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NEWS LETTER

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FEBRUARY
2026

VOL 71

Covering Updates for the Month of January' 26
For private circulation and clients only

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DIRECT TAX UPDATE

I. Circulars & Notifications

Amendment to The Income-tax (Appellate Tribunal) Rules, 1963
Notification no. No. 71-Ad(AT)/2025 dated 19.12.2025

The Income tax Appellate Tribunal (ITAT) has amended few Rules under the Income-tax (Appellate Tribunal) Rules, 1963 in exercise of the powers under section 255(5) of the Income-tax Act, 1961. Some of the key amendments are summarised here under:

1. **Rule 6 – Appeal Memo Digitally Signed**

   As per amended Rule 6, memorandum of appeal before ITAT shall be filed by the appellant or by his authorized agent under his digital signature. This amendment is also applicable to individual appellant.

2. **Rule-9 – Filing of Appeal Documents in Single copy .**

   Every memorandum of appeal shall be accompanied by the certified copy of Order appeal against, the Assessment Order, a copy of the order of the Transfer Pricing Officer (if any), a copy of the grounds of appeal and statement of facts before the first appellate authority.

   (Note- So only one copy of above documents to file with Appeal Memo as against earlier procedure of filing duplicate copies).

3. **Rule 9A- Revised Memorandum of Appeal**

   " In the event of any changes to be made in the appeal memo, a revised memorandum of appeal shall be filed in the same manner in which the original memorandum of appeal has been filed."

   It may be noted that the amendments are effective from January 3, 2026 being the date of publication in the Official Gazette. Therefore, appeals filed before the ITAT on or after January 3, 2026 has to be in compliance of amended rules.

II. Supreme Court Decision

Section-28 – Shares received on amalgamation in exchange for shares held as stock-in-trade constitute business income in the year of allotment

Jindal Equipment Leasing Consultancy Services Ltd. v. CIT

[2026] 182 taxmann.com 219 (SC) (SC)

Facts of the case :

The appellant was, investment companies of the Jindal Group, holding shares of JFAL. Pursuant to orders of the High Courts of Andhra Pradesh, Punjab & Haryana JFAL merged with JSL, a widely held public company. Upon the amalgamation becoming effective, shareholders were allotted 45 shares of JSL for every 100 shares of JFAL. The appointed date was 01.04.1995, and the scheme became effective on 22.11.1996.

During the relevant assessment year 1997-98, the appellants claimed exemption under section 47(vii) in respect of the receipt of JSL shares, contending that the shares of JFAL were held as capital assets. The Assessing Officer denied the exemption, holding that the shares of JFAL constituted stock-in-trade and taxed the difference between the fair market value of the JSL shares as on the appointed date and the book value of JFAL shares as business income.

Decision :

The Supreme Court affirmed the view of the High Court, holding that shares received on amalgamation in exchange of shares held as stock-in-trade is a business income under section 28 but will be taxed in the year of actual receipt of amalgamating company's shares.

The Supreme Court held that, in the context of amalgamation, what transpires is essentially a statutory substitution of one form of holding for another.

Thus, where an assessee receives shares of the amalgamated company in place of its shares held as trading stock, there is, in form, a receipt of consideration in kind. It must be underscored that mere receipt of shares does not suffice to attract section 28; commercial realisability is also required when income is received in kind. Where, however, the allotment of shares is merely a statutory substitution mandated by the scheme of amalgamation, without yielding an immediately realisable benefit, no income can be said to accrue or be received at that stage, and taxability arises only upon the eventual sale of the shares.

Accordingly, in the context of amalgamation, the issue does not turn on the accrual of income in the abstract sense, but on whether the assessee has received a commercially realisable consideration in kind. The charge under section 28 crystallises only upon allotment of the new shares, when the assessee actually receives realisable instruments capable of valuation in money's worth. Since these shares are received in the course of business and in substitution of trading assets, their receipt represents a commercial profit or gain arising from business activity. These three conditions - actual receipt, present realisability, and ascertainability of value - together determine the timing of taxability in cases of amalgamation.

Thus, where the shares of an amalgamating company, held as stock-in-trade, are substituted by shares of the amalgamated company pursuant to a scheme of amalgamation, and such shares are realisable in money and capable of definite valuation, the substitution gives rise to taxable business income within the meaning of section 28. The charge under section 28 is, however, attracted only upon the allotment of new shares. At earlier stages, namely the appointed date or the date of court sanction, no such benefit accrues or is received.

III. Tribunal Decisions

i. Government Grants as Promoter Contribution is Capital Receipt

Maharashtra State Road Development Corporation Ltd. (MSRDC) v. ITO
[2025] 179 taxmann.com 682 (Mum - Trib)

Facts of the Case:

The assessee-company was a wholly owned undertaking of the Government of Maharashtra and was engaged in the business of infrastructure development i.e. construction, operation, maintenance of flyovers etc. The Assessing Officer made addition of grants of about Rs. 179.08 crores by the assessee after commencement of business for development of infrastructure on the ground of revenue in nature.

Decision :

The Tribunal held that the assessee undertakes the infrastructure projects on BOT basis, which means that the assessee is not owner of the projects undertaken by it. The assessee as per AS-12, treats the grants received towards completion of project to the capital reserve account. On the completion of the stipulated period in the GR, the assessee hands over the completed project back to the State Government. AS-12 deals with accounting for Government Grants and the same provides that grants which have the characteristics similar to those of promoters' contribution should be treated as part of shareholders' funds. AS-12 under the 'capital approach' of accounting for grants provides that -" (i) many Government grants are in the nature of promoters' contribution, i.e., they are given with reference to the total investment in an undertaking or by way of contribution towards its total capital outlay and no repayment is ordinarily expected in the case of such grants. These should, therefore, be credited directly to shareholders' funds. (ii) It is inappropriate to recognise Government grants in the profit and loss statement, since they are not earned but represent an incentive provided by Government without related costs.

Further, the depreciation of the projects is credited to the capital reserve since the assessee is not the owner of the projects.

ii. Charitable Trust - Activity with no benefit to public at large is not charitable object U/sec 2(15)
Infosys Green Forum v. ITO (Exemptions)
[2026] 182 taxmann.com 242 (Bangalore - Trib.)

Facts of the Case:

Infosys Limited set up a 40 MW solar power plant as part of its CSR spending. As per the new CSR rules, it was required to be transferred to a new section 8 Company. Thus, assessee i.e., Infosys Green Forum, got registered as a non-profit company in terms of provision of section 8 of the Companies Act, 2013. Infosys entered into assets transfer agreement where this solar power project was transferred to the assessee. It also entered into power supply agreement for purchase of the power produced by assessee from this solar power project for captive consumption.

The assessee was granted provisional registration under section 12AB, and based on that it applied for the final registration on the ground that the activity of the assessee is 'preservation of environment' which is a 'charitable purpose'. However, The Commissioner (Exemption) rejected the application for final registration and cancelled the provisional registration on the ground that the assessee's activity of generation of power was not a charitable activity under the category 'preservation of environment' and would not fall under the definition of section 2 (15).

