 1 and 2,**may be taxed in both Contracting States.**	All transfers are covered. **Taxing Rights also granted to Source Country**
Canada	2. Gains from the alienation of any property, other than those referred to in paragraph 1 **may be taxed in both Contracting States.**	All transfers are covered. **Taxing Rights also granted to Source Country**
China	5. Gains from the alienation of any property other than that referred to in the preceding paragraphs of this Article, **arising in a Contracting State, may be taxed in that Contracting State.**	Taxable in Source State – but subject to arisal. Section 9 only deems the locale of arisal to be India.
Chile	5. Gains derived by a resident of a Contracting State from the alienation, **directly or indirectly, of shares or other rights representing the capital of a company that is a resident of the other Contracting State**, other than those mentioned in paragraph 4 may be taxed in that other Contracting State.	**Taxing Rights also granted to Source Country**
Hong Kong	6. Gains from the alienation of any property, other than that referred to in paragraphs 1, 2, 3, 4 and 5, **may be taxed in each Contracting Party in accordance with the provisions of its domestic law.**	**Taxing Rights also granted to Source Country**
South Africa	5. Gains derived by a resident of a Contracting State from the sale, exchange or other disposition, **directly or indirectly, of shares or similar rights in a company**, other than those mentioned in paragraph 4, **which is a resident of the other Contracting State, may be taxed in that other State.**	**Taxing Rights also granted to Source Country** Similarly worded in Israel, Namibia

Country	Relevant Capital Article Extracts	Taxsing Rights
Sweden	5. Gains from the alienation of any property other than that referred to in paragraphs (1), (2), (3) and (4), shall be taxable only in the Contracting State of which the alienator is a resident, provided that such resident is subject to tax thereon in that State. **If the resident is not subject to tax thereon, then such gains may be taxed in the other Contracting State.**	**Source State has right to tax only if the gains are not taxed in the resident state**
USA	Except as provided in Article 8 (Shipping and Air Transport) of this Convention, **each Contracting State may tax capital gains in accordance with the provisions of its domestic law**.	**Taxing Rights also granted to Source Country** Similarly worded in UK

Epilogue

The controversy surrounding the taxation of indirect transfers reflects the ongoing tussle between domestic-source-based taxation rules and the allocation of taxing rights under tax treaties. While the retrospective amendment to Section 9(1)(i) sought to expand India's tax jurisdiction over offshore transfers deriving value from Indian assets, the treaty framework operates on a fundamentally different premise, namely, the mutual allocation of taxing rights between contracting states based on clearly defined categories of property.

Judicial precedents such as Vodafone, Sanofi Pasteur and Sofina SA emphasised that, in the absence of an explicit "look-through" or "see-through" provision, treaty interpretation should ordinarily follow

good faith principles. The recent decision in Tiger Global has added a new dimension to this debate by suggesting that the Capital Gains Article may not necessarily extend protection to indirect transfers. At the same time, the Court's observations raise interpretational questions about whether such transfers fall outside the scope of Article 13 altogether or merely fall outside the specific sub-articles granting exemptions.

The answer ultimately lies in the text and structure of each treaty. Some treaties expressly extend source-based taxation to indirect transfers, while others contain residuary clauses that allocate taxing rights exclusively to the residence state. Consequently, the taxability of indirect transfers cannot be determined solely by reference to domestic law; it requires a careful treaty-by-treaty analysis of the distributive rules governing capital gains.

As cross-border investment structures continue to evolve, the taxation of indirect transfers will remain a critical frontier of international tax law. The challenge for policymakers and courts alike will be to strike a balance between safeguarding the tax base, maintaining a consistent interpretation, and enforcingcertainty.

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FROM FRAGMENTATION TO CONSOLIDATION: THE NEW TDS REGIME UNDER INCOME TAX ACT, 2025

CA. NIDHI JAIN

Tax Deduction at Source (TDS) has long been a cornerstone of India's direct tax collection mechanism, ensuring steady revenue inflow and widening the tax base by capturing income at the point of generation.

With the introduction of the Income-tax Act, 2025, a significant structural reform has been undertaken through Section 393, 394 which consolidates the TDS provisions into a unified tabular framework. This shift from a fragmented, section-wise approach to a streamlined classification based on the nature of payment, threshold limits.

This article seeks to analyse the revamped TDS regime under Section 393 and provide practical insights for effective implementation by tax professionals.

Under Income tax Act 2025 (IT Act,2025), provisions for collection and recovery of taxes are grouped under Chapter XIX Collection and Recovery of Tax, which are as follows.

