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CASC BULLETIN

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12.03.2026 (Thursday)	MCA Matters	CS. Krishna Sharan Mishra
26.03.2026 (Thursday)	Unlearn and Relearn - TDS compliances under Income Tax	CA. P. Jainendar

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 2025 - 2026

EDITORIAL

Union Budget 2026: Reforms without Tax Certainty

The Union Budget 2026 is ambitious, reformist, and disciplined — yet it leaves taxpayers and investors unsettled. It is a budget that speaks the language of structural transformation but stumbles on the principle of tax certainty, a cornerstone of trust in any economy.

At its core, the Budget is designed to propel India toward its long-term vision of *Viksit Bharat*. This is not a populist budget; it is a reformist one, prioritising economic positioning over immediate relief.

But therein lies the paradox. For the middle class, tax slabs remain unchanged, offering no respite to individuals already grappling with inflationary pressures. Compliance has been eased — timelines for revised and updated returns extended, TDS/ TCS rates rationalised, EPF contributions clarified, and certain offences decriminalised. These are welcome steps, but they pale against the shadow cast by retrospective amendments.

By nullifying Supreme Court and High Court rulings on transfer pricing timelines, time lines for assessment pursuant to DRP directions, the jurisdiction of Assessing Officers over reassessment (JAO vs. FAO) and Document Identification Number requirements, the government has reopened settled disputes. For taxpayers, this means litigation without closure. For investors, it signals unpredictability — the very opposite of what India needs to attract capital in a competitive global landscape.

The Government's intent is clear: to strengthen compliance, reduce friction, and push reforms that will shape India's economic destiny. Yet, the retrospective changes undermine that very intent. They erode the principle of finality in taxation, leaving businesses and individuals wary of a regime where even a victory in the highest court may not guarantee closure.

India's growth story remains compelling. But unless the principle of stability in taxation is restored, Union Budget 2026 may be seen not as a turning point, but as a cautionary tale.

India cannot afford to build its economic future on reforms alone. It must also build it on trust.

Draft Income-tax Rules, 2026 – Towards Smarter / faster Compliance

The Draft Income-tax Rules, 2026 released by the Central Board of Direct Taxes, aligned with the Income-tax Act, 2025 (effective 1 April 2026), represent a decisive move towards simplification and technology-driven compliance.

The framework has been substantially rationalised — from 511 rules and 399 forms to 333 rules and 190 forms — signalling a serious effort to reduce procedural clutter. The redesigned "smart forms" incorporate standardised data fields, pre-fill capabilities, automated reconciliation, and centralised processing, aimed at reducing errors and shortening compliance timelines.

With simplified language and a consultative approach to rule-making, the reform seeks to improve clarity, efficiency, and ease of doing business. If effectively implemented, it could significantly enhance the taxpayer experience while modernising tax administration.

However, from our members in practice perspective, fresh investments have to be made in procuring fresh software tools which are aligned with new rules and forms for providing service to their clients.

New FEMA 2026 Regulations for Exports – Consolidated Framework

The Reserve Bank of India has notified new Foreign Exchange Management (Export and Import of Goods and Services) Regulations, 2026 marking a structural shift in India's foreign exchange framework. Effective 1 October 2026, the new regime supersedes the earlier FEMA (Export of Goods and Services) Regulations, 2015 and replaces the export-only framework with integrated export-import architecture.

The Regulations consolidate provisions governing goods, services, and software, while tightening reporting and monitoring through EDPMS, IDPMS, and FETERS. Exporters must adhere to defined timelines for filing Export Declaration Forms and for realisation of proceeds (15 months, extendable to 18 months for INR settlements). Authorised Dealer Banks retain calibrated discretion to grant extensions, allow set-offs, and approve third-party settlements based on commercial bona fides.

Simplified closure for smaller transactions and stricter norms for persistent unrealised exports reflect a balanced approach—facilitating genuine trade while reinforcing compliance discipline.

Overall, the 2026 Regulations represent a move towards consolidation, stronger oversight, and operational clarity in India's forex management regime.

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

Balaji V

Balaji V

GLIMPSES FROM SHRI.G.NARAYANASWAMY CA STUDY CIRCLE MEETING HELD ON 12.02.2026

SPEAKER - ADV. S.S. MADHAVAN **TOPIC - LABOUR CODE - AN IMPACT ANALYSIS**

GLIMPSES FROM SHRI.G.NARAYANASWAMY CA STUDY CIRCLE MEETING HELD ON 26.02.2026

SPEAKER - CA.S.DARSHAN BOTHRA

TOPIC - TAMING THE TIGER - UNDERSTANDING THE SUPREME COURT'S RULING ON TIGER GLOBAL

GLIMPSES FROM THE JOINT MEETING ON UNION BUDGET 2026 HELD ON 04.02.2026 at CPR CONVENTION CENTER.

SPEAKERS: CA.V.PATTABHI RAM, CA.B.GANESH PRABHU, CA.SASHANK SRIVATSAN

GLIMPSES FROM THE JOINT MEETING ON UNION BUDGET 2026 HELD ON 04.02.2026 at CPR CONVENTION CENTER.

GLIMPSES FROM THE JOINT MEETING ON UNION BUDGET 2026 HELD ON 04.02.2026 at CPR CONVENTION CENTER.

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ANNOUNCEMENTS

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.

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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

Delay: The Petitioner was issued with Reminders on 05.03.2025, 20.05.2025 and 02.06.2025, which called upon the Petitioner to file a reply and to appear for a personal hearing. The Petitioner however neither filed any reply nor appeared for the personal hearing fixed on 14.03.2025, 26.05.2025 and on 06.06.2025. Thus, the impugned Order has been passed. The limitation for filing an appeal under Section 107 of the respective GST enactments, 2017 against the impugned Order has already expired. The present Writ Petition has been filed only on 10.12.2025. Hearing the rival submissions, the Court held that to balance the interest of both parties viz., the Assessee and the Revenue, the case is remitted back to the Respondent to pass a fresh order on merits subject to the Petitioner depositing 25% of the disputed tax in cash from the Petitioner's Electronic Cash Register within a period of thirty (30) days from the date of receipt of a copy of this order. **M/s.Sri Ragavendra Brick Works, Vs. The State Tax Officer, Cholavaram Assessment Circle, Chennai-3. W.P.No.48780 of 2025 DATED: 19.12.2025**

Auction: The petitioner has closed his business in September 2014 and that the petitioner's TIN No.33033365296 was misused. The petitioner suffered the assessment orders dated 18.02.2019 and 11.04.2019 for the assessment years 2013-14 and 2015-16 respectively. The impugned order has been passed and the petitioner did not know about the subsequent consequences of the impugned order, until the petitioner's house property has been proposed to be auctioned on 30.12.2025. Considering the fact that the petitioner's house property has been proposed to be auctioned on 30.12.2025, the Court stated that the auction proceedings are directed to be kept in abeyance subject to the petitioner depositing the disputed tax amount confirmed vide assessment order dated 18.02.2019 for the respective assessment years within a period of six months from the date of the receipt of the copy of this order. Subject to the petitioner complying with the above stipulation, the encumbrance shall be cancelled after deposit of the entire disputed tax amount. It was made clear that in case if the petitioner fails to deposit the amount as stipulated above, the respondents are at liberty to proceed with the recovery proceedings as if the writ petition was dismissed. **1. V Manjunath S/o.Veeranna, Door No.66, Arasantti Ward No.3, Mookandapailli, Hosur Taluk, Krishnagiri**

District-635 126, Vs 1. JC(CT), Hosur (JCT) Krishnagiri District. 2. AC(ST), Hosur (South), Hosur, Krishnagiri District. WP No.49786 of 2025 DATED: 19.12.2025

Revocation of the cancellation of registration: GST Registration of the Petitioner has been cancelled with effect from 08.08.2020. Petitioner at this stage submits that the Petitioner may be given liberty to file an application for revocation of the cancellation of registration in terms of Rule 23 of the respective GST Rules, though the time prescribed has expired Considering the fact that the impugned order dated 15.11.2022 is an ex parte order, this Writ Petition is disposed of with liberty to the Petitioner to file an application for revocation of the cancellation of the GST Registration within a period of thirty (30) days from the date of receipt of a copy of this order with conditions. Since the Web Portal may not allow for filing such application, at this stage, the Petitioner is directed to file the aforesaid application manually if the Web Portal does not enable the Petitioner to upload the same. **M/s. Vijayalaxmi Traders (Defunct) Vs. The Superintendent (GST), Periyanaickenpalayam, Coimbatore.W.P.No.19242 of 2024 DATED: 18.12.2025**

Reply not been considered: Appellate Authority rejected the said appeal vide impugned order dated 11.11.2025 on the ground of delay in filing the appeal. A perusal of the impugned assessment order indicates that the petitioner had furnished a certificate in terms of Circular No.183/ 15/ 2022-GST dated 27.12.2022, which grants liberty to persons such as the petitioner to file a certificate from the supplier to the effect that the tax had been paid by the supplier and the goods had been supplied to the petitioner. Demand confirmed pertains to the tax period 2019-2020, whereas the GST registration of the petitioner's supplier PTMS Cargo was cancelled only on 01.03.2023 w e f 01.01.2019. Insofar as the cancellation of GST registration of PTMS Cargo is concerned, the relevant certificate had been furnished by the petitioners, but the same has not been considered by the respondent while passing the impugned order. Considering the above, the impugned orders are quashed and the matter is remitted back to the 1st respondent to redo the exercise with directions. **M/s.Cressida International Pvt Ltd, Vs 1. The Assistant Commissioner (ST) (FAC), Surapattu Assessment Circle, 2. The Deputy Commissioner (CT), Appellate Authority, Chennai. W.P.No.48994 of 2025 DATED : 18.12.2025**