Decision :

The Tribunal confirmed the rejection and cancellation of provisional registration, holding that the predominant or primary object test for 'charitable purposes' is that benefit must ensure to the public or a section/class of the public. It is also not necessary that all persons universally benefit from the activities mentioned in section 2(15). Benefit to sufficiently wide or defined section of public will suffice so long as private gain to a particular person is not the dominant object. Naturally, incidental benefit to individuals does not disentitle the assessee claiming it to be for 'charitable purposes. The spirit behind any CSR activity is to benefit the public at large and the activity should be non-discriminatory to any class of beneficiaries.

In this case there is no benefit to the public at large or a section of a public at all. The dominant object of the whole of the exercise is to get the power for Infosys Limited through captive solar power plant shown as CSR activity and then made an attempt to claim the benefit of section 11, 12 by obtaining registration undersection

12AB and further to obtain recognition under section 80G(5). The Commissioner (Exemption) has looked at the object and purposes as well as the genuineness of the activity from the angle that whether such activity can be said to be for charitable purposes, and rightly held that it is a commercial venture and for the sale of power to Infosys Limited only.

IV. International Tax

Capital Gain on Sale of shares by Mauritius based shareholders
Authority for Advance Ruling v. Tiger Global International II Holdings
[2026] 182 taxmann.com 375 (SC)

Facts of the Case:

The respondents were private companies limited by shares, incorporated under the laws of Mauritius. They were established with the primary objective of undertaking investment activities for long-term capital appreciation and investment income. They were regulated by the Mauritius Financial Services Commission. According to the respondents, their business was wholly controlled and managed by their Boards of Directors located in Mauritius. They maintained bank accounts, accounting records, office premises, and employees in Mauritius. The respondents held valid Tax Residency Certificates issued by the Mauritius Revenue Authority. They claimed treaty eligibility under the India–Mauritius DTAA.

The respondents acquired shares of Flipkart Private Ltd., a Singapore-incorporated company, during the financial period 2011 to 2015. Flipkart Singapore invested in Indian subsidiaries. The respondents transferred their Flipkart Singapore shares to Fit Holdings S.A.R.L., a Luxembourg company, as part of a broader acquisition by Walmart Inc., of a majority stake in Flipkart from multiple shareholders. The respondents received substantial consideration in USD for these transfers

The respondents filed applications under section 245Q(1) before the AAR seeking a ruling on whether capital gains from the sale of Flipkart Singapore shares were chargeable to tax in India under the Income-tax Act read with the India–Mauritius DTAA. The AAR rejected the applications, holding that the arrangement was prima facie designed for avoidance of tax and was hit by the bar under proviso (iii) to section 245R(2).

Decision:

The Supreme Court affirmed the view of AAR, following the decision in the case of Vodafone International Holdings B.V. v. Union of India, 17 taxmann.com 202 (SC) and the amended DTAA between India-Mauritius through a Protocol signed on 10-5-2016.

The Supreme Court held that a transaction falls within the scope of section 9(1)(i), which deems income arising from the transfer of a capital asset situated in India to accrue in India. Explanation 5 to the said provision extends this deeming fiction to cover shares in a foreign company if such shares derive, directly or indirectly, their value substantially from assets located in India. Once domestic taxability is established, the second limb of the analysis considers whether such taxability is curtailed or overridden by the DTAA.

The Court held that section 90(4) only speaks of the TRC as an 'eligibility condition'. It does not state that a TRC is 'sufficient' evidence of residency, which is a slightly higher threshold. The TRC is not binding on any statutory authority or Court unless the authority or Court enquires into it and comes to its own independent conclusion. Thus, the TRC lacks the qualities of a binding order issued by an authority.

The Court held that amendments to the India-Mauritius DTAA were made through a Protocol signed on 10-5-2016. They were made for the purpose of shutting the back door that was available to residents of the Contracting Parties to completely evade taxation, and to residents of foreign countries to have wrongful access to tax advantages under the treaty through evasive practices such as treaty shopping, establishment of conduit structures, round-tripping, hybrid structures, shell companies, etc.

According to the amendments, the grandfathering clause under GAAR will be applied to capital gains from transfers made on or before 1-4-2017, provided the applicant satisfies the test of 'resident' as defined under its State law, particularly under section 73 of the Mauritius Income Tax Act and the provisions of the Income Tax Act.

The Supreme Court observed that in this case, the assessees acquired the capital gains before the cut-off date, i.e., 1-4-2017. A share purchase agreement was executed between Walmart International Holdings Inc., a Delaware Corporation and the shareholders of Flipkart Singapore and Fortis Advisors LLC, Delaware which was approved by the Board in its meeting held on 04-05-2018.

The Court observed that the commercial motive behind a transaction often reveals its true nature. In the present case, the respondents seek exemption from the Indian Income tax while, at the same time, contending that the transaction is also exempt under Mauritian law, which runs contrary to the spirit of the DTAA and presents a strong case for the revenue to deny the benefit as such an arrangement is impermissible. Here again, it may be stated that this stand would again strengthen the reasoning that whether the sale is of shares of an Indian company then, will not be germane for consideration because only if the assessee is liable to pay tax in Mauritius, he can derive benefit under the provision under article 13(c) of the DTAA as amended. In the case at hand, there is clear and convincing prima facie evidence to demonstrate that the arrangement was designed with the sole intent of evading tax, and the assessees have failed to furnish sufficient material to rebut this presumption. Though it is permissible in law for an assessee to plan his transaction so as to avoid the levy of tax, the mechanism must be permissible and in conformity with the parameters contemplated under the provisions of the Act, rules, or notifications. Once the mechanism is found to be illegal or sham, it ceases to be 'a permissible avoidance' and becomes 'an impermissible avoidance' or 'evasion'.

The Court held that the assessees derived capital gains, on sale of unlisted equity shares, which were transferred pursuant to an arrangement impermissible under law, therefore, the assessees are not entitled to claim exemption under article 13(4) of the DTAA. The revenue has proved that the transactions in the instant case are impermissible tax-avoidance arrangements, and the evidence prima facie establishes that they do not qualify as lawful. Consequently, Chapter X-A becomes applicable. The applications preferred by the assessees relate to a transaction designed prima facie for tax avoidance and were rightly rejected as being hit by the threshold jurisdictional bar to maintainability, as enshrined in proviso (iii) to section 245R(2). Accordingly, capital gains arising from the transfers effected after the cut-off date, i.e., 1-4-2017, are taxable in India under the Income-tax Act,read with the applicable provisions of the DTAA. The judgment of the High Court therefore deserves to be set aside.

ACCOUNTING UPDATE

EAC Opinion:

Accounting for commission paid for performance bank guarantees, under Ind AS framework.
The relevant text of the Opinion is reproduced below:
The Committee notes from the Facts of the Case that during the bidding held for the CGD project, all successful bidders were required to submit an additional bid bond/ performance bank guarantee (PBG) to obtain the project. As stipulated by the PNGRB Regulations, the Company was obligated to submit the bank guarantee to the PNGRB within a specified timeline from the receipt of the authorisation letter. The authorisation is liable to be cancelled in case the PBG is not furnished within the stipulated timeline. Further, in accordance with PNGRB Regulations and the bidding documents, the promoters/investors of the Company were allowed to provide the required PBG on behalf of the Company. Thus, the Committee understands that the total PBG was equally shared between both the promoters/ investors of the Company and the BG commission thereon incurred by them since beginning is being charged to the Company by way of debit notes on quarterly/monthly basis by the promoters/ investors and therefore, the BG commission charged by the promoter/investor companies is at fair value. Now, the issue that has been raised is with respect to accounting for such BG commission in the separate financial statements of the Company. At the outset, the Committee notes that in the extant case, there is no borrowing taken by the Company and/ or the BG commission referred in the fact pattern does not pertain to borrowings taken for the qualifying asset. Therefore, the BG commission referred in the fact pattern is not covered under the requirements of Ind AS 23, 'Borrowing Costs', and, consequently, Ind AS 23 will not be applicable in the extant case.