Section	Particulars
391(1)	Liability to pay income-tax rests directly with the assessee where no provision exists for deduction of tax at source on such income, or where tax has not been deducted in accordance with the provisions of this Chapter.
391(2)	If an assessee has any income of the nature as specified in section 17(1)(*d*) *(erstwhile 17(1)(vi))*and such specified security or sweat equity shares are allotted or transferred directly or indirectly by the current employer which is an eligible start-up referred to in section 140, then direct payment of tax shall be payable by the assesseein accordance with in section 289(3) within fourteen days of earliest of following— (a)after the expiry of *sixty months* from the end of the relevant tax year; or (b)from the date of the sale of such specified security or sweat equity share by the assessee; or (c)from the date of the assessee ceasing to be the employee of the employer who allotted or transferred him such specified security or sweat equity share.
392	Similar to the erstwhile section 192 of the Income-tax Act, 1961, the provisions relating to deduction of tax at source on income chargeable under the head "Salaries" by any person responsible for making such payment are contained in section 392 of the Income-tax Act, 2025.
393	Tax to be collected at source 393(1) – Table- for payments to residents 393(2) – Table –for payments to non-residents 393 (3)- Table -for payments to any person 393(4)- Table- for no deduction of tax at source 393(6)- Declaration for non deduction of tax at source (shall be furnished in Form No. 121)

Section	Particulars
394	394(1) – Table containing tax collection at source
395	Application for Nil or lower deduction of tax (shall be made in Form No. 128 for grant of a certificate)
402	Contains the definitions of various terms used in this Chapter relating to collection and recovery of taxes. Accordingly, such terms are not defined repeatedly in each individual section, but derive their meaning from this consolidated definition provision.

Section 393(4) contains conditions for no deduction on income or sum. Therefore, same has be read while looking into applicability of TDS.

Let us look into each table :

Table - Payments to Residents - Section 393(1)

S.No.	Section 393 entry	Old Section (1961 Act)	Nature of Payment	Payer	Rate	Threshold
1	Commission or brokerage					
	Sl. No. 1(i)	194D	Insurance commission	Any person	Rates in force	INR 20,000
	Sl. No. 1(ii)	194H	Commission / brokerage	Specified person	2%	INR 20,000

"specified person" for the entire Section 393 means –

(*a*)	any person, not being an individual or Hindu undivided family; or
(*b*)	an individual or a Hindu undivided family, whose total sales, gross receipts or turnover from the business or profession carried on by him exceed one crore rupees in case of business or fifty lakh rupees in case of profession during the tax year immediately preceding the tax year in which such income or sum is credited or paid;

2	Rent					
	Sl. No. 2(i)	194IB	Rent	Other than Specified person	2%	INR 50,000 for a month or part of a month
	Sl. No. 2(ii)	194I	Rent for the use of any machinery or plant or equipment	Specified person	2%	INR 50,000 for a month or part of a month
	Sl. No. 2(ii)	194I	Rent for the use of any land, or building (including factory building), or land appurtenant to a building *(including factory building)*, or furniture, or fittings.	Specified person	10%	INR 50,000 for a month or part of a month
3	Payment on transfer of certain immovable property other than agricultural land					
	Sl. No. 3(i)	194-IA	Any consideration for transfer of any immovable property (other than agricultural land).	Person [other than the person who are required to deduct tax under serial number 3(iii)].	1% of (a) consideration for transfer of the immovable property; or (b) stamp duty value of such property, whichever is higher	where consideration for transfer of any immovable property or the stamp duty value of such property, is equal to or greater than INR 50,00,000

	Sl. No. 3(ii)	45(5A)	Any consideration, not being consideration in kind, under the agreement referred to in section 67(14).	Any person	10%	NIL
	Sl. No. 3(iii)	194LA	Any sum, being in the nature of— (a) compensation or compensation; or (b) consideration or the the enhanced enhanced consideration, on account of compulsory acquisition, under any law for the time being in force, of any immovable property (other than agricultural land).	Any person	10%	INR 5,00,000
4	Income from capital market					
	Sl. No. 4(i)	194K	Any income in respect of— (a) units of a Mutual Fund specified under Schedule VII (Table: Sl. No. 20 or 21); or (b) units from the Administrator of the specified undertaking; or (c) units from the specified company	Any person	10%	INR 10,000