Multiple Show Cause Notices: There is no bar for issuance of multiple Show Cause Notices to an assessee for the same tax period, if the Show Cause proceedings are initiated on different and separate issues. That apart, neither the provisions of the Code of Civil Procedure, 1908 nor the General Principles under the Code are applicable to the proceedings initiated under the respective GST Enactments. **M/s.Radiant Cash Management Services Ltd, Vs The Commercial Tax Officer, Pondy Bazaar Assessment Circle, WP No. 49092 of 2025 Dated 18.12.2025**

Seigniorage fee/Royalty paid: Prayer is to call for the records relating to the impugned Notice of the Respondent dated 13.08.2025 for levying and demanding GST on the Seigniorage fee/ Royalty paid for quarrying and transporting mineral along with interest and penalty for the Assessment Year 2021-2022 quash the same, pass such further or other orders as this Hon'ble Court may deem fit, just and proper in the circumstances of the case and thus render justice. Considering the fact that the issue is pending before the Hon'ble Supreme Court, this Court disposed of this Writ Petition at the admission stage, by directing the Respondent to keep all the proceedings in abeyance. The Respondent shall await the orders

to be passed by the Hon'ble Supreme Court and thereafter proceed in accordance with law. The Petitioner shall however deposit 10% of the disputed tax as security, in line with the directions issued in the Petitioner's own case earlier. **M/s. Sai Jothi quarry Vs The Assistant Commissioner ST T. Nagar Assessment circle, WP No. 41779 of 2025 DATED: 06-11-2025**

Duplication of Demand: Perusal of the order dated 03.02.2025 passed for the tax period 2017–2018 to 2021–2022, it prima facie appears that there is a duplication of demand insofar as the excess ITC availed, when compared with the auto populated input data under GSTR~2A, is concerned. This aspect ought to have been examined by the respondent under Section 161 of the respective GST Enactment, particularly when a specific request to that effect had been made by the petitioner on 27.05.2025. Under these circumstances, the impugned order dated 26.08.2025 is set aside, and the matter is remitted back to the respondent authority to reconsider the issue afresh in accordance with law. **M/s.Nabati Food (India) Private Limited, Vs. The Assistant Commissioner of Central Tax & Central Excise, Audit I The Commissioner of GST and Central Excise Chennai Audit I Commissionerate 2. The Assistant**

Commissioner of GST & Central Excise, Purasawalkam Division, W.P.No.42823 of 2025 DATED: 06.11.2025

Registration restoration: Writ Petition filed under Article 226 of the Constitution of India, by the Respondent with a prayer to direct the Respondent to restore the GST Registration of the Petitioner and permit the Petitioner to file all pending returns and pay tax, interest and penalty. Both the learned counsel for the Petitioner and the learned Government Advocate for the Respondent confirmed that the issue is squarely covered by the decision of this Court in Tvl.Suguna Cut Piece Center, Represented by its Authorized Signatory Vs. The Appellate Deputy Commissioner (ST) (GST), Salem and another, (2022) 99 GSTR 386 and the Court issued directions to restore subject to conditions that included of filing the returns and paying the tax interest etc **Tvl.Gyan Vaishnav Dhaba Simla Ice Cream Bar, Vs.The Deputy Commercial Tax Officer, O/o Assistant Commissioner (ST), Vellore (Rural), W.P.No.49394 of 2025 DATED : 19.12.2025**

Time not granted: The petitioner is before this court against the impugned order dated 04.12.2025 whereby the demand proposed in the Show Cause Notice in DRC 01 dated 02.07.2025 has been

confirmed in part. The records revealed that the petitioner had also filed a reply. A Reminder notice dated 27.11.2025, the petitioner was asked to file an additional reply by 02.12.2025. The personal hearing was fixed on 01.12.2025. On the date fixed for personal hearing, the petitioner however did not appear but sent a representation on 02.12.2025 with a request for extension of time to file a reply. The impugned order has been passed without an additional reply from the petitioner in response to the reminder dated 27.11.2025. Considering the same and following the consistent view taken under similar circumstances, the case is remitted back to the Respondent to pass a fresh order on merits subject to the Petitioner filing an additional reply to the Reminder Notice dated 27.11.2025 within 30 days of receipt of this order with other conditions **M/s.Appejay Surrendra Park Hotels Limited, Vs Assistant Commissioner (ST), Pondy Bazaar Assessment Circle, W.P.No.49649 of 2025 DATED : 19.12.2025**

(The Author is a Chennai based Chartered Accountant in Practice. He can be reached at vvsampat@yahoo.com)

CASE LAWS - GST

CA. VIJAY ANAND

1. GST – ORDER PASSED BY THE DEPARTMENT TO BLOCKTHE USAGE OF ITC IN ASSESSEE'S ELECTRONIC CREDIT LEDGER UNDER RULE 86A WHEN THE LEDGER SHOWED NIL BALANCE – NOT SUSTAINABLE

In Rawman Metal & Alloys v. DCST2025(104) GSTL 57/ (2025) 36Centax 177(Bom.), the department invoked Rule 86-A to block the use of ITC in theassessee's Electronic Credit Ledger to the extent of Rs. 12,84,273/ - when the ITC balance available was NIL.On a writ petition, the high court observed as under:

1. The first prerequisite for blocking the utilisation of ITC in the Electronic Credit Ledger in Rule 86A is ITC available in the Electronic Credit Ledger. The second would be the "reason to believe that such credit of input available in the Electronic Credit Ledger has been fraudulently availed or is ineligible". There are other requirements for recording the reasons in writing and other restrictions, such as not allowing the debit of an amount equivalent to such credit in the Electronic Credit Ledger for the discharge of any liability u/ s 49 or for the claim of any refund of the unutilized amount.

2. Therefore, if on the date of issuing the impugned order or on the date of making an order under Rule 86-A blocking the ITC in the Electronic Credit Ledger, no ITC was found to be available there, then, there would be no question of exercising the powers under Rule 86-A or making any order under Rule 86-A to block such non-available ITC in the Electronic Credit Ledger.

3. The question of adverting to legislative intent or executive intent would arise only if there was any ambiguity in the provision. In the absence of ambiguity, it is ordinarily not open for the Court to adopt a construction or an interpretation that allegedly aligns with the intention, though not with the expressed or plain words employed to express such intention.

4. Ordinarily, a taxation provision must be strictly construed and there is no scope for implication. Nothing is to be read in such a provision unless there are exceptional circumstances. The argument that the rule would be rendered otiose cannot be accepted because the rule enables the proper officer to block the ITC as may be available in the Electronic Credit Ledger, upon there being reasons to believe that the same had been fraudulently availed or was ineligible.

5. If the intention of the legislature or the rule makers was to enable the blocking of any future credit that might be available in the Electronic Credit Ledger, then the rule would have been differently worded to expressly enable or permit such a consequence.

6. In Samay Alloys India (P.) Ltd. v. State of Gujarat 2022 (61) G.S.T.L. 421 (Guj.), a Division Bench of the Gujarat High Court rejected contentions almost identical to those now raised in the instant case wherein it was held that if no ITC was available in the ledger, the blocking of the electronic credit ledger under Rule 86-A and insertion of a negative balance in the ledger would be wholly without jurisdiction and illegal, citing that on a plain reading of the opening part of Rule 86-A (1), powers can be exercised only if ITC is available in the electronic credit ledger and not when there is nil credit in the ledger.

7. It was further held that on a plain reading of the heading itself, it was apparent that Rule 86-A could be invoked only if the amount was available in the Electronic Credit Ledger and not otherwise. It was a settled rule of interpretation that the section heading or a marginal note could be relied upon to clear any doubt or ambiguity in the interpretation of the provision to discern the legislative intent.

8. High Court, referring to the decisions of the Hon'ble Supreme Court in the case of CIT v. Kasturi & Sons Ltd [1999] 103 Taxman 342and Kapil Mohan v. CIT [1999] 1 SCC 450 that the principle that a taxing statute should be strictly construed is well settled and that it has long been recognised that tax and equity are strangers. Just as reliance upon equity does not avail an assessee, so it does not avail the Revenue. The Court held that the principle of law discernible from the aforesaid two decisions of the Supreme Court is that there can be no action based on any supposed intendment of the provision. Since the plain language of Rule 86-A does not permit its exercise without the availability of credit, it could not have been invoked in the case where the ITC was nil on the date of exercise of the power.

9. The Gujarat High Court also relied upon Circular No. 4 of 2021 dated 24 May 2021 issued by the Commissioner of State Tax, State Goods & Services Tax Department Kerala emphasizing that if there was a NIL balance or insufficient balance in the tax head to which the credit is to be blocked the credit available in other tax heads, equivalent to the amount fraudulent availed, can be blocked. In such a scenario, it should be kept in mind

that this shall be subject to limitations imposed by law on cross-utilisation of ITC. In other words as cross-utilisation of CGST credit to SGST liability and vice versa is not permitted by the GST Laws.

10. In case of blocking of CGST credit availed fraudulently, blocking of SGST credit shall not be done if no credit is available in the CGST tax head. As such, for blocking of IGST credit availed fraudulently, if there is no credit balance in IGST tax head, the amount equivalent to the credit fraudulently availed can be blocked from the ITC credit available in CGST head and/ or SGST head and vice versa.

11. The Gujarat High Court also held that blocking of credit was only a temporary measure, and the Revenue is not rendered remediless merely because Rule 86-A is confined to the blocking of credit available in the Electronic Credit Ledger and not future credit that might be available in the Electronic Credit Ledger. The admissibility of Input Tax Credit can be verified through the issuance of a show-cause notice and, thereafter, through the adjudication of the liability.