The Committee notes that the basic principle to be applied while capitalising an item of cost to a property, plant and equipment (PPE) is that it is directly attributable to bringing the asset to the location and condition necessary for it to be capable of operating in the manner intended by management. With regard to BG commission, the Committee notes that it is incurred to obtain the PBG for receipt of authorisation letter and not in relation to any construction activity as such. Further, although furnishing of PBG may be an essential part of getting the authorisation to lay the CGD networks and thus, to obtain the project, BG commission does not attribute to or add any value to the construction of the project or for bringing the project into the condition and location necessary for it to be capable of operating. Therefore, the Committee is of the view that BG commission cannot be said to be directly attributable to bringing the asset/project to the location and condition necessary for it to be capable of operating in the manner intended by the management. Thus, it cannot be capitalised with the project or the assets being constructed/created.

EAC Opinion can be accessed at:
https://resource.cdn.icai.org/90706cajournal-feb2026-32.pdf

IFSCA UPDATE

A. Notification on enabling 'Oilfield Equipment' as a financial product in IFSC:

The IFSCA has vide Notification F. No. IFSCA/GN/2026/001 dated January 5 , 2026 specifies operating lease, including any hybrid of operating and financial lease, in respect of "oilfield equipment" as a financial product.

The Notification can be accessed at:

https://ifsca.gov.in/CommonDirect/GetFileView?id=36ff47aaeb9222f627d166fe8622cebd&fileName=101_Oilfiled_equipment_notification__1__20260112_0247.pdf&TitleName=Legal

B. Enabling eligible SEZ Units and Advance Authorisation holders to import gold or silver through International Bullion Exchange (IIBX):

The IFSCA has vide circular IFSCA-PMTS/10/2023-Precious Metals/2026/1 dated January 2, 2026 issued a circular enabling eligible SEZ Units and Advance Authorisation holders to import gold or silver through IIBX.

The circular can be accessed at:

https://ifsca.gov.in/CommonDirect/GetFileView?id=38fea9cc5969551d78bf00e670ea2759&fileName=Enabling_SEZ_units_and_Advance_Authorisation_holders_to_import_gold_or_silver_through_IIBX__1__20260103_0810.pdf&TitleName=Legal

C. Modifications under the International Financial Services Centres Authority (Anti Money Laundering, Counter-Terrorist Financing and Know Your Customer) Guidelines, 2022:

The IFSCA has vide circular IFSCA-DAC/7/2024-AMLCFT dated January 2, 2026 issued a circular regarding Modifications and clarifications under the International Financial Services Centres Authority (Anti Money Laundering, Counter-Terrorist Financing and Know Your Customer) Guidelines, 2022.

The circular can be accessed at:

https://ifsca.gov.in/CommonDirect/GetFileView?id=38fea9cc5969551d78bf00e670f52a74&fileName=Approved_Amendatory_Circular_20260105_0655.pdf&TitleName=Legal

SEBI UPDATE

A. Specification of the consequential requirements with respect to Amendment of Securities and Exchange Board of India (Merchant Bankers) Regulations, 1992:

The Securities and Exchange Board of India (SEBI) had issued SEBI Circular HO/49/11/11(106)2025-CFD-RAC-DIL3/I/1796/202 dated January 2, 2026 relating to revised capital adequacy and new liquid net worth requirements as well as timelines to re-categorize as Category I or Category II for Merchant Bankers.

The Circular can be accessed at:

https://www.sebi.gov.in/legal/circulars/jan-2026/specification-of-the-consequential-requirements-with-respect-to-amendment-of-securities-and-exchange-board-of-india-merchant-bankers-regulations-1992_98831.html#

B. All reporting requirements applicable to mutual funds under the SEBI (Mutual Funds) Regulations, 1996, the Master Circular for Mutual Funds dated June 27, 2024('MF Master Circular'), and any other circulars or guidelines issued thereunder, shall apply to Specialized Investment Funds (SIFs).

The Securities and Exchange Board of India (SEBI) had issued SEBI Circular HO/24/13/12(4)2025-IMD-POD-1/I/2062/2026 dated January 08, 2026 for Specialized Investment Funds(SIFs) to ensure uniformity and clarity in compliance reporting for SIFs.

The Circular can be accessed at:

https://www.sebi.gov.in/legal/circulars/jan-2026/compliance-reporting-formats-for-specialized-investment-funds-sifs-_98987.html

C. Modification in Operational Guidelines for registration of Foreign Venture Capital Investors (FVCIs) and KYC requirements with respect to Single Window Automatic and Generalised Access for Trusted Foreign Investors (SWAGAT-FI) framework for FPIs and FVCIs:

The Securities and Exchange Board of India (SEBI) had issued SEBI Circular HO/19/34/14(5)2025-AFD-POD2/I/199/2025 dated January 16, 2026.

The Circular can be accessed at:

https://www.sebi.gov.in/legal/circulars/jan-2026/single-window-automatic-and-generalised-access-for-trusted-foreign-investors-swagat-fi-framework-for-fpis-and-fvcis_99106.html

D. Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) (Amendment) Regulations, 2026

The Securities and Exchange Board of India (SEBI) has issued notification SEBI/NRO-GN/2026/295 dated 20th January 2026 raising the High Value Debt Listed Entity (HVDLE) threshold from ₹1,000 crore to ₹5,000 crore, mandating demat-only transfers/transmissions, and tightening governance reporting.

The Circular can be accessed at:

https://www.sebi.gov.in/legal/regulations/jan-2026/securities-and-exchange-board-of-india-listing-obligations-and-disclosure-requirements-amendment-regulations-2026_99336.html

E. Securities and Exchange Board of India (Issue and Listing of Non-Convertible Securities) (Amendment) Regulations, 2026

The Securities and Exchange Board of India (SEBI) has issued notification No. SEBI/LAD-NRO/GN/2026/296 dated 20th January 2026 introducing "retail individual investor" definition and allowing issuers to offer incentives like extra interest to retail investors, seniors, women, and defence personnel on fresh allotments only.

The Circular can be accessed at:

https://www.sebi.gov.in/legal/regulations/jan-2026/securities-and-exchange-board-of-india-issue-and-listing-of-non-convertible-securities-amendment-regulations-2026_99233.html

F. Securities and Exchange Board of India (Credit Rating Agencies) (Amendment) Regulations, 2026:

SEBI Notification No. SEBI/LAD-NRO/GN/2026/293 dated January 13, 2026 amends SEBI (Credit Rating Agencies) Regulations, 1999.

It permits CRAs to rate instruments under RBI, IRDAI, or other regulators' guidelines, subject to those bodies' oversight, eliminating earlier restrictions.