Sl. No. 4(ii)	194LBA	Any distributed income referred to in section 223, being of the nature referred to in Schedule V (Table: Sl. Nos. 3 and 4), payable to a unitholder of a Business Trust.	Business Trust	10%	NIL
Sl. No. 4(iii)	194LBB	Any income, other than that proportion of income which is exempt under Schedule V (Table: Sl. No. 2), in respect of units of an investment fund specified in section 224, payable to its unitholder.	Any Investment fund specified in section 224.	10%	NIL
Sl. No. 4(iv)	194LBC	Any income, in respect of an investment in a securitisation trust specified in section 221 to an investor.	Any securitisation trust specified in section 221	10%	NIL

5	Interest income					
	Sl. No. 5(i)	193	Any income by way of Interest on securities	Any person	Rates in force	INR 10,000
	Sl. No. 5(ii)	194A	Any income by way of interest other than interest on securities.	(a) A banking company; or (b) a co-operative society carrying on the business of banking; or (c) a post office for a deposit made under a scheme notified by the Central Government	Rates in force	(a) INR 1,00,000 in the case of a senior citizen; (b) INR 50,000 in case of person other than senior citizen.
	Sl. No. 5(iii)	194A	Any income being interest other than interest on securities	Specified person [other than person in Sl. No. 5 (ii). C]	Rates in force	INR 10,000
6	Payments to contractors, fees for professional and technical services, etc.					
	Sl. No. 6(i)	194C	Any sum for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract between the contractor and a designated person	Any designated person	(a) 1%, if contractor is individual or Hindu undivided family; (b) 2%, if contractor is a person other than the person mentioned in (a).	(a) INR 30,000; for any such sum; and (b) INR 1,00,000 in case of aggregate of such sums.

Sl. No. 6(ii)	194M	Any sum— (a) for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract; or (b) by way of fees for professional services; or (c) by way of commission [not being insurance commission referred to in serial number 1(i)] or brokerage.	Any person, being an individual or Hindu undivided family [other than those required to deduct income-tax as per Sl. No. 6(i) and (iii) or Sl. No. 1(ii)].	2%	INR 50,00,000
Sl. No. 6(iii)	194J	Any sum by way of— (a) fees for professional services; or (b) fees for technical services; or (c) remuneration or fees or commission by whatever name called, other than those on which tax is deductible under section 392, to a director of a company; or (d) royalty; or (e) any sum referred to in section 26(2)(h).	Specified person.	(a) 2% of such sum in case of— (i) fees for technical services (not being a professional services); or (ii) royalty in the nature of consideration for sale, distribution or exhibition of cinematographic films; or (iii) payee, engaged only in the business of operation of call centre; (b) 10% of such sum in cases other than (a)	INR 50,000 for (a), (b),(d),(e). NIL in case of (c)

7	Dividend	194	Any dividend (including dividend on preference shares) declared.	Any domestic company.	10%	NIL
			The tax shall be deducted at source before making any distribution or payment of dividend			
8	Other cases					
	Sl. No. 8(i)	194DA	Any sum under a life insurance policy, including the sum allocated as bonus on such policy, other than the amount not includible in the total income under Schedule II (Table: Sl. No. 2).	Any person	2% on income comprised in such sum	INR 1,00,000
	Sl. No. 8(ii)	194Q	Any sum exceeding fifty lakh rupees for purchase of any goods. The deduction shall not apply to a transaction on which tax is deductible or collectible under any of the provisions of the Act.	Any person, being a buyer.	0.10%	The tax shall be deducted on the sum exceeding INR 50,00,000
	Sl. No. 8(iii)	194P	Total income of a specified senior citizen after giving effect to deduction allowable under Chapter VIII and rebate allowable under section 156	Specified bank.	Rates in force	As applicable

Sl. No. 8(iv)	194R	Any benefit or perquisite, whether convertible into money or not, arising from business or the exercise of a profession of any resident.	Specified bank.	10% of value or aggregate of values of such benefit or perquisite.	INR 20,000
Sl. No. 8(v)	194-O	Any sum on account of sale of goods or provision of services by an e-commerce participant, facilitated by an e-commerce operator through its digital or electronic facility or platform	Any e-commerce operator.	0.1% of gross amount of such sale or services or both.	NIL
Sl. No. 8(vi)	194S	Any sum by way of consideration for transfer of a virtual digital asset.	any person	1%	NIL