12. The authorities have ample powers of recovery, including the power to provisionally attach under Section 83. However, the power under Rule 86-A cannot be invoked in the absence of any credit balance in the Electronic Credit Ledger. The Gujarat High Court allowed the Petition and directed the Department to withdraw the negative block of the Electronic Credit Ledger at the earliest after ruling that the condition precedent for exercising power under Rule 86-A was the availability of credit in the Electronic Credit Ledger, which was alleged to be ineligible or availed of fraudulently.

13. The Delhi High Court, in the case of Best Crop Science (P.) Ltd. v. Principal Commissioner, CGST Commissionerate 2024 90 G.S.T.L. 131 (Del.) and in KarunaRajendraRingshia v. Commissioner of Central GST (2024) 24 Centax 259 (Del.) have also interpreted Rule 86-A to apply only in respect of ITC available in the Electronic Credit Ledger at the time of making a blocking order and not to any future ITC or providing for any negative blocking, to borrow the phrase used by the Gujarat High Court.

14. The Calcutta High Court in the case of Basanta Kumar Shaw v. Asstt.Commissioner of Revenue, Commercial Taxes and State

Tax [(2023) 120 GSTR 864 (Cal) = "2022" (65) G.S.T.L. 436 (Cal.)] has dissented from the decision of the Gujarat High Court in Samay Alloys India (P.) Ltd. v. State of Gujarat 2022 (61) G.S.T.L. 421 (Guj.) reasoning that Rule 86-A does not use the expression "negative blocking" and, therefore, such a theory cannot be imported to justify the contention that there should be a positive balance to invoke Rule 86-A.

15. The Court has also held that there was no requirement under Rule 86-A that the Electronic Credit Ledger should contain a sufficient balance to block the credit by invoking the Rule. The Court held that the Gujarat High Court's view, while laying excessive emphasis on the word "available", has not given due credence to the words "has been fraudulently availed or is ineligible".

16. The Calcutta High Court has held that it is a duty of the Court to examine the true intention of the legislature. In this case, the true intention was to block the Electronic Credit Ledger where ITC was availed of fraudulently or where the assessee was ineligible to avail of it. Any interpretation which would hamper such an intention should not be adopted.

17. In Crawford v. Spooner (1846) 6 Moore PC 1 and Lord Howard De Walden v. Inland Revenue Commissioners (1948)2 All ER 825 (HL), it was held that the Courts can neither aid the legislature's defective phrasing of the act nor add or mend and, by construction, make up deficiencies which are left there. It is contrary to all rules of construction to read words into an act unless it is absolutely necessary to do so.

18. In Shiv Steel v. State of Assam — (2025) 34 Centax 352 (S.C.), the Supreme Court reiterated that strict interpretation must be applied when analysing fiscal statutes, and tax liability can only be imposed if the case falls clearly within the statutory provisions. No tax can be levied by inference, analogy, or presumed legislative intent. The Court held that if the revenue convincingly demonstrates that the case falls strictly within the law's provisions, the subject can be taxed. Conversely, if the case does not fall within the boundaries of the taxing statute, no tax can be imposed through inference, analogy, or by attempting to decipher legislative intent or examining the substance of the matter.

19. The Supreme Court preferred to follow the views of the Gujarat High Court and Delhi High Court regarding the interpretation

of Rule 86-A as such interpretation aligns with the plain reading of the Rule as it stands without any additions or substitutions or without any undue emphasis on the presumed legislative intent.

20. However, it was clarified that Rule 86-A allows for the blocking of the Electronic Credit Ledger only to the extent of the credit available in it at the time of exercising the powers under Rule 86-A or when making the blocking order, even if the Revenue has reason to believe that the total credit the assessee might have fraudulently claimed or was ineligible to claim exceeds the amount actually present in the Electronic Credit Ledger.

21. Thus, the blockage to the extent of credit available on the date of the order's communication would be intra vires and valid. What Rule 86-A, as it presently stands, does not permit is the blocking of any future credits the assessee might obtain, thereby introducing the concept of "negative blocking," despite Rule 86-A not allowing such a concept.

22. The ITC the assessee might acquire after the blocking order is issued may not even be tainted with any fraud or ineligibility. Rule 86-A, as it currently stands, would therefore not permit the blocking of such ITC, considering the language used by the

rule framers. The rule may not explicitly refer to "negative blocking", but that would be the exact outcome if the rule were interpreted to block ITC unavailable on the order date or the ITC that might be availed in the future. Therefore, a construction based on a seemingly broad interpretation would contravene both the letter and the intention of the rule framers.

23. This is not a narrow interpretation of the rule. It is a case of literal reading in the absence of any ambiguity. Such an interpretation neither renders the rule useless nor makes the outcomes absurd. This interpretation is supported by the principle that taxing statutes must be strictly interpreted, and generally, there is no room for presumed intent.

Hence, the petition was allowed and the impugned blocking notice was quashed and set aside.

2. GST – ADDITIONAL EVIDENCE BEFORE THE APPELLATE AUTHORITY/ TRIBUNAL – NON-CONSIDERATION THEREOF – NOT SUSTAINABLE

In U.S.Technology International Pvt. Ltd. v. State of Kerala 2026(104) GSTL 185/ (2025) 36 Centax39 (Ker.)the department

issued an SCN on 30.01.2024, highlighting certain discrepancies in the returns as the ITC available to the petitioner was on the lesser side as per GSTR-2A, than that availed by the petitioner as per GSTR-3B. The date of personal hearing was originally scheduled on 15.02.2024, which was within 15 days from the date of notice and subsequently extended to 16.03.2024 and thereafter to 23.03.2024, at the request of the assesseedue to the non availability of the documents pertaining to the past period. An order was passed on 25.03.2024 confirming the demand as no reply was received by the petitioner. On 26.03.2024, a request for rectification was received by the assessee with the supporting documents. This request was rejected as beyond the scope of Section 161.

The assessee filed an appeal before the first appellate authority along with the appeal, all the documents to substantiate their contentions and sought the acceptance of the documents which was rejected, without considering the said request to accept the said documents into file, holding that the assessee failed to establish the sufficient reasons as mentioned in Rule 112(1). On a writ petition, the High Court observed as under:-

1. With reference to the question of opportunities granted, even while arriving at the conclusion that a reasonable opportunity was not extended to the petitioner, the fact that the petitioner did not appear before the adjudicating authority, in any of the hearings, is also a crucial factor which cannot be ignored.

2. The first appellate authority rejected the appeal holding that the explanations offered by the petitioner do not come under any of the circumstances referred to in Clause (a) to (d) of sub-rule (1) of Rule 112.

3. It is also the case of the petitioner that, even if the documents could not have been accepted under sub-rule (1) of 112, the same should have been accepted by the appellate authority invoking powers under sub-rule (4) of Rule 112 which enables the appellate authority to direct the production of any document or the examination of any witnesses to enable him to dispose of the appeal.

4. The reasons mentioned in the appellate order are not justifiable as sub-rule 1(c) of 112 permits the acceptance of documents if the appellant was prevented by sufficient cause from producing

the evidence before the adjudicating authority. In this case, the specific case of the petitioner is that, since, the time granted to the petitioner to produce the documents, was very short, they could not collect all these documents despite their earnest efforts.

5. Considering the voluminous nature of the transactions referred to in the show cause notice, in response to which the petitioner was required to furnish a reply, the explanation offered by the petitioner that they could not collect all the details required for furnishing a reply to the same, within the permitted time, is a plausible one. Therefore, the case falls within the circumstances referred to in sub-rule 1(c) of 112.

6. It has already been observed that the adjudicating authority did not grant a reasonable opportunity to the petitioner for submitting a reply while completing the assessment.

7. Immediately after issuance of the adjudicatory order, the petitioner submitted the necessary documents and requested for rectification of the order passed. The same was rejected on technical reasons. This would indicate that a bona fide attempt was made by the petitioner to produce the said documents before

the adjudicating authority even though there was some delay in procuring and making the said documents available to the adjudicating authority.

8. Thus, as the petitioner made all earnest efforts within the limited time that was extended to the petitioner for submitting this documents, the non-production of the document adjudicating authority in time was due to sufficient reasons, and thus, the appellate authority ought to have invoked the jurisdiction under Rule 112(1)(c).

9. Rule 112(4) clearly states that nothing contained in this rule shall affect the power of the Appellate Authority or the Appellate Tribunal to direct the production of any document.

10. Therefore, the fact that, the relevant documents were not produced before assessing authority, would not dis-entitle appellate authority to call for the documents, if it is found to be relevant and necessary for proper disposal of the appeal by the appellate authority.

11. However, the petitioner cannot claim it as of right, and it is for the appellate authority to decide, whether such documents are

to directed to be produced, upon being satisfied about the necessity of production of such documents, for proper disposal of the appeal.

12. While considering the powers under section 112, the appellate authority has to consider the fact that, after all, these exercises are being done for the purpose of determining the actual tax liability of the taxpayer and not to penalise anyone or to recover the tax, which are not legally due. In this regard, observations made by the Madras High Court in Anaikar Trades & Estates (P). Ltd. v. Commissioner of Income-Tax 1990 SCC OnLine Mad 703 are relevant.

13. It is also to be noted in this regard that, the contention of the petitioner that it required some time to collect all the details, cannot be ignored. Thus, the proceedings culminated in the order, were without any effective objection from the part of the petitioner on record.