The Circular can be accessed at:

https://www.sebi.gov.in/legal/regulations/jan-2026/securities-and-exchange-board-of-india-credit-rating-agencies-amendment-regulations-2026_99125.html

FEMA UPDATE

Export and Import of Goods and Services

- The Reserve Bank of India has issued the Foreign Exchange Management (Export and Import of Goods and Services) Regulations, 2026 after a comprehensive review with stakeholders.
- The new framework aims to simplify processes for exporters and importers—especially small businesses—and enhance the service efficiency of authorized dealers (ADs).
- Key points are as follows:
  - Regulations and related directions will be effective from October 1, 2026.
  - ADs must ensure full compliance with FEMA, applicable rules, regulations, directions, and the Government's Foreign Trade Policy for all export, import, and merchanting trade transactions.
  - All references to RBI must be routed via the PRAVAAH portal, and any suspicious transactions should be reported to the Directorate of Enforcement (DoE).
  - Existing Master Directions on Export and Import of Goods and Services, along with listed circulars, will stand superseded from the effective date.
  - ADs are advised to inform customers about these changes.
  - These directions are issued under Sections 10(4) and 11(1) of FEMA, 1999.

Notification Link:
https://rbidocs.rbi.org.in/rdocs/notification/PDFs/NOT1948FAC4CAD2D70455E813919D36D02E451.PDF

RBI Notifies New FEMA Regulations for Export & Import of Goods and Services (2026)

- The Reserve Bank of India has issued a new notification introducing the Foreign Exchange Management (Export and Import of Goods and Services) Regulations, 2026 ("2026 Regulations"). These regulations replace the earlier Foreign Exchange Management (Export of Goods & Services) Regulations, 2015 and create a single, consolidated framework for both exports and imports of goods, services, and software under FEMA.
- The new regulations will be effective from 1 October 2026
- Key changes are as follows:

1. **What has changed ?**

   Earlier, the FEMA regulations mainly dealt with export compliance (under 2015 rules). Now, RBI has introduced a unified set of rules covering:
   - Export of goods
   - Export of services
   - Export of software

- Import payments and reporting
- Merchanting trade transactions and project exports (with specific monitoring responsibilities)

2. Key terms

- Authorised Dealer (AD) - An Authorised Dealer is typically a bank authorised under FEMA to handle foreign exchange transactions and to monitor/report trade transactions
- Export Declaration Form (EDF) - The EDF is the declaration document used to report the full value of exports (goods/services/software) to the "specified authority"
- "Software" is treated as "Services"- The regulations clarify that services include software, and define software widely (programs, databases, designs, audio/video signals, etc.)

3. Who is the "specified authority" for filing/export declarations?

The regulations identify different "specified authorities" depending on the nature of export and location:

- Goods: Customs Commissioner (DTA) / SEZ Development Commissioner (SEZ)
- Services (other than software): AD bank (DTA) / SEZ Development Commissioner (SEZ)
- Software: AD bank or STPI (DTA) / SEZ Development Commissioner (SEZ)

4. Declaration of exports

- Export of goods
  - Exporters must submit EDF at the time of export, declaring the full export value.
  - For EDI ports, EDF is deemed submitted as part of the shipping bill.
  - Personal effects moved by travellers are not treated as export for this purpose.

- Export of services (including software)
  - Exporters must submit EDF within 30 days from the end of the month in which the invoice is raised.
  - If multiple service exports are made in a month, a single consolidated EDF can be filed for that month.
  - For services other than software, EDF may be submitted on or before receipt of payment.
  - AD banks can allow extensions if the exporter gives reasonable justification for delays.

- Non-EDI port / where authority is not an AD bank.
  - Where export is via non-EDI port, or where the service export authority is not an AD, the authenticated EDF must be forwarded to the AD bank.

5. Payments and receipts

- The regulations provide that receipts and payments for export/import must follow the FEMA (Manner of Receipt and Payment) Regulations, 2023 (as amended).
- AD banks must Credit/debit exporter/importer accounts only after checking genuineness.
- Close or update entries in RBI monitoring systems (EDPMS/IDPMS) at the same time.

6. RBI digital monitoring systems: EDPMS, IDPMS and FETERS

- Generally EDPMS tracks exports (shipping bills/invoices and realisation status), IDPMS tracks imports (bill of entry/invoices and payment status) and FETERS is the reporting system for foreign exchange transactions.
- Recent coverage and RBI directions indicate AD banks must update these systems quickly and monitor pending closures. For example: AD banks to enter EDF details for goods (non EDI) and services into EDPMS within five working days.

7. Small transactions: easier closure up to ₹10 lakh

- For exports where shipping bill (goods) or invoice (services) is up to ₹10 lakh, EDPMS entry can be closed based on exporter's declaration that payment is realised (full or partial).
- For imports where bill of entry (goods) or invoice (services) is up to ₹10 lakh, IDPMS entry can be closed

based on importer's declaration that payment is made (full or partial).
- Declarations can also be filed quarterly for bulk closure.

8. Timeline for realisation and repatriation of export proceeds

Export proceeds must be realised and repatriated within:
- 15 months from date of shipment (goods) / date of invoice (services).
- 15 months from date of sale for goods exported to a warehouse outside India.
- For project exports, as per payment terms of the contract.
- If export is invoiced or settled in Indian Rupees, the realisation period is 18 months.
- AD banks may allow extension of time for realisation if satisfied with the reasons.

9. Under-realisation / reduction of export value
- Where full export value is not realised, AD banks may allow reduction if reasons are justified. For exports up to ₹10 lakh per invoice/shipping bill, reduction may be permitted based on exporter's declaration.

10. Set-off, third-party payments and flexibility provisions

The regulations allow, subject to AD bank satisfaction:
- Set off of export receivables against import payables (same overseas party / group / associates), within permitted timelines.
- Third party receipts and payments for export/import transactions, if bona fides are established.

11. Import payments — monitoring and delayed payments
- AD banks are required to monitor IDPMS entries and follow up with importers to ensure import payments are made within contractual timelines. Extensions may be allowed on valid reasons.

12. Import payments — monitoring and delayed payments
- Routing advances- Export advances and realisations should be routed through the same AD, unless both ADs are informed about the change and Same principle applies to import advances and subsequent payments.
- Gold and silver imports restriction - No advance remittance is permitted for import of gold or silver (subject to other laws/directions).
- Import not materialised- If import doesn't happen, the importer must repatriate advance (and future advances may require strong safeguards like standby LC/guarantee if not repatriated).

13. Merchanting Trade Transactions (MTT)
- Maximum six months between outward and inward remittances (extension possible on valid reasons).
- Controls on where money goes/comes from (seller vs buyer), with limited flexibility if AD is satisfied.
- Mandatory submission of documents and AD monitoring for completion and closure in EDPMS/IDPMS.

14. Internal Policies & SOPs for AD banks

A significant part of the regulations focuses on governance at AD bank level and AD banks must maintain a comprehensive internal policy and SOP covering:
- Required documents, timelines, charges.
- Approvals and delegated authority.
- Handling extensions, adjustments, advances.
- Escalation and grievance process.
- Disclosure of policy and key SOP features on their website.

Notification Link:
https://rbidocs.rbi.org.in/rdocs/notification/PDFs/NOT1948FAC4CAD2D70455E813919D36D02E451.PDF

GST UPDATE

Union Budget 2026–27: Proposed GST amendments

On 1 February 2026, the Hon'ble Finance Minister presented the Union Budget 2026–27. The Finance Bill, 2026 proposes a few focused changes under GST—mainly on post-sale discounts/credit notes, refunds, advance rulings, and intermediary services (place of supply).