Table - Payments to Non - Residents - Section 393(2)				
S.No.	**Nature of Payment**	**Payee**	**Payer**	**Rate**
1	Any income referred to in section 211.	(a) A non-resident sportsman (including an athlete) or an entertainer, who is not a citizen of India; or is not a citizen of India; or sports association or institution	Any person	20%
2	Any income by way of interest payable in respect of moneys borrowed in foreign currency from a source outside India,—	Any non-resident (not being a company) or a foreign company	Any Indian company or Business Trust	5%
	(a) under a loan agreement or issue of long-term in- frastructure bond on or after the 1st July, 2012 but before the 1st July, 2023; or			
	(b) by way of issue of any longterm bond on or after the 1st October, 2014 but before the 1st July, 2023,			
	which is approved by the Central Government in this behalf			
3	Any income by way of interest payable in respect of moneys borrowed from a source outside India by way of issue of rupee denominated bond before the 1st July, 2023.	Any non-resident (not being a company) or a foreign company	Any Indian company or Business Trust	5%

4	Any income by way of interest payable in respect of moneys borrowed from a source outside India by way of issue of any long-term bond or rupee denominated bond, which is listed only on a recognised stock exchange located in any International Financial Services Centre.	Any non-resident (not being a company) or a foreign company	Any Indian company or Business Trust	Refer note
	Note :(a) 4%, where such bonds are issued after on the or 1st April, 2020 but before the 1st July, 2023; or (b) 9%, where such bonds are issued after on the 1st of July, 2023.			
5	Any income by way of interest.	Any non-resident (not being a company) or a foreign company	Any infrastructure debt fund referred to in Schedule VII (Table: Sl. No. 46).	5%
6	Any distributed income referred to in section 223, being of the nature referred to in Schedule V (Table: Sl. No. 3)	Any unit holder, being a non-resident (not being a company) or a foreign company	Any business trust	Refer note
	Note:(a) 5%, in case of income of the nature referred to in Schedule V [Table: Sl. No. 3. B(a)]; and (b) 10%, in case of income of the nature referred to in Schedule V [Table: Sl. No. 3. B(b)].			
7	Any distributed income referred to in section 223, being of the nature referred to in Schedule V (Table: Sl. No. 4).	Any unitholder, being a non-resident (not being a company) or a foreign company	Any business trust	Rates in force

8	Any income, other than that proportion of income which is exempt under Schedule V (Table: Sl. No. 2), in respect of units of an investment fund specified in section 224.	Any unitholder, being a non-resident (not being a company) or a foreign company.	Any fund investment specified section 224	Rates in force
9	Any income in respect of an investment in a securitisation trust specified in section 221.	Any investor, being a non-resident (not being a company) or a foreign company.	Any trust securitisation specified section 221	Rates in force
10	Any income— (a) in respect of units of a Mutual Fund specified under Schedule VII (Table: Sl. No. 20 or 21); or (b) in respect of units from the specified company	Any non-resident (not being a company) or a foreign company	Any person	refer note
	Note: (a) 20%; or (b) where an agreement referred to in section 159(1) or 159(2) applies to the payee and if the payee has furnished a certificate referred to in section 159(8), as the case may be, then, income-tax shall be deducted at the rate or rates of income-tax provided in such agreement for such income, if such rate is lower than 20%.			
11	Any income in respect of units referred to in section 208.	Any offshore fund	Any person	10%
12	Any income by way of long-term capital gains arising from the transfer of units referred to in section 208;	Any offshore fund	Any person	12.50%
13	Any income by way of interest or dividends in respect of bonds or Global Depository Receipts referred to in section 209	Any non resident	Any person	10%

14	Any income by way of long-term capital gains arising from the transfer of bonds or Global Depository Receipts referred to in section 209.	Any non resident	Any person	12.50%
15	Any income in respect of securities referred to in section 210(1) (Table: Sl. No. 1).	Any Foreign Institutional Investor	Any person	Refer note under S.No.10
16	Any income in respect of securities referred to in section 210(1) (Table: Sl. No. 1).	A specified fund referred to in Schedule VI [Note 1(g)].	Any person	10%
17	Any interest (not being interest referred to against serial numbers 2, 3, 4 and 5) or any other sum chargeable under the provisions of this Act, not being income chargeable under the head "Salaries".	Any non-resident (not being a company) or a foreign company	Any person	Rates in force

Table - Payments to any person- Section 393(3)

S.No.	Old Section (1961 Act)	Nature of Payment	Payer	Rate	Threshold
1	194B	Any income by way of winnings (other than winnings from online games as referred to in serial number 2) from— (a) any lottery; or (b) crossword puzzle; or (c) card game and other game of any sort; or (d) gambling or betting of any form or nature whatsoever.	any person	Rates in force	INR 10,000 in case of a single transaction.