14. Therefore, when the appeal was submitted by the petitioner in such circumstances, along with the documents which they sought to rely on and could not be submitted before the adjudicating

authority, the proper course ought to have been adopted by the appellate authority, was to take a liberal approach, by invoking the powers under Rule 112.

15. Such a lenient approach is absolutely necessary in an appellate proceeding in view of the fact that there is a specific prohibition against the remand of the matter to the assessing authority.

16. Therefore, if an appropriate opportunity was not granted by the adjudicating authority to produce the documents, despite the earnest efforts on the part of the taxpayer, it is the obligation of the appellate authority to adopt the liberal view, and to accept the documents if those documents are necessary for a just and proper disposal of the issue involved in the appeal.

17. This is a fit case in which such a liberal interpretation is to be adopted to Rule 112 and therefore, documents produced by the petitioner before the appellate authority ought to have been accepted and the same should have been considered on merits. Since such an exercise has not been done in this case, an interference is required.

Hence, the petition was disposed of quashing the order passed with a direction to the first appellate authority to accept the documents produced by the petitioner along with the appeal, which could not be submitted before the adjudicating authority, to reconsider the appeal submitted by the petitioner after taking note of the said documents and to pass fresh order in the appeal on merits, after giving the petitioner a reasonable opportunity for hearing also.

3. GST – ISSUANCE OF SCN WITHIN THE TIME LIMIT FOR FURNISHING REPLY TO PRE-SHOW CAUSE NOTICE – NOT SUSTAINABLE

In Varian Medical Systems International India Pvt. Ltd. v. UOI 2026(104) GSTL 239/ (2025) 36 Centax253 (Del.), audit proceedings commenced against the asssesseevide audit notice dated 11th January, 2024 for the Financial Year 2017-18 (from 1st July, 2017) to Financial Year 2022-23. Various notices were issued to the Petitioner and information was sought in the form of documents and clarifications which were duly supplied by the Petitioner vide letters dated 22nd February, 2024, 19th April, 2024, 6th September, 2024 and 24th September, 2024.

A draft audit report was also prepared by the Department and in respect thereof as well, certain clarifications were sought on 4th October, 2024. The reply was given by the Petitioner to the clarification sought in the draft audit report on 11th October, 2024.After the said reply was submitted, a pre-Show Cause Notice (hereinafter, 'pre-SCN') was issued on 25th November, 2024 to which a reply was permitted to be filed by the Petitioner within three days. However, surprisingly before the expiry of the said three days itself, the Show Cause Notice (hereinafter, 'SCN') was issued on 27th November, 2024.

On a writ petition, the high court observed as under -

1. As per the scheme of the Act, the registered person is to be informed by way of a notice period of at least 15 days prior to the conduct of the audit. The date from when the commencement of the audit takes place is the date from when the registered person makes available the records and other documents as called for by the authorities. Further, the audit has to be then concluded within three months and within a period of 30 days, the same has to be communicated to the registered person.

2. In the present case, the final reply was filed by the Petitioner on 11th October, 2024. The audit report bears the date of 11th February, 2025 and the same has been communicated on 13th February, 2025. On this aspect, the Court has considered the matter. There can be no doubt that after the final submission is made by the Petitioner, the commencement date takes place in terms of the Explanation to Section 65. The audit has to, therefore, commence from 12th October, 2024 and has to be concluded within a period of three months.

3. The audit was completed and within a further period of 30 days, the report was prepared *i.e.*, 11th February, 2025 and was communicated on 13th February, 2025. The submission, therefore, that the audit was not concluded within the three-month period, would not be correct and in any case, the said period of three months is also not a mandatory period as the proviso permits further maximum period of six months.

4. In the overall circumstances when the audit report has been prepared on 11th February, 2025 and communicated to the Petitioner on 13th February, 2025, the Court is not inclined to hold that the same is beyond limitation.

5. The petitioner was given time to file submissions till 28th November, 2024 in Part B of the form. However, surprisingly, the authority has decided to issue the SCN itself one day before the said day expires *i.e.* on 27th November, 2024 itself. Thus, this would be completely in violation of the principles of natural justice in terms of the pre-SCN itself.

Hence, the SCN was set aside and the proceedings were relegated to the pre-SCN stage and the petitioner was free to file their reply to the pre-SCN dated 25th November, 2024. Thereafter, the concerned authority shall decide as to whether the SCN is to be issued or not and if any SCN is issued, the same shall proceed in accordance with law.

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CHECK LIST FOR COMPLIANCE OF LABOUR CODES

CA. G. SUBRAMANIA SARMA

The Government of India notified four labour codes – the Code on Wages, 2019, the Industrial Relations Code, 2020, the Code on Social Security, 2020 and the Occupational Safety, Health and Working Conditions Code, 2020 – into existence on 21-Nov-2025. According to a press release issued by the government, these labour codes "lay the foundation for a protected, future-ready workforce and resilient industries, boosting employment and driving labour reforms."

In any Organisation, Pay roll constitute any where between 15% to 35% of the total Expenses side of the Profit and Loss Account and in the case of Entities which are involved in providing services, the same may even be around 70% of the total Expenditure. Hence in the audit of any organisation, verification of pay roll constitute a significant area of audit. An effort has been made to provide a checklist for the compliance of the Labour Codes, particularly for the financial year ending 31.03.2026.

Sl.No	Particulars	Ref	Remarks
1	Whether the management has aligned the wages in line with the definition of Clause 2(y) of the Wages Code	A-2(y)	
2	Whether the definitions of Employee and workers have been understood by the entity – While employee includes persons who are employed in managerial, administrative and supervisor capacity, worker includes working journalists and sales promotion employees, but excludes managerial and administrative capacity and supervisory persons drawing wages exceeding Rs 18000/- month or such amount as notified by the appropriate Government	A-2(k) and 2(z)	
3	Whether there is any discrimination in quantum/ payment of wages for the same or similar work on basis of gender	A-4	
4	Whether any employee has been paid wages less than minimum wages fixed either by the Central Govt or State Government	A-5	
5	Whether wages are disbursed in cash or by cheque or credit to the bank account or by electronic mode	A-15	
6	Whether the Establishment has fixed the wage periods and wages are paid as follows:,	A-17	
	Employed on daily basis – at the end of the shift		
	Employed on weekly basis – on the last working day of the week		
	Employed on fortnight basis- end of the second day after the end of the fortnight		
	Employed on Monthly basis – before 7th of subsequent month		
	In any case – as per the directions of the Govt if any prescribed		

7	Whether total deductions from wages as specified in 18(2) of the Wages code does not exceed 50% of the Total Wages	A-18(4)	
8	Whether the employer has paid the dues to an employee who leaves due to resignation, dismissal or retrenchment within two working days	A-17(2)	
9	Whether for every person who has completed 30 days of working (in an accounting year commencing from April 1) minimum bonus of 8.33% wages has been paid or Rs100 whichever is higher	A-26(1)	
10	Whether the provisions relating to allocable surplus, available surplus, set on or set off procedures have been followed.		
11	Whether the bonus has been disbursed before 8 months from the end of the financial year	A-39	
12	Check that the bonus can be denied only for those who are dismissed from service due to specified reasons and not for general dismissals or retrenchment etc	A-19,21,50	
13	Whether the employee has issued wage slips to all the employees in prescribed form either before or at the time of disbursement of wages	A-50(3)	
14	Whether the employer has displayed in the notice Board the following:	A-50(2)	
	Minimum Rate of wages		
	Normal working hours		
	Wage period		
	Date of wage payment		
	Name and address of inspector or Falicitator		
15	Whether the employer complied with the working hour limits prescribed by the code – 8 hours a day, 48 hours a week and 6 days in a week	C-25(1), C-26	

16	Every industrial establishment employing more than 100 or more workers employed during the last 12 months requires the employer to constitute a works committee	B-3	
17	Every Industrial Establishment employing more than 20 or workers are required to have a grievance Redressal committee	B-4	
18	Every Industrial Establishment employing more than 300 workers at any time during the previous 12months have to comply with the provisions relating to Chapter "Standing Orders"	B-28 to 30	
19	Whether industrial establishments having workers between 50 and 299 have served a notice on the appropriate Government or such authority before carrying out lay off, closure, lockout, retrenchment? (Prior Permission from appropriate authority is required in the case of industrial establishments having workers more than 300)	B-67 to69	
20	In the case of layoff, whether the employer has paid as compensation 50% of basic wage plus DA	B-67	
21	Whether the employer has given a notice of 1 month to the employee before retrenchment	B-70(a)	
22	Whether the retrenchment Compensation paid is equal to 15days average pay for each completed year of service	B-70(b)	
23	Whether the employer has contributed an amount equal to 15 days' wages for each retrenched employee to Workers Reskilling fund	B-83(2a)	
24	Whether the notice of closure of establishment has been served on the appropriate government and to the workers representative before 60 days of closure	B-74	

25	Whether the employer has provides the welfare facilities like, separate washing facilities for men and women, bathing places, locker rooms separately, sitting arrangements for those who are required to work in standing position specified in 24(f) of the COSHWC	C-24(1)	
26	Whether canteen facilities has been provided in establishments employing 100 or more workers	C-24(1)	
27	Whether adequate first aid boxes or cupboards with contents readily accessible at all times is provided	C-24(1)	
28	In construction sites employing more than 500 workers, whether ambulance room has been provided	C-24(2)	
29	Whether creche Facilities for children below the age of six years, has been provided where 50 or more workers. The Employer can avail creche facilities run by others in the locality	C-24(3)	
30	If the Employer has employed Interstate Migrant workers, whether Journey allowance once a year to cover the to-&-fro to their home town	C-60(1)	
31	Eligibility to earned leave is now reduced to 180 days in a calendar year	C-25	
32	Accumulation of earned leave is restricted maximum to 30 days and any leave beyond 30 days requires to be encashed compulsorily or paid for	C-32(1)(ix)	
33	Whether the consent of the women employees in writing has been taken when they are employed between 7Pm and 6 AM	C-43	
34	Applicability of Employees Provident Fund in respect of every establishment in which 20 or more employees are employed	D - FS	