This note explains the proposals in simple language for business owners and accounts teams.
Important: These are proposals. They will apply only after the Finance Bill is passed and the relevant provisions are notified/effective.

1. Post-sale discounts: GST valuation made closer to real business practice

What was the issue earlier?

Many industries (trading, distribution, FMCG, auto, pharma, etc.) give discounts after the sale—for example:

- year-end turnover discounts,
- performance-based incentives,
- market support / price protection,
- secondary discounts decided after stock movement.

In practice, such discounts are often finalised after the sale, but GST valuation disputes arose because the earlier law and its interpretation expected post-sale discounts to be pre-agreed and properly linked.

What is proposed now?

Budget 2026 proposes a more practical approach. Post-sale discounts can be adjusted in GST valuation even if they were not pre-agreed, provided:

1. **the supplier issues a credit note, and**
2. **the recipient/customer reverses proportionate ITC relating to that discount.**

In simple words: you can reduce the price later through a credit note, but the buyer should not keep full ITC when the price comes down.

2. Credit notes: clearer legal backing for post-sale discount credit notes

What is proposed?

The Finance Bill proposes a clearer legal linkage between the credit note provision and the discount valuation provision, so that issuing credit notes for post-sale discounts is explicitly supported in the statute.

Why it matters?

In audits and departmental checks, credit notes for commercial discounts are sometimes questioned on technical grounds as there was no direct linkage between section 15 (2) and section 34. Clearer statutory wording should reduce unnecessary disputes where the discount is genuine and documentation is proper.

3. Refund reforms: Better cash flow support

Refunds affect working capital. Budget 2026 proposes two practical changes:

(a) Provisional refund for inverted duty refunds

Businesses under inverted duty structure (inputs taxed at a higher rate than outputs) often accumulate ITC and wait long for refunds due to verification.

The proposal extends provisional refund (90%) to such inverted duty refunds as well. This can help businesses receive a substantial portion of the refund earlier, improving cash flow while detailed verification continues.

If your business has consistent inverted duty ITC accumulation, refunds may become faster and less cash-blocking once implemented.

(b) Removal of ₹1,000 minimum refund threshold for certain export refunds

The proposal removes the ₹1,000 minimum refund threshold for refund claims in the case of goods exported out of India with payment of tax.

Even small refund claims should be processed and not rejected simply because the amount is below the earlier threshold.

4. Advance Rulings: interim appeal mechanism to address conflicting rulings

What problem exists today?

Different State AARs sometimes give different rulings on similar issues. Also, the absence of a smooth national-level appeal mechanism has created uncertainty for businesses operating across multiple states.

What is proposed?

An interim solution is proposed to allow the Government (based on GST Council recommendations) to notify an existing authority/tribunal to hear appeals against certain advance rulings, until the National Appellate Authority is constituted.

This should improve consistency and provide a practical appellate route, reducing uncertainty for businesses.

5. Intermediary services: major change in "place of supply" for cross-border services

What was the issue earlier?

For "intermediary services", special rules often resulted in GST being payable in India even when the service was for an overseas client, leading to disputes and, in some cases, denial of export-related benefits.

What is proposed now?

Budget 2026 proposes to remove the special "intermediary" place-of-supply rule so that, generally, the default rule applies—meaning the place of supply will be based on location of the recipient.

Practical meaning for businesses

- Indian service providers dealing with overseas clients may find it easier (subject to conditions and facts) to treat such supplies as export/zero-rated in appropriate cases.
- Businesses should review the contract scope carefully to understand whether they are acting as an "intermediary" or providing services on their own account, because classification and facts will remain important.

Conclusion

Overall, the GST proposals in Budget 2026 aim to reduce avoidable disputes and align GST compliance with real business practices—especially around post-sale discounts, credit notes, refunds, advance ruling appeals, and cross-border services. Businesses should use this opportunity to review their documentation and processes now, so that once these changes are notified and become effective, the transition is smooth and the risk of future litigation is minimized.

ARTICLE
AUDIT TRAIL IN ACCOUNTING SOFTWARE

Lessons from Recent RoC Ahmedabad Action

Why This Matters Now?

Recently, the Registrar of Companies (ROC), Ahmedabad passed an adjudication order imposing monetary penalties on a company and its Managing Director for failure to maintain an audit trail in accounting software. This action has brought renewed attention to a requirement that many companies continue to view as a technical or software-related matter.

The order clearly establishes that audit trail compliance is a statutory obligation under the Companies Act, 2013, and that lapses identified through the auditor's report can directly trigger regulatory penalties.

Background of the RoC Ahmedabad Action

- The company maintained its books of account using accounting software without an audit trail (edit log) feature during the relevant financial year.
- The non-compliance was reported by the statutory auditor in the audit report as per the requirement of the Companies Act 2013.
- Although the company subsequently upgraded its accounting system, the RoC held that post-facto rectification does not regularize past non-compliance.

Penalty Imposed

- Penalty on the company of ₹ 3,00,000/-
- Separate personal penalty on the Managing Director of ₹ 50,000, as an officer in default.

This order is significant as it represents one of the first reported adjudications by an ROC solely for audit trail non-compliance, thereby setting a clear regulatory precedent. This development brings into focus the underlying statutory framework governing audit trails in accounting software, which is summarised below.

What Is the Audit Trail Requirement?

With effect from April 1, 2023 every company (irrespective of size and nature of the company) that uses accounting software to maintain its books of account is required to ensure that such software has an audit trail (edit log) feature.

An audit trail means a system-generated, time-stamped record that captures:

- Creation of accounting entries.
- Any modification or deletion of such entries.
- Identity of the user making the change.

The audit trail must:

- Remain enabled throughout the financial year.
- Be tamper-proof and cannot be disabled .
- Be preserved in accordance with statutory record-retention requirements.

This requirement applies irrespective of the size of the company, nature of business, or volume of transactions.

Management's Responsibility

Under Section 128 of the Companies Act, 2013, companies are required to maintain proper books of account, including where such books are kept in electronic form. In this context, Rule 3 of the Companies (Accounts) Rules, 2014 mandates that accounting software used by a company shall have an audit trail (edit log) feature, which must remain enabled at all times.

Accordingly, the management is primarily responsible for ensuring that the accounting system used by the company is compliant with these requirements and that audit trail records are properly preserved.

In other words, from April 1, 2023 the Management is expected to:

- Implement accounting software with a compliant audit trail feature.
- Ensure the feature is enabled at all times during the year.
- Prevent manual overrides, disabling, or partial application.
- Retain audit trail data for the prescribed statutory period.

Auditor's Mandatory Reporting Obligation

Under Rule 11(g) of the Companies (Audit and Auditors) Rules, 2014, with effect from the financial year 2023-24, statutory auditors are required to comment in their audit report on:

- Whether the accounting software used by the company has an audit trail feature.
- Whether the audit trail was operational throughout the financial year.
- Whether the audit trail has been preserved as required.

Accordingly:

- Auditors cannot remain silent on audit trail compliance.
- Any deficiency must be reported, irrespective of materiality.