2	194BA	Any income by way of winnings from online game	any person	Rates in force	(a) on net winnings in the user account of the payee at the end of the tax year;(b) where there is any withdrawal from user account during the tax year, the tax shall be deducted at the time of such withdrawal on the net winnings comprised in such withdrawal as well as on the remaining amount of net winnings in user account at the end of the tax year,
3	194BB	Any income by way of winnings from any horse race.	Any person, being a bookmaker or a person to whom a licence has been granted by the Government under any law for the time being in force for horse racing in any race course or for arranging for wagering or betting in any race course.	Rates in force	INR 10,000 in case of a single transaction.
4	194G	Any income, credited or paid to a person, who is or has been stocking, distributing, purchasing or selling lottery tickets, by way of commission, remuneration or prize (by whatever name called) on such tickets	any person	2%	INR 20,000

5	194N	Any sum, paid in cash, from one or more accounts maintained by any person (herein referred as recipient).	Any person, being, — (a) a banking company; (b) a co-operative society engaged in carrying on the business of banking; or (c) a post office	2%	(a) INR 3,00,00,000 in case of recipient being, a co-operative society; or (b) INR 1,00,00,000 in case of recipient being person other than a co-operative society.
6	194EE	Any amount referred to in section 80CCA(2)(a) of the Income-tax Act, 1961 (National Savings Scheme).	any person	10%	INR 2,500
7	194T	Any sum in the nature of salary, remuneration, commission, bonus or interest paid to a partner of the firm or credited to his account (including capital account)	Any person, being a firm.	10%	INR 20,000

Quarterly statements to be filed :

Sl. No.	Section under which tax is deducted / paid / collected	Relevant Form (Erstwhile Form)
1	Section 392 (other than section 392(7)) and section 393(1) [Table: Sl. No. 8(iii)]	Form 138 (Form 24Q)
2	Sections 392(7), 393(2) and 393(3), in respect of deductee who is a non-resident (not being a company or a foreign company) or a resident but not ordinarily resident	Form 144 (Form 27Q)
3	Sections 392(7), 393(1) (other than [Table: Sl. No. 8(iii)]) and 393(3), in respect of deductees other than those referred to in Sl. No. 2	Form 140 (Form 26Q)
4	Section 394(1)	Form 143 (Form 27EQ)

Let us look at few FAQs on interplay and transition from Income tax Act, 1961 to Income tax Act, 2025

Which Act will govern the TDS obligations during the transition period?

TDS obligations shall continue to be governed by the Act applicable to the financial year in which the sum is paid or credited. Accordingly, any sum paid or credited on or before 31st March, 2026 shall be governed by the provisions of the Income-tax Act, 1961. Further, any sum paid or credited on or after 1st April, 2026 shall be governed by the corresponding withholding provisions of the Income-tax Act, 2025.

Which section should be quoted for TDS/TCS made after 01st April 2026?

For transactions entered into on or after 01 April 2026, deductors/ collectors must quote the relevant table item of section 393 (or section 394 for TCS) of the Income Tax Act, 2025.

For TDS to be deposited after 1st April 2026 on a sum paid/credited before 31.03.26, should the challan be of 1961 Act or 2025 Act?

if tax is deducted under the 1961 Act prior to the transition date, deposit obligations will continue under the 1961 Act. Thus, existing challans and payment codes linked to the Income Tax Act 1961 will continue for depositing the tax deducted before 01.04.2026.

There is no change in the rate of interest on failure to deduct/ deposit

TDS/TCS Interest Rates: ITA 1961 vs. ITA 2025 — No Change

Default Scenario	ITA 1961	ITA 2025
Failure to Deduct / Collect TDS or TCS	1% per month or part thereof — Section 201	1% per month or part thereof — Section 398(3)(a)(i)
Failure to Deposit after Deduction / Collection	1.5% per month or part thereof — Section 201	1.5% per month or part thereof — Section 398(3)(a)(ii)

Conclusion

The transition from fragmentation to consolidation elevates the need for deeper interpretational diligence. With broader and more integrated provisions, the onus now lies on taxpayers and professionals to correctly classify transactions, understand the scope of consolidated sections, and identify exceptions and exclusions with precision. Therefore, in moving from complexity to coherence, the new regime reminds us that simplicity in law demands sophistication in application.

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