35	Applicability of ESI, Gratuity, Maternity benefit is applicable in respect of every establishment in which 10 or more persons or employees are employed	D-FS	
36	The Existing EPF Scheme, EDLI Scheme, EPS Scheme are applicable till 21.11.2026 and hence contributions are to be paid at the same rates as of now.		
37	Contributions of both Employer and Employee are to be made on the new wages definition as per Wages Code	D-16(1)	
38	Provision for gratuity on new wages formula is only prospective and hence it is necessary to obtain actuarial valuation both for period before 21.11.2025 and at year end	D-53(1)	
39	Gratuity provision is required in respect of fixed term employment, (an employee engaged on the basis of written contract of employment for a fixed period) who has completed one year of service	DR 34	
40	Compulsory obtaining of a gratuity insurance by all companies is proposed to be enforced from the date to be specified by the Government	D-57(1)	
41	Whether the employer has paid every woman employee entitled to maternity leave a medical bonus of Rs 3500/ -	D-64	
42	Whether Gratuity to employees has been paid within 30 days from the date it became payable [56(3)]	D56-(3)	
43	Whether Nomination has been received from all the employees who have completed one year of service in the prescribed form to whom the Gratuity is to be paid in case of death of employee	D-55(1)	

Note: A, B,C,D refers to the four Labour codes

Members would appreciate that SA 250 dealing withNon-Compliancewith Laws and Regulations being mandatory and under Code of Ethics, it is necessary to comply with the NOCLAR, obtaining the data in the audit file based on the above check list would be helpful. It is to be noted that the above checklist is not exhaustive but covers major portion of Labour Codes.

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PENALTY U/S 271D OF THE INCOME-TAX ACT, 1961 : A COMPREHENSIVE ANALYSIS

CA. NIDHI JAIN

1. Introduction: Genesis and Legislative Basis of Sections 269SS & 271D

The provisions of Sections 269SS and 271D of the Income-tax Act were introduced as part of a policy initiative to curb the circulation of unaccounted cash and enhance transparency in financial transactions. By restricting acceptance of loans and deposits beyond a prescribed monetary threshold in cash and prescribing stringent penalty for contravention, the legislature created a framework that combines substantive regulation with strong deterrence, thereby promoting traceability and accountability in financial dealings.

2. When Does Section 269SS Get Triggered?

Section 269SS casts a wide net over transactions that involve taking or accepting **loans, deposits, or specified sums** from another person.

- Any loan, deposit or specified sum of INR 20,000 or more must be accepted only through prescribed banking channels, such as account payee instruments or approved electronic modes, and not in cash.

- The INR 20,000 limit operates as a clear statutory threshold; acceptance of amounts below this limit in cash does not attract the provisions of Section 269SS
- Non-compliance constitutes a contravention of Section 269SS, potentially attracting penalty u/s 271D imposing a monetary penalty equal to the amount of the prohibited transaction.

3. Penalty Under Section 271D: Exceptions and Safeguards

Section 271D mandates that any person who contravenes Section 269SS shall be liable to pay, by way of penalty, a sum **equal to the amount of the loan, deposit, or specified sum taken or accepted**.

Being consequential in nature, Section 271D operates only where there is a clear violation of Section 269SS. Notwithstanding its stringent framework, the provision is subject to certain important exceptions and safeguards, which merit careful consideration

Transactions Which Are Not "Loans" or "Deposits" in Substance

Judicial authorities have consistently held that the expression "loan or deposit" in Section 269SS must be understood in its commercial and legal sense, and not every cash receipt qualifies as a loan or deposit.

Accordingly, penalty under Section 271D is not leviable where:

- The transaction is a current account adjustment
- The amount is received as capital contribution
- The receipt represents business advance, trade advance, or security deposit not in the nature of loan
- The transaction is merely a temporary accommodation without interest or repayment obligation

Courts have stressed that **substance prevails over form**, and merely labelling an entry as "loan" in books is not decisive.

4. Relief Under Section 273B: Reasonable Cause

It is a well-acknowledged principle that **penal provisions are not to be applied mechanically** where there is genuine cause for non-compliance.

Section 273B provides that **no penalty shall be imposable** if the taxpayer proves that there was a **reasonable cause for failure** to comply with Section 269SS. As a non-obstante provision, it overrides Section 271D where reasonable cause is established. The taxpayer bears the **initial burden** to show the existence of reasonable cause.

Judicial authorities have carved out several scenarios where "reasonable cause" has successfully been invoked. A brief discussion of select circumstances and the relevant judicial pronouncements is set out below

I. Transactions Between Close Family Members

One of the most litigated and settled areas relates to cash transactions between close family members.

Judicial authorities have held that cash transfers between close relatives, made out of natural love and affection or for family exigencies, do not partake the character of "loans or deposits" contemplated by Section 269SS.

Key judicial principles emerging are:

- Transactions between parents and children
- Transactions between spouses
- Transactions among siblings or close relatives
- Financial assistance for education, marriage, medical needs, or family business exigencies

Such transactions are generally regarded as **family arrangements**, not commercial loans.

Where courts have found that where:

- No interest was charged
- No formal repayment schedule existed
- No intention to earn income was present

penalty under Section 271D has been deleted.

Relevant judicial pronouncement:

CIT v. Sunil Kumar Goel (Punjab & Haryana High Court) 315 ITR 163. The Hon'ble High Court held that

- Cash transactions between family members
- Fully disclosed in books
- Without any tax effect constitute **reasonable cause**, and penalty under sections 271D/ 271E is not leviable.

Smt. Kusum Dhamani v. ACIT (ITAT Jaipur) 47 taxmann.com 143

Penalty under section 271D was deleted where:

- Cash loans were taken from husband
- Business exigency existed
- Transactions were genuine and recorded

Smt. Meera Devi Kumawat v. JCIT (ITAT Jaipur)132 taxmann.com 21

The Tribunal held that:

- Pooling of family funds
- Absence of interest and repayment obligation
- Lack of independent sources negates applicability of section 269SS and consequent penalty.

II. Transactions Undertaken Due to Business or Financial Exigency

Urgent Business Necessity as Reasonable Cause

Courts have repeatedly accepted that business exigency, particularly where banking facilities were not readily accessible, constitutes reasonable cause under Section 273B.

Penalty under Section 271D is not leviable where cash was accepted:

- To meet urgent business payments
- To pay statutory dues, wages, or labour charges
- To prevent business disruption
- Due to sudden liquidity crunch

What is critical is that:

- The transaction is genuine
- The urgency is demonstrated
- The funds are duly recorded in books
- There is no attempt to introduce unaccounted money

Relevant judicial pronouncement:

CIT v. Smt. M. Yesodha (Madras High Court) 351 ITR 265

The Court upheld deletion of penalty where:

- Cash was received from father-in-law
- Transaction was genuine
- There was urgent necessity of funds The Hon'ble Court held that section 269SS should not be applied mechanically.

III. Agricultural and Rural Transactions

Section 269SS specifically excludes transactions where:

- Both the payer and recipient have only agricultural income
- Neither party has income chargeable to tax

In such cases, Section 269SS itself does not apply, and consequently penalty under Section 271D cannot be levied.

IV. Rural and Banking Constraints as Reasonable Cause

Even where the statutory exception does not strictly apply, courts have accepted lack of banking facilities, especially in rural or semi-urban areas, as a valid reasonable cause.

Relevant judicial pronouncements:

Commissioner of Income-tax Vs. Sahara India Financial Corp. Ltd. 153 taxmann.com 225 (SC)

HonorableSupreme Court have upheld that penalty levied section 271D on a non-banking finance company, for accepting cash deposits was deleted on the ground that the depositors were residents of rural areas where adequate banking facilities were not available, and therefore, there existed a reasonable cause for accepting cash.

Commissioner of Income-taxVs. Hissaria Bros. (High Court of Rajasthan)291 ITR 244

Honorable Court have held that where a KachchaArhatiya sells goods belonging to agriculturists, sale proceeds thereof, which remain with him, cannot be regarded as deposits made by

agriculturists with KachchaArhatiya within meaning of section 269SS and subsequent remittance or adjustment of such amount by him discharging obligation of agriculturists or remittances of such amounts to agriculturists does not amount to repayment of loans or deposits

V. Genuine and Bonafide Transactions with No Revenue Loss

Absence of Tax Evasion Motive

A consistent judicial thread is that penalty provisions are meant to punish tax evasion, not honest mistakes.

Penalty under Section 271D has been deleted where:

- Transaction is fully recorded in books
- Identity and creditworthiness of parties are not disputed
- Transaction is accepted as genuine during assessment
- No addition is made under Section 68
- There is no loss to the Revenue

Courts have held that when the very object of Section 269SS (curbing black money) is not violated, penalty should not be imposed.

Relevant judicial pronouncement

CIT v. Omec Engineers (Jharkhand High Court) 294 ITR 599

The Hon'ble High Court held that:

- Penalty cannot be imposed for a technical or venial breach
- Where transactions are genuine and no loss of revenue is caused
- Reasonable cause must be liberally construed

VI. Accounting Entries and Journal Adjustments

Courts have repeatedly held that:

- Mere journal entries
- Book adjustments without movement of cash
- Squaring up of balances through accounting adjustments

do not constitute acceptance of loan or deposit in cash, and therefore Section 269SS is not attracted, making penalty under Section 271D unsustainable.