Penal Consequences of Non-Compliance

For the Company and Officers in Default

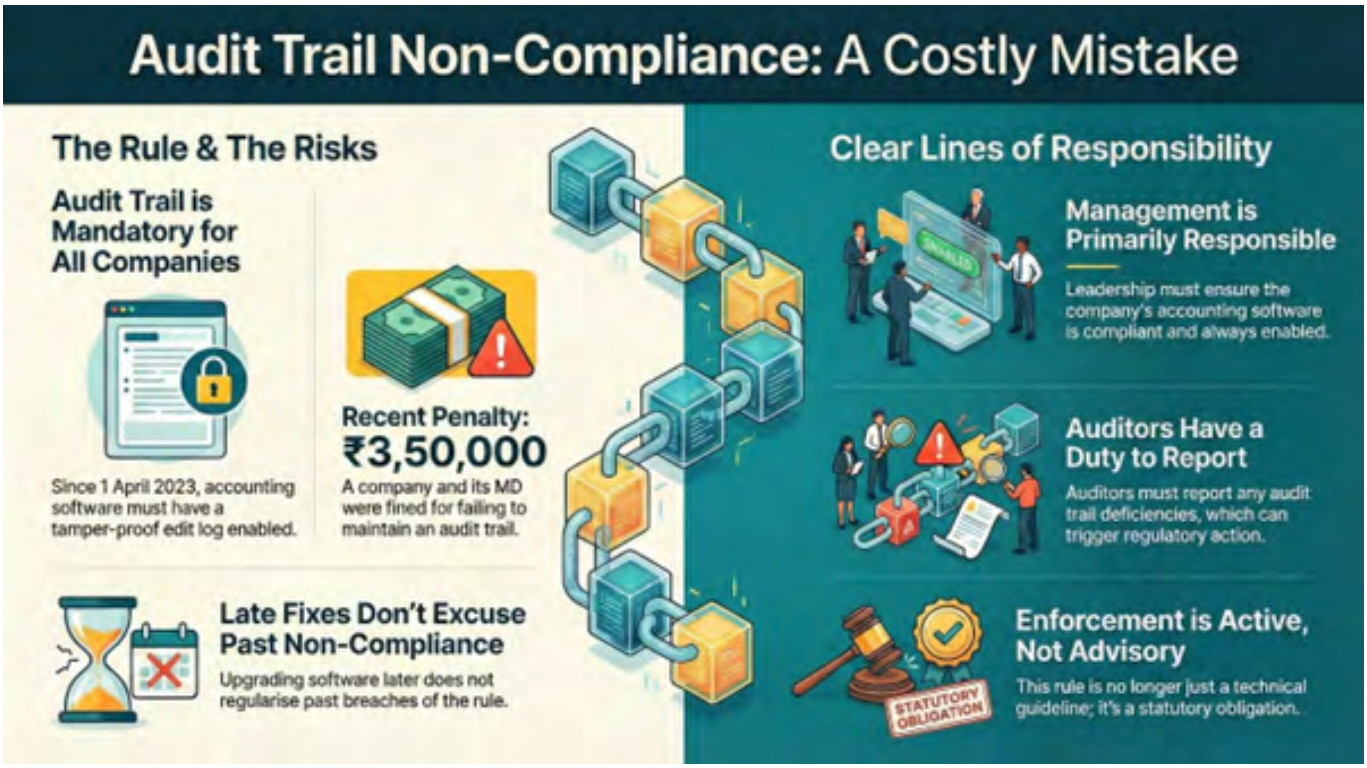
- Monetary penalties on the company.
- Personal penalties on directors, Managing Director, CFO, or other responsible officers.
- Potential escalation in case of repeated or willful non-compliance.

For Auditors

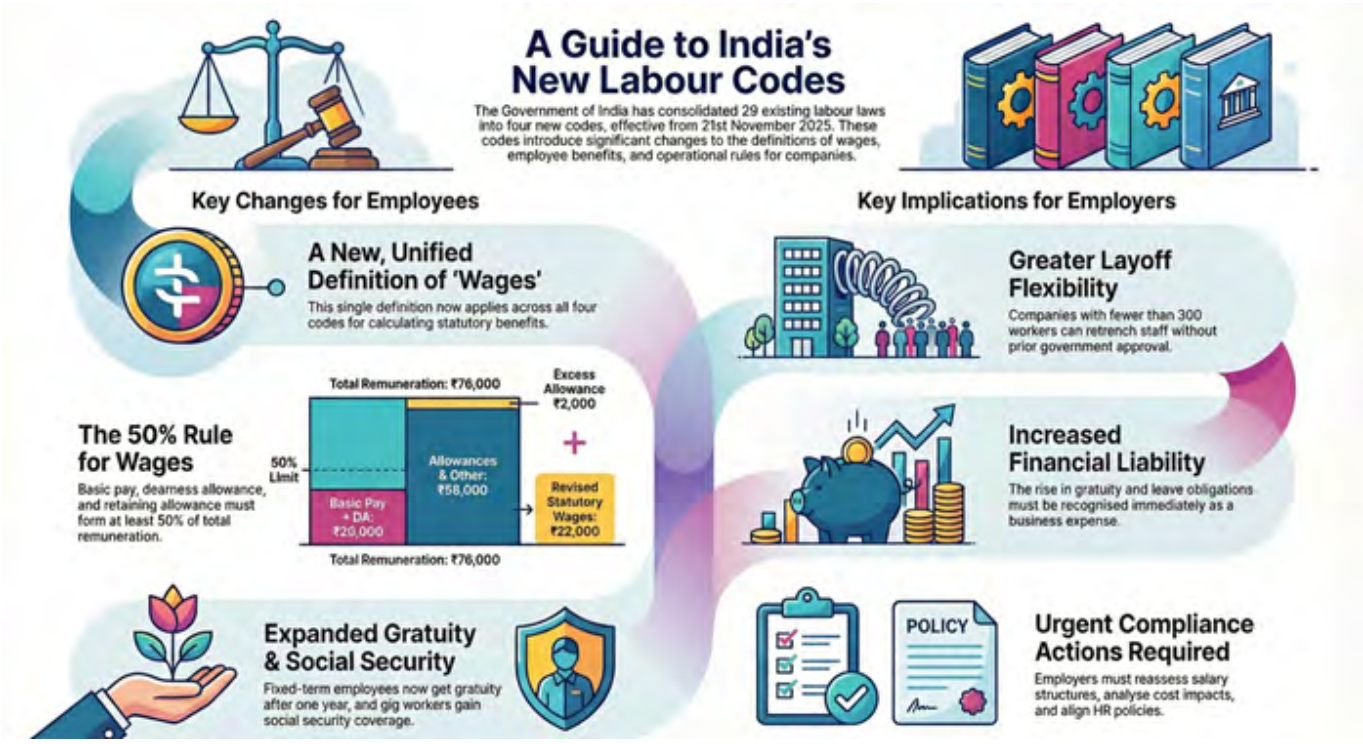
- Exposure to penalties for incorrect or incomplete reporting.
- Professional and disciplinary consequences under applicable regulations.

Key Takeaways

- Audit trail compliance is now actively enforced, not merely advisory.
- Responsibility squarely rests with management and officers in default.
- Early review of accounting systems and controls is essential.
- Update accounting systems at the earliest to avoid continuous noncompliance.
- Auditor reporting under Rule 11(g) can directly lead to ROC action.
- Rectification after year-end does not eliminate past exposure.