Relevant judicial pronouncement

Commissioner of Income-tax, (Central) IV Vs. Adinath Builders (P.) Ltd.102 taxmann.com 57, Honorable Supreme Court has upheld

that journal entries constitute a recognized mode of recording of transactions and in absence of any adverse finding by authorities that journal entries were made with a view to achieve purpose outside normal business operations or there was any involvement of money, there was a reasonable cause for not complying with section 269SS and penalty under section 271D was not to be imposed

Commissioner of Income-tax, Tamil Nadu-I, MadrasVs.Idhayam Publications Ltd (High Court of Madras) 163 TAXMAN 265, *it was held that*

The deposit and the withdrawal of the money from the current account could not be considered as a loan or advance. Hence there is no violation of section 269SS of the Income-tax Act.

Thamira Green Farm (P.) Ltd. Vs. Additional Commissioner of Income-tax (Chennai - Trib.) 155 taxmann.com 320

Company had taken loan from its director in cash for purpose of purchase of lands in name of company. It was observed that entire amount of loan had been utilized for acquisition of capital asset for purpose of business of company; and assessee and director both had disclosed transactions in their books of account for relevant previous year. Said transaction between assessee-company and director was

in nature of current account transactions, which did not come under purview of loan and deposit as per section 269SS

5. Procedural and Jurisdictional Defects

Penalty under Section 271D can also fail due to procedural infirmities, such as:

- Penalty initiated beyond limitation prescribed under Section 275
- Failure to consider explanation under Section 273B
- Penalty levied by an authority not competent under law

Commissioner of Income-tax, Bikaner Vs. Hissaria Brothers 74 taxmann.com 22 (SC), Honorable supreme Court have held that Where provisions of sections 271D and 271E were invoked after six months of limitation, penalty imposed was to be quashed

Conclusion

Section 271D represents a critical enforcement mechanism designed to give teeth to the prohibition contained in Section 269SS against cash acceptance of loans, deposits and specified sums beyond the prescribed threshold

At the same time, the statutory framework consciously incorporates safeguards, most notably through Section 273B, ensuring that genuine and bona fide transactions are not visited with penal consequences merely on account of technical or venial breaches. Judicial precedents consistently affirm that the provision must be applied purposively — with due regard to the substance of the transaction, the presence or absence of tax evasion intent, and the overall factual matrix.

The jurisprudence that has evolved around Section 271D demonstrates a balanced approach: while deliberate violations aimed at circumventing the banking channel requirement invite strict consequences, bona fide family arrangements, business exigencies, rural constraints, accounting adjustments, and other genuine circumstances have been accorded appropriate relief.

Thus, Section 271D, though stringent in its wording, operates within a framework that harmonises deterrence withfairness — reinforcing the objective of eliminating unaccounted cash transactions without penalising honest and commercially justifiable conduct.

Under the Income-tax Act, 2025, the provision corresponding to erstwhile Section 269SS is contained in ***Section 185****, which prohibits acceptance of*

*loans, deposits or specified sums otherwise than through prescribed banking modes beyond the specified threshold. The corresponding penalty provision, analogous to erstwhile Section 271D, is contained in **Section 450**, which provides for a penalty equal to the amount so accepted in contravention.*

While the section numbering has been rationalised, the substantive framework and penal consequence remain materially consistent with the earlier regime.

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TIGER GLOBAL - FLIPKART CASE: TREATY, GAAR AND SUBSTANCE OVER FORM

Mr. ESHAAN SINGAL

Introduction

The Tiger Global–Flipkart litigation represents one of the most consequential judicial pronouncements in India's international tax jurisprudence post the introduction of GAAR. The case sits at the intersection of treaty interpretation, grandfathering protections under the India–Mauritius DTAA, indirect transfer provisions, and domestic anti-avoidance doctrines. More importantly, it marks a decisive shift in judicial attitude from form-based treaty entitlement to a rigorous substance-driven inquiry.

This article analyses the factual background, the competing contentions before the authorities, the divergent views of the AAR and the High Court, and the final word of the Supreme Court, followed by practical implications for cross-border investment structures.

Factual Matrix

Tiger Global International II Holdings, Tiger Global International III Holdings and Tiger Global International IV Holdings (collectively

referred to as ‘Tiger Global’ or ‘the Taxpayer’) were incorporated in Mauritius with the stated objective of undertaking investment activities. These entities were regulated by the Financial Services Commission, Mauritius and held Category I Global Business Licences.

Between October 2011 and April 2015, Tiger Global acquired shares of Flipkart Private Limited, Singapore. These investments were made prior to 1 April 2017, the cut-off date relevant for grandfathering protection under the India–Mauritius DTAA pursuant to the 2016 Protocol.

In 2018, as part of Walmart Inc.’s global acquisition of Flipkart, Tiger Global transferred its shareholding in Flipkart Singapore to Fit Holdings S.àr.l., Luxembourg. Anticipating Indian withholding exposure, Tiger Global approached the Indian tax authorities seeking a NIL withholding certificate under section 197 of the Income-tax Act, 1961, contending that the capital gains were exempt under Article 13(3A) of the India–Mauritius DTAA.

The tax authorities rejected the claim, prompting Tiger Global to seek an advance ruling. The AAR rejected the application on the ground that the arrangement was prima facie designed for tax

avoidance. Although the High Court quashed the AAR's order and granted treaty protection, the Revenue carried the matter to the Supreme Court.

AAR's Findings

The AAR adopted a strongly substance-oriented approach and denied treaty benefits on multiple grounds.

It held that the real control over high-value transactions exceeding USD 0.25 million was exercised by Mr. Charles P. Coleman, a US resident. Mr. Coleman was also the beneficial owner and sole director in parent entities. Accordingly, the AAR concluded that control and management were effectively situated outside Mauritius.

The AAR further characterised Tiger Global as a mere see-through or conduit entity, noting that it had made no investments other than in Flipkart Singapore and had obtained a Tax Residency Certificate solely to access DTAA benefits.

On treaty interpretation, the AAR held that Article 13(4) of the DTAA applied, since the asset transferred was shares of a Singapore company and not an Indian company. Consequently, the AAR denied the benefit of capital gains exemption.

Finally, the AAR concluded that the Mauritius entities lacked commercial substance and that the arrangement was prima facie designed for tax avoidance, warranting rejection under section 245R(2)(iii).

High Court's Reversal

The High Court took a markedly different view and restored confidence in traditional treaty jurisprudence.

It observed that Tiger Global Management LLC, USA functioned merely as an investment manager and did not have any equity participation. The existence of an investment manager could not, by itself, negate economic substance at the holding company level.

The Court rejected the Revenue's characterisation of the Mauritius entities as puppets. It held that a subsidiary cannot be disregarded unless there is clear evidence of fraud, sham or complete absence of independent authority. The presence of common directors such as Mr. Charles P. Coleman or Mr. Steven Boyd was insufficient to establish lack of independence.

The High Court emphasised the sanctity of the TRC, holding that it is sacrosanct unless fraud or sham is demonstrated. There was no

evidence that Tiger Global was contractually bound to pass on gains to the US entity or acted on its behalf.

On treaty interpretation, the Court held that Article 13(3A) was not restricted only to shares of Indian companies and that the AAR's interpretation was legally unsound. Consequently, the transaction was held to be grandfathered and not designed for tax avoidance.

Revenue's Case Before the Supreme Court

Before the Supreme Court, the Revenue advanced a far-reaching anti-abuse argument.

It contended that a TRC is merely prima facie evidence of residence and cannot override the doctrine of substance over form. Indian authorities are entitled to examine actual control, management and commercial substance, consistent with OECD guidance.

The Revenue argued that Tiger Global was not a genuine resident of Mauritius and was merely a see-through entity, with real control resting outside Mauritius.

A key plank of the Revenue's case was that GAAR and JAAR operate independently and in parallel. Even where GAAR may not strictly apply, JAAR empowers authorities to deny treaty benefits in cases of abuse or conduit structures.

It was further argued that GAAR overrides treaty benefits and that the distinction between 'investment' and 'arrangement' is crucial. Even if an investment was grandfathered, the arrangement giving rise to tax benefit post-2017 could still be tested under GAAR.

Finally, the Revenue contended that the transaction was an indirect transfer, governed by Article 13(4) of the DTAA, which does not provide for grandfathering or limitation of benefits.

Tiger Global'sDefence

Tiger Global maintained that it was a bona fide resident of Mauritius, holding a valid TRC and complying with all local laws. The transaction was a genuine commercial exit pursuant to Walmart's acquisition of Flipkart.

Relying on CBDT Circular No. 789 of 2000 and the Press Release dated 1 March 2013, Tiger Global argued that the Department was precluded from going behind the TRC.

It was further contended that grandfathering protection under Article 13(3A) applied to all investments made prior to 1 April 2017 and that GAAR could not be applied retrospectively to negate treaty benefits.

Tiger Global also argued that domestic anti-avoidance doctrines such as lifting of corporate veil or substance over form cannot override express treaty provisions in the absence of abuse.

Supreme Court's Ruling

The Supreme Court set aside the High Court's judgment and restored the AAR's order, decisively denying treaty benefits to Tiger Global.

The Court held that a TRC is not conclusive proof of residence. It described TRCs as non-decisive and ambulatory documents, incapable of foreclosing a substantive inquiry into control, management and commercial substance.

It ruled that GAAR applies to any arrangement resulting in a tax benefit on or after 1 April 2017, irrespective of when the underlying investment was made. While grandfathering protects bona fide investments, it does not shield impermissible avoidance arrangements.

The Court placed the burden squarely on the taxpayer to rebut allegations of tax avoidance under GAAR. In the present case, Tiger Global failed to discharge this burden.

The Supreme Court clarified that the AAR is empowered to reject applications on a prima facie finding of tax avoidance and need not conduct a detailed trial at the admission stage.

Most significantly, the Court held that grandfathering and limitation of benefits under Article 13(3A) apply only to direct transfers of Indian shares. Indirect transfers fall under Article 13(4) and do not enjoy grandfathering or LOB protection.

Key Implications

The judgment reinforces that tax treaties are instruments to prevent double taxation and not tools for double non-taxation. Seeking exemption in both source and residence jurisdictions invites heightened scrutiny.

JAAR continues to operate as a parallel anti-abuse doctrine, capable of denying treaty benefits even where GAAR may not technically apply.

Effective management and real decision-making are central to treaty residence. Mere incorporation or procedural compliance is insufficient.

Grandfathering provisions offer protection only to genuine investments and cannot be invoked to legitimise abusive arrangements.

The ruling affirms India's sovereign right to tax income arising from its territory and signals a clear judicial endorsement of substance over form.

Author's Comments

This judgment marks a clear and deliberate shift in India's treaty jurisprudence from the earlier form-driven approach towards an aggressively substance-oriented regime. The Supreme Court has decisively moved away from the comfort of formal indicators such as incorporation, regulatory compliance, and Tax Residency Certificates, and has instead elevated economic reality, control, and intent to determinative status. In doing so, the Court has aligned Indian tax jurisprudence with contemporary global anti-avoidance norms, but not without raising important concerns.

One of the most significant aspects of the ruling is the Court's distinction between an 'investment' and an 'arrangement' for GAAR purposes. By holding that even grandfathered investments can be

denied treaty benefits if the post-2017 arrangement is found to be impermissible, the Court has effectively narrowed the protective scope of grandfathering provisions. This interpretation substantially dilutes the certainty that the 2016 Protocol sought to provide to foreign investors and may unsettle long-standing structures that were historically regarded as compliant.

The treatment of the Tax Residency Certificate also deserves critical scrutiny. While it is doctrinally sound to hold that a TRC cannot be conclusive in cases of fraud or abuse, the Court's characterisation of TRCs as non-decisive and ambulatory risks undermining their practical utility altogether. This approach appears to sit uneasily with CBDT Circular No. 789 and earlier judicial precedents, which treated the TRC as a strong, though rebuttable, indicator of residence. The absence of clear thresholds for rebuttal may invite discretionary and prolonged enquiries by tax authorities.

Another area of concern is the expansive application of GAAR. The Court's view that GAAR can override treaty benefits irrespective of the date of underlying investment blurs the line between prospective anti-avoidance enforcement and retrospective denial of settled expectations. Although the judgment formally maintains that

GAAR is prospective, its practical effect may be to reopen pre-GAAR structures through the backdoor of 'arrangement'-based analysis.

The Court's restrictive reading of Article 13(3A), confining grandfathering and limitation of benefits strictly to direct transfers of Indian shares, also departs from the broader interpretative approach adopted by the High Court. While textually defensible, this interpretation may be viewed as overly literal and insufficiently attentive to commercial realities, particularly in global M&A transactions where intermediate holding structures are the norm rather than the exception.

At the same time, the decision cannot be dismissed as purely revenue-centric. The Court has reiterated an important normative principle that tax treaties are instruments to eliminate double taxation and not vehicles for double non-taxation. The emphasis on effective management, genuine commercial substance, and independent decision-making sends a clear signal that treaty protection is a privilege contingent on conduct, not a right arising merely from legal form.

From a policy perspective, the ruling enhances India's sovereign ability to tax income arising from its economic territory and

strengthens its position in treaty negotiations. However, the cost of this assertive stance may be increased uncertainty for foreign investors, particularly private equity and fund structures that rely on multi-jurisdictional holding models.

In sum, the Tiger Global decision represents a doctrinal turning point. While it reinforces the primacy of substance over form and curtails abusive treaty shopping, it also raises legitimate concerns regarding certainty, predictability, and investor confidence. Going forward, the challenge for both taxpayers and the administration will be to apply these principles with restraint, consistency, and respect for genuine commercial arrangements, lest anti-avoidance doctrine itself become a source of avoidable litigation.

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THE BIG TECH TRAUMA

Ms. KHUSHI DHOLAKIA

Before You Say, They Know; So, You Know What to Say!

"Most people aren't aware that when their mobile phones or other devices are simply lying around, they (the devices) are listening to their conversions." - Debdoot Mukherjee, Chief Data Scientist, Meesho

Introduction

India has widened the ambit of regulations for Tech Giants by introduction of Digital Personal Data Protection (hereinafter referred to as "DPDP") Act, 2023 and updating its rules in November 2025 revolutionizing the approach on '*Privacy*'. These changes make the existing systemsmore reliant against fraud.However, these guardrails have added to the woes of these Tech Giantsdisturbing their business models.

India's Rule Book to govern Data Privacy

The MeitY together with the GOI introduced DPDP Rules, 2025 effecting the execution of DPDP Act, 2023. The rules revolve around consent, data sharing, role of data fiduciary, safeguards to prevent data breach and the segue of regulatory bodies from being merely titular bodies to being autonomous.

Latest Guidelines-They focus upon the Rights of Citizens and the method of using the Users Data to train their AI models or to create personalized profiles of users to monetize them. It delves into risk containment&compliance.

Industry's Reaction- Any new change in policies - be it from Australia to put social media companies accountable if users below 16 using specific apps or the EU's threat to divide Big Tech is treated with disdain. Back at home in India, Big Tech will probably lobby against stricter regulation transitioning to operational & legal battles post the new rules. The industry is now in Damage Control Mode asserting that new policies will disturb market innovation.

Geopolitical Implications- Data Fiduciary shall be allowed to transfer data outside India subject to Government's approval. The parameters to evaluate the transferare ambiguous as of now.There is no official record of India's playbook today to deal with adversaries/ strategic partners. These broader exemptions create trust deficit among users. DPDP Rules, 2025 incorporate flexibility for geopolitical considerations, which could shape how data moves across jurisdictions &conceptualizes digital sovereignty.

Innovation will find its ways to evolve; we cannot let regulation play catch – up.

Till date everydigital user has been betrayed, pickpocketed and swindled by Tech Giants who govern our daily affairs,in all types of plans effectuated by sophisticated technology and deep pockets who dodge regulations blatantly.A brief review of all the privacy regulations around the world including India will convey a vision ofcentury old lackadaisical lawsand out of touch with present tech progress. The blame rests on everyone – Government,TitularRegulatory Authorities, Tech Moguls, Thirsty Investors or simply the Carefree User.The tension between innovation, profitability, and ethical responsibility continues to define the data privacy landscape today.

Following are some practical steps which can be followed by every digital user:

a. Use Stronger & Unpredictable Passwords – The passwords must be inclusive of Special characters &the same password must not be used for every login. This is necessary else, if a hacker gains access to one password, all your remaining data becomes susceptible to potential leakage. One must also not save important passwords on their phone's internal password manager since all your data would make its way out if your phone is lost or stolen. There must be frequent password resets so that data doesn't be compromised.

b. Enable 2 factor authentication –Such authentication can help you detect every time if anyone logs in your accounts or if there is login from another device.

Case Study - BoB World

RBI banned Bank of Baroda's application (BoB World) from onboarding new customers back in 2023 since the bank staff in their hurry to get more customers found a loophole enlisting new clientele directly through backend with phone numbers not belonging to them. Any stranger could gain unauthorized access to all your bank account and corresponding personal detailsto their linked phone number raising the possibility of fraud.

c. Read Privacy Policy – As embarrassing as it sounds, numerous users including me, entirely bypass reading the privacy policy. This is not only following its sheer length but also due to technical jargons which makes it arduous to comprehend. It might also be challenging for individuals with limited education or who are not well versed with English and would be tempted to click on 'I Agree'. All of us might have at least one app on our phone wherein we have given permissions for access of Camera, Location, Contacts etc., unintentionally and

have not bothered to undo the same. Post DPDP Rules, 2025, the Privacy Policy needs to be explicit, clear, purpose driven& easy to understand.

d. <u>The Curious Case of Cookies</u> - *Cookies are essentially small data packets that allow websites to remember things like user preferences, login informationand track user activity i.e., which pages they visit, and how long they stay on each page*. (As per Google search).

   In reality, cookies create the perfect user profile, sells to the advertiser who in turn target them. The personal information collected by these behemoths gave the investors/ advertisers confidence helping them to capitalize on such business models.PostDPDP Rules, 2025, such data collection will abate let alone data-sharingleading to higher compliance costs. The existing small website owners who found new customers using this information would have to tweak their revenue capabilities.

<u>Google's Privacy Mandate</u>

1. Many users are not aware of cookies and what they do and blindly click on '*Accept & Continue*' without reading the terms and conditions in fine print. Even if one endures the pain to read it, they may or may not understand or know how the user behaviour is tracked and they themselves become the product.

2. Alternatively, if a user is savvy enough to click on 'Decline', ideally any website should cease to track the user activity and allow the user to navigate the website as he/ she desires. However, in practice, websites were not fully honouring their commitment.

3. The users are unable to access unless they clicked on '*Accept & Continue*'. This is a monopoly which frustrated users called out.Google later tried to accommodate user's demands even before the advent of DPDP Rules, 2025.