ARTICLE
NEW LABOUR CODES



Formalising the Informal and Informalizing the formal

The Government has engineered a decisive reset of India's working economy and no, this is not another currency shock. This time, the overhaul targets a tightly wound web of 29 Central labour laws, dismantled and re-engineered into a new legal architecture.

The Government of India has undertaken a landmark reform of the country's labour and employment framework by introducing four new Central Labour Codes, consolidating and replacing 29 erstwhile Central Labour Acts. The Four new Codes shall be effective from November 21, 2025 and are namely:

- The Code on Wages, 2019
- The Industrial Relations Code, 2020
- The Code on Social Security, 2020
- The Occupational Safety, Health & Working Conditions (OSHWC) Code, 2020

A. Significant Changes from the Erstwhile Central Labour Acts

1. The 50% Rule:

Tired of Reading and memorizing multiple Wage definitions in different Labour Acts for compliance? Well, the Government just reduced some weight off your shoulder by incorporating uniformly defined Wage Definition

for all the four new labour codes which is as follows –

"All remuneration whether by way of salary, allowances or otherwise and includes Basic pay, Dearness allowance and Retaining allowance, if any". There are certain allowances which are excluded from the definition of wages.

If such excluded allowances and benefits together (except gratuity and retrenchment compensation) exceed 50% of the all remuneration, the excess amount shall be added back to wages.

Example:

Particulars	Amount in Rs. (per month)
Total remuneration	₹76,000
Basic Pay + Dearness Allowance	₹20,000
Other components (Gratuity and retrenchment compensation)	₹16,000
Other Excluded Allowances	₹40,000
Total Exclusions from Wage Definition (Except Gratuity and retrenchment Compensation)	₹40,000
Max. Excluded allowance allowed for calculation of wages (50% of total remuneration)	₹38,000 [76,000*50%]
Excess allowance over 50% limit	₹2000 [40,000-38,000]

₹2000 shall be added back to wages (Basic Pay + DA in this case) for statutory compliances. Statutory calculations shall be made on revised wages: ₹22,000

Note: The Catch is that the Rule does not mean that Basic Pay + DA be Equal to 50% of Total Remuneration, Rather Exclusions Shall Not Exceed 50% of Total remuneration.

2. Gratuity:

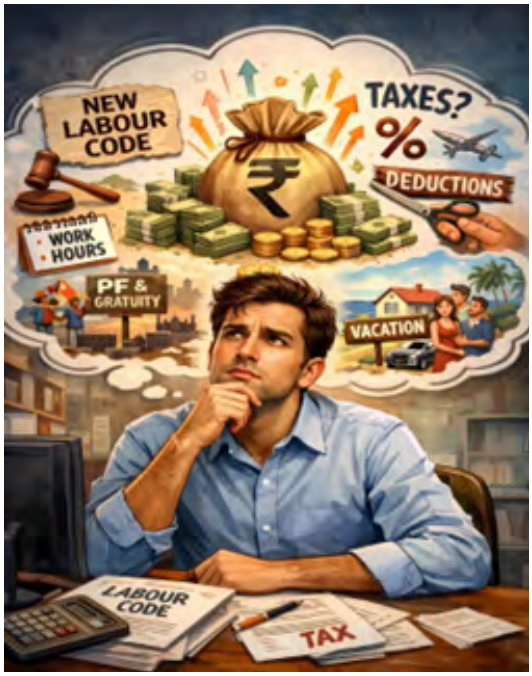
Amidst the sweeping labour-law overhaul, gratuity emerges as the undisputed "main character". The Government has introduced significant changes to its computation framework, while simultaneously formalising the concept of Fixed-Term Employment. Together, these reforms carry far-reaching legal and accounting implications, which are examined in detail in Part B of this article.

Calculation:

The Formula for Gratuity Calculation stands as follows – 15/26 X Last Drawn Monthly Wages X Period of Service. Period of service shall be Completed years of service or part thereof in excess of six months. Last drawn wages should be at least 50% of total remuneration.

Though the Formula for Gratuity calculation remains unaltered, the 50% Rule will Increase the calculation base!

There are certain special cases namely Piece-rated employees, Seasonal employees, Fixed-term employment or deceased employees, where Gratuity calculation would be different.



Eligibility:

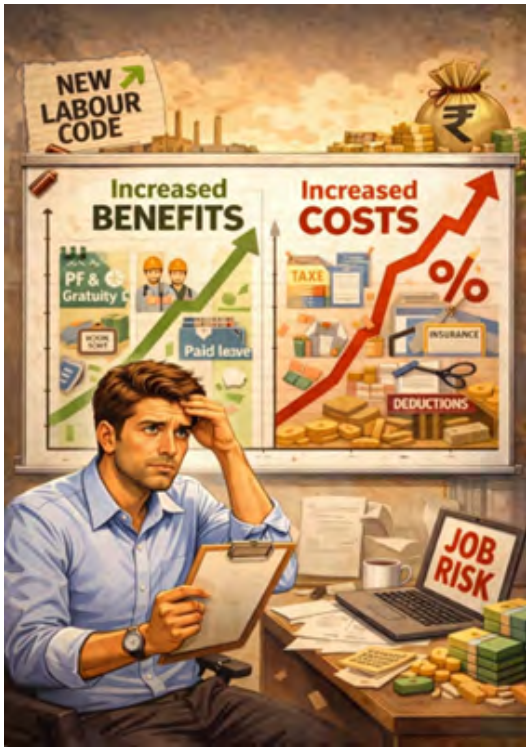
Gratuity shall be payable on following events:

- On termination
- On superannuation (retirement due to age)
- On resignation

- On death or disablement due to accident or disease
- On expiration of a fixed-term employment contract

Fixed term employees will get all benefits equal to permanent workers. Notably, they become eligible for gratuity after only one year of service, compared to the current five-year requirement. There is no change in requirement of five years of continuous service requirement for permanent employees.

Gratuity will be applicable w.e.f. November 21, 2025 i.e. date of enforcement of the Code.



3. Clear Distinction between Worker and Employee

Worker includes any Individual performing work which is Manual, Unskilled, or Skilled, Technical or Operational, Clerical, Supervisory.

Employee on the other hand are those which are on Managerial or Administrative Positions. Additionally, any person, who is employed in a supervisory capacity drawing wages exceeding ₹18,000/- is not included in the definition of worker.

Why Such Distinction?

Workers will receive greater access to Statutory Rights in Comparison to Employees.

4. Layoff Limits

Businesses with fewer than 300 workers can now perform layoffs and retrenchments without prior government approval, an increase from the previous threshold of 100 workers. This is aligned with the Government's aim towards Productivity over Production and Ease of Doing Business.

B. Accounting Implications

1. Gratuity liability for an entity is likely to increase pursuant to below requirements of the New Labour Codes. Under AS 15/ Ind AS 19, the changes to gratuity benefit resulting from the New Labour Codes are plan amendments and they are required to be treated as past service costs.

- Under Ind AS, Ind AS 19 requires past service cost to be immediately recognised as an expense in the Statement of Profit and Loss.
- Under Indian GAAP, AS 15 requires vested past service cost (i.e., past service for employees who have already completed applicable service period) to be recognised immediately. For employees who are yet to complete applicable service period, past service cost is amortised over the vesting period and recognised as an expense in the Statement of Profit and Loss.