4. This is surely a 'Case Study in Making' for Google when it had to bow against the wrath of users.

Amazon's Customs Preference

1. Amazon goes one step further in this Cookie Fight and displayed '*Accept All Cookies' & 'Save Custom Preferences*' option to the users making it impossible to not get tracked. Many a times, opt-out options are hidden which influences users to accept all cookies without fully understanding what they are agreeing to.

2. This was done stealthily reinforcingtheir online dominance grabbing information without permission to improve search results. This leads to opaque policies and helped Amazon entrench its market position.

e. Haste makes waste - As mentioned earlier, cybercriminals often attempt to trick into revealing personal information often trying to create a false sense of urgency by asking one to click on unsolicited links to verify one's identity or scaring that your password has a high chance of leaking and hence you need to reset the password within record time.

They may also trick one by sending SMS from normal phone numbers like *+981****656* instead of the name of the Bank which says that,

'*Rs. 500,000/- has been debited/credited from XXX account. Not Yours? Verify by clicking on the link below'*……

Hence, one needs to be skeptical of emails, messages or phone calls that comes your way. Furthermore, these shenanigans are masters in using aliases i.e., they may be using 'H**FD**C' instead of 'H**DF**C' which may trick people by clicking on the website/ unverified links on SMS, emails, social media messages etc.

f. Suppose your go-to search engine which tracked your data offered you an exit wherein your browsing history was not recorded, no cookies, no site data was saved. It, however, did

not provide any security from malicious websites. Users were happy since no onesnooped around surreptitiously. Nevertheless, it is not a haven as it claimed to be. No prizes for guessing. I am talking about Incognito Mode of Google.

Incognito isn't invisible- Google settled $5 billion in penalty for tracking users in Incognito Mode as per Times of India article published in 2020. The class-action lawsuit filed said Google fooled users into believing that it wouldn't track their internet activities except that it did so while using incognito mode. This of course tightened their purse strings. Pun intended. **These lawsuits also cast a grim picture that many of these conglomerates openly flout norms and can get away with miniscule penalties which cost a lot lower vis-à-vis the fortunes they earn.**

g. The extra 'S' stands for 'Security'–For all those who still browse Google in the age of AI chatbots, one must take care and use credible sources to browse the internet i.e., always use **'https://'** instead of **'http://'**. HTTP (HyperText Transfer Protocol) is not secure and can make it vulnerable to interception and attacks. HTTPS (HyperText Transfer Protocol Secure) ensures that the data exchanged is secure and private.

The Recent turn of Events

1. When Chat GPT was launched by Open AI, there were numerous claims that they stole data from various news websites and authors online. Further, it was also able to mimic writing style of prominent authors without paying any royalties. They managed to settle most of these lawsuits by paying hefty penalties. Earlier, 'Open AI's privacy policy mentioned that the company collects personal data input by users to train its AI model unless users explicitly opt out of it.Nevertheless, after being schooled Chat-GPT threw unambiguityregardingits data collection techniques.DPDP Rules, 2025 reinforce this method of collating & processing data from users in transparent manner.

2. To curb frauds, the Indian Department of Telecommunications (DoT) has directed our social media apps such as Whatsapp, Arratai, Telegram, Singal, Snapchat, Jiochat&Sharechat to ensure that services won't work without active SIM Cards on their phones & all web activity will be logged out within 6 hours. The rationale behind this is all our online activity is connected to an active SIM Card and the telecom integrity is maintained.

3. Bankers around the world are heavily involved in safeguarding their ecosystem addressing susceptibility in verification via OTP's. AI tools such as 'Deep Discovery' monitors our daily activities and flags transactions. For example, if a bank account holder who is an intern and usually has transactions within Rs. 10,000/ - range and suddenly a transaction of Rs. 1,00,000/ - is initiated such that full bank balance is unloaded, the user would get a call beforecompletionof the transaction.

EU's Policies – Not bending against the Goliaths

The European Unionis slowly making these Tech Behemoths bow to them in letter and in spirit. The Courtshave levied hefty fines on techGiants; hence, one may think that these companies must be berating their lawyers over this, but they are actually not since these lawyersmanaged to dragthesecaseson for years whilst the users were exploited.

Is Apple really armouring their users as it claims?

Apple gave I-Phone users the option to choose if at all they wanted advertisers to track personal information.The reason for this piousness by these companies was because their users were becoming increasingly wary of the motives of these Big Tech.

10 Downing Street vs. Apple – When giants clash, the users stand tolose

One such history chapter would be whereinthe UK Government demanded access toencrypted data of I-Cloud users veiling it to be national interest.The data apparently pertained to offenders.Apple was supposed to the torch-bearer organization that pioneered end-to-end encryptions for all.

However, if the law viz. 'Snoopers Charter' was not complied with, even Apple could face penalties – was the ultimatum from 10 Downing Street.This means that governments under the guise of public interest can demand data pertaining to anybody. In reality,user encryption is only good in theory.

Now imagine if such mischief was done by any other Asian country, then US and the EU alike would have rushed to lecture about privacy invasion.

China stance on Privacy

Chinese regulators taking a leaf out of the EU Playbook also have included stringent compliances and penalties in their DSL (Data Security Law). They have effected costs on 'Infrastructure Operators' restraining them to not share any data across borders.

<u>Authors Personal Opinion – The way forward</u>

1. It is congenitalto these companiesto bend down for only 2 forces: *Governments and Profit.*And whenever they do, it is always the users paying the price. These enterprises must **<u>track their users in a transparent manner</u>** i.e., to say users must know what about them is getting tracked and how will it be used which is now mandated after onset of DPDP Rules, 2025.The actual outcome of whether users understand the purpose of minimal data collection will prove how efficient the law is in practice. Consumer education at grassroot level must be followed without compromise bringing credibility and clarity.

2. The only real threat to Big Tech is their own users tuning into rival's service for browsing. For years, concerns about Google's monopoly were brushed aside until the sudden rise of Chat GPT, DeepSeek, Perplexity and Chat GPT Atlas (the most recent entrant in the search engine space) sparking real paranoid among the incumbentleader Alphabet.This clearly shows that **<u>innovation and healthy competition, not regulation alone, will lead to balancing</u>** of their dominance.Threating to ban or splitting up these tech titans is not the answer but instead encouraging more innovation from other players. Big Tech needs to learn how to Cash Markets while not crashing accountability.

3. India does not need stringent but also smarter solutions that couldn't be circumvented by a larger group of population. One cohort will bypass that, agreed. But the majority vulnerable would find it difficult. That's the very premise of policy that needs to executed today. The World actively needs another "CAPTCHA" moment to shield user privacy.

4. As regulators take a step, Big Tech flies' miles ahead. The Law Makers need to be in sync with how tech and data can be protected and leveraged for the maximum benefit. Placing inordinate compliances will only increase the entry barrier for small companies while shielding the bigger ones due to unlimited capital infusion by FOMO stricken investors. Increased traffic costs, trails and logs could strain the Working Capital of these startups. Further, **purpose specification & retention of data must be outlined in such a manner that they keep pace with new development & innovation.**

5. Companies need to assess these Compliance norms just as seriously as they assess "profits". Hence, the new Ecosystem presentnumerous opportunities for new job openings. This requires allocation of funds, reskilling and upskilling of workforce and entry of private players.

6. All websites replete with '**<u>Consent Manual</u>**' would lead to users directly rejecting all prompts/ disclaimers without a second thought alike to when they agreed on and for everything without a care in the world. Post DPDP Rules, 2025 as transparency and consent take the centre stage - the 'I Agree' Manualis set to getsimplified but lengthy. To make the user aware of the specific purpose for which data is collected, even without legal jargon the long manual will get cumbersome to read. Summarized versions could be generated for easy review.

7. At present the burning question still remains on how can the regulator prevent sensitive data from falling into wrong hands to mitigate its risk?

8. Children and teenagers use screens for everything. Further, the dopamine release through short videos accelerates this behaviour. This is because apps like Instagram, TikTok and YouTube snoop on users feed and recommend similar videos. There is no guardrail at presentprohibiting companies from collecting behavioural insights invading privacy. At consent on a click, companies can maintain user profiles and legally sell their scrolling patterns and thus speculating their behaviour. The intent is clear **- <u>Regulate predictive algorithms that encourage compulsion scrolling.</u>**

9. The regulating bodies and courts should be given more autonomy to get these Giants to stand trial and bear the brunt of their misdeeds. **<u>Tech Giants usually pay paltry sums as excuses and promising to strengthen their privacy policies.</u>** The reactive set of policies and penalties must be quintessentially followed. The fines levied in each jurisdiction should reflect the following:

- Global Turnover and Profits (Supply side factor)
- No. of eyeballs grabbed in a country by these apps (Demand side factor)
- Influential factors that tip scales in their favour like the network effect, users acclimated to specific apps and difficult to change their habits
- Extent of past transgression of norms by the company owing to

a. Corporate governance

b. Oversight and gross negligence

c. Violating protocols brazenly

Conclusion

As India is positioned to touch the 4 trillion $ mark, the approach to ‘Privacy’ cannot be lethargic. DPDP Act, 2023 offers a blueprint for governance far beyond basic compliance – result driven, reliable and convenient.In the same breath, it is expected that MeitY will drop more hints on the execution part (practical aspects) of DPDP Rules, 2025 which lack clear instructions on a lot of counts. The real test will be whether India galvanizes reformsat ground level.

This segue for many corporations will be difficult to implement. The hesitation stems from several factors - the high cost of overhauling existing data infrastructure, reduced access to user data that fuels targeted advertising and the complexity of varying international privacy laws. Nevertheless, the actual enforcement will lay the foundation towards ‘Viksit Bharat’.

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