2. Illustration

Particulars	Before Labour Codes	After Labour Codes
Remuneration	Rs. 1,00,000	Rs. 1,15,000
Increase in Remuneration as %	12%	15%
% of remuneration paid as basic + DA	35%	50%
Basic + DA in Amount	Rs. 35,000	Rs. 57,500

Can the Change of 22,500 entirely be treated as Actuarial assumption change under AS 15/ IND AS 19?

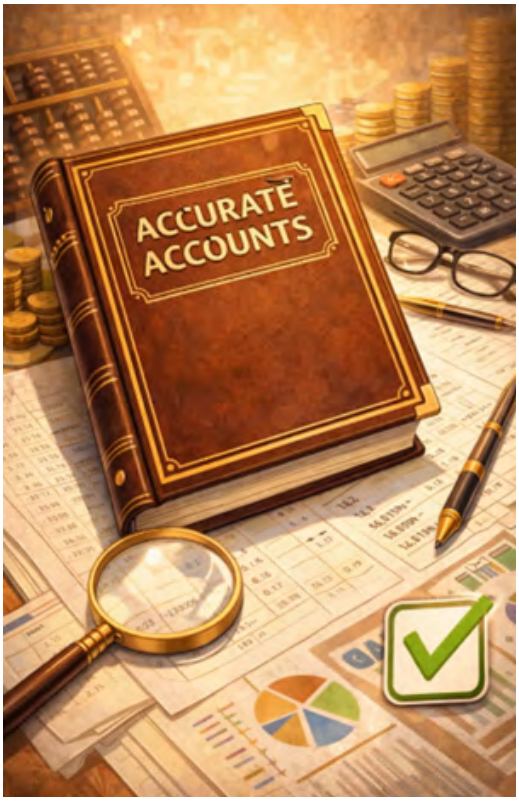
The Change of Amount by 22,500

Change of Rs. 5,250 [1,15,000 X 35% - 1,00,000 X 35%] is Actuarial assumption change realised in OCI.

While Rs. 17,250 [1,15,000 X 50% - 1,15,000 X 35%] is impact of plan amendment to be treated as Past Service Cost chargeable to P&L.

3. The increase in gratuity liability arising from new labour codes need to be recognised in interim financial statements/ results for the period ended 31st December, 2025 in accordance with the applicable requirements of Ind AS 19/ AS 15 as they have aroused in this period.

   The frequency of an entity's reporting (annual, half-yearly, or quarterly) shall not affect the measurement of its annual results. To achieve that objective, measurements for interim reporting purposes shall be made on a year-to-date basis. Further, as per paragraph 39 of Ind AS 34 and paragraph 38 of AS 25, costs that are incurred unevenly during an entity's financial year shall be anticipated or deferred for interim reporting purposes if, and only if, it is also appropriate to anticipate or defer that type of cost at the end of the financial year.



4. Consequential impact of any Change in Gratuity Liability is a non-adjusting event in the financial statements/ results for periods ending prior to 21st November, 2025.

5. Any change in leave obligation arising from the New Labour Codes is recognised as an expense in the Statement of Profit and Loss immediately.

6. Depending on materiality of impact, an entity may evaluate whether it is acceptable to present additional expense resulting from increase in gratuity/ leave obligation due to the new Labour Codes as an exceptional item in the Statement of Profit and Loss. Irrespective of whether the expense is presented as exceptional item, the entity should make relevant disclosures to explain impact arising from enactment of the New Labour Codes.

   Disclosure for Reference (Source : Tata Consultancy Services Limited Results Q3)

   "The Group has assessed and disclosed the incremental impact of these changes on the basis of legal opinion obtained and the best information available, consistent with the guidance provided by the Institute of Chartered Accountants of India. Considering the materiality and regulatory-driven, non-recurring nature of this impact, the Group has presented such incremental impact as "Statutory impact of new Labour Codes" under "Exceptional Items" in the consolidated interim statement of profit and loss for the period ended December 31, 2025. The incremental impact consisting of gratuity of ₹1,816 crore and long-term compensated absences of ₹312 crore primarily arises due to change in wage definition. The Group continues to monitor the finalisation of Central / State Rules and clarifications from the Government on other aspects of the Labour Code and would provide appropriate accounting effect on the basis of such developments as needed."

7. The amount of increase in obligation to the extent deductible as business expense in the current year impacts current tax measurement for the year. However, the amount of increase in obligation to the extent will be deductible in future years results is a deductible temporary difference under Ind AS 12/ AS 22. Subject to consideration of prudence as required under Ind AS 12/ AS 22, these deductible temporary differences result in recognition of deferred tax asset.

Sources of Information:

Accounting Implications

A. FAQ on labour Codes- ICAI

Significant Changes in Erstwhile Central labour Acts –

B. FAQ - Ministry of labour & Employment

C. Times of India

D. Tax Guru

E. The Code on Wages, 2019

F. The Industrial Relations Code, 2020

G. The Code on Social Security, 2020

The Occupational Safety, Health & Working Conditions (OSHWC) Code, 2020

DUE DATES

Due dates of various compliances falling in the month of February 2026

Due Date	Act/Authority	Compliance Description
07-02-26	Income Tax	Deposit of Tax Deducted at Source (TDS) / Tax Collected at source (TCS) during the month of January - 2025.
10-02-26	GST	Return (GSTR-7) to be furnished by the registered persons who are required to deduct tax at source for the month of January - 2026.
10-02-26	GST	Return (GSTR-8) to be furnished by the registered electronic commerce operators who are required to collect tax at source on the net value of taxable supplies made through it for the month of January - 2026
11-02-26	GST	Statement of outward supplies (GSTR-1) by the taxpayers having an aggregate turnover of more than Rs. 5 crore or the taxpayers who have opted for monthly return filing for the month of January - 2026.
13-02-26	GST	Statement of outward supplies (IFF) by the taxpayers having an aggregate turnover up to ₹ 5 crore and who have opted for the QRMP scheme.
13-02-26	GST	Return (GSTR-5) to be furnished by the non-resident taxable persons containing details of outward supplies and inward supplies for the month of January - 2026.
13-02-26	GST	Return (GSTR-6) to be furnished by every Input Service Distributor (ISD) containing details of the input tax credit received and its distribution for the month of January - 2026.
15-02-26	PF/ESIC	Payment of PF / ESIC for the month of January - 2025.
20-02-26	GST	Return (GSTR-5A) to be furnished by Online Information and Data base Access or Retrieval (OIDAR) services provider for providing services from a place outside India to non-taxable online recipient (as defined in Integrated Goods and Services Tax Act, 2017) and to registered persons in India and details of supplies of online money gaming by a person outside India to a person in India for the month of January - 2026.
20-02-26	GST	Return (GSTR-3B) to be furnished by all the taxpayers other than who have opted for QRMP scheme comprising consolidated summary of outward and inward supplies for the month of January - 2026.

25-02-26	GST	Payment of GST for a taxpayer with aggregate turnover up to ₹ 5 crores during the previous year and who has opted for quarterly filing of return under QRMP scheme.
28-02-26	Income Tax	Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA, 194-IB, 194M and 194S in the month of January, 2025

“

YOU ARE NEVER TOO OLD TO SET ANOTHER GOAL OR TO DREAM A NEW DREAM

”

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